COUNCIL AGENDA
Monday, December 2, 2019
6:00 P.M., Council Chambers

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

2. **Roll Call**

3. **Presentations**

   1. Joplin High School Student Council President Faron Haase Will Present An Update To City Council On Joplin Schools Events.

   2. Recognition Of City Board And Commission Members Who Have Completed Terms This Year.

      Documents:

      BOARDS-COMMISSIONS COMPLETED TERMS-NAMES.PDF

   3. NLC Service Line Program Presented By Ashley Shiwarksi, Director Of Business Development For Utility Partners, Inc.

4. **Finalization Of Consent Agenda**

5. **Reports And Communications**

6. **Citizen Requests And Petitions**

7. **Public Hearings**

   1. Public Hearing Procedures

      Documents:

      PUBLIC HEARING PROC.PDF

   2. COUNCIL BILL NO. 2019-282
      AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of
      Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1 property as described below and located 3209 Connecticut Ave, City of Joplin, Newton County, Missouri.

      Documents:

      CB 2019-282 MINUTES.PDF
      CB 2019-282 STAFF REPORT.PDF
      CB 2019-282 SUMMARY.PDF
      CB 2019-282.PDF

   3. COUNCIL BILL NO. 2019-283
      AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of
      Joplin, Missouri, November 15, 2004, by removing from District M-2 and including in District C-2-PD property as described below and located Corner of Newman Road and Cattleman Drive, City of Joplin, Jasper County,

Missouri.

Documents:

CB 2019-283 MINUTES.PDF
CB 2019-283 STAFF REPORT.PDF
CB 2019-283 SUMMARY.PDF
CB 2019-283.PDF

8. Consent Agenda

1. Minutes Of The November 18, 2019 Joplin City Council Meeting

   Documents:

   CC MINS -NOV 18, 2019.PDF

2. Minutes Of The November 22, 2019 Joplin City Council Special Meeting

   Documents:

   SP MEETING -NOV. 22, 2019. CS-PERS.CM.PDF

3. Minutes Of The November 26, 2019 Joplin City Council Special Meeting

   Documents:

   MINUTES -NOV. 26, 2019.PDF

4. COUNCIL BILL NO. 2019-009
   AN ORDINANCE approving a plan for an industrial development project consisting of the acquisition, construction, improvement and equipping of a warehouse and distribution facility; authorizing the city of Joplin, Missouri to issue its taxable industrial development revenue bonds in a principal amount not to exceed $51,400,000 to finance the costs of such project; authorizing and approving certain documents; and authorizing certain other actions in connection with the issuance of the bonds.

   Documents:

   CB2019-009.PDF

5. COUNCIL BILL NO. 2019-523
   AN ORDINANCE repealing Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, 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:

   CB2019-523.PDF

6. COUNCIL BILL NO. 2019-524
   AN ORDINANCE repealing Section 106-32, Duty of Abutting Property

Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalk and Other Public Places, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalks and Other Public Places, 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:

CB2019-524.PDF

7. COUNCIL BILL NO. 2019-525
AN ORDINANCE repealing Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, 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:

CB2019-525.PDF

8. COUNCIL BILL NO. 2019-526

AN ORDINANCE repealing Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin to implement certain classification changes; and setting a date when this Ordinance shall become effective.

Documents:

CB2019-526.PDF

9. **COUNCIL BILL NO. 2019-527**
AN ORDINANCE repealing Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, 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:

CB2019-527.PDF

10. **COUNCIL BILL NO. 2019-528**
AN ORDINANCE repealing Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B as adopted by Ordinance No. 97-161 of the City of Joplin and enacting in lieu thereof a new Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

Documents:

CB2019-528.PDF

11. **COUNCIL BILL NO. 2019-529**
AN ORDINANCE repealing Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations of the City of Joplin and enacting in lieu thereof a new Section 29A-2514, Fees, of Appendix 29A, of the Zoning Regulations 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:

CB2019-529.PDF

12. **COUNCIL BILL NO. 2019-530**
AN ORDINANCE repealing Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, 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:

CB2019-530.PDF

13. **COUNCIL BILL NO. 2019-531**
AN ORDINANCE repealing Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, 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:

CB2019-531.PDF

14. Resolutions

15. Ordinances - Emergency

1. COUNCIL BILL NO. 2019-159
AN ORDINANCE authorizing the City of Joplin to enter into an agreement with MCI Communications Services, Inc. ("MCICS") for the purpose of MCICS installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

   Documents:

   CB2019-159 MCI COMMUNICATIONS-11252019124412.PDF

2. COUNCIL BILL NO. 2019-160
AN ORDINANCE authorizing the City of Joplin to enter into an agreement with MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services ("MCImetro") for the purpose of MCImetro installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause.

   Documents:

   CB2019-160 MCI METRO DBA VERIZON ACCESS-11252019124612.PDF

3. COUNCIL BILL NO. 2019-533
AN ORDINANCE amending the Annual Budget of the City of Joplin for the Fiscal Year 2019-2020 as adopted by Ordinance 2019-166 on October 21, 2019, to adjust appropriations and containing an emergency clause.

   Documents:

   CB 2019-533 SUMMARY BUDGET AMENDMENT.PDF
   CB 2019-533 BUDGET AMENDMENT ORDINANCE FOR FY 2020.PDF
   CB 2019-533 SCHEDULE A 2020 BUDGET AMENDMENT DEC 2 2019.PDF

4. COUNCIL BILL NO. 2019-534
AN ORDINANCE approving exempt status changes to the Salary Administration Plan for the City of Joplin and containing an emergency clause.

   Documents:

   CB 2019-534 SUMMARY SALARY ADMINISTRATION PLAN CHANGE.PDF
   CB 2019-534 SALARY ADMINISTRATION PLAN ORDINANCE.PDF
   CB 2019-534 EXHIBIT A SALARY ADMINISTRATION PLAN.PDF

16. Ordinances - First Reading

1. COUNCIL BILL NO. 2019-161
AN ORDINANCE amending Chapter 118, Utilities, Article II, Sewers and Sewage Disposal, Division 6 Rates and Charges, of the Joplin City Code, by repealing sections 118-201 through 118-202, inclusive, of Division 6 in their entirety and enacting new sections 118-201 through 118-202, inclusive of Divisions 6, Rates and Charges; dealing generally with the establishment of sewer rates for the City of Joplin, Missouri.

Documents:

SUMMARY SHEET 2019-161.PDF
JOPLIN MO DRAFT REPORT 11.01.19.PDF
CB 2019-161.PDF

2. COUNCIL BILL NO. 2019-535
AN ORDINANCE amending the City of Joplin Employee Manual, Policy Section 3.9 Rehire, Section 3.12 Probationary Period, Section 4.9 Prior Service Credit Benefit and Fringe Benefits Sections (2), (3), (9), (11), (13) and (18).

Documents:

CB 2019-535 SUMMARY REVISION OF PERSONNEL RULES AND REGULATIONS FOR PENSION TRANSITION.PDF
CB 2019-535 REVISION OF PERSONNEL RULES AND REGULTIONS FOR PENSION TRANSITION ORDINANCE.PDF
CB 2019-535 EXHIBIT A SECTION 3.9.PDF
CB 2019-535 EXHIBIT B SECTION 3.12.PDF
CB 2019-535 EXHIBIT C SECTION 4.9.PDF
CB 2019-535 EXHIBIT D FRINGE BENEFITS SECTION.PDF

3. COUNCIL BILL NO. 2019-536
AN ORDINANCE adopting the Missouri Local Government Employees Retirement System (LAGERS) L-11 plan for public safety employees of the City of Joplin hired on or after February 1, 2020, in accordance with RSMo. Sections 70.600 through 70.755; and, setting a date when this ordinance shall become effective.

Documents:

CB 2019-536 SUMMARY ADOPTING LAGERS RETIREMENT SYSTEM FOR PUBLIC SAFETY EMPLOYEES.PDF
CB 2019-536 ADOPTING LAGERS RETIREMENT SYSTEM FOR PUBLIC SAFETY EMPLOYEES ORDINANCE.PDF

4. COUNCIL BILL NO. 2019-537
AN ORDINANCE amending the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri as adopted January 5, 2009, effective January 31, 2009 and amended September 24, 2012, May 1, 2013, January 21, 2014, December 7, 2015 and August 15, 2016, to close the Pension Plan to new hires effective February 1, 2020; and, setting a date when this ordinance shall become effective.

Documents:

CB 2019-537 SUMMARY RESTATING PENSION PLAN TO CLOSE PLAN.PDF
CB 2019-537 ORDINANCE RESTATING PENSION PLAN TO CLOSE

PLAN .PDF
CB 2019-537 EXHIBIT A RESTATED PENSION PLAN DOCUMENT .PDF
CB 2019-537 RESTATED PLAN CHANGES SUMMARY.PDF

5. COUNCIL BILL NO. 2019-619

AN ORDINANCE amending Chapter 62, Health and Sanitation, by enacting a new Article X, Tobacco 21 Act.

Documents:

CB2019-619 SUMMARY SHEET.PDF
CB 2019-619 COUNCIL BILL.PDF

6. COUNCIL BILL NO. 2019-620
AN ORDINANCE repealing Chapter 30, Businesses, Article III, Licenses, Section 30-179, Sale of tobacco products or rolling papers to minors.

Documents:

CB2019-620 TOBACCO 21-11252019162048.PDF

17. **Ordinances - Second Reading And Third Reading**

18. **Unfinished Business**

19. **New Business**

1. News From Public Information Officer Lynn Onstot

2. Vote To Go Into Closed Session, Which Shall Pertain To Legal Action, Causes Of Action, Or Litigation Including A Public Governmental Body And Any Confidential Or Privileged Communications Between A Governmental Body Or Its Representatives And Its Attorneys Pursuant To State Law; And Which Shall Pertain To 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; And The Hiring, Firing, Disciplining, Or Promotion Of An Employee Or Particular Employees Of A Governmental Body Involving Personal Information As Set Forth In Section 610.021 (1) (2) (3) RSMo, As Amended, 2018. This Meeting, Record, And Vote To Be Closed To The Extent Provided By Law. The City Council Shall Adjourn At

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)

BOARDS AND COMMISSIONS

RECOGNITION & APPRECIATION

DECEMBER 2, 2019

The following board members have completed their full terms (and some have served longer by filling unexpired terms) and are being recognized for their outstanding service and contributions to the various board/commission/committee to which they were appointed, and for their willingness to serve the City of Joplin in this capacity.

Name	Board/Commission/Committee	Dates of Service
Sarah Vargyas	ADA	2013-2019
Tim Forker	Airport Board	2013-2019
Melvin Walbridge	Airport Board	2013-2019
Crystal Harrington	Building Board	2013-2019
Ervin Wilson	Building Board	2013-2019
Paula Callihan	Historic Preservation	2009-2019
Nancy Morton	Historic Preservation	2006-2019
Peter Ramsour	Historic Preservation	2009-2019
Fred Osborn	JRC	2013-2019
Dustin Parker	Parks	2013-2019
Keenan Cortez	Planning & Zoning	2012-2019
Sherry Surface	Personnel	2013-2019
Stephen Fuller	Solid Waste	2012-2019
Chris Tucker	TIF	2012-2019
Ervin Wilson	Traffic Commission	2013-2019

PUBLIC HEARING PROCEDURES

Persons wishing to testify before the City Council are requested to follow these rules:

1. Proponents of the issue will be asked to present their information, then the opponents will be asked to testify and then rebuttal testimony may be allowed by the Council.

2. Approach the podium and state your name and address clearly for the record.

3. Please give your testimony as briefly and completely as possible. By the rules of the City Council you have five (5) minutes within which to give your testimony. Please follow the clock on the dais in front of you. You must complete your testimony within the 5-minute time limit.

4. Please do not repeat testimony that has been given previously. We want you to state your facts but limit your information to only new information.

5. Everyone is invited to speak, however, if you have a spokesperson please allow them to speak without interrupting for applause or other demonstrations.

6. When the Public Hearing is closed by the Mayor, no additional testimony is allowed except when invited by the Mayor or other members of the Council.

7. Remember that this is a Public Hearing and all sides have a right to give testimony. Please respect their right to do so.

8. The City Council of the City of Joplin through this introduction, accepts into evidence the 2018 Comprehensive Plan, the Zoning Code of the City of Joplin, the Subdivision Regulations of the City of Joplin, the Telecommunications Ordinance, and the Stormwater Management Regulations of the City of Joplin being Appendices 29-A, 29-B, 29-D, 29-E and 29-F of the Joplin Municipal Code. Report of the Planning and Zoning Commission, recommendations of the City's staff, and other written documentation presented as that information applies to each public hearing.

Thank you for your consideration and understanding.

CB 2019-282

Case 038-19: 3209 Connecticut Ave. – A request to remove from District R-1 (Single-family Residential) and include in District C-1 (Neighborhood Commercial) for future commercial development. – Business Investments, LLC.

Mr. Richard Ruestman, 5562 Riverside Dr., Joplin, MO. I am a member of Business Investments, LLC. I made this request for rezoning from R-1 to C-1. It would seem to be a natural fit based on the surrounding commercial properties.

Mr. Ramsour asked commissions if they had any questions for Mr. Ruestman?

Mr. Eastman asked if there was a use for the building?

Mr. Ruestman stated there was not and just keep it a rental building right now, but not occupied.

Mr. Eastman stated he has a question for Troy Bolander. Anticipating the future how far south will you allow Commercial to go on Connecticut Street?

Mr. Troy Bolander stated part of the changes at the intersection is that the former commercial insurance building to the north was demolished because of the intersection improvement. This is an area in transition with the widening of Connecticut and widening of the bridge. One could make a valid point that it could go just as far south as it does across the street.

Mr. Eastman asked if there were no opposition from neighbors.

Mr. Bolander stated as far as we know we have not received any opposition.

Mr. Ramsour asked Commissioners if there were any other questions for Mr. Ruestman. There was not. Mr. Ramsour asked if there was anyone that would like to speak in favor of this case? There was not. Is there was anyone who would like to speak in opposition to this case? There was not.

MR. DERMOTT MOVED, SECONDED BY MR. MCCULLOUGH, FOR CASE 038-19 BE FORWARDED TO THE CITY COUNCIL WITH THE RECOMMENDATION FOR APPROVAL. MOTION CARRIED, MR. RAMSOUR, MR. DERMOTT, MRS. KOELKEBECK, MRS. STEELE, MR. EASTMAN, AND MR. MCCULLOUGH, VOTING "AYE. (6 IN FAVOR, 0 NAYS, 1 ABSENT).

Z&P Meeting: November 11, 2019
City Council Meeting: December 2, 2019

STAFF PLANNING REPORT
Rezoning

CASE 038-19 A request to rezone from R-1 (Single-family Residential) to C-1 (Neighborhood Commercial) for future commercial development.

LOCATION 3209 Connecticut Ave.

APPLICANT Business Investments, LLC

EXISTING CONDITIONS

Zoning	Land Use	Property Size
R-1	Single-family	0.25 Acres

SITE CONTEXT

	North	East	South	West
Existing Zoning	C-O/C-1	R-1	R-1	C-2-PD
Land Use	Vacant/Restaurant	Daycare	Single-family	Strip Commercial

FUTURE LAND USE

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

TRANSPORTATION

Streets with access	Classification	Right-of-way width
Connecticut Ave.	Collector	65'

UTILITIES Utilities are provided to the site.

FLOOD PLAIN This property is not in the flood plain.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes.

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

The site as zoned R-1 is suitable for future residential development. The R-1 district does restrict the intensity of residential development and prohibits many uses. However, it is proximate to a major intersection that is being improved for greater traffic flow, which would detract from residential uses.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

This zoning change should not detrimentally affect nearby property. Any potential developer will need to mitigate the conflict of commercial uses with other uses in accordance with the City's buffer requirements. The C-1 district is designed to be used amongst residential uses, hence its title, Neighborhood Commercial. Uses in these districts are restricted to light uses that generate little traffic and nuisance.

DISCUSSION

The applicant's request to rezone to a C-1 Neighborhood Commercial zone is not inappropriate for this property considering the intent of C-1 districts is to provide neighborhood level uses such as banks, offices, and small shops. Uses in this district are to not generate large amounts of traffic commonly seen in the intense commercial uses along Range Line Road, for instance.

In addition, considering the property's frontage along Connecticut Avenue, a collector, as well as its location near the major intersection of Connecticut and 32nd St., a commercial use oriented toward this street is appropriate. The alley that abuts this property will assist in access management.

This property is subject to the City of Joplin's Zoning Code requirements.

Staff recommends approval of Case 038-19.

ATTACHMENTS

- Application
- Map

Z&P Meeting: November 11, 2019
City Council Meeting: December 2, 2019

STAFF PLANNING REPORT
Rezoning

CASE 038-19 A request to rezone from R-1 (Single-family Residential) to C-1 (Neighborhood Commercial) for future commercial development.

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STAFF ANALYSIS

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Yes.

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

The site as zoned R-1 is suitable for future residential development. The R-1 district does restrict the intensity of residential development and prohibits many uses. However, it is proximate to a major intersection that is being improved for greater traffic flow, which would detract from residential uses.

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Staff recommends approval of Case 038-19.

ATTACHMENTS

- Application
- Map

REZONING APPLICATION FORM

RECEIVED 10-17-19

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

For Office Use Only

Case No.: 038-19
Filing Fee: $500.00
Date Advertised: 10-27-19
Date Notices Sent 10-24-19
Public Hearing Date: 11-11-19

APPLICANT: Business Investments LLC PHONE: 417-438-6300
ADDRESS: ~~3500 Connecticut~~ ZIP: 64804
OWNER: Business Investments PHONE: 417-438-6300
ADDRESS: PO Box 2291 Joplin, MO. ZIP: 64803
LOCATION OF PROPERTY: 3209 connecticut Joplin MO 64804
LEGAL DESCRIPTION: See attached

Present Zoning R-1 Requested Zoning: ~~CO~~ C-1 Acreage:
Present Use of Property: rental

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	CO	
South	R1	
East	R1	
West	Bank & shopping center	

CHARACTER OF THE NEIGHBORHOOD: commercial

RELATIONSHIP TO EXISTING ZONING PATTERN:

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

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? See Plat
2. Consistent with Future Land Use Map? I believe so

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

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

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property:_____
2. Classification of Street(s):
   Arterial_____Collector_____ Local _____
3. Right-of-Way Width: _____
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   _____

~~IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:~~

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

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

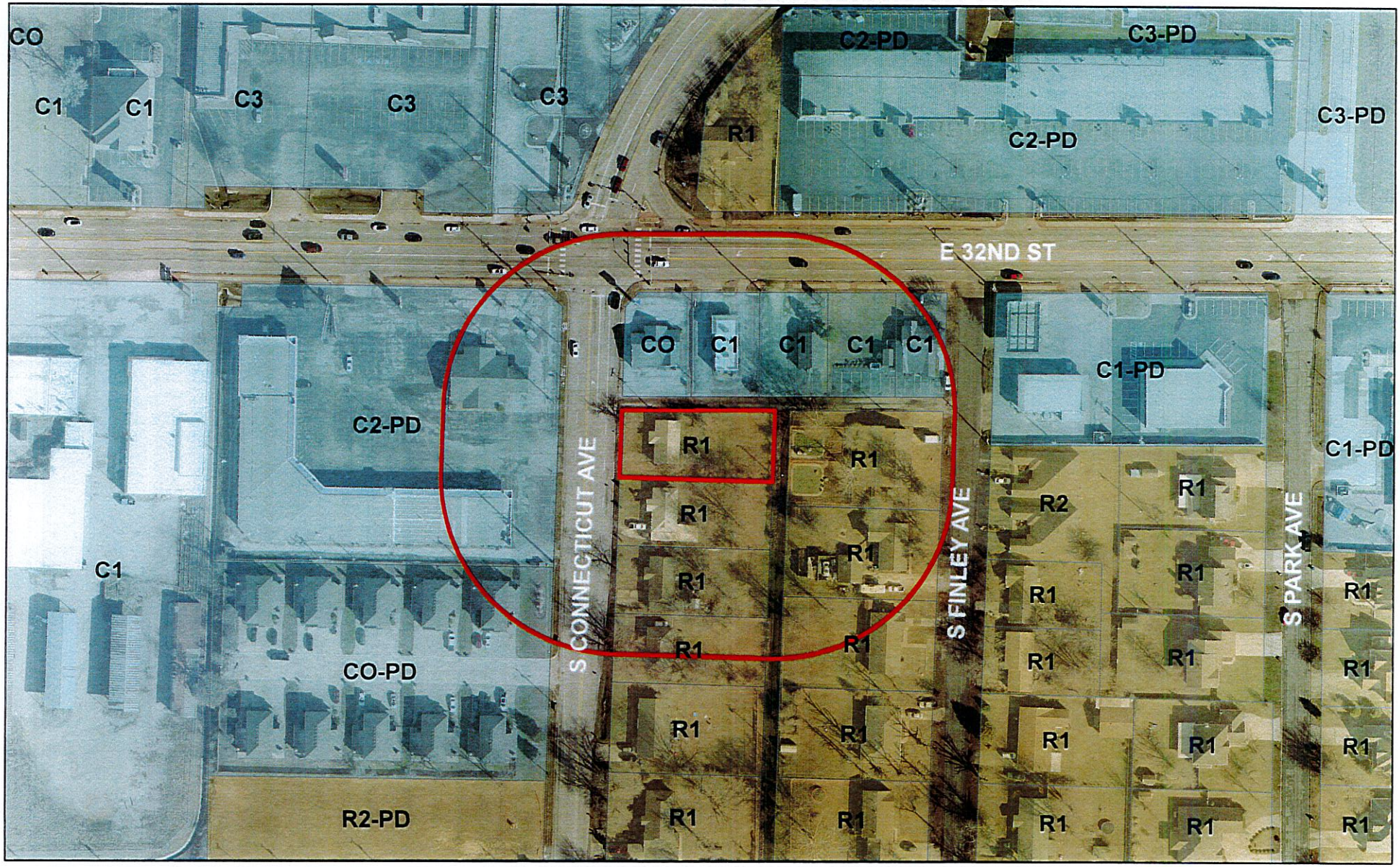
_____
_____
_____

SIGNATURE: Business Inv. LLC DATE: Oct 10, 2019

BY: R.W. Rustman member

TITLE: _____

Case 038-19: 3209 Connecticut Ave. - Rezone



Case 038-19: 3209 Connecticut Ave. - A request to remove from District R-1 and include in District C-1 for the purpose of future commercial development - Business Investments, LLC

0 62.5 125 250 375 500 Feet

N

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
CB 2019-282-Rezone to Neighborhood Commercial District (C-1)

MEETING DATE:
December 2, 2019

ORIGINATING DEPARTMENT:
Planning, Development and Neighborhood Services

REVIEWED BY:
Director of Planning, Development & Neighborhood Services-Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, Interim City Manager- Daniel Pekarek.

SUMMARY REQUEST:
Case 038-19: 3209 Connecticut Ave. – A request to remove from District R-1 (Single-family Residential) and include in District C-1 (Neighborhood Commercial) for future commercial development. – Business Investments, LLC.

BACKGROUND:
This zoning change should not detrimentally affect nearby property. Any potential developer will need to mitigate the conflict of commercial uses with other uses in accordance with the City's buffer requirements.

The applicant's request to rezone to a C-1 Neighborhood Commercial zone is not inappropriate for this property considering the intent of C-1 districts is to provide neighborhood level uses such as banks, offices, and small shops. Uses in this district are to not generate large amounts of traffic.

Considering the property's frontage along Connecticut Avenue, a collector, as well as its location near the major intersection of Connecticut and 32nd St., a commercial use oriented toward this street is appropriate.

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Richard Ruestman, 5562 Riverside Dr., Joplin, MO. I am a member of Business Investments, LLC. I made this request for rezoning from R-1 to C-1. It would seem to be a natural fit based on the surrounding commercial properties.

Mr. Eastman asked if there was a use for the building? Mr. Ruestman stated there was not and just keep it a rental building right now, but it is not occupied at this time.

Mr. Eastman stated he has a question for Troy Bolander. Anticipating the future, how far south will you allow Commercial to go on Connecticut Street?

Mr. Troy Bolander stated part of the changes at the intersection is that the former commercial insurance building to the north was demolished because of the intersection improvement. This is an area in transition with the widening of Connecticut and widening of the bridge. One could make a valid point that it could go just as far south as it does across the street.

PUBLIC COMMENT;
None.

FUNDING SOURCE:
These payments are included in the FY 2018-19 budget of the Community Planning Fund.

RECOMMENDATIONS:
Planning & Zoning Commission recommends approval, 6 in favor, 0 Nays, 1 Absent.
Staff recommends approval of Case 038-19.

ATTACHMENTS
CB 2019- 282, Staff Planning Report, P&Z Commission Minutes

P & Z Case 038-19
Business Investments, LLC
(P & Z Recommended Approval)

COUNCIL BILL NO. 2019-282 ORDINANCE NO.

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1 property as described below and located 3209 Connecticut Ave, City of Joplin, Newton County, Missouri.

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

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

All of Lot Numbered One (1) except for the South 24 feet thereof in J.A. Finley's Second Addition to the City of Joplin, Newton County, Missouri, according to the recorded plat thereof.

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

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of_____, 2019, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CB 2019-283

Case 039-19: Corner of Newman Road and Cattleman Drive – A request to remove from District M-2 (Heavy Industrial) and include in District C-2-PD (Planned Development Central Business Commercial) for multi-family development. – Samuel M. Coryell

Brad Ferguson, Olsson Associates, 702 S Main Street, Joplin, MO. I am here on behalf of the land owner and Mr. Coryell. They would like to do a multi-family development just north of the existing complex that is shown.

Mr. Ramsour asked if there were any environmental issues on that property?

Mr. Ferguson stated he doesn't know if that has been investigated at this point.

Mrs. Steele stated there is only one ingress/egress is there eventually going to handle just that one?

Mr. Ferguson stated that there are future plans to extend one of those roads to the west.

Mr. Ramsour asked Commissioners if there were any other questions for Mr. Ferguson. There was not. Mr. Ramsour asked if there was anyone that would like to speak in favor of this case? There was not. Is there was anyone who would like to speak in opposition to this case? There was not.

MR. EASTMAN MOVED, SECONDED BY MRS. STEELE, FOR CASE 039-19 BE FORWARDED TO THE CITY COUNCIL WITH THE RECOMMENDATION FOR APPROVAL. MOTION CARRIED, MRS. KOELKEBECK, MRS. STEELE, MR. RAMSOUR, MR. DERMOTT, MR. EASTMAN, AND MR. MCCULLOUGH, VOTING "AYE. (6 IN FAVOR, 0 NAYS, 1 ABSENT).

Z&P Meeting: November 11, 2019
City Council Meeting: December 2, 2019

STAFF PLANNING REPORT
Rezoning

CASE 039-19 A request to rezone from M-2 (Heavy Industrial) to C-2-PD (Planned Development Central Business District) for future commercial development.

LOCATION Corner of Newman Road and Cattleman Drive.

APPLICANT Samuel M. Coryell

EXISTING CONDITIONS

Zoning	Land Use	Property Size
M-2	Vacant	11.4 Acres

SITE CONTEXT

	North	East	South	West
Existing Zoning	M-2	M-2	M-2	M-2
Land Use	Industrial	Industrial	Multi-family/Vacant	Industrial

FUTURE LAND USE

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

TRANSPORTATION

Streets with access	Classification	Right-of-way width
Newman Rd.	Collector	65'
Cattleman Dr.	Private	N/A

UTILITIES Utilities are provided to the site.

FLOOD PLAIN This property is not in the flood plain.

STAFF ANALYSIS

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes.

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

The site as zoned M-2 is suitable for future industrial development. The M-2 district does permit the most intense industrial development and prohibits few uses. The Joplin Stockyard property used to occupy this site, but due to its intense use, moved out of town. In addition, recent residential developments near and on portions of this site have begun a transition away from industrial uses to more high density residential and commercial uses.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

This zoning change should not detrimentally affect nearby property. The uses permitted in the C-2-PD zoning district will have negligent negative affect on nearby properties.

DISCUSSION

The applicant's request to rezone to a C-2-PD Planned Development Central Business District zone is not inappropriate for this property considering it is the intent of the developers to develop their site with dense multi-family units. The C-2-PD district has unique properties such as lower setback requirements and taller height restrictions that are appropriate for the applicant's proposed development as well as for this area in general. While not part of the Central Business District of Joplin, the Planned Development overlay allows the City Council the ability to approve site plans on this property so that the C-2 zoning district classification is not misused.

In addition, considering the property's frontage along Newman Road, a collector, a commercial use oriented toward this street is appropriate. Multi-family on this site is also appropriate, given the access points that this property has.

This property is subject to the City of Joplin's Zoning Code requirements.

Staff recommends approval of Case 039-19.

ATTACHMENTS

- Application
- Map

REZONING APPLICATION FORM

RECEIVED 10-18-19

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

For Office Use Only

Case No.: 039-19
Filing Fee: $500.00
Date Advertised: 10-27-19
Date Notices Sent 10-24-19
Public Hearing Date: 11-11-19

APPLICANT: Samuel M. Coryell and/or Assigns PHONE: 417-840-7946
ADDRESS: 1531 E. Bradford Parkway Suite 305 Springfield, MO ZIP: 65804
OWNER: Historic Stockyards Properties, LLC / Steve Owens, Managing Partner PHONE: 417-434-4986
ADDRESS: 550 W. High Street, Aurora MO ZIP: 64836
LOCATION/ADDRESS OF PROPERTY: Cattleman Drive
LEGAL DESCRIPTION: See survey attachment

Present Zoning M-2 Requested Zoning: C2-PD Acreage: 11.4 (See attached survery)
Present Use of Property: Vacant Land (5.91 of tract A will be for multifamily)

SURROUNDING LAND USE AND ZONING: See attachment: Historic Stockyard Overall

	Land Use	Zoning
North	By Zone	M2 - C3
South	By Zone	M2 - R1 - C3PD
East	By Zone	M2 - C3 - C2PD - C3PD
West	By Zone	M2

CHARACTER OF THE NEIGHBORHOOD: Mostly undeveloped with some distribution, Manufacturing, and Multi-family.

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts?
   No, there are similar zoning districts and uses in the area.
2. Are there substantial reasons why the property cannot be used in accord with existing zoning?
   If yes, explain: Current zoning does not allow proposed Height and Density

CONFORMANCE WITH COMPREHENSIVE PLAN:

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

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: Cattlemen Drive - Private - w/ Ingress/Egress
2. Classification of Street(s):
   Arterial_____ Collector_____ Local _____
3. Right-of-Way Width: 60' Ingress/Egress
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   NO

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR: NO

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

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

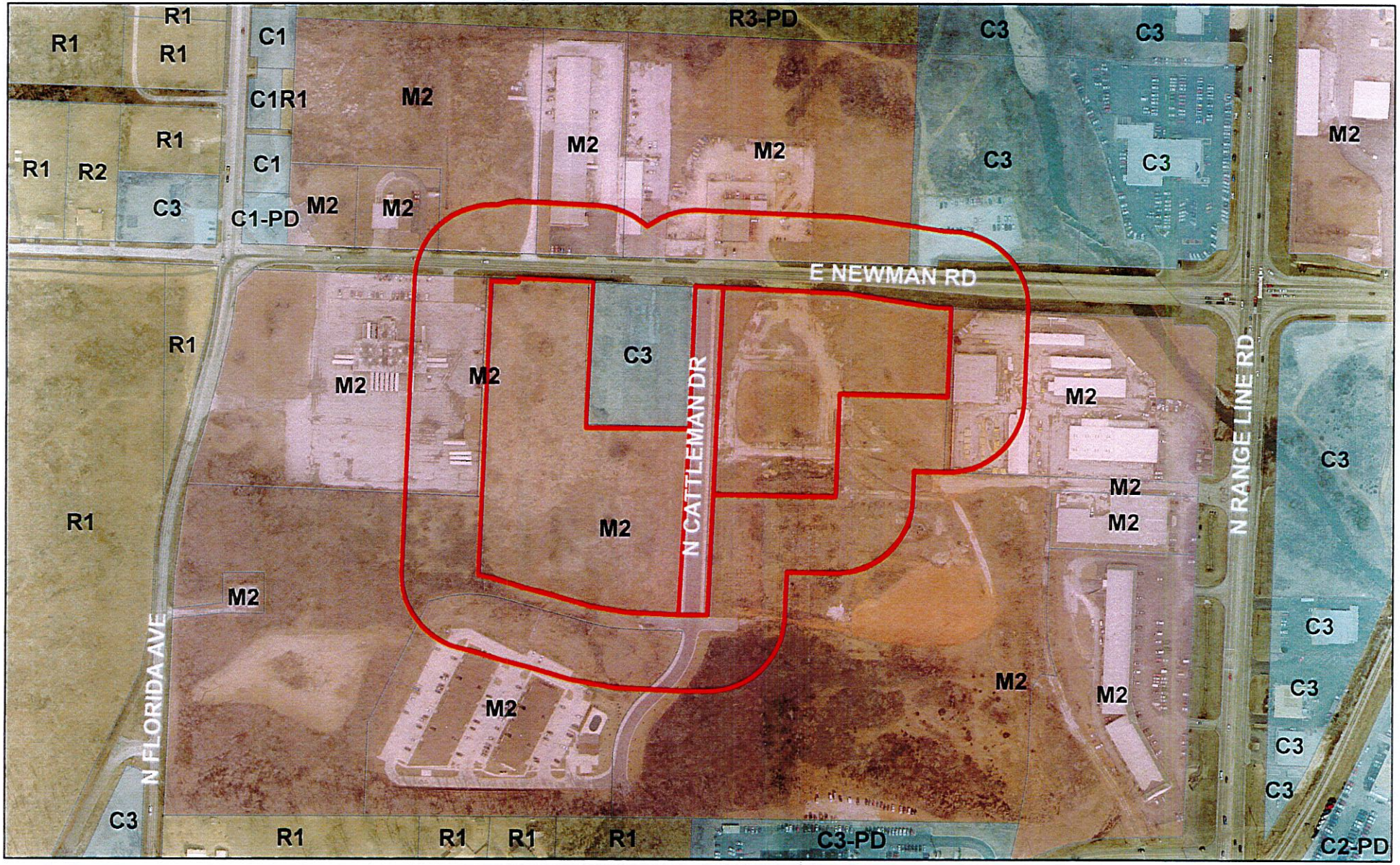
1. One copy of a legal description of the property proposed to be rezoned (deed or certified survey).
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed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

SIGNATURE: [signature] Assign/Agent DATE: October 15th 2019

BY: Samuel M. Coryell and/or Assigns

TITLE: Applicant

Case 039-19: Intersection of Newman Road and Cattleman Dr. - Rezone

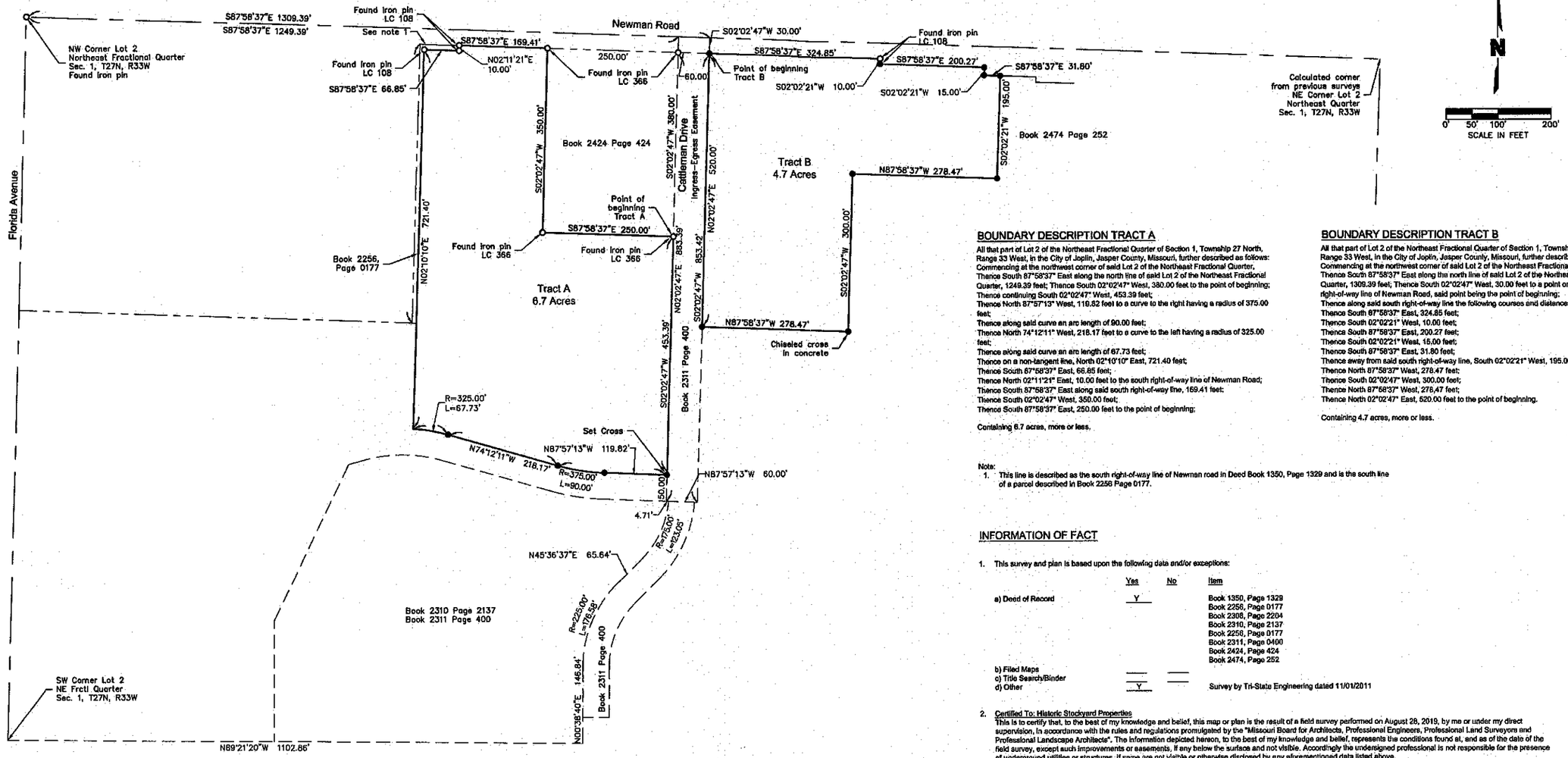


Case 039-19: Intersection of Newmand Road and Cattleman Dr. - A request to remove from District M-2 and include in District C-2-PD for the purpose of multi-family development - Samuel M. Coryell

0 125 250 500 750 1,000 Feet

N

HISTORIC STOCKYARDS PROPERTIES, LLC
SECTION 1, TOWNSHIP 27 NORTH, RANGE 33 WEST
CITY OF JOPLIN, JASPER COUNTY, MISSOURI



BOUNDARY DESCRIPTION TRACT A

All that part of Lot 2 of the Northeast Fractional Quarter of Section 1, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri, further described as follows: Commencing at the northwest corner of said Lot 2 of the Northeast Fractional Quarter, Thence South 87°58'37" East along the north line of said Lot 2 of the Northeast Fractional Quarter, 1249.39 feet; Thence South 02°02'47" West, 380.00 feet to the point of beginning; Thence continuing South 02°02'47" West, 453.39 feet; Thence North 87°57'13" West, 119.82 feet to a curve to the right having a radius of 375.00 feet; Thence along said curve an arc length of 90.00 feet; Thence North 74°12'11" West, 218.17 feet to a curve to the left having a radius of 325.00 feet; Thence along said curve an arc length of 67.73 feet; Thence on a non-tangent line, North 02°10'10" East, 721.40 feet; Thence South 87°58'37" East, 66.85 feet; Thence North 02°11'21" East, 10.00 feet to the south right-of-way line of Newman Road; Thence South 87°58'37" East along said south right-of-way line, 169.41 feet; Thence South 02°02'47" West, 350.00 feet; Thence South 87°58'37" East, 250.00 feet to the point of beginning;

Containing 6.7 acres, more or less.

BOUNDARY DESCRIPTION TRACT B

All that part of Lot 2 of the Northeast Fractional Quarter of Section 1, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri, further described as follows: Commencing at the northwest corner of said Lot 2 of the Northeast Fractional Quarter, Thence South 87°58'37" East along the north line of said Lot 2 of the Northeast Fractional Quarter, 1309.39 feet; Thence South 02°02'47" West, 30.00 feet to a point on the south right-of-way line of Newman Road, said point being the point of beginning; Thence along said south right-of-way line the following courses and distances; Thence South 87°58'37" East, 324.85 feet; Thence South 02°02'21" West, 10.00 feet; Thence South 87°58'37" East, 200.27 feet; Thence South 02°02'21" West, 15.00 feet; Thence South 87°58'37" East, 31.80 feet; Thence away from said south right-of-way line, South 02°02'21" West, 195.00 feet; Thence North 87°58'37" West, 278.47 feet; Thence South 02°02'47" West, 300.00 feet; Thence North 87°58'37" West, 278.47 feet; Thence North 02°02'47" East, 520.00 feet to the point of beginning.

Containing 4.7 acres, more or less.

Note:
1. This line is described as the south right-of-way line of Newman road in Deed Book 1350, Page 1329 and is the south line of a parcel described in Book 2256 Page 0177.

INFORMATION OF FACT

1. This survey and plan is based upon the following data and/or exceptions:

	Yes	No	Item
a) Deed of Record	Y		Book 1350, Page 1329 Book 2256, Page 0177 Book 2305, Page 2204 Book 2310, Page 2137 Book 2256, Page 0177 Book 2311, Page 0400 Book 2424, Page 424 Book 2474, Page 252
b) Filed Maps			
c) Title Search/Binder			
d) Other	Y		Survey by Tri-State Engineering dated 11/01/2011

2. Certified To: Historic Stockyard Properties
This is to certify that, to the best of my knowledge and belief, this map or plan is the result of a field survey performed on August 28, 2019, by me or under my direct supervision, in accordance with the rules and regulations promulgated by the "Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects". The information depicted hereon, to the best of my knowledge and belief, represents the conditions found at, and as of the date of the field survey, except such improvements or easements, if any below the surface and not visible. Accordingly the undersigned professional is not responsible for the presence of underground utilities or structures, if same are not visible or otherwise disclosed by any aforementioned data listed above.

3. This survey or plan is made for and certified to the parties named hereon for the purpose(s) stated. No other purpose is intended nor implied. The undersigned professional is neither responsible nor liable for the use of this plan beyond its intended purpose.

4. The use of the word "certify" or "certification" constitutes an expression of professional opinion regarding those facts or findings which are the undersigned professional's knowledge, information and belief, and in accordance with the commonly accepted procedure consistent with the applicable standards of practice, and does not constitute a warranty or guarantee either expressed or implied.

5. Missouri Standards for Boundary Surveys Property Type: Urban

CERTIFICATE OF SURVEY AND ACCURACY

Know all men by these presents:

That I, Steven G. Lewis do hereby certify to Historic Stockyard Properties, that this survey was prepared under my supervision from an actual survey of the land herein described, prepared by Olsson, Inc., August 28, 2019, and signed by Steven G. Lewis, P.L.S. 2514, and that the monuments and lot corner pins shown herein were placed under the personal supervision of Steven G. Lewis, P.L.S. 2514, in accordance with the current "Missouri Standards For Property Boundary Surveys".

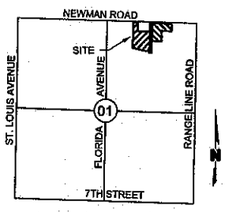
Steven G. Lewis, MO LS 2514
Olsson, MO LC 366

August 28, 2019
Date

Ingress-egress easement

All that part of Lot 2 of the Northeast Fractional 1/4 of Section 1, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri, further described as follows:
Commencing at the Southwest Corner of said Lot 2 of the Northeast Fractional 1/4;
Thence South 89°21'20" East, 30.00 feet along the South Line of said Lot 2 to a point on the East Line of Florida Avenue;
Thence continuing South 89°21'20" East, 1072.85 feet along the South Line of said Lot 2;
Thence North 00°38'40" East, 146.84 feet to a curve to the right having a radius of 225.00 feet;
Thence along said curve an arc length of 178.58 feet;
Thence North 45°36'37" East, 65.64 feet to a curve to the left having a radius of 175.00 feet;
Thence along said curve an arc length of 123.05 feet;
Thence North 87°57'13" West, 4.71 feet to the point of beginning;
Thence North 02°02'47" East, 853.37 feet to a point on the South right-of-way line of Newman Road, from which point the northwest corner of said northeast fractional 1/4 bears North 02°01'23" East, 30.00 feet and North 87°58'37" West, 1249.39 feet;
Thence South 87°58'35" East, along said South right-of-way line of Newman Road, 60.00 feet;
Thence South 02°02'47" West, 853.42 feet;
Thence North 87°57'13" West, 60.00 feet to the point of beginning;

Containing 4.7 Acres more or less



SEC. 1, T-27-N, R-33-W
LOCATION MAP
SCALE: 1"=2000'

LEGEND
○ Found Iron Monument (As Noted)
● Set 1/2" Rebar w/Plastic Cap (unless otherwise noted)

PREPARED FOR	PREPARED BY
HISTORIC STOCKYARDS PROPERTIES, LLC 726 BRECKENRIDGE ROAD MT VERNON, MO 64712	OLSSON, INC. 702 SOUTH MAIN JOPLIN, MO 64802

BASIS OF BEARINGS
Grid North based on the Missouri Coordinate System of 1983, West Zone.

olsson
Olsson - Survey
Missouri Certificate of Authority #2514
702 S. Main Street
Joplin, MO 64801
TEL 417.781.0643 www.olsson.com

STATE OF MISSOURI
STEVEN G. LEWIS
2514
REGISTERED LAND SURVEYOR

REVISIONS

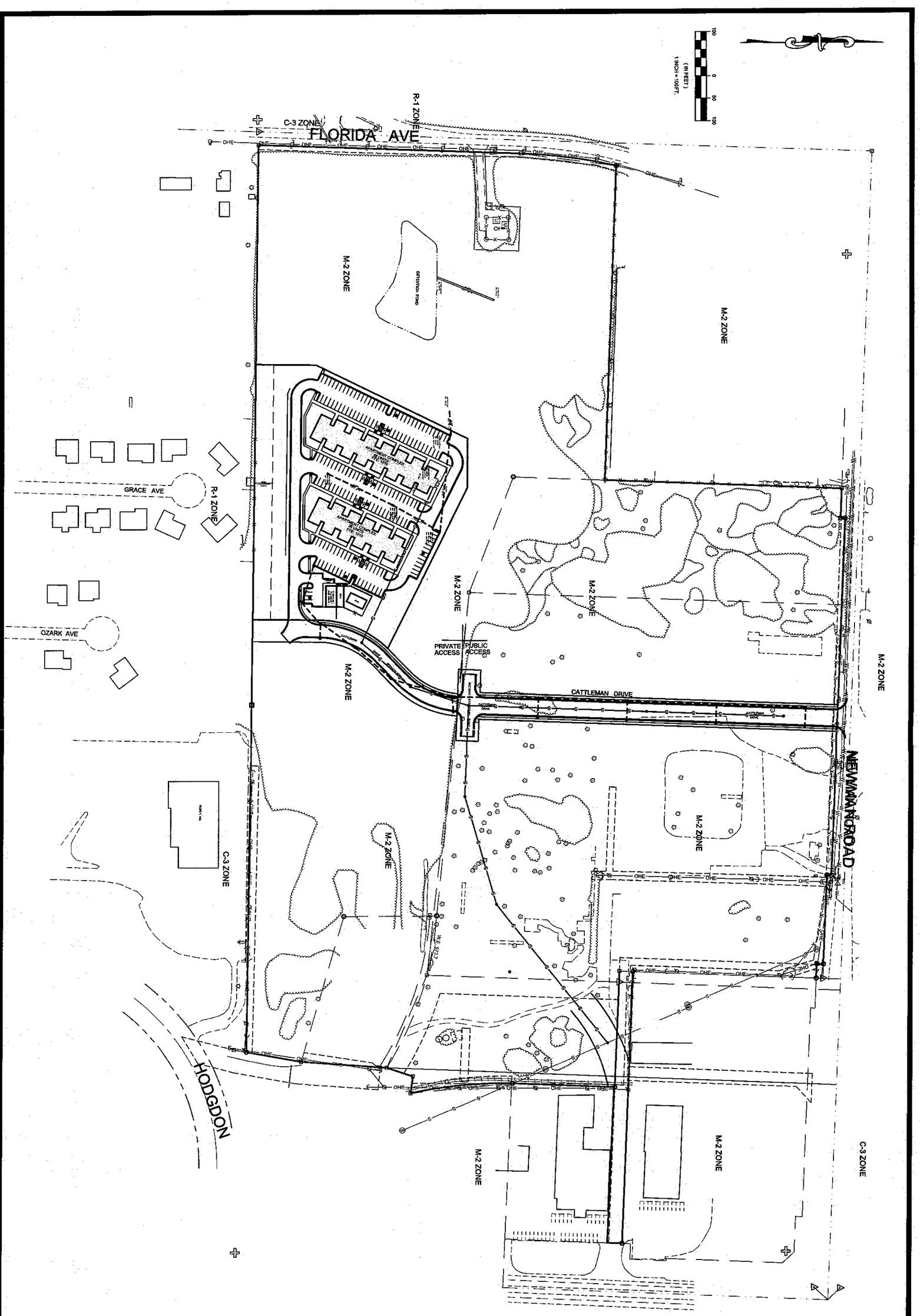
REV. NO.	DATE	REVISIONS DESCRIPTION	BY

HISTORIC STOCKYARD PROPERTIES
BOUNDARY SURVEY
SECTION 1, TOWNSHIP 27, NORTH, RANGE 33 WEST
JASPER COUNTY
JOPLIN, MISSOURI
2019

drawn by: DVH
checked by:
approved by:
QA/QC by:
project no.: 019-2688
drawing no.: V_TBLK_0192688
date: 8/6/19

SHEET 1 of 1

DWG: F:\2019\2501-3000\019-2688\40-Design\Survey\SRVY\Sheets\V_TBLK_0192688.dwg USER: dhenderson
DATE: Aug 28, 2019 1:05pm XREFS: V_XBNDY_0192688


FLORIDA AVE
C-3 ZONE
R-1 ZONE
M-2 ZONE
GRACE AVE
OZARK AVE
CATTLEMAN DRIVE
PRIVATE ACCESS
PUBLIC ACCESS
NEWMAN ROAD
HODGDON
C-3 ZONE
M-2 ZONE
R-1 ZONE
M-2 ZONE
M-2 ZONE
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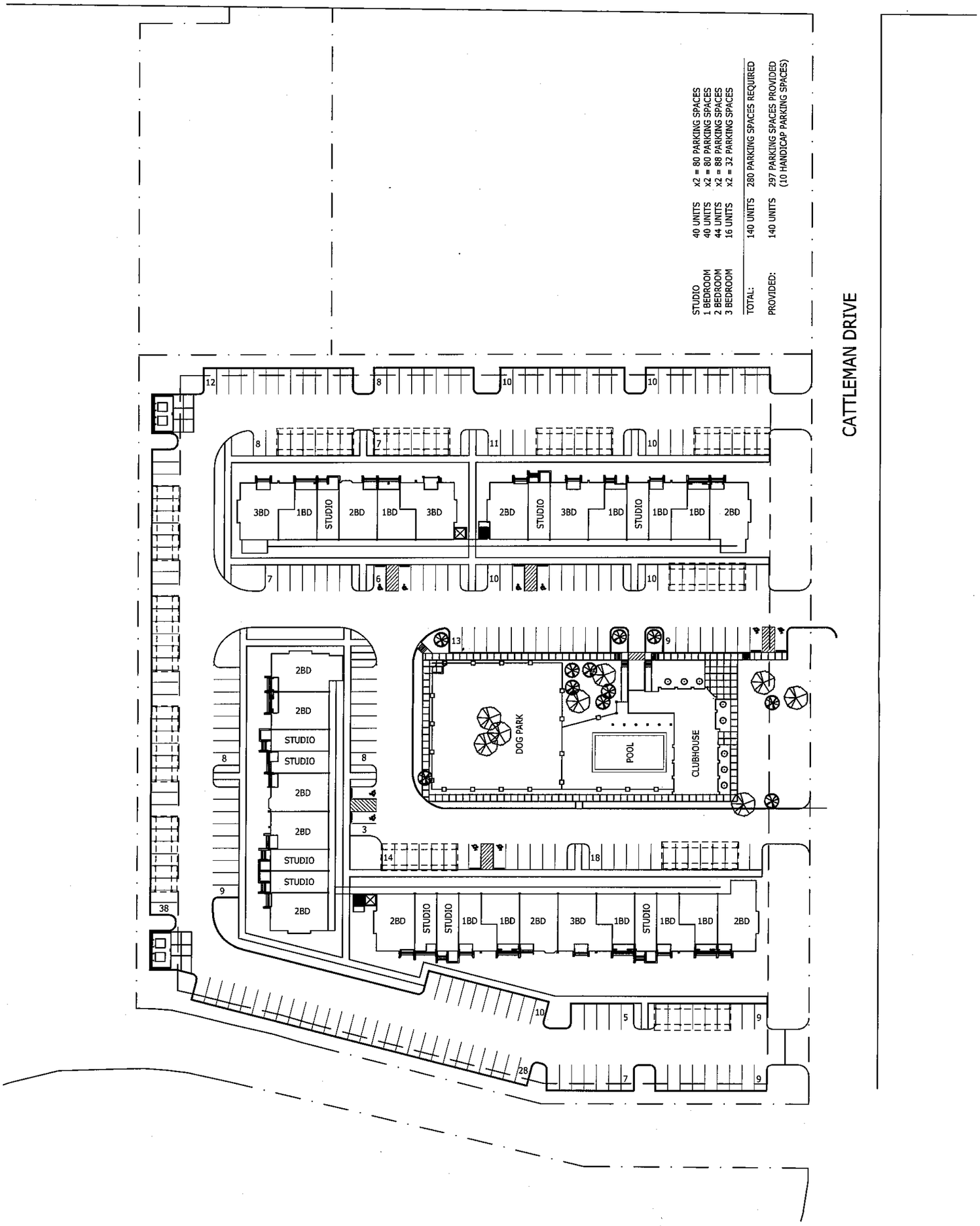
EAST NEWMAN ROAD



1A
A1.1

PROPOSED SITE PLAN

scale:

N

Coryell Joplin

Cattleman Drive
Joplin, MO

G:\19-xxx Coryell Joplin\01 Design Information\Prelim DWG Sketches\hdg_logo_text_RGB.jpg

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
CB 2019-283-Rezone to Central Business District Planned Development (C-2-PD)

MEETING DATE:
December 2, 2019

ORIGINATING DEPARTMENT:
Planning, Development and Neighborhood Services

REVIEWED BY:
Director of Planning, Development & Neighborhood Services-Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, Interim City Manager- Daniel Pekarek.

SUMMARY REQUEST:
Case 039-19: Corner of Newman Road and Cattleman Drive – A request to remove from District M-2 (Heavy Industrial) and include in District C-2-PD (Planned Development Central Business Commercial) for multi-family development. – Samuel M. Coryell

BACKGROUND:
The Joplin Stockyard property used to occupy this site, but due to its intense use, moved out of town. In addition, recent residential developments near and on portions of this site have begun a transition away from industrial uses to more high density residential and commercial uses.

The applicant's request to rezone to a C-2-PD Planned Development Central Business District zone is not inappropriate for this property considering it is the intent of the developers to develop their site with dense multi-family units. The C-2-PD district has unique properties such as lower setback requirements and taller height restrictions that are appropriate for the applicant's proposed development as well as for this area in general.

PLANNING & ZONING COMMISSION TESTIMONY:
Brad Ferguson, Olsson Associates, 702 S Main Street, Joplin, MO. I am here on behalf of the land owner and Mr. Coryell. They would like to do a multi-family development just north of the existing complex that is shown.

Mr. Ramsour asked if there were any environmental issues on that property?

Mr. Ferguson stated he doesn't know if that has been investigated at this point.

PUBLIC COMMENT;
None.

FUNDING SOURCE:
These payments are included in the FY 2018-19 budget of the Community Planning Fund.

RECOMMENDATIONS:
Planning & Zoning Commission recommends approval, 6 in Favor, 0 Nays, 1 Absent..
Staff recommends approval of Case 039-19.

ATTACHMENTS
CB 2019- 283, Staff Planning Report, P&Z Commission Minutes

P & Z Case 039-19
Samuel M. Coryell
(P & Z Recommended Approval)

COUNCIL BILL NO. 2019-283 ORDINANCE NO.

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

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

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

All that part of Lot 2 of the Northeast Fractional Quarter of Section 1, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri, further described as follows: commencing at the Northwest corner of said Lot 2 of the Northeast Fractional Quarter, thence S87°58'37"E along the North line of said Lot 2 of the Northeast Fractional Quarter, 1249.39 feet; thence S02°02'47"W, 380.00 feet to the point of beginning; thence continuing S02°02'47"W, 453.39 feet; thence N87°57'13"W, 119.82 feet to a curve to the right having a radius of 375.00 feet; thence along said curve an arc length of 90.00 feet; thence N74°12'11"W, 218.17 feet to a curve to the left having a radius of 325.00 feet; thence along said curve an arc length of 67.73 feet; thence on a non-tangent line, N02°10'10"E, 721.40 feet; thence S87°58'37"E, 66.85 feet; thence N02°11'21"E, 10.00 feet to the South right-of-way line of Newman Road; thence S87°58'37"E along said South right-of-way line, 169.41 feet; thence S02°02'47"W, 350.00 feet; thence S87°58'37"E, 250.00 feet to the point of beginning, containing 6.7 acres, more or less; And all that part of Lot 2 of the Northeast Fractional Quarter of Section 1, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri, further described as follows: commencing at the Northwest corner of said Lot 2 of the Northeast Fractional Quarter, thence S87°58'37"E along the North line of said Lot 2 of the Northeast Fractional Quarter, 1309.39 feet; thence S02°02'47" W, 30.00 feet to a point on the South right-of-way line of Newman Road, said point being the point of beginning; thence along said South right-of-way line the following courses and distances; thence S87°58'37"E, 324.85 feet; thence S02°02'21"W, 10.00 feet; thence S87°58'37"E, 200.27 feet; thence S02°02'21"W, 15.00 feet; thence S87°58'37"E, 31.80 feet; thence away from said South right-of-way line, S02°02'21"W, 195.00 feet; thence N87°58'37"W, 278.47 feet; thence S02°02'47"W, 300.00 feet; thence N87°58'37"W, 278.47 feet; thence N02°02'47"E, 520.00 feet to the point of beginning, containing 4.7 acres, more or less; And all that part of Lot 2 of the Northeast Fractional ¼ of Section 1, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri, further described as follows: commencing at the Southwest corner of said Lot 2 of the Northeast Fractional ¼; thence S89°21'20"E, 30.00 feet along the South line of said Lot 2 to a point on the East line of Florida Avenue; thence continuing S89°21'20"E, 1072.85 feet along the South line of said Lot 2; thence N00°38'40"E, 146.84 feet to a curve to the right having a radius of 225.00 feet; thence along said curve an arc length

of 176.58 feet; thence N45°36’37”E, 65.64 feet to a curve to the left having a radius of 175.00 feet; thence along said curve an arc length of 123.05 feet; thence N87°57’13”W, 4.71 feet to the point of beginning; thence N02°02’47”E, 853.37 feet to a point on the South right-of-way line of Newman Road, from which point the Northwest corner of said Northeast Fractional ¼ bears North 02°01’23”E, 30.00 feet and N87°58’37”W, 1249.39 feet; thence S87°58’35”E, along said South right-of-way line of Newman Road, 60.00 feet; thence S02°02’47W, 853.42 feet; thence N87°57’13”W, 60.00 feet to the point of beginning; containing 4.7 acres more or less,.

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

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of_____, 2019, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

JOPLIN CITY COUNCIL
NOVEMBER 18, 2019 MEETING MINUTES

CALL TO ORDER
The regular meeting of the Joplin City Council was called to order at 6:00 p.m.by Mayor Gary Shaw.

INVOCATION was read by City Clerk Barbara Gollhofer.

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

ROLL CALL
Answering Roll Call were Council Members: Taylor Brown, Melodee Colbert-Kean, Keenan Cortez, Doug Lawson, Anthony Monteleone, Diane Reid Adams, Gary Shaw, Ryan Stanley, and Phil Stinnett. Also, in attendance were Interim City Manager Dan Pekarek and Assistant City Attorney Jordan Paul.

PRESENTATIONS
Faron Haase, Joplin High School Student Council (JHS STUCO) presented an update to City Council on Joplin Schools accomplishments and events. He invited everyone to support the football team as they play in the state semi-finals in O'Fallon this Saturday, November 23 at 3:00 p.m. Mr. Stanley thanked Mr. Haase for his update and asked Mr. Haase to share information regarding city events with the schools. Mr. Stanley asked Mr. Haase if he could attend the first council meeting in December (2nd) and give the council an update on upcoming holiday events for the schools.

Mayor Shaw presented a proclamation recognizing November 16-24, 2019 as Hunger and Homelessness Awareness Week to Robin Smith, , Assistant Director of Community Development for Economic Security Corp. of SW Area.

Michael Mooney, a consultant for Volaire Aviation Consulting, presented the Joplin Regional Airport Airline Industry and Air Service Update.

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

REPORTS AND COMMUNICATIONS

CITIZEN REQUESTS AND PETITIONS
William (Chris) Shumate, 2925 Missouri Ave. Joplin, addressed City Council regarding a medicinal marijuana ordinance change.

Debra Nash, 28253 Kafir Rd. had requested to address City Council regarding the medicinal marijuana ordinance but she was not present.

PUBLIC HEARINGS
Public Hearing procedures were read by City Clerk Barbara Gollhofer.

Public Hearing for Council Bill No. 2019-009 -an ordinance approving a plan for an industrial development project consisting of the acquisition, construction, improvement and equipping of a warehouse and distribution facility; authorizing the city of Joplin, Missouri to issue its taxable industrial development revenue bonds in a principal amount not to exceed $51,400,000 to finance the costs of such project; authorizing and approving certain documents; and authorizing certain other actions in connection with the issuance of the bonds.

Mayor Shaw opened the Public Hearing

No one appeared in favor of or in opposition to this council bill.

The Public Hearing was closed.

No action was required on Council Bill No. 2019-009 at this time. It will be read again under First Reading.

CONSENT AGENDA
Motion by Mr. Stanley, second by Mrs. Colbert-Kean to approve the Consent Agenda. Voting in favor were Council Members: Brown, Colbert-Kean, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9 Nays: 0.

Minutes of the November 4, 2019 City Council Meeting

Minutes of the November 11. 2019 Special City Council Meeting

COUNCIL BILL NO. 2019-281 - AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1 property as described below and located 2818, 2824, 2828, and 2832 E 19th St., City of Joplin, Jasper County, Missouri. **Ordinance No. 2019-169**

COUNCIL BILL NO. 2019-405 - AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and the Economic Security Corporation that pertains to 2019 CDBG public service grant funds in the amount of $25,000.00; authorizing the City Manager to execute same on behalf of the City. **Ordinance No. 2019-170**

COUNCIL BILL NO. 2019-406 - AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and the Homeless Coalition that pertains to 2019 CDBG public service grant funds in the amount of $17,000.00; authorizing the City Manager to execute same on behalf of the City. **Ordinance No. 2019-171**

RESOLUTIONS
Mr. Lawson introduced Resolution No. 2019-013 - a resolution initiating the required 45-day public information period of the actuary reports for the transition from the policemen's and firemen's pension plan to the Missouri Local Government Employees Retirement System

(LAGERS) for public safety employees. Motion by Mr. Lawson, second by Dr. Reid Adams to approve Resolution No. 2019-013. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. Resolution No. 2019-013 was approved.

Mr. Stanley requested an informal meeting or work session to discuss the pension issue further.

ORDINANCES – EMERGENCY

Mr. Cortez introduced Council Bill No. 2019-156 - an ordinance authorizing the acceptance of a Missouri Highways and Transportation Commission Public Transit Operating Assistance Grant Agreement for state funds of eleven thousand five hundred ten dollars and No/100 ($11,510.00) to be used for operating assistance for the Metro Area Public Transit System (MAPS); and containing an emergency clause. Motion by Mr. Cortez, second by Mr. Lawson that Council Bill No. 2019-156 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was declared adopted and entitled **Ordinance No. 2019-172**.

Mr. Stinnett introduced Council Bill No. 2019-157 - an ordinance authorizing the City of Joplin to enter into an Airport Agreement with American Airlines, Inc. to establish operational guidelines and fees in the Commercial Terminal at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause. Motion by Mr. Stinnett, second by Mr. Stanley that Council Bill No. 2019-157 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was declared adopted and entitled **Ordinance No. 2019-173**.

Mr. Brown introduced Council Bill No. 2019-158 - an ordinance authorizing the City of Joplin to establish the Airport Police Department and empower its Uniformed Officers at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin; and containing an emergency clause. Motion by Mr. Brown, second by Mr. Monteleone that Council Bill No. 2019-158 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was declared adopted and entitled **Ordinance No. 2019-174.**

Mr. Stanley introduced Council Bill No. 2019-522 - an ordinance adopting and establishing pay rates for certain Unclassified Council Employees; and containing an emergency clause. Motion by Mr. Stanley, second by Mr. Cortez that Council Bill No. 2019-522 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was declared adopted and entitled **Ordinance No. 2019-175**.

Mr. Stinnett introduced Council Bill No. 2019-532 - an ordinance amending the Annual Budget of the City of Joplin for the Fiscal Year 2019-2020 as adopted by Ordinance 2019-166 on October 21, 2019, to adjust appropriations; and containing an emergency clause. Motion by Mr. Stinnett, second by Mr. Lawson that Council Bill No. 2019-532 be approved on an emergency basis. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was declared adopted and entitled **Ordinance No. 2019-176**

ORDINANCES – FIRST READING

Mr. Cortez introduced Council Bill No. 2019-009 - an ordinance approving a plan for an industrial development project consisting of the acquisition, construction, improvement and equipping of a warehouse and distribution facility; authorizing the city of Joplin, Missouri to issue its taxable industrial development revenue bonds in a principal amount not to exceed $51,400,000 to finance the costs of such project; authorizing and approving certain documents; and authorizing certain other actions in connection with the issuance of the bonds. Motion by Mr. Cortez, second by Dr. Reid Adams that Council Bill No. 2019-009 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-009**.

Mr. Lawson introduced Council Bill No. 2019-523 - an ordinance repealing Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, 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. Motion by Mr. Lawson , second by Dr. Reid Adams that Council Bill No. 2019-523 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-523**.

Mr. Stanley introduced Council Bill No. 2019-524 - an ordinance repealing Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalk and Other Public Places, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalks and Other Public Places, 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. Motion by Mr. Stanley, second by Mr. Cortez that Council Bill No. 2019-524 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-524**.

Dr. Reid Adams introduced Council Bill No.2019-525 - an ordinance repealing Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, 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. Motion by Mr. Dr. Reid Adams, second by Mr. Lawson that Council Bill No. 2019-525 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-525**.

Mr. Lawson introduced Council Bill No. 2019-526 - an ordinance repealing Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin to implement certain classification changes; and setting a date when this Ordinance shall become effective. Motion by Mr. Lawson, second by Dr. Reid Adams that Council Bill No. 2019-526 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-526**.

Mr. Stanley introduced Council Bill No. 2019-527 - an ordinance repealing Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, 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. Motion by Mr. Stanley, second by Mr. Brown that Council Bill No. 2019-527 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-527**.

Mr. Stinnett introduced Council Bill No. 2019-528 - an ordinance repealing Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B as adopted by Ordinance No. 97-161 of the City of Joplin and enacting in lieu thereof a new Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective. Motion by Mr. Stinnett, second by Mr. Cortez that Council Bill No. 2019-528 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-528**.

Mr. Lawson introduced Council Bill No. 2019-529 - an ordinance repealing Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations of the City of Joplin and enacting in lieu thereof a new Section 29A-2514, Fees, of Appendix 29A, of the Zoning Regulations 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. Motion by Mr. Lawson, second by Mr. Brown that Council Bill No. 2019-529 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-529**.

Mr. Lawson introduced Council Bill No. 2019-530 - an ordinance repealing Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the

Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, 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. Motion by Mr. Lawson, second by Dr. Reid Adams that Council Bill No. 2019-530 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-530**.

Mr. Stanley introduced Council Bill No. 2019-531 - an ordinance repealing Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, 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. Motion by Mr. Stanley, second by Mr. Stinnett that Council Bill No. 2019-531 be passed on First Reading and advanced to Second and Third Reading. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0. The Council Bill was read as **Council Bill No. 2019-531**.

ORDINANCES – SECOND READING AND THIRD READING

UNFINISHED BUSINESS

Mayor Shaw asked the city council for direction on the informal meeting presentation item regarding the Tobacco 21 Ordinance. Motion by Mr. Cortez, second by Mr. Lawson to have city staff prepare an ordinance to bring to Council at a future meeting. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0.

NEW BUSINESS

News from Public Information Officer, Lynn Onstot

Monday, November 25 is the Downtown Lighting Celebration in Joplin!

Festivities begin at 5 p.m., with Parks and Recreation staff hosting crafts for the kids at Spiva Park. Santa arrives at 5:30, and at 6, the official lighting of Spiva Park will bring holiday scenes set to music. At 6:30 p.m. everyone is invited to enjoy a holiday-themed movie shown on Main Street near City Hall at 6th Street. Main Street will be closed from 2nd to 7th Street during this event. More details can be found on our website and on the City's Facebook page.
Another holiday tradition to plan on is the Joplin Christmas Parade- It will be on Tuesday, December 3 so be sure to mark your calendar.

The City will begin its Residential Leaf Pick Up Program Monday, December 2, weather permitting. We'll have a map of the neighborhoods and the order our crews will be working

posted on our website and Facebook this week. More details about this service will be sent out and posted later this week.

And just a reminder that City offices will be closed on Thursday , November 28 and Friday, November 29 for the Thanksgiving holiday. This closure includes the Sunshine Lamp Trolley and MAPS transportation service, and the Joplin Recycling Center.

The Trolley and MAPS services, as well as the Joplin Recycling Center will resume their regular hours on Saturday, November 25.

Joplin Residential trash service does not run on Thanksgiving, so Thursday customers will have their trash picked up on Friday, and Friday's services will be moved to Saturday. In closing, I wish all of you and our citizens a wonderful and blessed Thanksgiving holiday.

Vote to go into closed session, which shall pertain to legal action, causes of action, or litigation including a public governmental body and any confidential or privileged communications between a governmental body or its representatives and its attorneys pursuant to state law; and which shall pertain to 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; and the hiring, firing, disciplining, or promotion of an employee or particular employees of a governmental body involving personal information as set forth in Section 610.021 (1) (2) (3) RSMo, as amended, 2018. 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. Stinnett, second by Mr. Monteleone to go into closed session. Voting in favor were Council Members: Brown, Colbert-Kean; Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 9. Nays: 0.

There being no further business, the meeting adjourned at 8:25 p.m.

Respectfully,

Barbara J. Gollhofer, City Clerk

Minutes of the Special Joplin City Council Meeting
November 22, 2019

Call to order
The November 22, 2019 Special Meeting of the Joplin City Council was called to order at 12:30 p.m. by Mayor Gary L. Shaw.

Invocation: Read by City Clerk Barbara Gollhofer

Pledge of Allegiance: Led by Mayor Shaw

Roll Call: Present: Keenan Cortez, Doug Lawson, Anthony Monteleone, Diane Reid Adams, Mayor Gary Shaw, Ryan Stanley and Phil Stinnett, 7. Absent: Taylor Brown, Melodee Colbert-Kean, Also in attendance was City Attorney Peter Edwards.

Reading of the Special Call.
City Clerk Barbara Gollhofer read the Special Call: Notice is hereby given that the Joplin City Council will hold a Special Meeting beginning at 12:30 p.m. on Friday, November 22, 2019 at Joplin City Hall in the 5th floor Council Chambers, 602 S. Main, Joplin, Missouri for the purpose stated below.

Vote to go into closed session, which shall pertain to the hiring, firing, disciplining, or promotion of an employee or particular employees of a governmental body involving personal information; as set forth in Section 610.021 (3) RSMo, as amended, 2018. 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. Cortez, second by Mr. Stanley to go into closed session. Voting in favor were Council Members: Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 7. Nays: 0. Absent: Brown, Colbert-Kean, 2.

There being no further business to come before the city council, the meeting was adjourned at 12:33 p.m.

Respectfully submitted,

Barbara J. Gollhofer, City Clerk

Minutes of the Special Joplin City Council Meeting
November 26, 2019

Call to order
The November 26, 2019 Special Meeting of the Joplin City Council was called to order at 12:30 p.m. by Mayor Gary L. Shaw.

Invocation: Read by City Clerk Barbara Gollhofer

Pledge of Allegiance: Led by Mayor Shaw

Roll Call: Present: Taylor Brown (via phone), Keenan Cortez, Doug Lawson, Anthony Monteleone, Diane Reid Adams, Mayor Gary Shaw, Ryan Stanley (via phone), and Phil Stinnett, 8. Absent: Melodee Colbert-Kean, 1. Also in attendance were City Attorney Peter Edwards and Interim City Manager Dan Pekarek.

Reading of the Special Call.
City Clerk Barbara Gollhofer read the Special Call: Notice is hereby given that the Joplin City Council will hold a Special Meeting beginning at 12:30 p.m. on Tuesday, November 26, 2019 at Joplin City Hall in the 5th floor Council Chambers, 602 S. Main, Joplin, Missouri for the purpose stated below.

Vote to go into closed session, which shall pertain to the hiring, firing, disciplining, or promotion of an employee or particular employees of a governmental body involving personal information; as set forth in Section 610.021 (3) RSMo, as amended, 2018. 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. Cortez, second by Dr. Reid Adams to go into closed session. Voting in favor were Council Members: Brown, Cortez, Lawson, Monteleone, Reid Adams, Shaw, Stanley and Stinnett, 8. Nays: 0. Absent: Colbert-Kean, 1.

There being no further business to come before the city council, the meeting was adjourned at 12:33 p.m.

Respectfully submitted,

Barbara J. Gollhofer, City Clerk

City of Joplin **City Council Agenda Item**

REQUESTED COUNCIL MEETING DATE: November 18, 2019 (Ch 100 hearing/1st reading)
December 2, 2019 (final readings)

ITEM: Council Bill No. 2019-009 approving a Chapter 100 plan, authorizing the City of Joplin, Missouri, to issue its Taxable Industrial Development Revenue Bonds and authorizing the execution of other documents connected therewith.

ORIGINATING DEPARTMENT: Legal Department
ATTACHMENTS: Council Bill No. 2019-009; copy of Chapter 100 Plan, Bond Purchase Agreement; Trust Indenture; Lease Agreement; Performance Agreement.

DEPARTMENT HEAD:	Peter C. Edwards	**DATE:**
CITY MANAGER:	Daniel Pekarek	**DATE:**
PUBLIC WORKS:	David Hertzberg	**DATE:**
FINANCE DIRECTOR:	Leslie Haase	**DATE:**

INTRODUCTION:

The Council Bill approves a plan for industrial development, or "Chapter 100 plan"; authorizes the execution of documents; and authorizes the issuance of Bonds for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a new warehouse and distribution facility (the "Project") for Casey's Marketing Company (the "Company"), an affiliate of Casey's General Stores, Inc. The Project will be located at 2715 Prosperity Road, Joplin, Missouri (the "Project Site") and used in the storage and distribution of products for the Company's various retail stores. The Council Bill authorizes the City to enter into certain agreements in connection with the issuance of the Bonds.

DISCUSSION:

The project involves the construction of a 200,000 (approx.) square foot facility with an estimated cost of $40,900,000 for land and real property improvements (the "Project Improvements") and the acquisition and installation of approximately $10,400,000 in equipment and other personal property (the "Project Equipment").

No Abatement on Land Value

The Project Site will not be subject to abatement. The Company will pay a fixed schedule of payments in lieu of taxes ("PILOTs") calculated to equal 100% of the estimated taxes that would otherwise be due on the land were it not for the Chapter 100 incentive. The PILOT for 2020 will be $915 and will increase by 2% in each odd year so that the final PILOT in 2033 will be $1,051.

Abatement on Project Improvements

The Project Improvements will be subject to 100% abatement starting in 2019 or 2020 (depending on the issue date of the Chapter 100 Bonds) and ending with tax year 2033. This is calculated to provide 12 years of abatement after completion of the Project Improvements. The estimated value of abatement for the Project Improvements is $1,532,187.

Abatement on Project Equipment

The Project Equipment will be subject to 100% abatement for five years, on a rolling basis, meaning that Project Equipment purchased in 2021 will receive abatement for tax years 2022, 2023, 2024, 2025 and 2026 and go on the tax rolls starting with tax year 2027, and Project Equipment purchased in subsequent years will receive five years of abatement in a similar manner. The estimated value of abatement for the Project Equipment is $377,116.

Total Chapter 100 Incentive

The Company will also receive the benefit of applying the City's tax exemption certificate to purchases of construction materials for the Project and purchases of certain personal property approved by the Missouri Department of Economic Development ("DED"). Because DED has not yet approved the personal property that may be acquired, it is not possible to estimate that portion of the incentive. The total estimated benefit of the local portion of the Chapter 100 incentive to the Company is as follows:

Abatement on Project Improvements	$1,532,187
Abatement on Project Equipment	377,116
Sales Tax Exemption – Construction Materials	926,000
Total Estimated Local Incentive	$2,835,303

Jobs and Wage Requirements

The Company is expected to add 108 jobs to the Joplin economy in connection with the Project. Under the Performance Agreement, the Company is required to create 100 jobs at the Facility in order to retain the abatement at the levels described above. The jobs must pay an average wage of $39,816 (the county average wage), which is increased with inflation every other year, and the Company must cover at least 50% of the employees' health insurance premiums. If these requirements are not met, the Company will be required to make penalty payments to the taxing jurisdictions proportionate to the percentage of failure. Additionally, if the Company ceases invests less than 80% of the amounts discussed above in the Project, the Company will be required to make penalty payments to the taxing jurisdictions proportionate to the percentage of under-investment.

Other Benefits to the Joplin Area

The Company has represented that it will utilize local contractors and suppliers to the greatest degree possible, so long as pricing, availability, and timing align with project goals. Additionally, the Company represents itself as a great community partner that has a long-standing reputation of giving back to communities in which its facilities are located. The Company represents that last year it contributed $4.5 Million to various community and charitable organizations and events.

Chapter 100 Bonds

Chapter 100 Bonds will be offered at a public sale in accordance with the City's charter. It is anticipated that the Company or an affiliate or a related entity will place a bid to purchase the Bonds in the estimated aggregate principal amount of $51,400,000 to pay for the project costs and the costs of completing the Chapter 100 Bond transaction.

Chapter 100 Bonds are authorized pursuant to Chapter 100 of the Missouri Revised Statutes. This tax abatement tool provides for the City to be the actual owner of the Project. The Project is then leased to the Company. During the time the Bonds remain unpaid and the City owns the Project, it is exempt from property taxes because title is held by the City as a tax-exempt entity. Chapter 100 Bonds are paid solely from revenue received from the lease of the Project and such Bonds are not an obligation or debt of the City, except for the obligation to apply lease payments to the bond debt service. Thus, in the unlikely event that the Company was to default on the payment of its obligations under the Bond documents, the City is not liable to make such payments from any source other than revenue received from the lease. In addition, because such Bonds do not constitute a debt of the City within the meaning of any constitutional or statutory limitation, the bonding capacity of the City is not affected by their issuance.

Under the Bond documents, the Company agrees to indemnify the City against any losses or liability that might arise out of the City's ownership of the Project. The Company is also required to carry liability insurance to cover the City in an amount equal to the Missouri limits for waiver of sovereign immunity.

RECOMMENDATION:

Staff recommends this council bill be placed on First Reading.

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NOTICE TO TAXING JURISDICTIONS ON ATTACHED LIST

Re: Notice of Public Hearing – Industrial Development Project

On behalf of the City of Joplin, Missouri (the "City"), please find enclosed a copy of the proposed Plan for Industrial Development Project for a Distribution Facility (the "Plan"), which also contains a Cost Benefit Analysis on the affected taxing jurisdictions.

The City anticipates considering the first reading of an ordinance to approve the Plan following a public hearing on the Plan at a meeting on Monday, November 18, 2019 at 6:00 PM at City Hall located at 602 S. Main St., Joplin, MO 64801.

The City invites all affected taxing districts to attend the public hearing and to make oral comments on the proposed Plan to the City or to provide written comments to the City on the Plan prior to the hearing. All comments of the taxing districts will be fairly and duly considered by the City.

A copy of the Plan and Cost Benefit Analysis for the proposed project is enclosed and also will be on file in the office of the City Clerk and will be available for public inspection during normal business hours.

Any questions should be directed to Tobias Teeter, President of The Joplin Area Chamber of Commerce, at 417-625-6600.

Dated: October 28, 2019

CITY OF JOPLIN, MISSOURI
602 S. Main St.
Joplin, MO 64801

TAX ENTITY MAILING LIST

Jasper County, Missouri Presiding Commissioner Jasper County Courthouse 302 South Main Street, Room 101 Carthage, MO 64836	**Jasper County Assessor** Jasper County Courthouse 302 S. Main, Room 201B Carthage, MO 64836
Jasper County Collector Jasper County Courthouse 302 S. Main-Room 107 Carthage, MO 64836	**Jasper County Mental Health Fund Board** Attn: Neina Bellm P. 0. Box 2526 Joplin, MO 64803
City of Joplin, Missouri City Clerk 602 S. Main St. Joplin, MO 64801	**Jasper County Sheltered Facilities Board** Attn: Alecia Archer 1727 W 26th St. Joplin, MO 64804
Joplin Schools Board of Education Attn: Superintendent 825 Pearl Ave Joplin, MO 64801	**Joplin Special Road District** 1016 Picher Joplin, MO 64801
Missouri Department of Revenue Tax Administration Bureau Harry S Truman State Office Building 301 West High Street Jefferson City MO 65101 1-573-751-4249	**Department of Economic Development** Development Finance Missouri Department of Economic Development 301 West High Post Office Box 118 – Room 770 Jefferson City MO 65102 1-573-751-4962
Missouri Department of Economic Development Director Post Office Box 118 – Room 770 Jefferson City MO 65102 1-573-751-4962	**Missouri Department of Revenue** County Tax Section State Blind Pension Fund Harry S Truman State Office Building *P.O. Box 453* 301 West High Street Jefferson City MO 65101

BEFORE THE

CITY COUNCIL

OF THE

CITY OF JOPLIN, MISSOURI

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT FOR A DISTRIBUTION FACILITY (HEARTHSTONE PROJECT)

October 28, 2019

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT
FOR A DISTRIBUTION FACILITY

TO: THE CITY COUNCIL OF THE CITY OF JOPLIN, MISSOURI

A plan for an industrial development project as described herein has been proposed to the City of Joplin, Missouri (the "City"), for approval, to be carried out pursuant to Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 to 100.200, inclusive, of the Missouri Revised Statutes, as amended, and in support of said application the following is submitted:

1. Description of the Project. The Project consists of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land in the City, including the land and associated buildings, structures, fixtures and equipment (the "Project"). The Project is designed to be used for the storage and distribution of inventory for a regional retail chain. The Project will be located at 2715 Prosperity Road, Joplin, Missouri, and will be operated for commercial purposes.

2. Estimate of the Cost of the Project. The total cost of the Project is estimated to be $51,300,000 (approximately $40,900,000 for land and real property improvements and approximately $10,400,000 for personal property). The Project involves the acquisition of real property and the construction of a warehousing and distribution facility enclosing approximately 200,000 square feet of space. The personal property to be acquired will be installed in the facility.

3. Source of Funds to be Expended for the Project. The source of funds to be expended for the Project will be the proceeds of $51,400,000 estimated aggregate principal amount of taxable industrial revenue bonds in one or more series (collectively, the "Bonds"), to be issued by the City for the Project and to pay costs of issuing the Bonds.

4. Statement of the Terms Upon Which the Project is to be Leased and Otherwise Disposed of by the City. The City will take title to the land underlying the Project. The Project will be leased by the City (with an option to purchase the City's interest in the Project) to a company (the "Company"). The lease payments collectively will equal the principal and interest on the Bonds plus certain payments in lieu of taxes, as applicable. The Bonds will be payable solely from the revenues derived by the City from the lease to the Company or other disposition of the Project and the Bonds will not be an indebtedness or general obligation, debt or liability of the City.

5. Bond Purchase Arrangements. The Bonds will be offered at a public sale in accordance with the City's charter. It is anticipated that the Company or an affiliate or a related entity will place a bid to purchase the Bonds in the estimated aggregate principal amount of $51,400,000.

6. Affected School District, Community College District, County, City and Emergency Services District. The Joplin R-VIII School District of Jasper County, Missouri; the City; and Jasper County, Missouri, will be affected by the Project as well as the other taxing jurisdictions shown on the attached Cost Benefit Analysis. There is no community college district affected by the Project. No ambulance district board operating under chapter 190 or fire protection district board operating under chapter 321 is affected by the Project.

7. **Equalized Assessed Valuation.** The most recent equalized assessed valuation of the real property underlying the Project is $6,020 (2019). The most recent equalized assessed valuation of the personal property to be included in the Project is $-0-. The total equalized assessed valuation of the real property and improvements included in the Project after construction is estimated at $2,256,374. The total equalized assessed valuation of the personal property to be included in the Project is estimated at $2,752,833.

8. **Cost/Benefit Analysis.** Attached hereto as **Exhibit A** is the Cost Benefit Analysis for the affected taxing jurisdictions, which assumes a total period of 12 years of tax abatement from the first year in which real property improvements will be completed and subject to taxation, at a rate of 100% abatement. Personal property acquired as part of the Project will be subject to 100% abatement for a period of 5 years.

9. **Payments in Lieu of Taxes.** The Company will agree to make payments in lieu of taxes during each year in which title to the Project is held by the City. The amounts shown below represent the value of such payments in lieu of taxes. The payments in lieu of taxes represent the value of taxes that would have been due on the land underlying the Project (which land is not subject to abatement pursuant to this Plan).

	Year	Payment in Lieu of Taxes
Pre-Construction	2019	$282
Construction phase	2020	915
Construction phase	2021	933
Abatement Year 1	2022	933
Abatement Year 2	2023	952
Abatement Year 3	2024	952
Abatement Year 4	2025	971
Abatement Year 5	2026	971
Abatement Year 6	2027	990
Abatement Year 7	2028	990
Abatement Year 8	2029	1,010
Abatement Year 9	2030	1,010
Abatement Year 10	2031	1,030
Abatement Year 11	2032	1,030
Abatement Year 12	2033	1,051

10. Sales and Use Tax Exemption on Construction Materials. Qualified building materials purchased for the construction of the Project are expected to be exempt from sales and use tax pursuant to the provisions of Section 144.062 of the Revised Statutes of Missouri and the underlying bond documents upon delivery of a project exemption certificate by the City to the Company. For purposes of determining the impact of the sales and use tax exemption of the qualified building materials on the affected taxing jurisdictions, the following assumptions were made:

Total Amount of qualified building materials:	$17,800,000
Amount to be purchased within the State of Missouri (but outside Jasper County):	6,900,000
Amount to be purchased within Jasper County (but outside City of Joplin):	1,000,000
Amount to be purchased within the City of Joplin:	4,200,000

Please note that any variance in these assumptions will alter the fiscal impact of the sales and use tax exemptions on the affected taxing jurisdictions.

Based on the assumptions set forth above, the fiscal impact on the affected taxing jurisdictions of the sales and use tax exemption on qualified building materials is as follows:

	Sales Tax Rate	Estimated Sales Tax Revenues Subject to Exemption	Use Tax Rate	Estimated Use Tax Revenues Subject to Exemption
State of Missouri	4.225%	$511,225	4.225%	$240,825
City of Joplin				
General Revenue	1.000	42,000	0	0
Capital Improvement	0.375	15,750	0	0
Public Safety	0.500	21,000	0	0
Parks & Stormwater	0.250	10,500	0	0
Transportation	0.500	21,000	0	0
Jasper County				
General Revenue	0.375	19,500	0	0
General - Bridge	0.250	13,000	0	0
Emergency Services	0.100	5,200	0	0
Law Enforcement	0.250	13,000	0	0
Juvenile Center / Courthouse	0.250	13,000	0	0
Total	8.075%	$685,175	4.225%	$240,825

11. **Application for Sales and Use Tax Exemption on Personal Property.** The Company intends to apply to the Missouri Department of Economic Development ("DED") for certification of the extent to which eligible tangible personal property integral to the company's activities at the Project qualifies for exemption from sales and use tax. DED, through its internal review procedures, will determine the dollar amount of purchases that may qualify for the exemption, which exemption will be contingent upon compliance with DED procedures and ultimate approval by DED of the Company's application for exemption. The Company does not anticipate that a significant portion of the acquisitions will occur within Jasper County or even the State of Missouri based on the specialized nature of the personal property to be acquired. For this reason, and due to the lack of a use tax imposed within the City or Jasper County, any personal property exemption that may be approved by DED is not anticipated to have a significant effect on local sales or use tax.

* * *

EXHIBIT A

COST/BENEFIT ANALYSIS

The accompanying spreadsheet shows the detailed cost/benefit amounts of the proposed Project. It assumes a fixed schedule of payments in lieu of taxes for real property taxes relating to the land included in the Project for the duration of the abatement period for the real property. No payments in lieu of tax will be made with respect to the improvements or personal property included in the Project.

The personal property is assumed to be depreciated over a 7 year period. The depreciated value of personal property is based on depreciation schedules designated by Section 137.122 of the Revised Statutes of Missouri for such property.

The 2019 ad valorem tax levy rates were utilized for all taxing jurisdictions. Amounts shown as payments in lieu of taxes attributable to any particular taxing jurisdiction are subject to change based on the then-current levy rates of all relevant taxing jurisdictions.

City of Joplin, Missouri
(Hearthstone Project)

COST BENEFIT ANALYSIS
PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT

GILMORE BELL
GILMORE & BELL, P.C.

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This information is provided based on the factual information and assumptions provided to Gilmore & Bell, P.C. by a party to or a representative of a party to the proposed transaction. This information is intended to provide factual information only and is provided in conjunction with our legal representation. It is not intended as financial advice or a financial recommendation to any party. Gilmore & Bell, P.C. is not a financial advisor or a "municipal advisor" as defined in the Securities Exchange Act of 1934, as amended.

Project Assumptions

- Appraised value of property improvements $ 7,000,000
- Appraised value of personal property $ 9,250,000
- Bi-annual growth rate of appraised value of site 2.0%
- Assessed value as a percentage of appraised value (Agricultural) - 2019 12.0%
- Assessed value as a percentage of appraised value (Commercial) 32.0%
- Assessed value as a percentage of appraised value (Personal Property) 33.33%
- 2019 Assessed value of project site (Agricultural) $ 6,020
- 2020 Assessed value of project site (Commercial) $ 16,053
- 2021 Assessed value of project site (Commercial) $ 16,374
- Assessed value of property improvements $ 2,240,000
- Terms of abatement:

Site	
Years 1 to 15	0%
Commercial property improvements	
Years 1 to 12	100%
Personal property	
Years 1 to 5	100%

- Personal Property is depreciated using the following 7 year recovery period schedule:

Year	Recovery Period in Years					
	3	5	7	10	15	20
0	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
1	75.00%	85.00%	89.29%	92.50%	95.00%	96.25%
2	37.50%	59.50%	70.16%	78.62%	85.50%	89.03%
3	12.50%	41.65%	55.13%	66.83%	76.95%	82.35%
4	5.00%	24.99%	42.88%	56.81%	69.25%	76.18%
5	5.00%	10.00%	30.63%	48.07%	62.32%	70.46%
6	5.00%	10.00%	18.38%	39.33%	56.09%	65.18%
7	5.00%	10.00%	10.00%	30.59%	50.19%	60.29%
8	5.00%	10.00%	10.00%	21.85%	44.29%	55.77%
9	5.00%	10.00%	10.00%	15.00%	38.38%	51.31%
10	5.00%	10.00%	10.00%	15.00%	32.48%	46.85%
11	5.00%	10.00%	10.00%	15.00%	26.57%	42.38%
12	5.00%	10.00%	10.00%	15.00%	20.67%	37.92%
13	5.00%	10.00%	10.00%	15.00%	15.00%	33.46%
14	5.00%	10.00%	10.00%	15.00%	15.00%	29.00%
15	5.00%	10.00%	10.00%	15.00%	15.00%	24.54%
16	5.00%	10.00%	10.00%	15.00%	15.00%	20.08%
17	5.00%	10.00%	10.00%	15.00%	15.00%	20.00%

Summary of Tax Impact Analysis
(Real and Personal Property)

Taxing Jurisdiction	Tax Rate	Projected Tax Revenues for Site Without Project	Projected PILOT Amount With Project	Projected Tax Revenue With Project (No Abatement)	Value of Abatement
State Blind Pension	0.0300	$ 29	$ 74	$ 10,803	$ 10,729
Jasper County	0.1195	115	295	43,031	42,735
Sheltered Workshop	0.0865	83	214	31,148	30,934
Mental Health	0.0865	83	214	31,148	30,934
R-VIII School District	3.6964	3,564	9,133	1,331,036	1,321,902
Joplin Road District	0.2270	219	561	81,740	81,179
City of Joplin	0.4342	419	1,073	117,786	116,713
Surtax	1.0200	-	2,459	276,635	274,176
	5.7001	$ 4,513	$ 14,023	$ 1,923,326	$ 1,909,303

Projected Tax Revenues for Site Without Project

Estimated Assessed Value of Project Site Without Project		$ 6,020	$ 6,020	$ 6,140	$ 6,140	$ 6,263	$ 6,263	$ 6,388	$ 6,388
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2
Jasper County	0.1195	7	7	7	7	7	7	8	8
Sheltered Workshop	0.0865	5	5	5	5	5	5	6	6
Mental Health	0.0865	5	5	5	5	5	5	6	6
R-VIII School District	3.6964	223	223	227	227	232	232	236	236
Joplin Road District	0.2270	14	14	14	14	14	14	15	15
City of Joplin	0.4342	26	26	27	27	27	27	28	28
	4.6801	$ 282	$ 282	$ 287	$ 287	$ 293	$ 293	$ 299	$ 299

Estimated Assessed Value of Project Site Without Project		$ 6,516	$ 6,516	$ 6,647	$ 6,647	$ 6,779	$ 6,779	$ 6,915	
Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 2	$ 29
Jasper County	0.1195	8	8	8	8	8	8	8	115
Sheltered Workshop	0.0865	6	6	6	6	6	6	6	83
Mental Health	0.0865	6	6	6	6	6	6	6	83
R-VIII School District	3.6964	241	241	246	246	251	251	256	3,564
Joplin Road District	0.2270	15	15	15	15	15	15	16	219
City of Joplin	0.4342	28	28	29	29	29	29	30	419
	4.6801	$ 305	$ 305	$ 311	$ 311	$ 317	$ 317	$ 324	$ 4,513

Projected Tax Revenues for Site Only (Assuming Project Occurs)

Estimated Assessed Value of Site Only (Assuming Project Occurs)		$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5
Jasper County	0.1195	7	19	20	20	20	20	20	20
Sheltered Workshop	0.0865	5	14	14	14	14	14	15	15
Mental Health	0.0865	5	14	14	14	14	14	15	15
R-VIII School District	3.6964	223	593	605	605	617	617	630	630
Joplin Road District	0.2270	14	36	37	37	38	38	39	39
City of Joplin	0.4342	26	70	71	71	73	73	74	74
Surtax	1.0200	-	164	167	167	170	170	174	174
	5.7001	$ 282	$ 915	$ 933	$ 933	$ 952	$ 952	$ 971	$ 971

Estimated Assessed Value of Site Only (Assuming Project Occurs)		$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 6	$ 74
Jasper County	0.1195	21	21	21	21	22	22	22	295
Sheltered Workshop	0.0865	15	15	15	15	16	16	16	214
Mental Health	0.0865	15	15	15	15	16	16	16	214
R-VIII School District	3.6964	642	642	655	655	668	668	682	9,133
Joplin Road District	0.2270	39	39	40	40	41	41	42	561
City of Joplin	0.4342	75	75	77	77	79	79	80	1,073
Surtax	1.0200	177	177	181	181	184	184	188	2,459
	5.7001	$ 990	$ 990	$ 1,010	$ 1,010	$ 1,030	$ 1,030	$ 1,051	$ 14,023

Projected Tax Revenues Without Abatement
on Project Improvements

Estimated Assessed Value of Project Improvements		$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	$2,240,000	
Taxing Jurisdiction	Tax Rate per $100	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 8,064
Jasper County	0.1195	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	2,677	32,122
Sheltered Workshop	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
Mental Health	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
R-VIII School District	3.6964	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	82,799	993,592
Joplin Road District	0.2270	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	5,085	61,018
City of Joplin	0.4342	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	9,726	116,713
Surtax	1.0200	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	22,848	274,176
	5.7001	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$1,532,187

Projected PILOT Amount
(Real Property)

Estimated Value of Project Site	$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
PILOT Payment on Project Site	100%	100%	100%	100%	100%	100%	100%	100%
Estimated Assessed Value of Project Improvements				$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000
PILOT Payment on Project Improvements				0%	0%	0%	0%	0%

Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ 2	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5
Jasper County	0.1195	7	19	20	20	20	20	20	20
Sheltered Workshop	0.0865	5	14	14	14	14	14	15	15
Mental Health	0.0865	5	14	14	14	14	14	15	15
R-VIII School District	3.6964	223	593	605	605	617	617	630	630
Joplin Road District	0.2270	14	36	37	37	38	38	39	39
City of Joplin	0.4342	26	70	71	71	73	73	74	74
Surtax	1.0200	-	164	167	167	170	170	174	174
	5.7001	$ 282	$ 915	$ 933	$ 933	$ 952	$ 952	$ 971	$ 971

Estimated Value of Project Site	$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
PILOT Payment on Project Site	100%	100%	100%	100%	100%	100%	100%	
Estimated Assessed Value of Project Improvements	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	
PILOT Payment on Project Improvements	0%	0%	0%	0%	0%	0%	0%	

Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 5	$ 5	$ 5	$ 5	$ 5	$ 5	$ 6	$ 74
Jasper County	0.1195	21	21	21	21	22	22	22	295
Sheltered Workshop	0.0865	15	15	15	15	16	16	16	214
Mental Health	0.0865	15	15	15	15	16	16	16	214
R-VIII School District	3.6964	642	642	655	655	668	668	682	9,133
Joplin Road District	0.2270	39	39	40	40	41	41	42	561
City of Joplin	0.4342	75	75	77	77	79	79	80	1,073
Surtax	1.0200	177	177	181	181	184	184	188	2,459
	5.7001	$ 990	$ 990	$ 1,010	$ 1,010	$ 1,030	$ 1,030	$ 1,051	$ 14,023

Projected Tax Abatement on Project Site With Project

Estimated Assessed Value of Project Site	$ 6,020	$ 16,053	$ 16,374	$ 16,374	$ 16,701	$ 16,701	$ 17,036	$ 17,036
Abatement Percentage on Project Site	0%	0%	0%	0%	0%	0%	0%	0%
Estimated Assessed Value of Project Improvements				$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000
Abatement Percentage on Project Improvements				100%	100%	100%	100%	100%

Taxing Jurisdiction	Tax Rate per $100	2019	2020	2021	2022	2023	2024	2025	2026
State Blind Pension	0.0300	$ -	$ -	$ -	$ 672	$ 672	$ 672	$ 672	$ 672
Jasper County	0.1195	-	-	-	2,677	2,677	2,677	2,677	2,677
Sheltered Workshop	0.0865	-	-	-	1,938	1,938	1,938	1,938	1,938
Mental Health	0.0865	-	-	-	1,938	1,938	1,938	1,938	1,938
R-VIII School District	3.6964	-	-	-	82,799	82,799	82,799	82,799	82,799
Joplin Road District	0.2270	-	-	-	5,085	5,085	5,085	5,085	5,085
City of Joplin	0.4342	-	-	-	9,726	9,726	9,726	9,726	9,726
Surtax	1.0200	-	-	-	22,848	22,848	22,848	22,848	22,848
	5.7001	$ -	$ -	$ -	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682

Estimated Assessed Value of Project Site	$ 17,376	$ 17,376	$ 17,724	$ 17,724	$ 18,078	$ 18,078	$ 18,440	
Abatement Percentage on Project Site	0%	0%	0%	0%	0%	0%	0%	
Estimated Assessed Value of Project Improvements	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	$ 2,240,000	
Abatement Percentage on Project Improvements	100%	100%	100%	100%	100%	100%	100%	

Taxing Jurisdiction	Tax Rate per $100	2027	2028	2029	2030	2031	2032	2033	Total
State Blind Pension	0.0300	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 672	$ 8,064
Jasper County	0.1195	2,677	2,677	2,677	2,677	2,677	2,677	2,677	32,122
Sheltered Workshop	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
Mental Health	0.0865	1,938	1,938	1,938	1,938	1,938	1,938	1,938	23,251
R-VIII School District	3.6964	82,799	82,799	82,799	82,799	82,799	82,799	82,799	993,592
Joplin Road District	0.2270	5,085	5,085	5,085	5,085	5,085	5,085	5,085	61,018
City of Joplin	0.4342	9,726	9,726	9,726	9,726	9,726	9,726	9,726	116,713
Surtax	1.0200	22,848	22,848	22,848	22,848	22,848	22,848	22,848	274,176
	5.7001	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 127,682	$ 1,532,187

Projected Tax Revenues Without Abatement
(Personal Property)

Estimated Assessed Value of Personal Property		$2,752,833	$2,163,050	$1,699,672	$1,322,001	$ 944,331	
Taxing Jurisdiction	Tax Rate per $100	1	2	3	4	5	Total
State Blind Pension	0.0300	$ 826	$ 649	$ 510	$ 397	$ 283	$ 2,665
Jasper County	0.1195	3,290	2,585	2,031	1,580	1,128	10,614
Sheltered Workshop	0.0865	2,381	1,871	1,470	1,144	817	7,683
Mental Health	0.0865	2,381	1,871	1,470	1,144	817	7,683
R-VIII School District	3.6964	101,756	79,955	62,827	48,866	34,906	328,310
Joplin Road District	0.2270	6,249	4,910	3,858	3,001	2,144	20,162
	4.2459	$ 116,883	$ 91,841	$ 72,166	$ 56,131	$ 40,095	$ 377,116

Personal Property Assessed Value (7-Year Depreciation)					
	1	**2**	**3**	**4**	**5**
9,250,000	2,752,833	2,163,050	1,699,672	1,322,001	944,331

Projected PILOT Amount
(Personal Property)

Estimated Assessed Value of Personal Property		$ 2,752,833		$ 2,163,050		$ 1,699,672		$ 1,322,001		$ 944,331	
PILOT Payment			0%		0%		0%		0%		0%
Taxing Jurisdiction	Tax Rate per $100	1		2		3		4		5	Total
State Blind Pension	0.0300	$ -		$ -		$ -		$ -		$ -	$ -
Jasper County	0.1195	-		-		-		-		-	-
Sheltered Workshop	0.0865	-		-		-		-		-	-
Mental Health	0.0865	-		-		-		-		-	-
R-VIII School District	3.6964	-		-		-		-		-	-
Joplin Road District	0.2270	-		-		-		-		-	-
	4.2459	$ -		$ -		$ -		$ -		$ -	$ -

Projected Tax Abatement
(Personal Property)

Estimated Assessed Value of Personal Property		$2,752,833	$2,163,050	$1,699,672	$1,322,001	$ 944,331	
Abatement Percentage		100%	100%	100%	100%	100%	
Taxing Jurisdiction	Tax Rate per $100	1	2	3	4	5	Total
State Blind Pension	0.0300	$ 826	$ 649	$ 510	$ 397	$ 283	$ 2,665
Jasper County	0.1195	3,290	2,585	2,031	1,580	1,128	10,614
Sheltered Workshop	0.0865	2,381	1,871	1,470	1,144	817	7,683
Mental Health	0.0865	2,381	1,871	1,470	1,144	817	7,683
R-VIII School District	3.6964	101,756	79,955	62,827	48,866	34,906	328,310
Joplin Road District	0.2270	6,249	4,910	3,858	3,001	2,144	20,162
	4.2459	$ 116,883	$ 91,841	$ 72,166	$ 56,131	$ 40,095	$ 377,116

$51,400,000
(AGGREGATE MAXIMUM PRINCIPAL AMOUNT)
CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS
(HEARTHSTONE PROJECT)
SERIES 2019

DATED AS OF DECEMBER 1, 2019

BOND PURCHASE AGREEMENT

Mayor and City Council
Joplin, Missouri

Ladies and Gentlemen:

On the basis of the representations, and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, Casey's Marketing Company, an Iowa corporation (the "Purchaser"), offers to purchase from the City of Joplin, Missouri (the "City"), the above-referenced series of Taxable Industrial Development Revenue Bonds (the "Bonds"), to be issued by the City, under and pursuant to Ordinance No. _____ passed by the governing body of the City on December ___, 2019 (the "Ordinance") and a Trust Indenture dated as of December 1, 2019 (the "Indenture"), by and between the City and UMB Bank, N.A., Kansas City, Missouri, as trustee (the "Trustee"). Capitalized terms not otherwise defined herein shall have the meanings set forth in **Section 101** of the Indenture.

SECTION 1. REPRESENTATIONS AND AGREEMENTS

(a) By the City's acceptance hereof, the City hereby represents to the Purchaser that:

(1) The City is a constitutional charter city and municipal corporation duly organized and validly existing under the laws of the State of Missouri. The City is authorized under Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended, and its Charter to authorize, issue and deliver the Bonds and to consummate all transactions contemplated by this Bond Purchase Agreement, the Ordinance, the Indenture, the Lease, the Performance Agreement and any and all other agreements relating thereto. The proceeds of the Bonds shall be used to finance the Project for Casey's Marketing Company, an Iowa corporation (the "Company"), and to pay for the costs incurred in connection with the issuance of the Bonds;

(2) There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way the legal organization of the City or its boundaries, or the right or title of any of its officers to their respective offices, or the legality of any official act leading up to the issuance of the Bonds or the constitutionality or validity of the obligation represented by the Bonds or the validity of the Bonds, the Ordinance, the Lease, the Indenture or the Performance Agreement; and

(3) Any certificate signed by an authorized representative of the City and delivered to the Purchaser shall be deemed a representation and warranty by the City to such party as to the statements made therein.

(b) The Purchaser represents as follows:

(1) The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Iowa and is in good standing under the laws of and is qualified to do business in the State of Missouri;

(2) The execution, delivery and performance of this Bond Purchase Agreement by the Purchaser has been duly authorized by all necessary action of the Purchaser and does not and will not conflict with or result in the breach of any of the terms, conditions or provisions of, or constitute a default under, its organizational documents, any law, court or administrative regulation, decree or order applicable to or binding upon the Purchaser, or, to the best of its knowledge, any agreement, indenture, mortgage, lease or instrument to which the Purchaser is a party or by which it is bound;

(3) When executed and delivered by the Purchaser, this Bond Purchase Agreement will be, and is, a legal, valid and binding obligation, enforceable in accordance with its terms, subject, as to enforcement, to any applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and further subject to the availability of equitable remedies; and

(4) Any certificate signed by an authorized officer or agent of the Purchaser and delivered to the City shall be deemed a representation and warranty by the Purchaser to such party as to the statements made therein.

SECTION 2. PURCHASE, SALE AND DELIVERY OF THE BONDS

On the basis of the representations and covenants contained herein and in the other agreements referred to herein, and subject to the terms and conditions herein set forth and in the Indenture, the Purchaser agrees to purchase from the City and the City agrees to sell to the Purchaser the Bonds on the terms and conditions set forth herein.

The Bonds shall be sold to the Purchaser by the City on the Closing Date (hereinafter defined) upon payment of an amount equal to the Closing Price (hereinafter defined) for the Bonds, which amount shall be applied as provided in the Indenture and shall thereafter on the Closing Date immediately be applied to the payment of Project Costs as provided in the Lease. From time to time after the Closing Date as additional Project Costs are incurred, the Purchaser may make additional payments with respect to the Bonds ("Additional Payments") to the Trustee, which Additional Payments shall constitute the purchase price for corresponding additional principal amounts of the Bonds, and shall be applied to the payment of Project Costs or as otherwise provided in the Indenture, and the outstanding principal amount of the Bonds shall increase by each such Additional Payment; provided that the sum of the Closing Price and all such Additional Payments for the Bonds shall not, in the aggregate, exceed $51,400,000.

As used herein, the term "Closing Date" shall mean _____ ___, 20___, or such other date as shall be mutually agreed upon by the City and the Purchaser; the term "Closing Price" shall mean, with respect to the Bonds, that certain amount specified in writing by the Purchaser and agreed to by the City in the Certificate as to Closing Price.

The Bonds shall be issued under and secured as provided in the Ordinance, the Indenture and the Lease authorized thereby and the Bonds shall have the maturity, interest rate and shall be subject to redemption as set forth therein. The delivery of the Bonds shall be made in definitive form as a fully registered bond in the maximum aggregate principal denomination of $51,400,000; provided, that the principal amount of the Bonds outstanding at any time shall be that amount recorded in the official bond registration records of the Trustee and further provided that interest shall be payable on the Bonds only on the outstanding principal amount of the Bonds, as more fully provided in the Indenture.

SECTION 3. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

The Purchaser's obligations hereunder shall be subject to the due performance by the City of the City's obligations and agreements to be performed hereunder on or prior to the Closing Date and to the accuracy of and compliance with the City's representations contained herein, as of the date hereof and as of the Closing Date, and are also subject to the following conditions:

(a) There shall be delivered to the Purchaser on or prior to the Closing Date a duly executed copy of the Ordinance, the Indenture, the Performance Agreement, this Agreement and the Lease and any other instrument contemplated thereby shall be in full force and effect and shall not have been modified or changed except as may have been agreed to in writing by the Purchaser;

(b) The City shall confirm on the Closing Date by a certificate that at and as of the Closing Date the City has taken all action necessary to issue the Bonds and that there is no controversy, suit or other proceeding of any kind pending or threatened wherein any question is raised affecting in any way the legal organization of the City or the legality of any official act shown to have been done in the transcript of proceedings leading up to the issuance of the Bonds, or the constitutionality or validity of the indebtedness represented by the Bonds or the validity of the Bonds or any proceedings in relation to the issuance or sale thereof;

(c) The Company shall execute a certificate, dated the Closing Date, to the effect that (i) no litigation, proceeding or investigation is pending against the Company or its affiliates or, to the knowledge of the Company, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the Bonds, or (B) in any way contest the existence or powers of the Company, (ii) no litigation, proceeding or investigation is pending or, to the knowledge of the Company, threatened against the Company that could reasonably be expected to adversely affect its ability to perform its obligations hereunder, (iii) the representations and warranties of the Company herein were and are true and correct in all material respects and not misleading as of the date made and as of the Closing Date, and (iv) such other matters as are reasonably requested by the other parties in connection with the issuance of the Bonds; and

(d) Receipt by the Purchaser and the Company of an approving opinion from Gilmore & Bell, P.C., in form and substance satisfactory to the Purchaser and the Company.

SECTION 4. THE PURCHASER'S RIGHT TO CANCEL

The Purchaser shall have the right to cancel its obligation hereunder to purchase the Bonds by notifying the City in writing of its election to make such cancellation at any time prior to the Closing Date.

SECTION 5. CONDITIONS OF OBLIGATIONS

The obligations of the parties hereto are subject to the receipt of the approving opinion of Gilmore & Bell, P.C., Bond Counsel, with respect to the validity of the authorization and issuance of the Bonds.

SECTION 6. REPRESENTATIONS AND AGREEMENTS TO SURVIVE DELIVERY

All of the representations and agreements by either party shall remain operative and in full force and effect, and shall survive delivery of the Bonds to the Purchaser.

SECTION 7. PAYMENT OF EXPENSES

The Company shall pay all reasonable expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bonds. To the best of the City's knowledge and belief, the only expenses payable by the Company in connection with the issuance of the Bonds (other than fees of the Company's counsel and advisors) are the following: (1) the legal fees of Gilmore & Bell, P.C., (2) recording costs of the memoranda of certain documents executed in connection with the transaction, (3) costs of publication of the notice of bond sale, and (4) the Trustee's initial acceptance fee and first year's administrative fee.

SECTION 8. NOTICE

Any notice or other communication to be given under this Agreement may be given by mailing or delivering the same in writing to the appropriate party or parties at the addresses for notice set out in the Indenture.

SECTION 9. APPLICABLE LAW; ASSIGNABILITY

This Bond Purchase Agreement shall be governed by the laws of the State of Missouri and may be assigned by the Purchaser with the written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 10. EXECUTION OF COUNTERPARTS

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

[remainder of page intentionally left blank]

Executed as of the date first written above

Very truly yours,

CASEY'S MARKETING COMPANY,
an Iowa corporation,
as Purchaser

By: _____
Name:
Title:

Accepted and Agreed to as of the date first written above.

CASEY'S MARKETING COMPANY,
an Iowa corporation,
as Company

By: _____
Name:
Title:

Accepted and Agreed to as of the date first written above.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CITY OF JOPLIN, MISSOURI,
the City

AND

UMB BANK, N.A.,
as Trustee

TRUST INDENTURE

Dated as of December 1, 2019

Relating to:

$51,400,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Hearthstone Project)
Series 2019

TRUST INDENTURE

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TRUST INDENTURE

THIS TRUST INDENTURE dated as of December 1, 2019 (the "Indenture"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), and **UMB BANK, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, with a corporate trust office located in Kansas City, Missouri, as Trustee (the "Trustee");

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or businesses for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December ___, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site," as more fully described on **Exhibit A** hereto), including such land and the associated buildings, structures and fixtures (the "Project Improvements," as more fully described on **Exhibit B** hereto) and equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto, the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project").

3. The Ordinance authorizes the City to lease the Project to Casey's Marketing Company, an Iowa corporation (the "Company").

4. Pursuant to the Ordinance, the City is authorized to execute and deliver (a) this Indenture for the purpose of issuing and securing the Bonds, (b) the Lease Agreement of even date herewith (the "Lease") with the Company, under which the City, as lessor, will, or will cause the Company to, construct, improve, purchase and install the Project and will lease the Project to the Company, as lessee, in consideration of rentals that will be sufficient to pay the principal of and interest on the Bonds, and (c) the Performance Agreement for the purpose of setting forth the terms and conditions of the Project's exemption from ad valorem real property taxes and certain payments in lieu of taxes to be made by the Company with respect to the Project.

5. All things necessary to make the Bonds, when authenticated by the Trustee and issued as provided in this Indenture, the valid and legally binding obligations of the City, and to constitute this Indenture a valid and legally binding pledge and assignment of the Trust Estate (defined herein) herein made for the security of the payment of the principal of and interest on the Bonds, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized.

NOW, THEREFORE, THIS TRUST INDENTURE WITNESSETH:

GRANTING CLAUSES

That the City, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Bonds by the Owners (defined herein) thereof, and of other good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on all of the Bonds issued and Outstanding under this Indenture from time to time according to their tenor and effect, and to secure the performance and observance by the City of all the covenants, agreements and conditions herein and in the Lease (including but not limited to the purchase option described in the Lease) and in the Bonds contained, does hereby pledge and assign to the Trustee and its successors and assigns until this Indenture has been satisfied and discharged, the property described in paragraphs (a), (b) and (c) below (said property being herein referred to as the "Trust Estate"), to-wit:

(a) All right, title and interest of the City in and to the Project together with the tenements, hereditaments, appurtenances, rights, easements, privileges and immunities thereunto belonging or appertaining and, to the extent permissible, all permits, certificates, approvals and authorizations;

(b) All right, title and interest of the City in, to and under the Lease (excluding the Unassigned Rights), and all rents, revenues and receipts derived by the City from the Project including, without limitation, all rentals and other amounts to be received by the City and paid by the Company under and pursuant to and subject to the provisions of the Lease; and

(c) All moneys and securities from time to time held by or now or hereafter required to be paid to the Trustee under the terms of this Indenture, and any and all other real or personal property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the City or by anyone in its behalf, or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby pledged and assigned or agreed or intended so to be, to the Trustee and its successors and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and subject to the conditions herein set forth, for the equal and proportionate benefit, protection and security of all Owners from time to time of the Bonds Outstanding under this Indenture, without preference, priority or distinction as to lien or otherwise of any of the Bonds over any other of the Bonds except as expressly provided in or permitted by this Indenture;

PROVIDED, HOWEVER, that if the City pays, or causes to be paid, the principal of and interest on the Bonds, at the time and in the manner mentioned in the Bonds, according to the true intent and meaning thereof, or provides for the payment thereof (as provided in **Article XIII** hereof), and pays or causes to be paid to the Trustee all other sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Indenture shall be and remain in full force and effect.

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Bonds issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the City does hereby agree and covenant with the Trustee and with the respective Owners from time to time, as follows:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined in the Lease, which definitions shall be deemed to be incorporated herein, and terms defined elsewhere in this Indenture, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

"Act" means, collectively, Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended.

"Additional Rent" means the additional rental described in **Sections 5.2** and **6.2** of the Lease.

"Approved Investor" means (i) the Company, its successor and assigns, including but not limited to any entity receiving an assignment of the Lease as permitted pursuant to **Section 10.7** of the Lease, (ii) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, or (iii) any general business corporation or enterprise with total assets in excess of $100,000,000.

"Authorized City Representative" means the Mayor, City Manager, Finance Director, City Clerk or such other person at the time designated to act on behalf of the City as evidenced by written certificate furnished to the Company and the Trustee containing the specimen signature of such person and signed on behalf of the City by its Mayor. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of the Authorized City Representative.

"Authorized Company Representative" means the Person at the time designated to act on behalf of the Company as evidenced by written certificate furnished to the City and the Trustee containing the specimen signature of such Person and signed on behalf of the Company by an authorized officer of the Company. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Company Representative.

"Basic Rent" means the rental described in **Section 5.1** of the Lease.

"Bond" or **"Bonds"** means the Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum aggregate principal amount of $51,400,000, issued, authenticated and delivered under and pursuant to this Indenture.

"Bond Fund" means the "City of Joplin, Missouri, Bond Fund -- Hearthstone Project" created in **Section 501** of this Indenture.

"Bond Purchase Agreement" means the agreement by that name with respect to the Bonds, dated as of December 1, 2019, by and between the City and the Purchaser.

"Business Day" means any day other than a Saturday or Sunday or legal holiday or a day on which banks located in the city in which the principal corporate trust office or the principal payment office of the Trustee are required or authorized by law to remain closed.

"City" means the City of Joplin, Missouri, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, and its successors and assigns.

"Closing Date" means the date identified in the Bond Purchase Agreement for the initial issuance and delivery of the Bonds.

"Closing Price" means the amount specified in writing by the Purchaser and agreed to by the City as the amount required to pay for the initial issuance of the Bonds on the Closing Date, which amount shall be equal to any Project Costs spent by the Company from its own funds before the Closing Date plus the costs of issuing the Bonds.

"Company" means Casey's Marketing Company, an Iowa corporation, and its successors or assigns.

"Completion Date" means the date of execution of the certificate required pursuant to **Section 4.5** of the Lease and **Section 504** hereof.

"Costs of Issuance Fund" means the "City of Joplin, Missouri, Costs of Issuance Fund -- Hearthstone Project" created in **Section 501** hereof.

"Cumulative Outstanding Principal Amount" means the aggregate principal amount of all Bonds Outstanding under the provisions of this Indenture, not to exceed $51,400,000, as reflected in the records maintained by the Trustee as provided in the Bonds and in this Indenture.

"Event of Default" means, with respect to this Indenture, any Event of Default as defined in **Section 901** hereof and, with respect to the Lease, any Event of Default as described in **Section 12.1** of the Lease.

"Financing Document" means any loan agreement, credit agreement, promissory note, security agreement, financing statement, mortgage, deed of trust, letter of credit, participation agreement, lease agreement, sublease, ground lease, hedging agreement or other document executed by or on behalf of, or for the benefit of, a Financing Party, and all amendments, modifications, restatements, extensions and renewals thereof.

"Financing Party" means any Person providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any such financing or hedging arrangements, or any guarantee, insurance, letters of credit or credit support for or in connection with such financing or hedging arrangements, in connection with the ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such Person's behalf.

"Government Securities" means direct obligations of, or obligations the payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

"Indenture" means this Trust Indenture, as from time to time amended and supplemented by Supplemental Indentures in accordance with the provisions of **Article XI** hereof.

"Investment Securities" means any of the following securities:

(a) Government Securities;

(b) obligations of the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;

(c) direct and general obligations of any state of the United States of America, to the payment of the principal of and interest on which the full faith and credit of such state is pledged, provided that at the time of their purchase under this Indenture such obligations are rated in either of the two highest rating categories by a nationally-recognized bond rating agency;

(d) certificates of deposit, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of any state of the United States of America or any national banking association (including the Trustee or any of its affiliates), provided that such certificates of deposit shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value at all times at least equal to the principal amount of such certificates of deposit and shall be deposited with the Trustee or a custodian bank, trust company or national banking association. The bank, trust company or national banking association holding each such certificate of deposit required to be so secured shall furnish the Trustee written evidence satisfactory to it that the aggregate market value of all such obligations securing each such certificate of deposit will at all times be an amount at least equal to the principal amount of each such certificate of deposit and the Trustee shall be entitled to rely on each such undertaking;

(e) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least $100,000,000, and which shares, at the time of purchase, are rated by S&P and Moody's in one of the two highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such rating agencies for obligations of that nature; or

(f) any other investment approved in writing by the Authorized City Representative and the Owners of all of the Outstanding Bonds.

"Lease" means the Lease Agreement dated as of December 1, 2019, between the City, as lessor, and the Company, as lessee, as from time to time amended and supplemented by Supplemental Leases in accordance with the provisions thereof and of **Article XII** of this Indenture.

"Lease Term" means the period from the effective date of the Lease until the expiration thereof pursuant to **Section 3.2** of the Lease.

"Leasehold Security Agreement" means any leasehold security agreement, leasehold deed of trust, assignment of rents and leases, security agreement or other agreement relating to the Project permitted pursuant to the provisions of **Section 10.4** of the Lease.

"Moody's" means Moody's Investors Service, Inc., its successors and assigns, and, if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, "Moody's" will be deemed to refer to any other nationally recognized securities rating agency designated by the Authorized Company Representative.

"Outstanding" means, when used with reference to Bonds, as of a particular date, all Bonds theretofore authenticated and delivered, except:

(a) Bonds subsequently cancelled by the Trustee or delivered to the Trustee for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of **Section 1302** hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Indenture.

"Owner" or **"Bondowner"** means the registered owner of any Bond as recorded on the bond registration records maintained by the Trustee.

"Paying Agent" means the Trustee and any other bank or trust company designated by this Indenture as paying agent for the Bonds at which the principal of or interest on the Bonds shall be payable.

"Payment Date" means the date on which principal or interest on any Bond, whether at the stated maturity thereof or the redemption date thereof, is payable, which shall be December 1 of each year that the Bonds are Outstanding.

"Performance Agreement" means the Performance Agreement dated as of December 1, 2019, between the City and the Company, as amended and supplemented from time to time.

"Permitted Encumbrances" means, as of any particular time (a) liens for ad valorem taxes, special assessments and other governmental charges not then delinquent, or which are being contested in good faith in accordance with the Lease, (b) the Indenture, the Lease and the Performance Agreement, (c) liens or security interests granted pursuant to any Leasehold Security Agreement or any Financing Documents, all as now existing or hereafter granted pursuant to the Financing Documents, including any subsequent or additional security instruments relating to any future financings or refinancings, (d) such exceptions to title set forth in the title report included in the transcript of proceedings relating to the Bonds, and (e) any sublease, license or easement agreement between the Company and a third party allowing the use by such party of portions of the Project Site that are not occupied by the Project Improvements or the Project Equipment, so long as such use does not impair the use or operation of the Project.

"Person" means an individual, partnership, corporation, business trust, joint stock company, limited liability company, bank, insurance company, unincorporated association, joint venture or other entity of whatever nature.

"Project" means the Project Site, the Project Improvements and the Project Equipment as they may at any time exist, and all additions (and taking into account any subtractions), modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease as they may exist from time to time.

"Project Costs" means all costs of purchasing, constructing, extending, improving and equipping the Project, including the following:

(a) all costs and expenses necessary or incident to the acquisition of the Project Site, the construction, extension and improvement of the Project Improvements located on the Project Site, and the acquisition and installation of the Project Equipment;

(b) fees and expenses of architects, appraisers, surveyors, consultants and engineers for estimates, surveys, soil borings and soil tests and other preliminary investigations and items necessary to the commencement of acquisition, purchase, construction, improvement and equipping, preparation of plans, drawings and specifications and supervision of construction and renovation, as well as for the performance of all other duties of architects, appraisers, surveyors and engineers in relation to the acquisition, purchase, construction, improvement and equipping of the Project or the issuance of the Bonds;

(c) all costs and expenses of every nature incurred in connection with the acquisition, purchase, construction and improvement of the Project Improvements and otherwise improving the Project Site and purchasing and installing the Project Equipment, including the actual cost of labor, materials, machinery, furnishings and equipment as payable to contractors, builders and materialmen in connection with the acquisition, purchase, construction, improvement and equipping of the Project;

(d) interest accruing on the Bonds during the construction period of the Project;

(e) the cost of title insurance reports, if any, and the cost of any other insurance maintained during the construction period in accordance with **Article VII** of the Lease;

(f) reasonable expenses of administration, supervision and inspection properly chargeable to the Project, legal fees and expenses, fees and expenses of accountants and other consultants, publication and printing expenses, and initial fees and expenses of the Trustee to the extent that said fees and expenses are necessary or incident to the issuance and sale of the Bonds or the construction and improvement of the Project;

(g) all other items of expense not elsewhere specified in this definition as may be necessary or incident to: (1) the authorization, issuance and sale of the Bonds, including costs of issuance of the Bonds; (2) the construction, improvement and equipping of the Project; and (3) the financing thereof; and

(h) reimbursement to the Company or those acting for it for any of the above enumerated costs and expenses incurred and paid by them before or after the execution of the Lease.

"Project Equipment" means the personal property to be purchased, constructed, installed and otherwise improved or located on the Project Site pursuant to **Article IV** of the Lease and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit B** attached hereto, and all additions (and taking into account any subtractions), alterations, modifications and improvements thereof made pursuant to the Lease.

"Project Fund" means the "City of Joplin, Missouri, Project Fund -- Hearthstone Project" created in **Section 501** hereof.

"Project Improvements" means the buildings, structures, improvements and fixtures to be purchased, constructed, installed and otherwise improved or located on the Project Site pursuant to **Article IV** of the Lease and paid for in whole or in part from the proceeds of Bonds, as described in **Exhibit B** attached hereto, and all additions, alterations, modifications and improvements thereof made pursuant to the Lease.

"Project Site" means all of the real estate as described in **Exhibit A** attached hereto and by this reference made a part hereof, including any existing improvements thereon.

"Purchaser" means the entity identified in the Bond Purchase Agreement as the purchaser of the Bonds.

"S&P" means Standard & Poor's Ratings Services, a division of McGraw Hill Financial, Inc., its successors and assigns, and if such corporation is dissolved or liquidated or no longer performs the functions of a securities rating agency, "S&P" will be deemed to refer to any other nationally recognized securities rating agency designated by the Authorized Company Representative.

"State" means the State of Missouri.

"Supplemental Indenture" means any indenture supplemental or amendatory to this Indenture entered into by the City and the Trustee pursuant to **Article XI** hereof.

"Supplemental Lease" means any supplement or amendment to the Lease entered into pursuant to **Article XII** hereof.

"Trust Estate" means the Trust Estate described in the Granting Clauses of this Indenture.

"Trustee" means UMB Bank, N.A., a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, and its successor or successors and any other corporation which at the time may be substituted in its place pursuant to and at the time serving as Trustee under this Indenture.

"Unassigned Rights" means the City's rights under the Lease to receive moneys for its own account and the City's rights to indemnification or to be protected from liabilities by insurance policies required by the Lease, as provided in the Lease.

Section 102. Rules of Interpretation.

(a) Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including public bodies, as well as natural Persons.

(b) Wherever in this Indenture it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(c) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision.

(d) Whenever an item or items are listed after the word "including", such listing is not intended to be a listing that excludes items not listed.

(e) The Table of Contents and the Article and Section headings of this Indenture shall not be treated as a part of this Indenture or as affecting the true meaning of the provisions hereof.

ARTICLE II

THE BONDS

Section 201. Title and Amount of Bonds. No Bonds may be issued under this Indenture except in accordance with the provisions of this Article. The Bonds authorized to be issued under this Indenture shall be designated as "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019." The maximum total principal amount of Bonds that may be issued hereunder is hereby expressly limited to $51,400,000.

Section 202. Nature of Obligation. The Bonds and the interest thereon shall be special obligations of the City payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease, and not from any other fund or source of the City. The Bonds are secured by a pledge and assignment of the Trust Estate to the Trustee in favor of the Owners, as provided in this Indenture. The Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and neither the City, the State or related political subdivision thereof shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation.

Section 203. Denomination, Number and Dating of the Bonds.

(a) The Bonds shall be issuable in the form of one fully-registered Bond, in substantially the form set forth in **Exhibit C** hereto, in the denomination of $0.01 or any multiple thereof.

(b) The Bonds shall be dated by the Trustee as of the date of initial delivery thereof as provided herein. If the Bonds are at any time thereafter transferred, any replacement Bonds shall be dated as of the date of authentication thereof.

Section 204. Method and Place of Payment of Bonds.

(a) The principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for payment of public and private debts.

(b) Payment of the principal of the Bonds shall be made upon the presentation and surrender of such Bonds at the principal payment office of any Paying Agent named in the Bonds. The payment of principal on the Bonds shall be noted on the Bonds on **Schedule I** thereto and the registration books maintained by the Trustee pursuant to **Section 206** hereof. Payment of the interest on the Bonds shall be made by the Trustee on each Payment Date to the Person appearing on the registration books of the Trustee hereinafter provided for as the Owner thereof on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Payment Date by check or draft mailed to such Owner at such Owner's address as it appears on such registration books.

(c) The Bonds and the original **Schedule I** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the Owner. If the Bonds are held by the Trustee, the Trustee shall, on each Payment Date, send a revised copy of **Schedule I** via facsimile or other electronic means to the Owner, the Company (if not the Owner) and the City. Absent manifest error, the amounts shown on **Schedule I** as noted by the Trustee shall be conclusive evidence of the principal amount paid on the Bonds.

(d) If there is one Owner of the Bonds, the Trustee is authorized to make the final or any interim payments of principal on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated in writing by such Owner and located in the continental United States. The Trustee is also authorized to make interest payments on such Bonds by internal bank transfer or by electronic transfer to an account at a commercial bank or savings institution designated by such Owner and located in the continental United States.

(e) If the Company is the sole Owner of the Bonds, then the Company may set-off (by book entry or other reasonable means) its obligation to the City as lessee under the Lease against the City's obligations to the Company as the bondholder under this Indenture. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company may deliver to the Trustee for cancellation the Bonds and the Company shall receive a credit against the Basic Rent payable by the Company under **Section 5.1** of the Lease in an amount equal to the remaining principal on the Bond so tendered for cancellation plus accrued interest thereon.

Section 205. Execution and Authentication of Bonds.

(a) The Bonds shall be executed on behalf of the City by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of the City Clerk, and shall have the corporate seal of the City affixed thereto or imprinted thereon. If any officer whose signature or facsimile thereof appears on the Bonds ceases to be such officer before the delivery of such Bond, such signature or facsimile thereof shall nevertheless be valid and sufficient for all purposes, the same as if such Person had remained in office until delivery. Any Bond may be signed by such Persons as at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such Persons may not have been such officers.

(b) The Bonds shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Exhibit C** hereof, which shall be manually executed by the Trustee. No Bond shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purposes until such Certificate of Authentication has been duly executed by the Trustee. The executed Certificate of Authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee.

Section 206. Registration, Transfer and Exchange of Bonds.

(a) The Trustee shall keep books for the registration and for the transfer of Bonds as provided in this Indenture.

(b) The Bonds may be transferred to an Approved Investor only upon the books kept for the registration and transfer of Bonds upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or such Owner's attorney or legal representative in such form as shall be satisfactory to the Trustee. In connection with any such transfer of the Bonds, the City and the Trustee shall receive an executed representation letter signed by the proposed assignee in substantially the form of **Exhibit D** hereto. Upon any such transfer, the City shall execute and the Trustee shall authenticate and deliver in exchange for such Bond a new fully registered Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture, in an aggregate principal amount equal to the Outstanding principal amount of such Bond, of the same maturity and bearing interest at the same rate.

(c) In all cases in which Bonds are exchanged or transferred hereunder the provisions of any legend restrictions on the Bonds shall be complied with and the City shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this Indenture. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. The City or the Trustee may make a reasonable charge for every such exchange or transfer of Bonds sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and such charge shall be paid before any such new Bond shall be delivered. Neither the City nor the Trustee shall be required to make any such exchange or transfer of Bonds during the 15 days immediately preceding a Payment Date on the Bonds or, in the case of any proposed redemption of Bonds, during the 15 days immediately preceding the selection of Bonds for such redemption or after such Bonds or any portion thereof has been selected for redemption.

(d) If any Owner fails to provide a certified taxpayer identification number to the Trustee, the Trustee may make a charge against such Owner sufficient to pay any governmental charge required to be

paid as a result of such failure, which amount may be deducted by the Trustee from amounts otherwise payable to such Owner under such Owner's Bond.

Section 207. Persons Deemed Owners of Bonds. As to any Bond, the Person in whose name the same is registered as shown on the bond registration books required by **Section 206** hereof shall be deemed and regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the Owner thereof or a legal representative thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

Section 208. Authorization of the Bonds.

(a) The Bonds are authorized in the aggregate maximum principal amount of $51,400,000 for the purpose of providing funds to pay the costs of the Project, which Bonds shall be designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019." The Bonds shall be dated as provided in **Section 203(b)** hereof, shall become due on **December 1, 2033** (subject to prior redemption as provided in **Article III** hereof) and shall bear interest as specified in **Section 208(f)** hereof, payable on the dates specified in **Section 208(f)** hereof.

(b) The Trustee is hereby designated as the Paying Agent. The Owners of a majority of Bonds then Outstanding may designate a different Paying Agent upon written notice to the City and the Trustee.

(c) The Bonds shall be executed without material variance from the form and in the manner set forth in **Exhibit C** hereto and delivered to the Trustee for authentication. Prior to or simultaneously with the authentication and delivery of the Bonds by the Trustee, there shall be filed with the Trustee the following:

(1) An original or certified copy of the ordinance passed by the City Council authorizing the issuance of the Bonds and the execution of this Indenture, the Performance Agreement, the Bond Purchase Agreement and the Lease;

(2) Original executed counterparts of this Indenture, the Lease, the Performance Agreement and the Bond Purchase Agreement;

(3) A representation letter from the Purchaser in substantially the form attached as **Exhibit D** hereto;

(4) A request and authorization to the Trustee on behalf of the City, executed by the Authorized City Representative, to authenticate the Bonds and deliver the same to or at the direction of the Purchaser upon payment to the Trustee, for the account of the City, of the purchase price thereof specified in the Bond Purchase Agreement. The Trustee shall be entitled to conclusively rely upon such request and authorization as to names of the purchaser and the amount of such purchase price;

(5) An opinion of counsel nationally recognized on the subject of municipal bonds to the effect that the Bonds constitute valid and legally binding limited and special revenue obligations of the City; and

(6) Such other certificates, statements, receipts, opinions and documents as the Trustee shall reasonably require for the delivery of the Bonds.

(d) When the documents specified in subsection (c) of this Section have been filed with the Trustee, and when the Bonds have been executed and authenticated as required by this Indenture, either:

(1) The Purchaser shall pay the Closing Price to the Trustee, and the Trustee shall endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to or upon the order of the Purchaser; or

(2) The Company shall submit a requisition certificate in accordance with **Section 4.4** of the Lease, in an amount equal to the Closing Price, and the Trustee shall authenticate and endorse the Bonds in an amount equal to the Closing Price and then either hold the Bonds in trust or if so directed in writing deliver the Bonds to the Company (or another purchaser designated by the Company).

In either case, the Purchaser shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the Closing Price.

(e) Following the initial issuance and delivery of the Bonds, the Company may submit additional requisition certificates in accordance with **Section 4.4** of the Lease, and the Trustee shall, based solely of the amount set forth in the requisition, endorse the Bonds in an amount equal to the amount set forth in each requisition certificate. The date of endorsement of each Principal Amount Advanced (as defined in subsection (g) below) as set forth on **Schedule I** to the Bonds shall be the date of the City's approval of each requisition certificate. The Company shall be deemed to have paid over to the Trustee, and the Trustee shall be deemed to have deposited into the Project Fund, an amount equal to the amount of such requisition. The Trustee shall, at the time of each endorsement, send revised **Schedule I** to the Bonds via facsimile or electronic mail to the Purchaser and the Company (if not the sole Owner of the Bonds) and the City. The Trustee shall keep a record of the total requisitions submitted by the Company for the Project, and shall notify the Company and the City in writing if the requisitions submitted exceed the maximum principal amount of the Bonds.

(f) The Bonds shall bear interest at the rate of 5.00% per annum on the Cumulative Outstanding Principal Amount of the Bonds. Such interest shall be payable in arrears on each December 1, commencing on December 1, 2020, and continuing thereafter until the Cumulative Outstanding Principal Amount is paid in full; provided that the aggregate maximum principal amount shall not exceed $51,400,000 and further provided that the Bonds shall be paid in full no later than **December 1, 2033**. Interest shall be calculated on the basis of a year of 360 days consisting of twelve months of 30 days each.

(g) The Trustee shall keep and maintain a record of the amount deposited or deemed to be deposited into the Project Fund pursuant to the terms of this Indenture as "Principal Amount Advanced" and shall enter the aggregate principal amount of the Bonds then Outstanding on its records as the "Cumulative Outstanding Principal Amount." On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the Owners, pursuant to the redemption provisions of this Indenture, the Trustee shall enter on its records the principal amount paid on the Bonds as "Principal Amount Redeemed," and shall enter the then Outstanding principal amount of the Bonds as "Cumulative Outstanding Principal Amount." The records maintained by the Trustee as to amounts deposited into the Project Fund or principal amounts paid on the Bonds shall be the official records of the Cumulative Outstanding Principal Amount for all purposes, absent manifest error, and shall be in substantially the

form of the Table of Cumulative Outstanding Principal Amount as set out in the form of Bonds in **Exhibit C** hereto. If any moneys are deposited by the Trustee into the Project Fund, then the Trustee shall provide a statement of receipts and disbursements with respect thereto to the City and the Company on a monthly basis. After the Project has been completed and the certificate of payment of all costs is filed as provided in **Section 504** hereof, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

Section 209. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond becomes mutilated, or is lost, stolen or destroyed, the City shall execute and the Trustee shall authenticate and deliver a new Bond of like series, date and tenor as the Bond mutilated lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity satisfactory to the Trustee to save each of the City and the Trustee harmless. If any such Bond has matured, instead of delivering a substitute Bond, the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Bond, the City and the Trustee may require the payment of an amount sufficient to reimburse the City and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

Section 210. Cancellation and Destruction of Bonds Upon Payment.

(a) All Bonds which have been paid or redeemed or which the Trustee has purchased or which have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity shall be cancelled by the Trustee immediately upon the payment, redemption or purchase of such Bonds and the surrender thereof to the Trustee.

(b) All Bonds cancelled under any of the provisions of this Indenture shall be destroyed by the Trustee. The Trustee shall execute a certificate describing the Bonds so destroyed, and shall file executed counterparts of such certificate with the City and the Company.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Redemption of Bonds.

(a) The Bonds are subject to redemption and payment at any time before the stated maturity thereof, at the option of the Company, (1) in whole, if the Company exercises its option to purchase the Project and deposits an amount sufficient to effect such purchase pursuant to the Lease on the applicable redemption date, or (2) in part, if the Company prepays additional Basic Rent pursuant to the Lease. If only a portion of the Bonds are to be redeemed, (1) Bonds aggregating at least 10% of the maximum aggregate principal amount of Bonds authorized hereunder shall not be subject to redemption and payment before the stated maturity thereof, and (2) the Trustee shall keep a record of the amount of Bonds to remain Outstanding following such redemption. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date.

(b) The Bonds are subject to mandatory redemption, in whole or in part, to the extent of amounts deposited in the Bond Fund pursuant to **Section 9.1** or **9.2** of the Lease, in the event of substantial damage to or destruction or condemnation of substantially all of the Project. Bonds to be redeemed pursuant to this paragraph shall be called for redemption by the Trustee on the earliest practicable date for which timely notice of redemption may be given as provided hereunder. Any redemption of Bonds pursuant to this paragraph shall be at a redemption price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the redemption date. Before giving notice of redemption to the Owners pursuant to this paragraph (b), money in an amount equal to the redemption price shall have been deposited in the Bond Fund.

(c) The Bonds are subject to mandatory redemption, in whole, in the event that the Company vacates, abandons, ceases operations, fails to occupy or is ejected from the Project Site, and the same remains uncared for or abandoned for a period of one year after notice of such condition is provided to the Company by the City. Such notice shall specify the date on which the condition or conditions described in this subsection first occurred and the date (not less than one year after the date so specified) upon which the Company must redeem all Outstanding Bonds. Such notice shall not be given by the City during any period of time allowed under **Section 9.1** or **9.2** of the Lease for the repair, restoration, replacement, substitution or rebuilding of damage to, destruction of or with respect to condemnation of the Project.

(d) In connection with a redemption under paragraphs (a), (b) or (c) of this Section, at its option, the Company may deliver to the Trustee for cancellation any Bonds owned by the Company and not previously paid, and the Company shall receive a credit against the amounts payable by the Company for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

Section 302. Effect of Call for Redemption. Before or on the date fixed for redemption, funds, Government Securities, or a combination thereof, shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed before maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Company's direction, deliver to the Company the items described in **Section 11.2** of the Lease.

Section 303. Notice of Redemption. If the Bonds are to be called for redemption as provided in **Section 301(a)** hereof, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if the Company is the Owner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if the Company is the Owner) prior to the scheduled redemption date by facsimile and by first-class mail stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

ARTICLE IV

FORM OF BONDS

Section 401. Form Generally. The Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in **Exhibit C** hereto. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Funds. There are hereby created and ordered to be established in the custody of the Trustee the following special trust funds in the name of the City:

(a) "City of Joplin, Missouri, Project Fund – Hearthstone Project" (herein called the "Project Fund");

(b) "City of Joplin, Missouri, Costs of Issuance Fund – Hearthstone Project" (herein called the "Costs of Issuance Fund"); and

(c) "City of Joplin, Missouri, Bond Fund – Hearthstone Project" (herein called the "Bond Fund").

Section 502. Deposits into the Project Fund. The proceeds of the sale of the Bonds (whether actually paid or deemed paid under **Section 208(d)** and **(e)** hereof), including Additional Payments provided for in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 601** hereof, shall be deposited by the Trustee into the Project Fund. Any money received by the Trustee from any other source for the purpose of purchasing, constructing, improving and equipping the Project shall pursuant to any directions from the Person depositing such moneys also be deposited into the Project Fund.

Section 503. Disbursements from the Project Fund.

(a) The moneys in the Project Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Company (or any other party that has made payment on behalf of the Company) for payment of, Project Costs upon receipt of requisition certificates signed by the Company in accordance with the provisions of **Article IV** of the Lease. The Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions.

(b) If, pursuant to **Section 208(d)** and **(e)** hereof, the Trustee is deemed to have deposited into the Project Fund the amount specified in the requisition certificates submitted by the Company in accordance with the provisions of **Article IV** of the Lease, the Trustee shall upon endorsement of the Bonds in an equal amount be deemed to have disbursed such funds from the Project Fund to the Company (or such other purchaser designated by the Company) in satisfaction of the requisition certificate.

(c) In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City. The City hereby authorizes and directs the Trustee to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

Section 504. Completion of the Project. The completion of the acquisition, construction, improvement and equipping of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate required by the provisions of **Section 4.5** of the Lease. As soon as practicable after the Completion Date any balance remaining in the Project Fund shall without further authorization be transferred by the Trustee to the Bond Fund and applied as provided in **Section 4.6** of the Lease.

Section 505. Deposits into and Disbursements from the Costs of Issuance Fund. Money deposited by the Company in the Costs of Issuance Fund shall be used solely to pay costs of issuing the Bonds or refunded to the Company as hereinafter provided. The Trustee shall without further authorization disburse from the Costs of Issuance Fund, to the extent available, money sufficient to pay the amounts shown in a closing memorandum provided to the Trustee on or before the date of delivery of the Bonds, which shall have attached thereto the statements, invoices and related items described in said closing memorandum. The Trustee may rely conclusively on the amounts due as shown in the closing memorandum and will not be required to make any independent inspection or investigation in connection therewith. Any of such money not used on the date that is three months after the issuance of the Bonds shall be refunded to the Company.

Section 506. Disposition Upon Acceleration. If the principal of the Bonds has become due and payable pursuant to **Section 902** hereof, upon the date of payment by the Trustee of any moneys due as provided in **Article IX** hereof, any balance remaining in the Project Fund shall without further authorization be deposited in the Bond Fund by the Trustee, with advice to the City and to the Company of such action.

ARTICLE VI

REVENUES AND FUNDS

Section 601. Deposits Into the Bond Fund.

(a) The Trustee shall deposit into the Bond Fund, as and when received, (a) all accrued interest on the Bonds, if any, paid by the Purchaser; (b) all Basic Rent payable by the Company to the City specified in **Section 5.1** of the Lease; (c) any Additional Rent payable by the Company specified in **Section 5.2** of the Lease; (d) any amount in the Project Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the Project or pursuant to **Section 506** hereof upon acceleration of the Bonds; (e) any excess Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Section 9.1(b)** or **Section 9.2(b)** of the Lease; (f) the amounts to be deposited in the Bond Fund pursuant to **Sections 9.1(f)** and **9.2(c)** of the Lease; (g) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (h) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when

accompanied by written directions from the Person depositing such moneys that such moneys are to be paid into the Bond Fund.

(b) The Trustee shall notify the Company in writing, at least 15 days before each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Company pursuant to such Section.

Section 602. Application of Moneys in the Bond Fund.

(a) Except as provided in **Section 604** and **Section 908** hereof or in **Section 4.6(a)** of the Lease, moneys in the Bond Fund shall be expended (or deemed to be expended) solely for the payment of the principal of and the interest on the Bonds as the same mature and become due or upon the redemption thereof before maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the Lease and deposited to the Bond Fund as provided in **Section 601** above, shall be expended by the Trustee for such items of Additional Rent as they are received or due without further authorization from the City.

(b) The City hereby authorizes and directs the Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of and the interest on the Bonds as the same become due and payable and to make said funds so withdrawn available to the Paying Agent for the purpose of paying said principal and interest.

(c) Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds Outstanding and to pay interest to accrue thereon before such redemption, the City covenants and agrees, upon request of the Company, to take and cause to be taken the necessary steps to redeem all such Bonds on the next succeeding redemption date for which the required redemption notice may be given or on such later redemption date as may be specified by the Company. The Trustee shall use any moneys in the Bond Fund to redeem a part of the Bonds Outstanding in accordance with and to the extent permitted by **Article III** hereof so long as the Company is not in default with respect to any payments under the Lease and to the extent said moneys are in excess of the amount required for payment of Bonds theretofore matured or called for redemption and past due interest, if any, in all cases when such Bonds have not been presented for payment.

(d) After payment in full of the principal of and interest, if any, on the Bonds (or provision has been made for the payment thereof as provided in this Indenture), and the fees, charges and expenses of the Trustee, the City and any Paying Agent and any other amounts required to be paid under this Indenture, the Lease and the Performance Agreement, all amounts remaining in the Bond Fund shall be paid to the Company upon the expiration or sooner termination of the Lease.

Section 603. Payments Due on Days Other than Business Days. In any case where the date of maturity of principal of or interest, if any, on the Bonds or the date fixed for redemption of any Bonds is not a Business Day, then payment of principal or interest, if any, need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest, if any, shall continue to accrue for the period after such date.

Section 604. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if funds sufficient to pay such Bond shall have been made available to the Trustee, all liability of the City

to the Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for the benefit of the Owner of such Bond who shall thereafter be restricted exclusively to such fund or funds for any claim of whatever nature on his part under this Indenture or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due, whether by maturity or otherwise, the Trustee shall without liability for interest thereon repay to the Company the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the Company, and the Owner thereof shall be entitled to look only to the Company for payment, and then only to the extent of the amount so repaid, and the Company shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 701. Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Project Fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease, and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon in writing.

Section 702. Investment of Moneys in Funds. Moneys held in the Project Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by the Authorized Company Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption by the Owner before the date such funds will be needed. Moneys in the Costs of Issuance fund shall be held un-invested. If the Company fails to provide written directions concerning investment of moneys held in the Project Fund and the Bond Fund, the Trustee shall invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption before the date such funds will be needed. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments; provided that any such fees shall not exceed the interest income on the investment. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** hereof of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Project Fund. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any Fund is insufficient for the purposes of such Fund. In determining the balance in any Fund, investments in such Fund shall be valued at the lower of their original cost or their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

Section 703. Record Keeping. The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** hereof for at least six years after the payment of all of the Outstanding Bonds.

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

Section 801. Payment of Principal and Interest. The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds according to the true intent and meaning thereof. Nothing herein shall be construed as requiring the City to operate the Project as a business other than as lessor or to use any funds or revenues from any source other than funds and revenues derived from the Project.

Section 802. Authority to Execute Indenture and Issue Bonds. The City covenants that it is duly authorized under the Constitution and laws of the State to execute this Indenture, to issue the Bonds and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Bonds has been duly and effectively taken; that the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City according to the import thereof.

Section 803. Performance of Covenants. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its governing body pertaining thereto. The Trustee may take such action as it deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

Section 804. Instruments of Further Assurance. The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The City covenants and agrees that, except as herein and in the Lease provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of its rights under the Lease.

Section 805. Recordings and Filings. The City shall file or cause to be kept and filed all financing statements, and hereby authorizes the Trustee to file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto and such other documents as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the Company under the Lease and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Owners and the rights of the Trustee hereunder.

Section 806. Inspection of Project Books. The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

Section 807. Enforcement of Rights Under the Lease.

(a) The Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Indenture, in its name or in the name of the City, may enforce all assigned rights of the City and the Trustee and all obligations of the Company under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder.

(b) The City covenants and agrees that it will enforce all of its rights and all of the obligations of the Company (at the expense of the Company) under the Lease to the extent necessary to preserve the Project in good repair and reasonably safe operating condition, and to protect the rights of the Trustee and the Owners hereunder with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease; provided that, the City and the Trustee, as its assignee, shall refrain from enforcing any such right or obligation (except for the rights of the City or the Trustee to receive payments owing to either of them for their own account under the Indenture, the Lease, the Performance Agreement or any other agreement related to the Bonds or for their rights of indemnification or to be protected from liabilities by insurance policies required by the Lease) if so directed in writing by the Owners of 100% of the Outstanding Bonds. The City agrees that the Trustee, as assignee of the rentals and other amounts to be received by the City and paid by the Company under the Lease, or in its name or in the name of the City, may enforce all rights of the City to receive such rentals and other amounts and all obligations of the Company to pay such rentals and other amounts under and pursuant to the Lease for and on behalf of the Owners, whether or not the City is in default hereunder. So long as not otherwise provided in this Indenture, the Company shall be permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Lease.

ARTICLE IX

DEFAULT AND REMEDIES

Section 901. Events of Default; Notice; Opportunity to Cure. If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;

(b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at any date fixed for redemption thereof;

(c) Default as specified in **Section 12.1** of the Lease has occurred; or

(d) Default in the performance, or breach, of any other covenant or agreement under this Indenture.

No default specified above shall constitute an Event of Default until the Trustee or the Owners of 25% in aggregate principal amount of all Bonds Outstanding has given actual notice of such default by registered or certified mail to the City and the Company, and the City and the Company have had 30 days after receipt of such notice to correct said default or cause said default to be corrected and have not corrected said default or caused said default to be corrected within such period; provided, however, if any such default (other than a default in the payment of any money) is such that it cannot be corrected within such period, it shall not constitute an Event of Default if corrective action is instituted by the City or the Company (as the case may be) within such period and diligently pursued until the default is corrected. While the Company shall have no obligation to cure any default under this Indenture (except for such defaults as result from a default under **Section 12.1** of the Lease), the cure of any default hereunder by the Company shall be accepted as if such cure was made by the City.

Section 902. Acceleration of Maturity in Event of Default; Rescission.

(a) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, the Trustee may, and upon the written request of the Owners of not less than 25% in aggregate principal amount of Bonds then Outstanding, shall, by notice in writing delivered to the City and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and such principal and interest and all other amounts due hereunder shall thereupon become and be immediately due and payable.

(b) If, at any time after such declaration, but before the Bonds have matured by their terms, all overdue installments of principal and interest upon the Bonds, together with the reasonable and proper expenses of the Trustee, and all other sums then payable by the City under this Indenture are either paid or provisions satisfactory to the Trustee are made for such payment (and all sums then payable as Additional Rent under the Lease by the Company have been paid to the City or other appropriate payee), then and in every such case the Trustee shall, but only with the approval of a majority of the Owners of the Bonds then Outstanding, rescind such declaration and annul such default in its entirety. In such event, the Trustee shall rescind any declaration of acceleration of installments of rent payments on the Bonds under **Section 12.2** of the Lease.

(c) In case of any rescission, then and in every such case the City, the Trustee, the Company and the Owners shall be restored to their former position and rights hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** hereof elapses, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements. The Trustee may lease the Project or any part thereof, in the name and for account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including without limitation (a) reasonable compensation to the Trustee, its agents and counsel, (b) any reasonable charges of the Trustee hereunder, (c) any taxes and assessments and other charges having a lien that is senior to the lien of this Indenture, (d) all expenses of such repairs and improvements and (e) any amounts payable under

the Performance Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds has been paid and all defaults cured, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

Section 904. Appointment of Receivers in Event of Default. If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 905. Exercise of Remedies by the Trustee.

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Bonds then Outstanding and all other amounts due hereunder, and to enforce and compel the performance of the duties and obligations of the City or the Company as herein set forth or as set forth in the Lease, respectively.

(b) If an Event of Default has occurred and is continuing after the notice and cure period described in **Section 901** elapses, and if requested to do so by (1) the City (in the case of an Event of Default pursuant to **Section 12.1(a)** of the Lease, to the extent that such Event of Default is based upon the nonpayment of Additional Rent, **Section 12.1(b)** of the Lease, to the extent that such Event of Default relates to Unassigned Rights, or **Section 12.1(c)** or **(d)** of the Lease), or (2) the Owners of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in subsection (l) of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Owners, as the case may be.

(c) All rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Owners, and any recovery of judgment shall, subject to the provisions of **Section 908** hereof, be for the equal benefit of all the Owners of the Outstanding Bonds.

Section 906. Limitation on Exercise of Remedies by Owners. No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in **Section 1001(h)** hereof or of which by said subsection the Trustee is deemed to have notice, (b) such default has become an Event of Default, (c) the Owners of 25% in aggregate principal amount of Bonds then Outstanding have made written request to the Trustee, have offered it reasonable opportunity either to proceed for such reasonable period not to exceed 60 days following such notice and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and have offered to the Trustee indemnity as provided in **Section 1001(l)** hereof, and (d) the Trustee thereafter fails

or refuses to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Owner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

Section 907. Right of Owners to Direct Proceedings.

(a) The Owners of a majority in aggregate principal amount of Bonds then Outstanding may, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(l)** hereof.

(b) Notwithstanding any provision in this Indenture to the contrary, including paragraph (a) of this Section, the Owners shall not have the right to control or direct any remedies hereunder upon an Event of Default under **Section 12.1(a)** (but only if such Event of Default is based upon the nonpayment of Additional Rent), **Section 12.1(b)** (but only with respect to Unassigned Rights) or **Section 12.1(c)** or **(d)** of the Lease.

Section 908. Application of Moneys in Event of Default.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of any obligations outstanding under the Lease and the Performance Agreement, of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys fees and expenses) or amounts to be paid pursuant to **Section 903** hereof, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

(1) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST -- To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND -- To the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

(2) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Person entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of **Section 910** hereof, then, subject to the provisions of subsection (2) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be a Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture and the Lease have been paid (including any amounts payable under the Performance Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in **Section 602** hereof.

Section 909. Remedies Cumulative. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 910. Waivers of Events of Default. The Trustee shall waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and interest, if any, on Bonds, and only upon the written request of the Owners of at least 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that (1) there shall not be waived without the consent of the City an Event of Default hereunder arising from an Event of Default under **Section 12.1(a)** of the Lease (but only if such Event of Default is based upon the nonpayment of Additional Rent), **Section 12.1(b)** of the Lease (but only with respect to Unassigned Rights), or **Section 12.1(c)** or **(d)** of the Lease, and (2) there shall not be waived without the consent of the Owners of all the Bonds Outstanding (a) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (b) any Event of Default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including reasonable attorneys' fees and expenses), in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, before the occurrence of an Event of Default and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to **Section 1001(l)** hereof, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent Person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, affiliates, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care. The Trustee may conclusively rely upon and act or refrain from acting upon any opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or except as provided in the Lease and particularly **Section 10.8** thereof, for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of Uniform Commercial Code financing statements), or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security of the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII** hereof, so long as the Trustee has complied with any instructions of the Company.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the Owner or pledgee of Bonds with the same rights that it would have if it were not Trustee. The Trustee shall not be accountable for the use or application by the City or the Company of the proceeds of any of the Bonds or of any money paid to or upon the order of the City or Company under any provision of this Indenture.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by it to be genuine and correct and to have been signed, presented or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent is an Owner, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established before taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and before the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in **Article VI** hereof, unless the Trustee is specifically notified in writing of such default by the City or by the Owners of at least 25% in aggregate principal amount of all Bonds then Outstanding.

(i) At any and all reasonable times and subject to the Company's reasonable and standard security procedures, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives may, but shall not be required to, inspect any and all of the Project, and all books, papers and records of the City pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired. The Trustee shall treat all proprietary information of the Company as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of the Project.

(k) The Trustee may, but shall not be required to, demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Notwithstanding anything in the Indenture or the Lease to the contrary, before taking any action under this Indenture other than the payments from moneys on deposit in the Project Fund or the Bond Fund, as provided herein, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee, shall be interpreted to include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

Section 1002. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances, agent and counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services, in accordance with the separate fee schedule agreed to by the Trustee and the Company. If it becomes necessary for the Trustee to perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Company has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Company for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment before payment on account of

principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred.

Section 1003. Notice to Owners if Default Occurs. If a default occurs of which the Trustee is by **Section 1001(h)** hereof required to take notice or if notice of default is given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the last known Owners of all Bonds then Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

Section 1004. Intervention by the Trustee. In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners, the Trustee may intervene on behalf of Owners and, subject to the provisions of **Section 1001(l)** hereof, shall do so if requested in writing by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding.

Section 1005. Successor Trustee Upon Merger, Consolidation or Sale. With the prior written consent of the Company, any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

Section 1006. Resignation of Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 30 days' written notice to the City, the Company and the Owners, and such resignation shall take effect at the end of such 30 days, or upon the earlier appointment of a successor Trustee by the Owners or by the City; provided, however, that in no event shall the resignation of the Trustee or any successor trustee become effective until such time as a successor trustee has been appointed and has accepted the appointment. If no successor has been appointed and accepted the appointment within 30 days after the giving of such notice of resignation, the Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

Section 1007. Removal of Trustee. The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease shall have occurred and be continuing, delivered to the Trustee, the City and the Owners and signed by the Company.

Section 1008. Appointment of Successor Trustee. If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Company (so long as no Event of Default has occurred and is continuing), or (b) reasonably acceptable to the City and the Company may be appointed by the Owners of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further

acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust with a corporate trust office in the State, and having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than $50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

Section 1009. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor and the duties and obligations of such predecessor hereunder shall thereafter cease and terminate; but such predecessor shall, nevertheless, on the written request of the City, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Section 1010. Right of Trustee to Pay Taxes and Other Charges. If any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or insurance premium, without prejudice, however, to any rights of the Trustee or the Owners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the Owners of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

Section 1011. Trust Estate May be Vested in Co-Trustee.

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either this Indenture or the Lease upon the occurrence of an Event of Default or if the Trustee deems that by reason of any present or future law of any jurisdiction it cannot exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(b) If the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Company), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the City be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

(d) If any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

Section 1012. Accounting. The Trustee shall render an annual accounting for the period ending December 31 of each year, to the City, the Company and to any Owner requesting the same and, upon the request of the City, the Company or any Owner, a monthly accounting to any such party, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

Section 1013. Performance of Duties Under the Lease. The Trustee hereby accepts and agrees to perform all duties and obligations assigned to it under the Lease.

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 1101. Supplemental Indentures Not Requiring Consent of Owners. The City and the Trustee may from time to time, without the consent of or notice to any of the Owners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change which, in the judgment of the Trustee, is not to the material prejudice of the Trustee or the Owners (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment);

(b) To grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or either of them;

(c) To more precisely identify any portion of the Project or to add additional property thereto;

(d) To conform the Indenture to amendments to the Lease made by the City and the Company; or

(e) To subject to this Indenture additional revenues, properties or collateral.

Section 1102. Supplemental Indentures Requiring Consent of Owners.

(a) Exclusive of Supplemental Indentures covered by **Section 1101** hereof and subject to the terms and provisions contained in this Section, and not otherwise, the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding may, from time to time, anything contained in this Indenture to the contrary notwithstanding, consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that without the consent of the Owners of 100% of the principal amount of the Bonds then Outstanding, nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Owners of which are required for consent to any such Supplemental Indenture.

(b) If at the time the City requests the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Owner as shown on the bond registration books required by **Section 206** hereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1103. Company's Consent to Supplemental Indentures. Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article shall not become effective unless and until the Company shall have consented in writing to the execution and delivery of such Supplemental Indenture. The Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture (regardless of whether it affects the Company's rights) together with a copy of the proposed Supplemental Indenture to be mailed to the Company and any Financing Party at least 15 days before the proposed date of execution and delivery of the Supplemental Indenture.

Section 1104. Opinion of Counsel. In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City shall receive, and, shall be fully protected in relying upon, an

opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

ARTICLE XII

SUPPLEMENTAL LEASES

Section 1201. Supplemental Leases Not Requiring Consent of Owners. The City and the Trustee shall, without the consent of or notice to the Owners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project or add additional property thereto or (d) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Owners (provided the Trustee is entitled to receive and may conclusively rely upon an opinion of counsel in exercising such judgment).

Section 1202. Supplemental Leases Requiring Consent of Owners. Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the corporate trust office of the Trustee for inspection by all Owners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the Owners of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1203. Opinion of Counsel. In executing or consenting to any Supplemental Lease permitted by this Article, the City and the Trustee shall receive, and shall be fully protected in relying upon, an opinion of counsel addressed to the Trustee and the City stating that the executing of such Supplemental Lease is authorized or permitted by the Lease and this Indenture and the applicable law and will upon the execution and delivery thereof be valid and binding obligations of the parties thereof.

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301. Satisfaction and Discharge of this Indenture.

(a) When the principal of and interest on all the Bonds have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision also made for paying all other sums payable hereunder and under the Lease and the Performance Agreement, including the reasonable fees and expenses of the Trustee, the City and Paying Agent to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void. Thereupon, the Trustee shall cancel, discharge and release this Indenture and shall upon the written request of the City or the Company execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City (subject to the City's obligations under **Section 11.2** of the Lease) any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 602** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The City is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds then Outstanding has been paid or such payment provided for in accordance with **Section 1302** hereof as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

Section 1302. Bonds Deemed to be Paid.

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) have been made or caused to be made in accordance with the terms thereof, or (2) have been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) have been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as Bonds are deemed to be paid hereunder, as aforesaid, they shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed before the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed before their respective stated maturities, proper notice of such redemption shall have been given in accordance with **Article III** hereof or irrevocable instructions shall have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust

pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401. Consents and Other Instruments by Owners.

(a) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in Person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (other than the assignment of ownership of a Bond) if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(i) The fact and date of the execution by any Person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the Person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(ii) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee pursuant to **Section 206** hereof.

(b) In determining whether the Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Indenture, Bonds owned by the Company shall be disregarded and deemed not to be Outstanding under this Indenture, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Trustee knows to be so owned shall be so disregarded; provided, the foregoing provisions shall not be applicable if the Company is the only Owner of the Bonds. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and the pledgee is not the Company or any affiliate thereof.

Section 1402. Limitation of Rights Under this Indenture. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, and the Owners, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Owners, as herein provided.

Section 1403. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Company or Owners if the same is duly mailed, postage prepaid, sent by overnight delivery or other delivery service, as follows:

(a) To the City:

City of Joplin, Missouri
602 S. Main Street
Joplin, Missouri 64801
Attention: City Manager

with copy to:

The Joplin Area Chamber of Commerce
320 E. 4th Street
Joplin, Missouri 64801
ATTN: Tobias Teeter

(b) To the Trustee:

UMB Bank, N.A.
928 Grand Blvd, 12th Floor
Kansas City, MO 64106
ATTN: Corporate Trust Department

(c) To the Company:

Casey's Marketing Company, an Iowa corporation
Casey's General Stores, Inc.
One S.E. Convenience Boulevard
Ankeny, Iowa 50021
Attn: Legal Counsel/Director of Government Relations

(d) To the Owners if the same is duly mailed by first class, registered or certified mail addressed to each of the Owners of Bonds at the time Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the corporate trust office of the Trustee.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed, provided that any of the foregoing given to the Trustee shall be effective only upon receipt. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when received. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Company. The City, the Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 1404. Severability. If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Section 1405. Execution in Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1406. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1407. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 1408. City Consents. The Mayor of the City is authorized, unless expressly provided herein, to grant on behalf of the City such consents and waivers relating to the Bonds, this Indenture, the Lease or the Performance Agreement as may be requested during the term thereof; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for therein, or materially change the nature of the transaction.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, City of Joplin, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and the seal of the City to be hereunto affixed and attested by the City Clerk, and to evidence its acceptance of the trusts hereby created, the Trustee has caused this Indenture to be signed in its name and behalf by a duly authorized officer, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

UMB BANK, N.A.,
as Trustee

By _____
Name:
Title:

[SEAL]

ATTEST:

By _____
Name:
Title:

EXHIBIT A

PROJECT SITE

The following described real estate located in Jasper County, Missouri:

[**INSERT LEGAL DESCRIPTION**]

EXHIBIT B

PROJECT IMPROVEMENTS

The Project Improvements consist of the following, to the extent paid for in whole with Bond proceeds:

The purchase and construction of a warehouse and distribution facility including buildings, site improvements and related fixtures and improvements.

PROJECT EQUIPMENT

The Project Equipment consists of the following, to the extent paid for in whole with Bond proceeds:

All items of machinery, equipment and parts or other personal property installed or acquired in the Project Improvements or elsewhere on the Project Site, and replacements thereof and additions thereto as provided in the Indenture and the Lease; provided that, each item of personal property that becomes a part of the Project Equipment shall constitute Project Equipment for no more than 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company.

EXHIBIT C

FORM OF BONDS

THIS BOND OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR NEGOTIATED ONLY AS PROVIDED IN THE HEREIN DESCRIBED INDENTURE.

No. 1 **Not to Exceed $51,400,000**

UNITED STATES OF AMERICA
STATE OF MISSOURI

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(HEARTHSTONE PROJECT)
SERIES 2019

Interest Rate	Maturity Date	Dated Date
5.00%	December 1, 2033	December___, 2019

OWNER: _____

MAXIMUM PRINCIPAL AMOUNT: **FIFTY-ONE MILLION FOUR HUNDRED THOUSAND DOLLARS**

THE CITY OF JOPLIN, MISSOURI, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to the Owner named above, or registered assigns thereof, on the Maturity Date shown above, the principal amount shown above, or such lesser amount as may be outstanding hereunder as reflected on **Schedule I** hereto held by the Trustee as provided in the hereinafter referred to Indenture. The City agrees to pay such principal amount to the Owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts (or by book entry as provided in the Indenture and Lease), and in like manner to pay to the Owner hereof, either by check or draft mailed to the Owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the within mentioned Indenture or, in certain situations authorized in the Indenture, by internal bank transfer (or by book entry as provided in the Indenture and Lease), or by wire transfer to an account in a commercial bank or savings institution located in the continental United States. Interest on the Cumulative Outstanding Principal Amount (as hereinafter defined) at the per annum Interest Rate stated above, payable in arrears on each December 1, commencing on December 1, 2020, and continuing thereafter until the earlier of the date on which said Cumulative Outstanding Principal Amount is paid in full or the Maturity Date. Interest on each advancement of the principal amount of this Bond shall accrue from the date that such advancement is made, computed on the basis of a year of 360 days consisting of 12 months of 30 days each.

As used herein, the term "Cumulative Outstanding Principal Amount" means all Bonds outstanding under the terms of the hereinafter-defined Indenture, as reflected on **Schedule I** hereto maintained by the Trustee.

THIS BOND is one of a duly authorized series of Bonds of the City designated "City of Joplin, Missouri, Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019," in the maximum aggregate principal amount of $51,400,000 (the "Bonds"), to be issued for the purpose of acquiring, constructing, improving and equipping a project located at 2715 Prosperity Road in the City (the "Project"). The City will lease the land on which the Project is located (the "Project Site"), the improvements to be made thereon and equipment to be installed therein (collectively, the "Project") to Casey's Marketing Company, an Iowa corporation (the "Company"), under the terms of a Lease Agreement dated as of December 1, 2019 (said Lease Agreement, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Lease"), between the City and the Company, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations of the Constitution, the statutes of the State of Missouri, including particularly the Act, the charter of the City and pursuant to proceedings duly had by the Council of the City.

THE BONDS are issued under and are equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of December 1, 2019 (said Trust Indenture, as amended and supplemented from time to time in accordance with the provisions thereof, being herein called the "Indenture"), between the City and UMB Bank, N.A., as trustee (the "Trustee"). *Capitalized terms not defined herein shall have the meanings set forth in the Indenture.*

Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Owners, and the terms upon which the Bonds are issued and secured.

THE BONDS are subject to redemption and prepayment as stated in the Indenture.

IF THE BONDS are to be called for optional redemption, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds at least 40 days (10 days if the Company is the Owner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Owners at least 30 days (five days if the Company is the Owner) prior to the scheduled redemption date by facsimile and by first-class mail stating the date upon which the Bonds will be redeemed and paid, unless such notice period is waived by the Owners in writing.

THE BONDS, including interest thereon, are special obligations of the City and are payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease and not from any other fund or source of the City, and are secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bonds do not constitute a general obligation of the City or the State of Missouri, and neither the City nor said State shall be liable thereon, and the Bonds shall not constitute an indebtedness within the meaning of any constitutional, charter or statutory debt limitation or restriction, and are not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bonds are to be paid by the Company directly to the Trustee for the account of the City and deposited in a special fund created by the City and designated the "City of Joplin, Missouri, Bond Fund -- Hearthstone Project"

THE OWNER of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any Event of Default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

THIS BOND is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the Owner hereof in Person or by such Person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Trustee duly executed by the Owner or such Person's duly authorized attorney, and thereupon a new fully registered Bond or Bonds, in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the Person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

THE BONDS are issuable in the form of one fully-registered Bond in the maximum principal amount of $51,400,000.

THIS BOND shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State of Missouri.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City of Joplin, Missouri has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk and its corporate seal to be affixed hereto or imprinted hereon, and has caused this Bond to be dated the date set forth above.

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within-mentioned Resolution.

Registration Date: _____

UMB Bank, N.A.,
as Trustee

By _____
Authorized Signatory

CITY OF JOPLIN, MISSOURI

By: _____
Mayor

ATTEST: (Seal)

_____
City Clerk

SCHEDULE I

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

CITY OF JOPLIN, MISSOURI
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND
(HEARTHSTONE PROJECT)
SERIES 2019

Date	Principal Amount Advanced	Principal Amount Redeemed	Cumulative Outstanding Principal Amount	Notation Made By

FORM OF ASSIGNMENT

(NOTE RESTRICTIONS ON TRANSFERS)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

_____

Print or Typewrite Name, Address and Social Security or
other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept by the Trustee for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: _____.

_____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular.

Place signature medallion below:

EXHIBIT D

FORM OF REPRESENTATION LETTER

City of Joplin, Missouri
602 S. Main Street
Joplin, Missouri 64801
Attention: City Manager

UMB Bank, N.A.
928 Grand Blvd, 12th Floor
Kansas City, MO 64106
Attention: Corporate Trust Department

Re: $51,400,000 Maximum Principal Amount of Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019 of the City of Joplin, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced Bonds (the "Bonds"), the undersigned purchaser of the Bonds (the "Purchaser") hereby represents, warrants and agrees as follows:

1. The Purchaser fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of December 1, 2019 (the "Indenture"), between the City of Joplin, Missouri (the "City") and UMB Bank, N.A., as trustee (the "Trustee"), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project (as defined in the Indenture) to Casey's Marketing Company, an Iowa corporation (the "Company"), under a Lease Agreement dated as of December 1, 2019 (the "Lease"), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

2. The Purchaser understands that the Bonds have not been registered under the Securities Act of 1933, as amended (the "1933 Act"), or the securities laws of any state and will be sold to the Purchaser in reliance upon certain exemptions from registration and in reliance upon the representations and warranties of the Purchaser set forth herein.

3. The Purchaser understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward their distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

4. The Purchaser agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture.

5. The Company has (a) furnished to the Purchaser such information about itself as the Purchaser deems necessary in order for it to make an informed investment decision with respect to the purchase of the Bonds, (b) made available to the Purchaser, during the course of this transaction, ample

opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

6. The Purchaser acknowledges that no offering document has been prepared in connection with the sale of the Bonds. The Purchaser further acknowledges that it has timely received in satisfactory form and manner all proceedings, certificates, opinions, letters and other documents required to be submitted to the Purchaser pursuant to the Bond Purchase Agreement prior to or on the date of the delivery of and payment for the Bonds, and that the City and the Company have in all respects complied with and satisfied all of their respective obligations to the Purchaser which are required under the Bond Purchase Agreement to be complied with and satisfied on or before such date.

7. The Purchaser is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bonds and that the Purchaser is relying on its own knowledge and investigation of facts and circumstances relating to the purchase of the Bonds. The Purchaser believes that the Bonds being acquired are a security of the type that the Purchaser wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

8. The Purchaser is fully aware of and satisfied with (i) the current status of the title to the Project and any issues related thereto and (ii) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

9. The Purchaser understands and agrees that the interest on the Bonds *is* subject to federal and state income taxation.

10. The Purchaser hereby directs the Trustee to hold the Bonds in trust for the undersigned pursuant to **Section 204(c)** of the Indenture.

11. The Purchaser is the lessee under the Lease or (i) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, or (ii) any general business corporation or enterprise with total assets in excess of $100,000,000.

Dated: _____, 20___

[PURCHASER OF BONDS]

By:_____
Name: _____
Title: _____

CITY OF JOPLIN, MISSOURI,
As Lessor,

AND

CASEY'S MARKETING COMPANY,
As Lessee

LEASE AGREEMENT

Dated as of December 1, 2019

Relating to:

$51,400,000
(Aggregate Maximum Principal Amount)
City of Joplin, Missouri
Taxable Industrial Development Revenue Bonds
(Hearthstone Project)
Series 2019

Certain rights of the City of Joplin, Missouri (the "City"), in this Lease Agreement have been pledged and assigned to UMB Bank, N.A., Kansas City, Missouri, as Trustee under the Trust Indenture dated as of December 1, 2019, between the City and the Trustee.

LEASE AGREEMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of December 1, 2019 (the "Lease"), is between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri, as lessor (the "City"), and **CASEY'S MARKETING COMPANY, AN IOWA CORPORATION**, as lessee (the "Company");

RECITALS:

1. The City is authorized under Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended (the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable.

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 2, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site," as more fully described on **Exhibit A** hereto), including such land and the associated buildings, structures and fixtures (the "Project Improvements," as more fully described on **Exhibit B** hereto) and equipment (the "Project Equipment," as more fully described on **Exhibit B** hereto, the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project").

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture of even date herewith (the "Indenture") with UMB Bank, N.A., Kansas City, Missouri, as Trustee (the "Trustee"), for the purpose of issuing and securing the Bonds, as therein provided, and to enter into this Lease with the Company under which the City will construct, improve and equip the Project, and lease the Project to the Company in consideration of rental payments by the Company that will be sufficient to pay the principal of and interest on the Bonds.

4. In consideration of the terms and conditions of this Lease, the Ordinance, issuance of the Bonds and certain other agreements, the City and the Company have concurrently herewith entered into a Performance Agreement of even date herewith (the "Performance Agreement"), pursuant to which the Company has agreed to make certain payments in lieu of taxes.

5. Pursuant to the foregoing, the City desires to lease the Project to the Company and the Company desires to lease the Project from the City, for the rentals and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease and the words and terms defined in **Section 101** of the Indenture which definitions are hereby incorporated herein by reference, and terms defined, the following words and terms as used in this Lease shall have the following meanings:

"Additional Rent" means the additional rental described in **Sections 5.2** and **6.2** of this Lease.

"Basic Rent" means the rental described in **Section 5.1** of this Lease.

"Environmental Law" means and includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Superfund Amendments and Reauthorization Act of 1986, any other "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Materials, as now or at any time hereafter in effect.

"Full Insurable Value" means the actual replacement cost of the Project less physical depreciation as determined in accordance with **Section 7.1(a)** hereof.

"Lease Term" means the period from the effective date of this Lease until the expiration thereof pursuant to **Section 3.2** hereof.

"Net Proceeds" means, when used with respect to any insurance or condemnation award with respect to the Project, the gross proceeds from the insurance or condemnation award with respect to which that term is used remaining after payment of all expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds.

"Plans and Specifications" means the plans and specifications prepared for and showing the Project, as amended by the Company from time to time prior to the Completion Date, the same being duly certified by the Company, and on file with the Company, or with the architect/engineers retained by the Company for the Project, and which shall be available for reasonable inspection by the City, the Trustee and their duly appointed representatives.

"Project Site" means the real property upon which the property comprising the Project is located as more fully described in **Exhibit A**.

"Remedies Notice" means notice to the Company from the City or the Trustee that the City or the Trustee intends to exercise remedies hereunder.

Section 1.2. Rules of Interpretation.

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing Persons shall include firms, associations and corporations, including governmental entities, as well as natural Persons.

(c) Wherever in this Lease it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision.

(e) The Table of Contents and the Article and Section headings of this Lease shall not be treated as a part of this Lease or as affecting the true meaning of the provisions hereof.

(f) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a constitutional charter city and municipal corporation duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this Lease and to carry out its obligations hereunder. By proper action of its governing body, the City has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers;

(b) As of the date of delivery hereof, the City has acquired the Project Site and agrees to construct and improve or cause to be constructed, improved and installed thereon the Project Improvements and Project Equipment. The City agrees to lease the Project to the Company and sell the Project to the Company if the Company exercises its option to purchase the Project or upon termination of this Lease as provided for herein, all for the purpose of furthering the public purposes of the Act;

(c) The purchase, construction, extension, improvement and installation of the Project and the leasing of the Project by the City to the Company will further the public purposes of the Act;

(d) To the City's knowledge, no member of the City Council or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby;

(e) To finance the costs of the Project, the City proposes to issue the Bonds which will be scheduled to mature as set forth in **Article II** of the Indenture and will be subject to redemption prior to maturity in accordance with the provisions of **Article III** of the Indenture;

(f) The Bonds are to be issued under and secured by the Indenture, pursuant to which the Project and the net earnings therefrom, including all rents, revenues and receipts to be derived by the City from the leasing or sale of the Project, will be pledged and assigned to the Trustee as security for payment of the principal of and interest on the Bonds and amounts owing pursuant to the Lease;

(g) The City will not knowingly take any affirmative action that would permit a lien to be placed on the Project or pledge the revenues derived therefrom for any bonds or other obligations, other than the Bonds, except with the written consent of the Authorized Company Representative; and

(h) The City shall have no authority to operate the Project as a business or in any other manner except as the lessor thereof or potentially as lessee of a portion thereof, except subsequent to an Event of Default hereunder.

Section 2.2. Representations by the Company. The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Iowa and is in good standing under the laws of and is qualified to do business in the State of Missouri;

(b) The Company has lawful power and authority to enter into this Lease and to carry out its obligations hereunder and by proper action of its board of directors the Company has been duly authorized to execute and deliver this Lease, acting by and through its duly authorized officers and representatives;

(c) The execution and delivery of this Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Lease by the Company will not, to the Company's knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party;

(d) To the Company's knowledge, the estimated costs of the construction, improvement and equipping of the Project are in accordance with sound engineering and accounting principles;

(e) The Project will comply in all material respects with all presently applicable building and zoning, health, environmental and safety orders and laws and all other applicable laws, rules and regulations and the Project Equipment will be located at the Project Site.

ARTICLE III

GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. The City hereby exclusively rents, leases and lets the Project to the Company, and the Company hereby rents, leases and hires the Project from the City, subject to Permitted Encumbrances existing as of the date of the execution and delivery hereof, for the rentals and upon and subject to the terms and conditions herein contained.

Section 3.2. Lease Term. This Lease shall become effective upon its delivery, and subject to sooner termination pursuant to the provisions of this Lease, shall have a term commencing as of the date of this Lease and terminating on **December 1, 2033**.

Section 3.3. Possession and Use of the Project.

(a) The City covenants and agrees that as long as neither the City nor the Trustee has exercised any of the remedies set forth in **Section 12.2** hereof following the occurrence and continuance of an Event of Default, as defined in **Section 12.1** hereof, the Company shall have sole and exclusive possession of the Project (subject to Permitted Encumbrances and the City's and the Trustee's right of access pursuant to **Section 10.3** hereof) and shall and may peaceably and quietly have, hold and enjoy the Project during the Lease Term. The City covenants and agrees that it will not take any action, other than expressly pursuant to **Article XII** hereof, to prevent the Company from having quiet and peaceable possession and enjoyment of the Project during the Lease Term and will, at the request and expense of the Company, cooperate with the Company in order that the Company may have quiet and peaceable possession and enjoyment of the Project and will defend the Company's enjoyment and possession thereof against all parties.

(b) Subject to the provisions of this Section, the Company shall have the exclusive right to use the Project for any lawful purpose contemplated by the Act and consistent with the terms of the Performance Agreement. The Company shall use commercially reasonable efforts to comply in all material respects with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, local and other governments or governmental authorities, now or hereafter applicable to the Project or to any adjoining public ways, as to the manner of use or the condition of the Project or of adjoining public ways. In the event of demonstrated noncompliance with such statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements the Company will take all reasonable steps to comply with such statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements, subject to the rights of the Company to contest the same. The Company shall also comply with the mandatory requirements, rules and regulations of all insurers under the policies carried under the provisions of **Article VII** hereof. The Company shall pay all actual and reasonable costs, expenses, claims, fines, penalties and damages that may in any manner arise out of, or be imposed as a result of, the failure of the Company to comply with the provisions of this Section. Notwithstanding any provision contained in this Section, however, the Company may, at its own cost and expense, contest or review by legal or other appropriate procedures the validity or legality of any such governmental statute, law, ordinance, order, judgment, decree, regulation, direction or requirement,

or any such requirement, rule or regulation of an insurer, and during such contest or review the Company may refrain from complying therewith.

Section 3.4. Title to the Project. The City shall be the sole owner of the Project during the Lease Term, subject to the Permitted Encumbrances.

ARTICLE IV

CONSTRUCTION, IMPROVEMENT AND INSTALLATION OF THE PROJECT

Section 4.1. Issuance of the Bonds. To provide funds for the payment of Project Costs, the City agrees that, upon request of the Company, it will issue, sell and cause to be delivered the Bonds to the purchaser thereof in accordance with the provisions of the Indenture and the Bond Purchase Agreement.

Section 4.2. Acquisition, Construction, Improvement and Installation of the Project. The City and the Company agree that the Company, as the agent of the City, shall acquire, construct, improve and install the Project Improvements and the Project Equipment as follows:

(a) The City has acquired the Project Site prior to the execution hereof. Concurrently with the execution of this Lease, (i) a deed and any other necessary instruments of transfer will be delivered to the City and placed of record, and (ii) the commitment for title insurance or ownership and encumbrance report required by **Article VII** hereof will be delivered to the City and the Trustee;

(b) On behalf of the City, the Company will construct and improve the Project Improvements on the Project Site and otherwise improve the Project Site in substantial accordance with the Plans and Specifications. The Company may revise the Plans and Specifications from time to time as it deems necessary to carry out the Project, but revisions that would alter the intended purpose of the Project to a use other than as a manufacturing, warehousing and distribution facility may be made only with the prior written approval of the City. The Company agrees that the aforesaid construction and improvement will, with such changes and additions as may be made hereunder, result in facilities suitable for use by the Company for its purposes, and that all real and personal property described in the Plans and Specifications, with such changes and additions as may be made hereunder, is desirable and appropriate in connection with the Project. The provisions of this paragraph are in addition to and do not supersede the provisions of **Section 8.2**;

(c) The Company will purchase and install the Project Equipment at the Project Site. The Company shall transfer title to the Project Equipment to the City from time to time by bills of sale or other instruments of transfer. On or before March 1 of each year or such other date required by law for reporting personal property declarations, the Company shall furnish to the City, Jasper County and the Trustee a list of items (based on the Company's internal record keeping) comprising the Project Equipment as of January 1 of such year. ***No item of personal property shall appear on the list of Project Equipment for more than 5 such reports.*** If the Company makes additions to, or replacements of, the Project Equipment for the purpose of repairing damage or normal wear and tear, such additions and/or replacements shall become part of the Project Equipment and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project Equipment (such addition or replacement may be placed in

service on or after the Completion Date). The improper inclusion or exclusion of any Project Equipment pursuant to such list may be rectified by the Company within 30 days after notice of such improper inclusion or exclusion. The improper inclusion or exclusion of an item on or from such list shall not affect the items comprising the Project Equipment for the purpose of this Lease or title thereto as intended by the parties hereto. The Company shall provide such information to the City, Jasper County and the Trustee as may be requested in order to ensure that such list corresponds to the list of Project Equipment maintained by the Trustee pursuant to **Section 10.8**. Each bill of sale or other instrument of transfer and each personal property declaration form shall be of sufficient specificity so as to enable Jasper County's officials (including representatives of the Assessor's office) to determine which personal property as reported on the annual personal property declaration constitutes Project Equipment (and therefore is owned by the City) and which personal property does not constitute Project Equipment (and therefore is owned by the Company). The City and the Company agree that, pursuant to **Section 4.8**, property purchased in whole or in part by the Company with its own funds, and not Bond proceeds, shall not constitute part of the Project Equipment and shall remain the property of the Company and therefore subject to taxation. ***Each item of personal property that becomes a part of the Project Equipment shall cease to be part of the Project Equipment after 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company. Upon expiration of such 5-year period, title to such personal property shall be, and hereby is, conveyed to the Company, without further act of the City or the Company.***

(d) The Company agrees that it will use reasonable efforts to cause the acquisition, construction, improvement and installation of the Project to be completed as soon as practicable with all reasonable dispatch. In the event such acquisition, construction, improvement and installation commences prior to the receipt of proceeds from the sale of the Bonds, the Company agrees to advance all funds necessary for such purpose.

Section 4.3. Project Costs. The City hereby agrees to pay for, but solely from the Project Fund, and hereby authorizes and directs the Trustee to pay for, but solely from the Project Fund, all Project Costs upon receipt by the Trustee of a certificate pursuant to **Section 4.4** hereof. The Company may not submit any requisition certificates for Project Costs incurred after the Completion Date. The Company must submit all requisitions for Project Costs incurred before the Completion Date within three months after the Completion Date.

Section 4.4. Payment for Project Costs. The City hereby authorizes and directs the Trustee to make disbursements from the Project Fund, upon receipt by the Trustee of certificates in substantially the form attached hereto as **Exhibit C**, signed by an Authorized Company Representative and approved by an Authorized Company Representative,

(a) requesting payment or reimbursement of a specified amount of such funds (which amount shall be equal to the value of the property being transferred to the City simultaneously with any request) and directing to whom such amount shall be paid (which may include the Company in the event of a reimbursement);

(b) describing each item of Project Costs for which payment is being requested, including for each item of Project Equipment or Project Improvement, a description of the item and, for each item of Project Equipment, a serial or other identifying number, if any, for such item;

(c) stating that each item for which payment is requested is or was desirable and appropriate in connection with the purchase, installation or equipping of the Project has been properly incurred and is a proper charge against the Project Fund, that the amount requested either has been paid by the Company, or is justly due, and has not been the basis of any previous requisition from the Project Fund; and

(d) stating that, except for the amounts, if any, stated in said certificate, to the best of the knowledge of the Authorized Company Representative there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, installation or equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

The Trustee may rely conclusively on any such certificate and shall not be required to make any independent inspection or investigation in connection therewith. The approval of any requisition certificate by the Authorized Company Representative and the Authorized City Representative shall constitute unto the Trustee an irrevocable determination that all conditions precedent to the payments requested have been completed. The Trustee shall retain copies of all requisition certificates for the same period of record retention described in **Section 703** of the Indenture.

Section 4.5. Establishment of Completion Date. The Completion Date shall be evidenced to the Trustee by a certificate signed by the Authorized Company Representative stating (a) the acquisition, construction, improvement and installation of the Project has been substantially completed in substantial accordance with the Plans and Specifications, in all material respects, (b) that all costs and expenses incurred in the acquisition, construction, improvement and installation of the Project have been paid except costs and expenses the payment of which is not yet due or is being retained or contested in good faith by the Company, and (c) amounts to be retained by Trustee with respect to item (b) above. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. The Company and the City agree to cooperate in causing such certificate to be furnished to the Trustee. If the Company makes additions to, substitutions for, or replacements of, the Project for the purpose of repairing damage or normal wear and tear or substituting property in the case of condemnation under **Section 8.2(c), Section 9.1(a)** or **Section 9.2(b)**, such additions, substitutions and/or replacements shall become part of the Project and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project regardless of whether such additions, substitutions or replacements may be purchased or placed in service on or after the Completion Date.

Section 4.6. Surplus or Deficiency in Project Fund.

(a) Upon receipt of the certificate described in **Section 4.5** hereof, the Trustee shall, as provided in **Section 504** of the Indenture, transfer any remaining moneys then in the Project Fund to the Bond Fund to be applied as directed by the Company solely to (1) the payment of principal and premium, if any, of the Bonds through the payment (including regularly scheduled principal payments, if any) or redemption thereof at the earliest date permissible under the terms of the Indenture, or (2) at the option of the Company, to the purchase of Bonds at such earlier date or dates as the Company may elect. Any amount so deposited in the Bond Fund may be invested as permitted by **Section 702** of the Indenture.

(b) If the Project Fund shall be insufficient to pay fully all Project Costs and to complete the Project free of liens and encumbrances other than Permitted Encumbrances, the Company shall pay, in cash, the full amount of any such deficiency by making payments thereof directly to the contractors and to

the suppliers of materials and services as the same shall become due (subject to the rights of the Company to contest any claims or liens of any such contractors or material used in accordance with applicable laws) and the Company shall save the City and the Trustee whole and harmless from any obligation to pay such deficiency.

Section 4.7. Project Property of City. The Project Site, the Project Improvements and the Project Equipment, which the Company desires to convey to the City, including all work and materials on the Project as such work progresses, and all additions or enlargements thereto or thereof, the Project as fully completed, anything under this Lease which becomes, is deemed to be, or constitutes a part of the Project, and the Project as repaired, rebuilt, rearranged, restored or replaced by the Company under the provisions of this Lease, except as otherwise specifically provided herein, shall immediately when erected or installed become the absolute property of the City, subject only to this Lease, the Indenture, Permitted Encumbrances, the Financing Documents and the Leasehold Security Agreement, if any.

Section 4.8. Non-Project Improvements, Machinery and Equipment Property of the Company. Any improvements or items of machinery or equipment which do not constitute part of the Project and the entire purchase price of which is paid for by the Company with the Company's own funds, and no part of the purchase price of which is paid for from funds deposited pursuant to the terms of this Lease in the Project Fund, shall be the property of the Company and shall not constitute a part of the Project for purposes of **Section 6.4** hereof and therefore are subject to taxation, to the extent otherwise provided by law.

Section 4.9. Environmental Matters. The Company acknowledges that is it responsible for maintaining the Project in compliance with all Environmental Laws. In the event that the Company fails to undertake to comply with any final, non-appealable order issued by any local, state or federal authority under applicable Environmental Law, the City or the Trustee, thirty days after notice to the Company, may elect (but shall not be required) to undertake such compliance if the Company has not undertaken such compliance or is otherwise not prosecuting the same to completion with reasonable diligence. Any moneys expended by the City or the Trustee in efforts to comply with any applicable Environmental Law (including the reasonable cost of hiring consultants, undertaking sampling and testing, performing any cleanup necessary or useful in the compliance process and reasonable attorneys' fees) shall be due and payable as Additional Rent hereunder with interest thereon at the average rate of interest per annum on the Bonds, plus two (2) percentage points, from the date such cost is incurred. There shall be unlimited recourse to the Company to the extent of any liability incurred by the City or the Trustee with respect to any breaches of the provisions of this section.

ARTICLE V

RENT PROVISIONS

Section 5.1. Basic Rent. The Company covenants and agrees to pay to the Trustee in same day funds for the account of the City during this Lease Term, on or before 11:00 a.m., Trustee's local time, on or before each December 1 (each a "Payment Date"), commencing December 1, 2020 and continuing until the principal of and interest on the Bonds shall have been fully paid, as "Basic Rent" for the Project, an amount which, when added to any collected funds then on deposit in the Bond Fund and available for the payment of principal of the Bonds and the interest thereon on such Payment Date, shall be equal to the amount payable on such Payment Date as interest on the Bonds (except as offset pursuant to the right of the Company described herein). On **December 1, 2033** (or such earlier date as the

Company may elect to redeem the Bonds), the Company shall also pay an amount equal to all principal then due on the Bonds in connection with such maturity or redemption (subject to the right of the Company to surrender the Bonds in lieu of such payment). All payments of Basic Rent provided for in this Section shall be paid directly to the Trustee and shall be deposited in accordance with the provisions of the Indenture into the Bond Fund and shall be used and applied by the Trustee in the manner and for the purposes set forth in this Lease and the Indenture. In furtherance of the foregoing, and notwithstanding any other provision in this Lease, the Indenture, the Bond Purchase Agreement or the Performance Agreement to the contrary, and provided that the Company is the sole holder of the Bonds, the Company may set-off the then-current Basic Rent payment against the City's obligation to the Company as Bondholder under the Indenture in lieu of delivery of the Basic Rent on any Payment Date, without providing notice of such set-off to the Trustee. The Trustee may conclusively rely on the absence of any notice from the Company to the contrary as evidence that such set-off has occurred. On the final Payment Date, the Company will (a) if the Trustee holds the Bonds, notify the Trustee of the Bonds not previously paid that are to be cancelled or (b) if an entity other than the Trustee holds the Bonds, deliver or cause to be delivered to the Trustee for cancellation Bonds not previously paid. The Company shall receive a credit against the Basic Rent payable by the Company in an amount equal to the principal amount of the Bonds so tendered for cancellation plus accrued interest thereon.

Section 5.2. Additional Rent. The Company shall pay as Additional Rent, within 30 days after receiving an itemized invoice therefor, the following amounts:

(a) all fees, charges and expenses, including reasonable agent and counsel fees and expenses, of the City, the Trustee and the Paying Agent incurred under or arising from the Indenture, this Lease or the Performance Agreement, including but not limited to claims by contractors or subcontractors, as and when the same become due;

(b) all costs incident to the issuance of the Bonds (which are to be paid on the Closing Date) and the payment of the principal of and interest on the Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of all Outstanding Bonds;

(c) the actual and reasonable fees, charges and expenses incurred in connection with the enforcement of any rights under this Lease, the Indenture or the Performance Agreement by the City, the Trustee or the Owners, including reasonable counsel fees and expenses; and

(d) all other payments of whatever nature which Company has agreed in writing to pay or assume under the provisions of this Lease, the Performance Agreement or the Indenture.

Section 5.3. Obligations of Company Absolute and Unconditional.

(a) The obligations of the Company under this Lease to make payments of Basic Rent and Additional Rent on or before the date the same become due, and to perform all of its other obligations, covenants and agreements hereunder shall be absolute and unconditional, without notice or demand, and without abatement, deduction, set-off, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and irrespective of whether the Project has been started or completed, or whether the City's title thereto or to any part thereof is defective or nonexistent, and notwithstanding any damage to, loss, theft or destruction of, the Project or any part thereof, any failure of consideration or frustration of commercial purpose, the taking by eminent domain of title to or of the right of temporary use of all or any part of the Project, legal curtailment of the Company's use thereof, the eviction or constructive eviction of the Company, any

change in the tax or other laws of the United States of America, the State of Missouri or any political subdivision thereof, any change in the City's legal organization or status, or any default of the City hereunder, and regardless of the invalidity of any action of the City; provided, however, that nothing in this **Section 5.3(a)** or **Section 5.3(b)** is intended or shall be deemed to affect or impair in anyway the rights of the Company to tender Bonds for redemption in satisfaction of Basic Rent as provided in **Section 5.1** and **Section 5.4** hereof, nor the right of the Company to terminate this Lease and repurchase the Project as provided in **Article XI** hereof, nor the right of the offset as provided in **Section 5.1** hereof.

(b) Nothing in this Lease shall be construed to release the City from the performance of any agreement on its part herein contained or as a waiver by the Company of any rights or claims the Company may have against the City under this Lease or otherwise, but any recovery upon such rights and claims shall be had from the City separately, it being the intent of this Lease that the Company shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease (including the obligation to pay Basic Rent and Additional Rent) for the benefit of the Owners and the City. The Company may, however, at its own cost and expense and in its own name or in the name of the City, prosecute or defend any action or proceeding or take any other action involving third Persons which the Company deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder, and in such event the City hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the City in any such action or proceeding if the Company shall so request.

Section 5.4. Prepayment of Basic Rent. The Company may at any time and from time to time prepay all or any part of the Basic Rent provided for hereunder (subject to the limitations of **Section 301(a)** of the Indenture relating to the partial redemption of the Bonds). During such times as the amount held by the Trustee in the Bond Fund shall be sufficient to pay, at the time required, the principal of and interest on all the Bonds then remaining unpaid, the Company shall not be obligated to make payments of Basic Rent under the provisions of this Lease.

The Company, at its option, may deliver to the Trustee for cancellation Bonds owned by the Company and not previously paid, and the Company shall receive a credit against amounts payable by the Company for the redemption of Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest thereon.

ARTICLE VI

MAINTENANCE, TAXES AND UTILITIES

Section 6.1. Maintenance and Repairs. Throughout the Lease Term the Company shall, at its own expense, keep the Project in reasonably safe operating condition and keep the Project in reasonably good repair, reasonable wear, tear, depreciation and obsolescence excepted, making from time to time all repairs thereto and renewals and replacements thereof it determines to be necessary. Without limiting the generality of the foregoing, the Company shall at all times remain in compliance in all material respects with all provisions of the City's code relating to maintenance and appearance.

Section 6.2. Taxes, Assessments and Other Governmental Charges.

(a) Subject to subsection (b) of this Section, the Company shall promptly pay and discharge, as the same become due, all taxes and assessments, general and special, and other governmental charges of any kind whatsoever that may be lawfully taxed, charged, levied, assessed or imposed upon or against

or be payable for or in respect of the Project, or any part thereof or interest therein (including the leasehold estate of the Company therein) or any buildings, improvements, machinery and equipment at any time installed thereon by the Company, or the income therefrom, including any new taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all utility charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of the Bonds or encumber the City's title to the Project; provided that with respect to any special assessments or other governmental charges that are lawfully levied and assessed which may be paid in installments, the Company shall be obligated to pay only such installments thereof as become due and payable during the Lease Term.

(b) The Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment or other governmental charge which the Company is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted before the tax, assessment or other governmental charge complained of becomes delinquent if and provided (1) the Company, before instituting any such contest, gives the City written notice of its intention to do so, (2) the Company diligently prosecutes any such contest, at all times effectively stays or prevents any official or judicial sale therefor, under execution or otherwise, and (3) the Company promptly pays any final judgment enforcing the tax, assessment or other governmental charge so contested and thereafter promptly procures record release or satisfaction thereof. The City agrees to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any tax, assessment or other governmental charge and to take such actions as may be reasonably requested by the Company related to such proceedings. The Company shall save and hold harmless the City and the Trustee from any costs and expenses the City and the Trustee may incur related to any of the above.

(c) Nothing in this Lease shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit against the payments to be made by the Company under the Performance Agreement to the extent of any ad valorem taxes imposed and paid by the Company with respect to the Project paid pursuant to this Section.

Section 6.3. Utilities. All utilities and utility services used by the Company in, on or about the Project shall be paid for by the Company and shall be contracted for by the Company in the Company's own name (or the name(s) of its affiliates), and the Company shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in connection therewith.

Section 6.4. Property Tax Exemption. The City and the Company expect that while the Project is owned by the City and is subject to this Lease, the Project will be exempt from all ad valorem real and personal property taxes by reason of such ownership, and the City agrees that it will (at the expense of the Company) cooperate with the Company to defend such exemption against all parties. The City and the Company further acknowledge and agree that the City's obligations hereunder are contingent upon the Company making the payments due under and otherwise complying with the terms of the Performance Agreement during the term of this Lease. The terms and conditions of the Performance Agreement are incorporated herein as if fully set forth herein.

ARTICLE VII

INSURANCE

Section 7.1. Title Commitment or Report. Before conveying title to any real property to the City, the Company will obtain, from a title insurance company reasonably acceptable to the City, a commitment for title insurance or provide such other report in a form reasonably acceptable to the City showing the ownership of and encumbrances on the Project Site. Copies of such report shall be provided to the City and the Trustee.

Section 7.2. Property Insurance.

(a) The Company shall at its sole cost and expense obtain and shall maintain throughout the Lease Term a policy or policies of insurance to keep the Project constantly insured against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State of Missouri in an amount equal to the Full Insurable Value thereof (subject to reasonable loss deductible provisions); provided, however, that during the period of time while the facility at the Project Site is under construction, the Company shall obtain and maintain a policy of builder's risk insurance. The insurance required pursuant to this Section shall be maintained with a generally recognized responsible insurance company or companies authorized to do business in the State of Missouri or generally recognized international insurers or reinsurers as may be selected by the Company. The Company shall deliver certificates of insurance for such policies to the City and the Trustee before the initial acquisition of the Project and promptly after renewal of each insurance policy. All such policies of insurance pursuant to this Section, and all renewals thereof, shall name the City and the Trustee as additional insureds, as their respective interests may appear, shall name the Trustee as loss payee and shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee, to the extent such a provision can be obtained and is available from the insurer.

(b) In the event of loss or damage to the Project resulting in Net Proceeds of property insurance carried pursuant to this Section in an amount equal to or greater than $1,000,000, such Net Proceeds shall be (i) paid over to the Trustee and shall be applied as provided in **Article IX** of this Lease, or (ii) if otherwise directed by, or on behalf of, the Owners of 100% in principal amount of the Bonds Outstanding, as so directed. Insurance monies in an amount less than $1,000,000 may be paid to or retained by the Company to be held in trust and used as provided in **Section 9.1(a)** hereof.

Section 7.3. Commercial General Liability Insurance.

(a) The Company shall at its sole cost and expense maintain or cause to be maintained at all times during the Lease Term commercial general liability insurance (including but not limited to coverage for operations, contingent liability, operations of subcontractors, completed operations and contractual liability), under which the City and the Trustee shall be named as additional insureds, properly protecting and indemnifying the City and the Trustee, in an amount not less than the limits of liability set by Section 537.610 of the Revised Statutes of Missouri, as amended (subject to reasonable loss deductible clauses not to exceed the amounts normally or generally carried by the Company). The policies of said insurance shall contain a provision that such insurance may not be canceled by the issuer thereof without at least 10 days' advance written notice to the City, the Company and the Trustee, to the extent such a provision can be obtained and is available from the insurer. Certificates of such policies shall be furnished to the Trustee on the date of execution of this Lease and not less than 30 days before the expiration date of each insurance policy.

(b) In the event of a general liability occurrence, the Net Proceeds of liability insurance carried pursuant to this Section shall be applied toward the extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 7.4. Workers' Compensation. The Company agrees throughout the Lease Term to maintain or cause to be maintained the Workers' Compensation coverage required by the laws of the State of Missouri.

Section 7.5. Blanket Insurance Policies; Self-Insurance. The Company may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with. The Company may satisfy any of the insurance requirements set forth in this Article using self-insurance or insurance through a subsidiary or affiliate; so long as (i) the insurance is underwritten by a subsidiary or other affiliate of the Company with a separate net worth of at least $150,000,000, or (ii) the Company funds such self-insurance by appropriate reserves in the amounts recommended by independent actuarial reports obtained not less than every three (3) years for the term of this Lease. The Company shall provide to the City and the Trustee copies of financial statements or similar evidence of net worth of such affiliate on the date hereof and every three (3) years, or, in the case of actuarial reports, on the date of delivery of this Lease and, thereafter, not less than 30 days after receipt of such reports.

ARTICLE VIII

ALTERATION OF THE PROJECT

Section 8.1. Additions, Modifications and Improvements at the Project Site. The Company shall have and is hereby given the right, at its sole cost and expense, to make such additions, modifications and improvements in and to any part of the Project Improvements or the Project Equipment as the Company from time to time may deem necessary or desirable for its business purposes. All additions, modifications and improvements made by the Company pursuant to this Section shall (a) be made in a good and workmanlike manner and in material compliance with all laws and ordinances applicable thereto, (b) when commenced, be prosecuted to completion with due diligence, and (c) when completed, be deemed a part of the Project; provided, however, that additions of improvements, machinery and equipment installed on the Project Site by the Company but not purchased or acquired with proceeds of the Bonds (or purchased as replacement of such Project Improvements or Project Equipment) shall not become part of the Project and such property shall be subject to *ad valorem* taxes.

The Company may, at its sole cost and expense, construct on portions of the Project Site not theretofore occupied by buildings or improvements such additional buildings and improvements as the Company from time to time may deem necessary or desirable for its business purposes. All additional buildings and improvements constructed on the Project Site by the Company, and not paid for with Bond proceeds, pursuant to the authority of this Section shall not be included as Project Improvements and, during the life of this Lease, shall remain the property of the Company and may be added to, altered or razed and removed by the Company at any time. All additional buildings and improvements shall be made in a good and workmanlike manner and in strict compliance with all material laws, orders and ordinances applicable thereto and when commenced shall be prosecuted to completion with due diligence. The Company covenants and agrees (a) to make any reasonable repairs and restorations required to be made to the Project because of the construction of, addition to, alteration or removal of said additional buildings or improvements, and (b) to promptly and with due diligence either raze and remove or repair,

replace or restore any of said additional buildings and improvements as may from time to time be damaged by fire or other casualty. The Company shall pay all *ad valorem* taxes and assessments payable with respect to such additional buildings and improvements which remain the property of the Company. If for any reason the County Assessor determines that such additional buildings and improvements are not subject to *ad valorem* taxes based upon City ownership of the Project, the Company shall make payments in lieu of taxes in an amount equal to the taxes that would otherwise be due on such additional buildings and improvements, subject to the rights of the Company to contest the same in accordance with applicable laws.

Section 8.2. Removal and Replacement of Project Equipment.

(a) The Company may, if no uncured Event of Default (as defined in **Section 12.1** hereof) exists and is continuing, remove from the Project Site and sell, exchange, replace or otherwise dispose of, without responsibility or accountability to the City or the Trustee with respect thereto, any items of machinery and equipment, or parts thereof, which constitute a part of the Project Equipment and which have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or which, in the sound discretion of the Company, are otherwise no longer useful to the Company in its operations. Before any such removal of any items of equipment or machinery with a then-market value of greater than $3,000,000 in the aggregate within any one calendar year, the Company shall deliver to the City and the Trustee a certificate signed by an Authorized Company Representative containing a complete description of any machinery or equipment that the Company proposes to remove. Upon request by the Company, the City will execute and deliver a bill of sale that transfers full and complete title to the Company of the Project Equipment removed. Notwithstanding anything contained herein to the contrary, title to any item of the Project removed from the Project Site shall automatically vest in the Company without further instrument or action, and such vesting of title shall be self-operative effective upon removal. Any Project Equipment removed from the Project Site shall no longer be entitled to the tax exemption afforded by virtue of the City's ownership thereof.

(b) In all cases, the Company shall pay all of the costs and expenses of any such removal. The Company's right under this Section to remove machinery and equipment constituting a part of the Project Equipment is intended only to permit the Company to maintain an efficient operation by the removal of machinery and equipment that is no longer suitable for any of the reasons set forth in this Section, and such right is not to be construed to permit a removal under any other circumstances and specifically is not to be construed to permit the Company to make a wholesale removal of the Project Equipment.

(c) If the Company makes additions to the Project Equipment or otherwise replaces any Project Equipment for the purpose of repairing damage or normal wear and tear, such additions and/or replacements shall become part of the Project Equipment and shall be entitled to the tax exemption afforded by virtue of the City's ownership of the Project Equipment.

Section 8.3. Permits and Authorizations. The Company shall not do or permit others under its control to do any work on the Project Site related to any repair, rebuilding, restoration, replacement, modification or addition to the Project, or any part thereof, unless all requisite municipal and other governmental permits and authorizations shall have been first procured. The City agrees to act promptly on all requests for such municipal permits and authorizations. All such work shall be done in a good and workmanlike manner and in material compliance with all applicable material building and zoning laws and governmental regulations and requirements, and in accordance with the requirements, rules and regulations of all insurers under the policies required to be carried under the provisions of **Article VII** hereof.

Section 8.4. Mechanics' Liens.

(a) The Company will not directly or indirectly create, incur, assume or suffer to exist any lien on or with respect to the Project, except Permitted Encumbrances, and the Company shall promptly notify the City of the imposition of such lien of which the Company is aware and shall promptly, at its own expense, take such action as may be necessary to fully discharge or release any such lien. Whenever and as often as any mechanics' or other similar lien is filed against the Project, or any part thereof, purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Project Site, the Company shall discharge the same of record. Notice is hereby given that the City shall not be liable for any labor or materials furnished to the Company or anyone claiming by, through or under the Company upon credit, and that no mechanics' or other similar lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of the City in and to the Project or any part thereof.

(b) Notwithstanding paragraph (a) above, the Company may contest any such mechanics' or other similar lien if the Company (1) promptly notifies the City and the Trustee in writing of its intention so to do, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Project, or any part thereof or interest therein, under execution or otherwise, (4) promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested lien claim and (5) thereafter promptly procures the record release or satisfaction thereof. The Company may permit the lien so contested to remain unpaid during the period of any such contest and any appeal therefrom, so long as the Project is not subject to loss or forfeiture. The Company shall save and hold harmless the City from any loss, costs or expenses the City may actually incur related to any such contest. The Company shall reimburse the City for the actual expenses incurred by it in connection with the imposition of any such lien or in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim. The City shall cooperate fully with the Company in any such contest.

ARTICLE IX

DAMAGE, DESTRUCTION AND CONDEMNATION

Section 9.1. Damage or Destruction.

(a) If the Project is damaged or destroyed by fire or any other casualty, whether or not covered by insurance, the Company, as promptly as is reasonably practicable, shall either (i) make the determination described in subsection (f) below, or (ii) repair, restore, replace or rebuild the same so that upon completion of such repairs, restoration, replacement or rebuilding the Project is of a value not less than the value thereof immediately before the occurrence of such damage or destruction or, at the Company's option, construct upon the Project Site new buildings and improvements thereafter together with all new machinery, equipment and fixtures which are either to be attached to or are to be used in connection with the operation or maintenance thereof, provided that (A) the value thereof shall not be less than the value of such destroyed or damaged Project immediately before the occurrence of such damage or destruction and (B) the nature of such new buildings, improvements, machinery, equipment and fixtures will not impair the character of the Project as an enterprise permitted by the Act.

If the Company elects to repair, restore or replace the Project, for all purposes of this Lease, any reference to the words "Project Improvements" shall be deemed to also include any such new buildings, improvements and fixtures and all additions thereto and all replacements and alterations thereof and any

reference to the words "Project Equipment" shall be deemed to also include any such new machinery and equipment.

Unless the Company makes the determination described in subsection (f) below, the Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss to the Project shall be used to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof. Insurance monies in an amount less than $1,000,000 may be paid to or retained by the Company to be held in trust and used as provided herein. Insurance monies in any amount of $1,000,000 or more shall be (i) paid to the Trustee and deposited in the Project Fund and shall be disbursed as provided in **Section 4.4** hereof to pay the cost of repairing, restoring, replacing or rebuilding the Project or any part thereof, or (ii) if determined by the Owners of 100% in principal amount of the Bonds Outstanding, applied as directed by, or on behalf of, such Owners of 100% in principal amount of the Bonds Outstanding. If the Company makes the determination described in subsection (f) below, the Net Proceeds shall be deposited with the Trustee and used to redeem Bonds as provided in subsection (f).

(b) If any of the insurance monies paid by the insurance company as hereinabove provided remain after the completion of such repairs, restoration, replacement or rebuilding, and this Lease has not been terminated, the excess shall be deposited in the Bond Fund, subject to the rights of any leasehold mortgagee or Financing Party. Completion of such repairs, restoration, replacement or rebuilding shall be evidenced by a certificate of completion in accordance with the provisions of **Section 4.5** hereof. Unless the Company makes the determination described in subsection (f) below, if the Net Proceeds are insufficient to pay the entire cost of such repairs, restoration, replacement or rebuilding, the Company shall pay the deficiency.

(c) Except as otherwise provided in this Lease, in the event of any such damage by fire or any other casualty, the provisions of this Lease shall be unaffected and the Company shall remain and continue liable for the payment of all Basic Rent and Additional Rent and all other charges required hereunder to be paid by the Company, as though no damage by fire or any other casualty has occurred.

(d) The City and the Company agree that they will cooperate with each other, to such extent as such other party may reasonably require, in connection with the prosecution or defense of any action or proceeding arising out of, or for the collection of any insurance monies that may be due in the event of, any loss or damage, and that they will execute and deliver to such other parties such instruments as may be required to facilitate the recovery of any insurance monies.

(e) The Company agrees to give prompt notice to the City and the Trustee with respect to all fires and any other casualties occurring in, on, at or about the Project Site causing (in the Company's opinion) damage of more than $1,000,000.

(f) If the Company determines that rebuilding, repairing, restoring or replacing the Project is not practicable or desirable, or if the Company does not have the right under any Leasehold Security Agreement to use any Net Proceeds for repair or restoration of the Project, any Net Proceeds of casualty insurance required by **Article VII** hereof received with respect to such damage or loss shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same become due, all subject to rights of the mortgagee under the Leasehold Security Agreement (if any) and the Financing Party under the Financing Documents (if any). The Company agrees to be reasonable in exercising its judgment pursuant to this subsection (f). Alternatively, if the Company is the sole owner of the Bonds and it has determined that rebuilding, repairing, restoring or replacing the Project is not

practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the casualty insurance, and retain such proceeds for its own account.

(g) The Company shall not, by reason of its inability to use all or any part of the Project during any period in which the Project is damaged or destroyed or is being repaired, rebuilt, restored or replaced, nor by reason of the payment of the costs of such rebuilding, repairing, restoring or replacing, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease or of any other obligations of the Company under this Lease except as expressly provided in this Section.

Section 9.2. Condemnation.

(a) If during the Lease Term, title to, or the temporary use of, all or any part of the Project is condemned by or sold under threat of condemnation to any authority possessing the power of eminent domain, to such extent that the claim or loss resulting from such condemnation is greater than $1,000,000, the Company shall, within 90 days after the date of entry of a final order in any eminent domain proceedings granting condemnation or the date of sale under threat of condemnation, notify the City, the Trustee, the mortgagee under the Leasehold Security Agreement (if any) and the Financing Party under the Financing Documents (if any) in writing as to the nature and extent of such condemnation or loss of title and whether it is practicable and desirable to acquire and install or construct substitute improvements and/or equipment.

(b) If the Company determines that such substitution is practicable and desirable, the Company shall proceed promptly with and complete with reasonable dispatch the acquisition, installation or construction of such substitute improvements and/or equipment, so as to place the Project in substantially the same condition as existed before the exercise of the said power of eminent domain, including the acquisition, installation or construction of other improvements suitable for the Company's operations at the Project (which improvements will be deemed a part of the Project and available for use and occupancy by the Company without the payment of any rent other than herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby); provided, that such improvements will be acquired by the City subject to no liens, security interests or encumbrances before the lien and/or security interest afforded by the Indenture and this Lease other than Permitted Encumbrances. In such case, any Net Proceeds received from any award or awards with respect to the Project or any part thereof made in such condemnation or eminent domain proceedings, or of the sale proceeds, shall be applied in the same manner as provided in **Section 9.1** hereof (with respect to the receipt of casualty insurance proceeds).

(c) If the Company determines that it is not practicable or desirable to acquire, install or construct substitute improvements or equipment, any Net Proceeds of condemnation awards received by the Company shall, after payment of all Additional Rent then due and payable, be paid into the Bond Fund and shall be used to redeem Bonds on the earliest practicable redemption date or to pay the principal of any Bonds as the same becomes due and payable, provided that if the Company is the sole owner of the Bonds and it has determined that acquiring and constructing substitute improvements is not practicable or desirable, it may tender Bonds to the Trustee for cancellation in a principal amount equal to the Net Proceeds of the condemnation awards, and retain such proceeds for its own account, all subject to the rights of the mortgagee under the Leasehold Security Agreement (if any) and Financing Party under the Financing Documents (if any).

(d) The Company shall not, by reason of its inability to use all or any part of the Project during any such period of restoration or acquisition nor by reason of the payment of the costs of such restoration or acquisition, be entitled to any reimbursement from the City, the Trustee or the Owners or to any abatement or diminution of the rentals payable by the Company under this Lease nor of any other obligations hereunder except as expressly provided in this Section.

(e) The City shall cooperate fully with the Company in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Project or any part thereof, and shall, to the extent it may lawfully do so, permit the Company to litigate in any such proceeding in the name and on behalf of the City. In no event will the City voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Project or any part thereof without the prior written consent of the Company.

Section 9.3. Bondowner Approval. Notwithstanding anything to the contrary contained in this **Article IX**, the proceeds of any insurance received subsequent to a casualty or of any condemnation proceedings (or threats thereof) shall before the application thereof by the City or the Trustee be applied as directed by the Owners of 100% of the principal amount of Bonds Outstanding, subject and subordinate to (a) the rights of the City and the Trustee to be paid all their expenses (including reasonable attorneys' fees, trustee's fees and any extraordinary expenses of the City and the Trustee) incurred in the collection of such gross proceeds and (b) the rights of the City to any amounts then due and payable under the Performance Agreement.

ARTICLE X

SPECIAL COVENANTS

Section 10.1. No Warranty of Condition or Suitability by the City; Exculpation and Indemnification. The City makes no warranty, either express or implied, as to the condition of the Project or that it will be suitable for the Company's purposes or needs. The Company releases the City and the Trustee from, agrees that the City and the Trustee shall not be liable for and agrees to hold the City and the Trustee harmless against, any loss or damage to property or any injury to or death of any Person that may be occasioned by any cause whatsoever pertaining to the Project or the Company's use thereof, unless such loss is the result of the City's or the Trustee's gross negligence or willful misconduct. This provision shall survive termination of this Lease.

Section 10.2. Surrender of Possession. Upon accrual of the City's right of re-entry to the Project Site to the extent provided in **Section 12.2(b)**, the Company shall peacefully surrender possession of the Project to the City in reasonably good condition and repair; provided, however, the Company may within 90 days (or such later date as the City may agree to) after the termination of this Lease remove from the Project Site any buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project which have not already been removed during the Term. All repairs to and restorations of the Project required to be made because of such removal shall be made by and at the sole cost and expense of the Company, and during said 90-day (or extended) period the Company shall bear the sole responsibility for and bear the sole risk of loss for said buildings, improvements, furniture, trade fixtures, machinery and equipment owned by the Company and not constituting part of the Project. All buildings, improvements, furniture, trade fixtures, machinery and

equipment owned by the Company and which are not so removed from the Project before the expiration of said period shall be the separate and absolute property of the City.

Section 10.3. City's Right of Access to the Project. The City may conduct such periodic inspections of the Project as may be generally provided in the City's code. In addition, the Company agrees that the City and the Trustee and their duly authorized agents may, at reasonable times during normal business hours and, except in the event of emergencies, upon not less than two Business Day's prior notice, subject to the Company's usual business propriety, safety, confidentiality and security requirements, enter upon the Project Site (a) to examine and inspect the Project without interference or prejudice to the Company's operations, (b) to monitor the purchase and installation provided for in **Section 4.2** hereof as may be reasonably necessary, (c) to examine all files, records, books and other materials in the Company's possession pertaining to the purchase, installation or maintenance of the Project, and (d) upon the occurrence and continuance of an Event of Default, to enforce the remedies provided in in **Section 12.2** hereof.

Section 10.4. Granting of Easements; Leasehold Security Agreements and Financing Arrangements.

(a) Subject to **Sections 10.4(c)** and **(d)**, if no Event of Default under this Lease has happened and is continuing beyond any applicable grace period, the Company may at any time or times (i) grant subleases (as permitted in **Section 13.1(c)** hereof), easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements that are for the direct use of the Project, or part thereof, by the grantee, (ii) release or terminate existing subleases, easements, licenses, rights-of-way and other rights or privileges, all with or without consideration and upon such terms and conditions as the Company shall determine, or (iii) incur Permitted Encumbrances. The Company may take such actions and may execute any applicable documents in the Company's own name. No separate signature of or authorization from the City shall be required for the execution and delivery of any such document, although the City agrees to execute and deliver such confirming documents as are described below, under the procedures described below, if the Company chooses to make such a request. All third parties entering into agreements with the Company or receiving delivery of or the benefit of such agreements or documents shall be entitled to rely upon the same as having been executed and delivered by the City, unless such third party has actual or constructive notice, expressly in writing, that the agency herein granted by the City to the Company has been terminated by the City because of an uncured Event of Default hereunder. The City agrees that it will execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant, release or terminate any such sublease, easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by the City and the Trustee of: (i) a copy of the instrument of grant, release or termination or of the agreement or other arrangement, (ii) a written application signed by an Authorized Company Representative requesting such instrument, and (iii) a certificate executed by an Authorized Company Representative stating that such grant or release is not detrimental to the proper conduct of the business of the Company, will not impair the effective use or interfere with the efficient and economical operation of the Project, will not materially adversely affect the security intended to be given by or under the Indenture and will be a Permitted Encumbrance or release of a Permitted Encumbrance. If no Event of Default has happened and is continuing beyond any applicable grace period, any payments or other consideration received by the Company for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of the Company; but, subject to **Sections 10.4(c)** and **(d)**, upon (i) termination of this Lease for any reason other than the redemption of the Bonds and/or the purchase of the Project by the Company or (ii) the occurrence and continuance of an Event of Default by the Company, all rights then

existing of the Company with respect to or under such grant shall inure to the benefit of and be exercisable by the City and the Trustee.

(b) The Company may mortgage the leasehold estate created by this Lease, with prior notice to but without the consent of the City, provided and upon condition that a duplicate original or certified copy or photostatic copy of each such mortgage, and the note or other obligation secured thereby, is delivered to the City within thirty (30) days after the execution thereof. The sale of the Company's leasehold estate at a foreclosure sale or trustee's sale under the Leasehold Security Agreement or any assignment in lieu thereof shall not require the consent of the City, if (i) written notice of the proposed sale or assignment is provided to the City at least fifteen (15) days prior thereto, and (ii) before such sale or assignment, all payments then owing to the City under the Performance Agreement are paid.

(c) The City acknowledges and agrees that the Company may finance and refinance its rights and interests in the Project, this Lease and the leasehold estate created hereby and, in connection therewith, the Company may execute Financing Documents with one or more Financing Parties. Notwithstanding anything contained to the contrary in this Lease, the Company may, at any time and from time to time, with prior notice to but without the consent of the City, (i) execute one or more Financing Documents upon the terms contained in this **Section 10.4** and (ii) sublease or assign this Lease, the leasehold estate, any sublease and rights in connection therewith, and/or grant liens or security interests therein, to any Financing Party. Any further sublease or assignment by any Financing Party shall be subject to the provisions of **Section 13.1(c)**. At the expense of the Company, the City agrees to cooperate fully with the Company and take all actions as reasonably requested by the Company in connection with any financing or refinancing of the Company's rights and interests in the Project, including but not limited to the granting of security interests in the Project, the Bonds and the leasehold estate created hereunder, as may from time to time be reasonably requested by any of the Financing Parties.

(d) Upon notice by the Company to the City in writing that it has executed one or more Financing Documents under which it has granted rights in this Lease to a Financing Party, which includes the name and address of such Financing Party, then the following provisions shall apply in respect of each such Financing Party:

(1) there shall be no merger of this Lease or of the leasehold estate created hereby with the fee title to the Project, notwithstanding that this Lease or said leasehold estate and said fee title shall be owned by the same Person or Persons, without the prior written consent of such Financing Party;

(2) the City shall serve upon each such Financing Party (at the address, if any, provided to the City) a copy of each notice of the occurrence of an Event of Default and each notice of termination given to the Company under this Lease, at the same time as such notice is served upon the Company. No such notice to the Company shall be effective unless a copy thereof is thus served upon each Financing Party;

(3) each Financing Party shall have the same period of time which the Company has, after the service of any required notice upon it, within which to remedy or cause to be remedied any payment default under this Lease which is the basis of the notice plus thirty (30) days, and the City shall accept performance by such Financing Party as timely performance by the Company;

(4) the City may exercise any of its rights or remedies with respect to any other Event of Default by the Company, subject to the rights of the Financing Parties under this **Section 10.4(d)** as to such other events of default. Without limiting the generality of the foregoing, the holder of the Leasehold Security Agreement may cause the sale of the leasehold interest of the Company to be sold at foreclosure sale conducted in accordance with applicable law and the terms of the Leasehold Security Agreement, to accept assignment of this Lease in lieu of foreclosure and to appoint a receiver for the Project, all without obtaining the prior written consent of the City but subject to the provisions of **Section 10.4(b)**;

(5) upon the occurrence and continuance of an Event of Default by the Company under this Lease beyond any applicable grace period, other than a default in the payment of money, the City shall take no action to effect a termination of this Lease by service of a notice or otherwise, without first giving notice thereof to each such Financing Party and permitting such Financing Party (or its designee, nominee, assignee or transferee) a reasonable time within which to remedy such default in the case of an Event of Default which is susceptible of being cured (provided that the period to remedy such Event of Default shall continue beyond any period set forth in the Lease to effect said cure so long as the Financing Party (or its designee, nominee, assignee or transferee) is diligently prosecuting such cure); provided that the Financing Party (or its designee, nominee, assignee or transferee) shall pay or cause to be paid to the City and the Trustee all expenses, including reasonable counsel fees, court costs and disbursements incurred by the City or the Trustee in connection with any such default; and

(6) the Financing Parties (and their designees, nominees, assignees or transferees) shall have the right to enter, possess and use the Project at such reasonable times and manner as are necessary or desirable to effectuate the remedies and enforce their respective rights under the Financing Documents and this Lease may not be modified, amended, canceled or surrendered by agreement between the City and the Company, without prior written consent of such Financing Party.

(e) In connection with the execution of one or more Financing Documents, upon the request of the Company, the City agrees to execute such documents as shall be reasonably requested by a Financing Party and which are usual and customary in connection with the closing of the financing or refinancing pursuant to the Financing Documents. The Company agrees to reimburse the City for any and all costs and expenses incurred by the City pursuant to this Section, including reasonable attorneys' fees and expenses, in complying with such request, up to a maximum of $10,000 with respect to any one request.

(f) Notwithstanding the foregoing, the City may agree to other provisions and documents requested by the Company or any Financing Party not contemplated by this **Section 10.4**, subject to approval by ordinance of the City Council.

Section 10.5. Indemnification of City and Trustee. The Company shall indemnify and save and hold harmless the City and the Trustee and their governing body members, officers, agents and employees from and against all claims, demands, costs, liabilities, damages or expenses that they may actually incur (including reasonable attorneys' fees and costs incurred in the defense and settlement of claims), by or on behalf of any Person, firm or corporation arising from the issuance of the Bonds and the execution of the Performance Agreement, this Lease, the Bond Purchase Agreement or the Indenture (including any violation by the Company of, or failure by the Company to comply with, any federal or state securities laws in connection with the Bonds) and from the conduct or management of, or from any work or thing done in or on the Project during the Lease Term, and against and from all claims, demands,

costs, liabilities, damages or expenses that they may actually incur (including reasonable attorneys' fees and costs incurred in the defense and settlement of claims), arising during the Lease Term from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under the Performance Agreement, this Lease or any related document, (c) any contract entered into in connection with the purchase and installation of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) unless the Company has been released from liability pursuant to **Section 13.1(c)**, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of the Company, (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any claim relating to the presence, release or use of any hazardous substance or other material regulated by any applicable Environmental Law on the Project Site where such presence, release or use occurred prior to or during the Lease Term, or any claim relating to compliance with any applicable Environmental Law prior to or during the Lease Term (except where the presence, release or use of such substances was caused by the City, and provided further that the Company shall not be required to indemnify the City with respect to the actions of (i) any assignee of this Lease that agrees to assume the Company's obligations pursuant to **Section 13.1(c)** of this Lease, or (ii) any person or entity unrelated to the Company to which the Company has conveyed the Project Site after the termination of this Lease), including claims relating to personal injury or damage to property; provided, however, the indemnification contained in this **Section 10.5** shall not extend to the City to the extent that such claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' fees, are the result of work being performed at the Project Site by employees or agents of the City, and shall not extend to the City or Trustee to the extent such claims, demands, costs, liabilities, damages or expenses are the result of negligence or willful misconduct by the City or the Trustee, or their respective employees or agents. Upon written notice from the City or the Trustee of any such claims or demand, the Company shall defend them or either of them in any such action or proceeding; provided, that the indemnified party shall cooperate with the Company and provide reasonable assistance in such defense. All costs related to the defense of the City and/or the Trustee shall be paid by the Company, except to the extent caused by an unreasonable demand or unreasonable failure to cooperate by the City or Trustee, as applicable. This **Section 10.5** shall survive any termination of the Performance Agreement and this Lease and the satisfaction and discharge of the Indenture. The Company shall not be liable for any settlement of any such action effected without its consent by the City or the Trustee, but if settled with the consent of the Company or if there be a final judgment for the plaintiff in any such action against the Company, the City or the Trustee, beyond any period for appeal, with or without the consent of the Company, then provided that the Company was given written notice and the ability to assume the defense thereof as required by this paragraph, the Company agrees to indemnify and hold harmless the City and/or the Trustee to the extent provided herein.

Section 10.6. Depreciation, Investment Tax Credit and Other Tax Benefits. The City agrees that any depreciation, investment tax credit or any other tax benefits with respect to the Project or any part thereof shall be made available to the Company, and the City will fully cooperate with the Company in any effort by the Company to avail itself of any such depreciation, investment tax credit or other tax benefits.

Section 10.7. Company to Maintain its Corporate Existence. The Company agrees that until the Bonds are paid or payment is provided for in accordance with the terms of the Indenture, it will maintain its existence, and will not dissolve or otherwise dispose of all or substantially all of its assets; provided, however, that the Company may, without violating the agreement contained in this Section, consolidate with or merge into another Person or permit one or more other Persons to consolidate with or merge into it, or may sell or otherwise transfer to another Person all or substantially all of its assets as an entirety and thereafter cease operations, dissolve and/or convert into a different type of legal entity, if the

surviving, resulting or transferee Person expressly assumes in writing all the obligations of the Company contained in this Lease and the Performance Agreement.

Section 10.8. Security Interests. The City and the Company hereby authorize the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Owners and the rights of the Trustee under the Indenture. Upon the written instructions of the Owners of 100% of the Bonds then Outstanding, the Trustee shall file all continuation instruments the Owners deem necessary to be filed and shall continue or cause to be continued such instruments for so long as the Bonds are Outstanding. The City and the Company shall cooperate with the Trustee in this regard by providing such information as the Trustee may require to renew such statements. The Trustee shall maintain a file showing a description of all Project Equipment, said file to be compiled from the certificates furnished to the Trustee pursuant to **Section 4.2(c)**, **Section 4.4** and **Section 8.2** hereof. At the written request of all of the Owners of the Bonds, the City, at the expense of the Company, and the Company further agree to enter into any other instruments necessary for the creation and perfection of (and continuance of the perfection of) the security interests in the Project benefiting the Owners of the Bonds then outstanding.

ARTICLE XI

OPTION AND OBLIGATION TO PURCHASE THE PROJECT

Section 11.1. Option to Purchase the Project.

(a) *Purchase of the Entire Project*. The Company shall have, and is hereby granted, the option to purchase the Project at any time, upon payment of the purchase price described below, provided that the Company, at its option, may deliver the Outstanding Bonds in payment of that portion of the purchase price described in subsection (a)(1), below. To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and in case of a redemption of the Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. Notwithstanding the forgoing, if the City or the Trustee provides a Remedies Notice to the Company, the Company shall be deemed to have exercised its repurchase option under this Section on the 29th day following the issuance of the Remedies Notice without any further action by the Company; provided said Remedies Notice has not been rescinded by such date (such option to take place on the 29th day following the issuance of the Remedies Notice). The Company may rescind such exercise by providing written notice to the City and the Trustee on or prior to the 29th and by taking such action as may be required to cure the default that led to the giving of the Remedies Notice. The purchase price payable by the Company in the event of its exercise of the option granted in this subsection shall be the sum of the following:

(1) an amount of money which, when added to the amount then on deposit in the Bond Fund, will be sufficient to redeem all the then outstanding Bonds on the earliest redemption date next succeeding the closing date, including, without limitation, principal and interest to accrue to said redemption date and redemption expense; plus

(2) an amount of money equal to the Trustee's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(3) an amount of money equal to all payments due and payable pursuant to the Performance Agreement through the end of the calendar year in which the date of purchase occurs; plus

(4) an amount of money equal to the City's reasonable fees and expenses for its counsel in connection with such purchase of the Project; plus

(5) the sum of $10.00.

At its option, to be exercised at least 5 days prior to the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

(b) *Purchase of Project Equipment*. The Company shall have, and is hereby granted, the option to purchase all or a portion of the Project Equipment at any time, upon payment in full of a portion of the Bonds then outstanding or provision for their payment having been made pursuant to **Article XIII** of the Indenture, in the amount described in this subsection. To exercise such option the Company shall give written notice to the City and to the Trustee, and shall specify therein the date of closing such purchase, which date shall be not less than 15 nor more than 90 days from the date such notice is mailed, and in case of a redemption of Bonds in accordance with the provisions of the Indenture, the Company shall make arrangements satisfactory to the Trustee for the giving of the required notice of redemption. The purchase price payable by the Company in the event of its exercise of the option granted in this subsection shall be the sum of the following:

(1) the amount of money equal to the portion of the Cumulative Outstanding Principal Amount on the closing date for such purchase that is attributable to the portion of the Project Equipment to be removed, which shall be determined by dividing (i) the total Project Costs paid with respect to such Project Equipment under **Section 4.4** hereof, by (ii) the total of all Project Costs paid under **Section 4.4** hereof, and then multiplying such quotient by the Cumulative Outstanding Principal Amount at the time of the closing date for such purchase and rounding such product to the nearest $1,000, which amount shall be deposited to the Bond Fund and applied to redeem outstanding Bonds in an equal principal amount on the earliest redemption date next succeeding the closing date); plus

(2) an amount of money equal to the interest to accrue to such redemption date on the Bonds to be redeemed pursuant to paragraph (1) immediately above and redemption expense, which amount shall be deposited to the Bond Fund; plus

(3) an amount of money equal to the Trustee's agreed to and reasonable fees, charges and expenses under the Indenture accrued and to accrue until such redemption of the Bonds; plus

(4) an amount of money equal to the City's reasonable fees and expenses for its counsel in connection with such purchase of Project Equipment; plus

(5) the sum of $10.00.

At its option, to be exercised at least 5 days prior to the date of closing such purchase, the Company may deliver to the Trustee for cancellation Bonds not previously paid, and the Company shall receive a credit against the purchase price payable by the Company in an amount equal to 100% of the principal amount of the Bonds so delivered for cancellation, plus the accrued interest thereon.

Upon payment of the purchase price relating to all or a portion of the Project Equipment, the Trustee shall note in its records the removal of such portion of the Project Equipment from the Project. The Company shall deliver to the City UCC Termination Statements and a bill of sale for such portion of the Project Equipment to be executed and delivered by the City upon deposit of such purchase price in the Bond Fund. If the Project Equipment is to be physically removed from the Project, the Company shall pay all the costs and expenses of any such removal and shall immediately repair at its expense all damage to the remaining Project caused thereby.

Section 11.2. Conveyance of the Project. At the closing of the purchase of the entire or all remaining portions of the Project pursuant to this Article, the City will upon receipt of the purchase price deliver to the Company the following:

(a) A release from the Trustee of the Project from the lien and/or security interest of the Indenture and this Lease and appropriate termination of financing statements as required under the Uniform Commercial Code; and

(b) Documents, including without limitation a special warranty deed as to the Project Site, conveying to the Company legal title to the Project, as it then exists, in recordable form, subject to the following: (i) those liens and encumbrances, if any, to which title to the Project was subject when conveyed to the City; (ii) those liens and encumbrances created by the Company or to the creation or suffering of which the Company consented; (iii) those liens and encumbrances resulting from the failure of the Company to perform or observe any of the agreements on its part contained in this Lease; (iv) Permitted Encumbrances other than the Indenture, this Lease and the Performance Agreement; and (v) if the Project or any part thereof is being condemned, the rights and title of any condemning authority.

Section 11.3. Relative Position of Option and Indenture. The option to purchase the Project granted to the Company in this Article shall be and remain prior and superior to the Indenture and may be exercised whether or not the Company is in default under this Lease or the Indenture, provided that such default will not result in nonfulfillment of any condition to the exercise of any such option (including the payment of all amounts specified in **Section 11.1** hereof) and further provided that all options herein granted shall terminate upon the termination of this Lease.

Section 11.4. Obligation to Purchase the Project.

(a) The Company hereby agrees to purchase, and the City hereby agrees to sell, the Project upon the occurrence of (a) the expiration of the Lease Term following full payment of the Bonds or provision for payment thereof having been made in accordance with the provisions of the Indenture, and (b) the final payments due under the Performance Agreement. The amount of the purchase price under this Section shall be $10.00 plus an amount sufficient to redeem all the then Outstanding Bonds, plus accrued interest and the reasonable fees and expenses of the City and the Trustee.

(b) The Company shall purchase the Project pursuant to the provisions of **Section 11.1(a)** at the time of, and in connection with, any redemption of Bonds required by the mandatory redemption provision set out in **Section 301(c)** of the Indenture.

ARTICLE XII

DEFAULTS AND REMEDIES

Section 12.1. Events of Default. If any one or more of the following events occurs and is continuing beyond any applicable notice and/or cure period, it is hereby defined as and declared to be and to constitute an "Event of Default" under this Lease:

(a) Default in the due and punctual payment of Basic Rent or Additional Rent within 10 days after written notice thereof from the City or the Trustee to the Company that the Company failed to make such payment. Anything herein to the contrary notwithstanding, no failure or default specified in paragraph (a) of this **Section 12.1** shall constitute an Event of Default until actual notice of such failure to make such payment by registered or certified mail shall be given by the City or the Trustee to the Company and the Company shall have had ten (10) days after receipt of such notice to correct said failure and shall not have corrected said failure within such period; or

(b) Default in the due observance or performance of any other covenant, agreement, obligation or provision of this Lease on the Company's part to be observed or performed, and such default shall continue for 60 days after the City or the Trustee has given the Company written notice specifying such default (or such longer period as is reasonably required to cure such default; provided that (1) the Company has commenced such cure within said 60-day period, and (2) the Company diligently prosecutes such cure to completion); or

(c) The Company: (1) admits in writing its inability to pay its debts as they become due; or (2) files a petition in bankruptcy or for reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the Bankruptcy Code as now or in the future amended or any other similar present or future federal or state statute or regulation, or files a pleading asking for such relief; or (3) makes an assignment for the benefit of creditors; or (4) consents to the appointment of a trustee, receiver or liquidator for all or a major portion of its property or fails to have the appointment of any trustee, receiver or liquidator made without the Company's consent or acquiescence, vacated or set aside; or (5) is finally adjudicated as bankrupt or insolvent under any federal or state law; or (6) is subject to any proceeding, or suffers the entry of a final and non-appealable court order, under any federal or state law appointing a trustee, receiver or liquidator for all or a major part of its property or ordering the winding-up or liquidation of its affairs, or approving a petition filed against it under the Bankruptcy Code, as now or in the future amended, which order or proceeding, if not consented to by it, is not dismissed, vacated, denied, set aside or stayed within 90 days after the day of entry or commencement; or (7) suffers a writ or warrant of attachment or any similar process to be issued by any court against all or any substantial portion of its property, and such writ or warrant of attachment or any similar process is not contested, stayed, or is not released within 60 days after the final entry, or levy or after any contest is finally adjudicated or any stay is vacated or set aside; or

(d) The occurrence and continuance of an "Event of Default" by the Company under the Performance Agreement, following any applicable notice and grace period provided in the Performance Agreement.

Section 12.2. Remedies on Default. If any Event of Default referred to in **Section 12.1** hereof has occurred and continues beyond the period provided to cure, then the City may at the City's election

(subject, however, to any restrictions against acceleration of the maturity of the Bonds or termination of this Lease in the Indenture), then or at any time thereafter, and while such default continues, take any one or more of the following actions:

(a) cause all amounts payable with respect to the Bonds for the remainder of the term of this Lease to become due and payable, as provided in the Indenture; provided that if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, the City shall convey the Project to the Company in accordance with **Section 11.2** hereof; or

(b) give the Company written notice of intention to terminate this Lease on a date specified therein, which date shall not be earlier than 60 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners shall tender or be deemed to have tendered the Outstanding principal amount of the Bonds for cancellation with instruction that such tender is in lieu of payment in accordance with **Section 11.1(a)** hereof, the Company's rights to possession of the Project shall cease and this Lease shall thereupon be terminated, and the City may enter the Project Site and take possession of the Project and if the Company has paid all obligations due and owing under the Indenture, this Lease and the Performance Agreement, the City shall convey the Project to the Company in accordance with **Section 11.2** hereof.

Section 12.3. Survival of Obligations. The Company covenants and agrees with the City and Owners that its obligations under this Lease shall survive the cancellation and termination of this Lease, for any cause, and that the Company shall continue to pay the Basic Rent and Additional Rent (to the extent the Bonds remain Outstanding) and perform all other obligations provided for in this Lease, all at the time or times provided in this Lease; provided, however, that except for the indemnification contained in **Section 10.5** hereof, upon the payment of all Basic Rent and Additional Rent required under **Article V** hereof, and upon the satisfaction and discharge of the Indenture under **Section 1301** thereof, and upon the Company's exercise of the purchase option contained in **Article XI** hereof or upon the events provided in **Section 12.2(b)** hereof, the Company's obligation under this Lease shall thereupon cease and terminate in full, except that obligations with respect to compensation and indemnification of the City and the Trustee shall not so terminate.

Section 12.4. Performance of the Company's Obligations by the City. Upon an Event of Default, the City, or the Trustee in the City's name, may (but shall not be obligated so to do) upon the continuance of such failure on the Company's part for 60 days after written notice of such failure is given the Company by the City or the Trustee, and without waiving or releasing the Company from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all reasonable sums so paid by the City or the Trustee and all necessary incidental reasonable costs and expenses incurred by the City or the Trustee (including, without limitation, reasonable attorney's fees and expenses) in performing such obligations shall be deemed Additional Rent and shall be paid to the City or the Trustee on demand, and if not so paid by the Company, the City or the Trustee shall have the same rights and remedies provided for in **Section 12.2** hereof in the case of default by the Company in the payment of Basic Rent.

Section 12.5. Rights and Remedies Cumulative. The rights and remedies reserved by the City and the Company hereunder are in addition to those otherwise provided by law and shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The City and the Company shall each be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Lease, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the

right to raise such defense in any proceeding in equity. Notwithstanding anything in this **Section 12.5** or elsewhere in this Lease to the contrary, however, the Company's option to purchase the property as provided in **Article XI** above shall not be terminated upon an Event of Default unless and until this Lease is terminated to the extent permitted pursuant to **Section 12.2(b)** above.

Section 12.6. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by the Company of any covenant, agreement or undertaking by the Company, the City may nevertheless accept from the Company any payment or payments hereunder without in any way waiving City's right to exercise any of its rights and remedies provided for herein with respect to any such default or defaults of the Company which were in existence at the time such payment or payments were accepted by the City.

Section 12.7. Trustee's Exercise of the City's Remedies. Whenever any Event of Default has occurred and is continuing, the Trustee may, but except as otherwise provided in the Indenture shall not be obliged to, exercise any or all of the rights of the City under this Article, upon notice as required of the City unless the City has already given the required notice. In addition, the Trustee shall have available to it all of the remedies prescribed by the Indenture.

ARTICLE XIII

ASSIGNMENT AND SUBLEASE

Section 13.1. Assignment; Sublease.

(a) The Company may assign this Lease in whole or in part, without the necessity of obtaining the consent of the Trustee, subject, however, to each of the following conditions:

(i) The Company shall obtain the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned or delayed, to each assignment, unless such sale, transfer or assignment is to an entity controlled by or under common control with or controlling the Company, or such sale, transfer or assignment is otherwise permitted under **Section 10.7** hereof, in which event no written consent of the City shall be required, but, in such event, the Company shall provide the City with advance written notice of such assignment.

(ii) The assignee shall assume the obligations of the Company hereunder to the extent of the interest assigned; and

(iii) Such assignment shall be in writing, duly executed and acknowledged by the assignor and in proper form for recording;

(iv) Such assignment shall include the entire then unexpired term of this Lease; and

(v) The Company shall, promptly following the completion of any such assignment, furnish or cause to be furnished to the City and to the Trustee a true and complete copy of each such assignment and assumption of obligations, as the case may be.

(b) Any assignee of all the rights of the Company shall agree to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the issuance of the Bonds. Upon

such assignment of all the rights of the Company and agreement by the assignee to be bound by the terms of this Lease, the Performance Agreement and any other documents related to the Bonds, the Company shall be released from and have no further obligations under this Lease, the Performance Agreement or any agreement related to the issuance of the Bonds.

(c) The Company may sublet less than 10% of the Project to a single entity for any lawful purpose under the Act without the consent of the City, and may sublet any greater portion of the Project with the prior written consent of the City. The Company shall, within 10 days after the delivery thereof, furnish or cause to be furnished to the City and the Trustee a true and correct copy of each such sublease. Any sublease of less than 10% of the Project may provide, at the Company's option, that the City's consent shall not be required in respect of any further subletting thereunder if such further subletting is for a similar purpose as the original sublease and is for a purpose permissible under the Act.

Section 13.2. Assignment of Revenues by City. The City shall assign and pledge any rents, revenues and receipts receivable under this Lease and all interest in the Project, to the Trustee pursuant to the Indenture as security for payment of the principal of, interest and premium, if any, on the Bonds and the Company hereby consents to such pledge and assignment.

Section 13.3. Prohibition Against Fee Mortgage of Project. Unless requested by the Company, the City shall not mortgage its fee interest in the Project, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

Section 13.4. Restrictions on Sale or Encumbrance of Project by City. During this Lease Term, the City agrees that, except to secure the Bonds to be issued pursuant to the Indenture, it will not sell, assign, encumber, transfer or convey the Project or any interest therein, but may assign its interest in and pledge any moneys receivable under this Lease to the Trustee pursuant to the Indenture as security for payment of the principal of and interest on the Bonds.

ARTICLE XIV

AMENDMENTS, CHANGES AND MODIFICATIONS

Section 14.1. Amendments, Changes and Modifications. Except as otherwise provided in this Lease or in the Indenture, subsequent to the issuance of Bonds and before the payment in full of the Bonds (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), this Lease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the parties hereto, the Trustee (given in accordance with the provisions of the Indenture, which consent, however, shall not be unreasonably withheld), and the written consent of all of the Owners.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be governed by **Section 1403** of the Indenture.

Section 15.2. City Shall Not Unreasonably Withhold Consents and Approvals. Wherever in this Lease it is provided that the City shall, may or must give its approval or consent, or execute supplemental agreements or schedules, the City shall not unreasonably, arbitrarily or unnecessarily withhold, delay or refuse to give such approvals or consents or refuse to execute or delay in executing such supplemental agreements or schedules; provided, however, that nothing in this Lease shall be interpreted to affect the City's rights to approve or deny any additional project or matter unrelated to the Project subject to zoning, building permit or other regulatory approvals by the City.

Section 15.3. Net Lease. The parties hereto agree (a) that this Lease shall be deemed and construed to be a net lease, (b) that the payments of Basic Rent are designed to provide the City and the Trustee funds adequate in amount to pay all principal of and interest accruing on the Bonds as the same become due and payable, (c) that to the extent that the payments of Basic Rent are not sufficient to provide the City and the Trustee with funds sufficient for the purposes aforesaid, the Company shall be obligated to pay, and it does hereby covenant and agree to pay, upon demand therefor, as Additional Rent, such further sums of money, in cash, as may from time to time be required for such purposes, and (d) that if after the principal of and interest on the Bonds and all costs incident to the payment of the Bonds (including the fees and expenses of the City and the Trustee) have been paid in full the Trustee or the City holds unexpended funds received in accordance with the terms hereof such unexpended funds shall, after payment therefrom of all sums then due and owing by the Company under the terms of this Lease, and except as otherwise provided in this Lease and the Indenture, become the absolute property of and be paid over forthwith to the Company.

Section 15.4. Limitation on Liability of City. No provision, covenant or agreement contained in this Lease, the Indenture or the Bonds, or any obligation herein or therein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge upon the general credit or taxing powers of the City or the State of Missouri.

Section 15.5. Governing Law. This Lease shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 15.6. Binding Effect. This Lease shall be binding upon and shall inure to the benefit of the City and the Company and their respective successors and assigns.

Section 15.7. Severability. If for any reason any provision of this Lease shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

Section 15.8. Execution in Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 15.9. Electronic Storage. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 15.10 Complete Agreement. THE COMPANY AND THE CITY UNDERSTAND THAT ORAL OR UNEXECUTED AGREEMENTS OR COMMITMENTS TO LOAN MONEY,

EXTEND CREDIT OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT INCLUDING PROMISES TO EXTEND OR RENEW SUCH DEBT ARE NOT ENFORCEABLE. TO PROTECT THE COMPANY AND THE CITY FROM MISUNDERSTANDING OR DISAPPOINTMENT, ANY AGREEMENTS THE COMPANY AND THE CITY REACH COVERING SUCH MATTERS ARE CONTAINED IN THIS LEASE AND THE PERFORMANCE AGREEMENT, WHICH ARE THE COMPLETE AND EXCLUSIVE STATEMENTS OF THE AGREEMENT BETWEEN THE COMPANY AND THE CITY, EXCEPT AS THE COMPANY AND THE CITY MAY LATER AGREE IN WRITING TO MODIFY THIS LEASE OR THE PERFORMANCE AGREEMENT.

Section 15.11. City Consents. The Mayor of the City is authorized, unless expressly provided herein, to grant on behalf of the City such consents and waivers relating to the Bonds, the Indenture, the Performance Agreement or this Lease as may be requested during the term thereof; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of this Lease or the tax exemption as provided for herein, or materially change the nature of the transaction.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CASEY'S MARKETING COMPANY,
an Iowa corporation

By: _____
Name:
Title:

EXHIBIT A

PROJECT SITE

The following described real estate located in Jasper County, Missouri:

[**INSERT LEGAL DESCRIPTION**]

EXHIBIT B

PROJECT IMPROVEMENTS

The Project Improvements consist of the following, to the extent paid for in whole with Bond proceeds:

The purchase and construction of a warehouse and distribution facility including buildings, site improvements and related fixtures and improvements.

PROJECT EQUIPMENT

The Project Equipment consists of the following, to the extent paid for in whole with Bond proceeds:

All items of machinery, equipment and parts or other personal property installed or acquired in the Project Improvements or elsewhere on the Project Site, and replacements thereof and additions thereto as provided in the Indenture and the Lease; provided that, each item of personal property that becomes a part of the Project Equipment shall constitute Project Equipment for no more than 5 tax years, starting with the tax year after the calendar year in which such personal property is acquired by the Company.

EXHIBIT C

FORM OF REQUISITION CERTIFICATE

Requisition No. _____
Date: _____

REQUISITION CERTIFICATE

TO: UMB BANK, N.A., AS TRUSTEE UNDER A TRUST INDENTURE DATED AS OF DECEMBER 1, 2019, BETWEEN CITY OF JOPLIN, MISSOURI, AND THE TRUSTEE, AND THE LEASE AGREEMENT DATED AS OF DECEMBER 1, 2019, BETWEEN CITY OF JOPLIN, MISSOURI AND CASEY'S MARKETING COMPANY, AN IOWA CORPORATION.

The undersigned Authorized Company Representative hereby states and certifies that:

1. A total of $_____ is requested to pay for Project Costs (as defined in the Indenture) of the Project Improvements and/or Project Equipment. The total amount of this requisition and all prior requisitions are as follows:

Date of Project Costs	***Amount Submitted in this Requisition***	***Requisitions Submitted to Date (Including this Requisition)***

2. Said Project Costs shall be paid in whole from Bond proceeds in such amounts, to such payees and for such purposes as set forth on **Schedule 1** hereto.

3. Each of the items for which payment is requested are or were desirable and appropriate in connection with the purchase, installation or equipping of the Project (as defined in the Trust Indenture), have been properly incurred and are a proper charge against the Project Fund, and have been paid by the Company or are justly due to the Persons whose names and addresses are stated on **Schedule 1**, and have not been the basis of any previous requisition from the Project Fund.

4. As of this date, except for the amounts referred to above, to the best of my knowledge there are no outstanding disputed statements for which payment is requested for labor, wages, materials, supplies or services in connection with the purchase, installation or equipping of the Project which, if unpaid, might become the basis of a vendors', mechanics', laborers' or materialmen's statutory or similar lien upon the Project or any part thereof.

CASEY'S MARKETING COMPANY

By: _____
Authorized Company Representative

Approved this _____ day of _____, 20___.

CITY OF JOPLIN, MISSOURI

By: _____
Authorized City Representative

SCHEDULE 1 TO REQUISITION CERTIFICATE

PROJECT COSTS

Payee and Address	Description	Amount

With respect to any personal property described in this Requisition Certificate and for which Project Costs are disbursed pursuant to this Requisition Certificate, in consideration of such disbursement, such personal property is hereby BARGAINED and SOLD, and the Company by these presents does now GRANT and CONVEY, unto the CITY OF JOPLIN, MISSOURI, and its successors and assigns, all of its right, title and interest, if any, in and to such personal property, and such personal property shall constitute a portion of the "Project" as defined under the Lease Agreement dated as of December 1, 2019, between the Company and the City. The property is being conveyed "as is," "where is" and "with all faults" as of the date of this Requisition Certificate, without any representation or warranty whatsoever as to its condition, fitness for any particular purpose, merchantability, or any other warranty, express or implied.

APPENDIX I

PERFORMANCE AGREEMENT

PERFORMANCE AGREEMENT

Dated as of December 1, 2019

BETWEEN

THE CITY OF JOPLIN, MISSOURI

AND

CASEY'S MARKETING COMPANY

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, dated as of December 1, 2019, as from time to time amended and supplemented in accordance with the provisions hereof (this "Agreement"), between the **CITY OF JOPLIN, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the "City"), and **CASEY'S MARKETING COMPANY**, an Iowa corporation (the "Company").

RECITALS:

1. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain "projects" (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or businesses for manufacturing, commercial, research and development, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable;

2. Pursuant to the Act, the City Council passed an ordinance (the "Ordinance") on December 2, 2019, authorizing the City to issue its Taxable Industrial Development Revenue Bonds (Hearthstone Project), Series 2019, in the maximum principal amount of $51,400,000 (the "Bonds"), for the purpose of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project Site"), including such land and the associated buildings, structures and fixtures (the "Project Improvements") and equipment (the "Project Equipment," with the Project Site, the Project Improvements, and the Project Equipment collectively being the "Project");

3. Pursuant to the Ordinance, the City is authorized to enter into a Trust Indenture with UMB Bank, N.A. (the "Trustee") for the purpose of issuing and securing the Bonds, as therein provided, and to enter into a Lease Agreement of even date herewith (the "Lease Agreement"), under which the City will acquire, purchase, construct, improve and equip the Project and will lease the Project to the Company, as tenant under the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of and interest on the Bonds; and

4. In connection with the foregoing, the City desires to enter into this Agreement with the Company, in consideration of the Company's desire to cause the purchase, construction, improvement, equipping and installation of the Project as more fully described in the Lease Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to the words and terms defined in the Recitals, the Indenture and the Lease Agreement, the following words and terms as used herein shall have the following meanings:

"Additional PILOT Payment" means an amount (in addition to the PILOT Payments set out in **Section 3.2**) that becomes due under **Section 3.3(a)** or **(b)**.

"Agreement" means this Performance Agreement dated as of December 1, 2019, between the City and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

"Annual Jobs Report" means the report required to be filed by the Company pursuant to **Section 3.6** hereof in the form of **Exhibit A** hereto.

"Base Wage" means $39,816 per year, provided that, starting with the September 30, 2023 Test Date, and on every Test Date thereafter that falls in an even-numbered year, the Base Wage shall be adjusted by entering in the Consumer Price Index Inflation Calculator available at http://www.bls.gov/data/inflation_calculator.htm (or similar website maintained by the United States Bureau of Labor Statistics) an initial amount of $39,816, a starting date of December 2019 and an ending date that is the same month and year as the Test Date in question (the Base Wage for odd year Test Dates shall be the same as the Base Wage for the immediately prior even year); *provided that*, if the United States Bureau of Labor Statistics no longer provides a Consumer Price Index Inflation Calculator similar to that provided at such website, the amount of $39,816 shall be multiplied by the aggregate increase in the average Consumer Price Index, as reported by the United States Bureau of Labor Statistics, for the time period elapsed between December 2019 and the applicable Test Date.

"CBA" means the Cost Benefit Analysis attached to the Plan for an Industrial Development Project for a Distribution Facility (Hearthstone Project) dated October 28, 2019 and approved by the City in connection with the Project.

"Chamber" means the Joplin Area Chamber of Commerce.

"County" means Jasper County, Missouri.

"Event of Default" means any Event of Default as provided in **Section 6.1** hereof.

"Exemption" has the meaning given in **Section 3.1** hereof.

"Indenture" means the Trust Indenture executed by the City in connection with the issuance of the Bonds.

"Job" means a full-time equivalent employment position of the Company of not less than 35 hours per week at the Project Site (provided that part time positions can be aggregated to equal a full time equivalent position, i.e. two 0.5 full-time equivalent employment positions equals one Job), which includes employee benefits offered by the Company to similarly situated employees (which shall include the Company paying at least 50% of such employee's health insurance premiums) and all such Jobs, when averaged together, pay an average wage equivalent (when aggregated to a full time basis) equal to

or greater than the current Base Wage. Positions filled by workers who are not directly employed by the Company do not qualify as "Jobs" for purposes of this definition. Accordingly, Jobs may be full time or part time. Jobs may pay more or less than Base Wage, provided all Jobs, when averaged together, equal or exceed the Base Wage.

"Lease Agreement" means the Lease Agreement between the City and the Company dated as of the date hereof.

"PILOT Payments" means the payments in lieu of taxes provided for in **Section 3.2** hereof and shown on **Exhibit B** hereto.

"Project" means, collectively, the Project Site, the Project Improvements and the Project Equipment and all additions (and taking into account any subtractions), modifications, improvements, replacements and substitutions made to the Project pursuant to the Lease Agreement as they may exist from time to time.

"Project Costs" means all costs of acquiring, purchasing, equipping, constructing and installing the Project Site, the Project Improvements and the Project Equipment.

"Project Equipment" has the meaning given in the Lease Agreement.

"Project Improvements" has the meaning given in the Lease Agreement.

"Project Site" means the land upon which the Project Improvements and Project Equipment will be situated, as described in the Lease Agreement.

"Property Taxes" has the meaning given in **Section 3.1** hereof.

"Required Number of Jobs" means 100 Jobs.

"Taxes Otherwise Due" means, for any given calendar year, the ad valorem property taxes that would otherwise have been due in such year on the Project if the Project were not exempt by virtue of the Exemption, as calculated by applying the ad valorem tax rates assessed by all local governments or taxing districts for such calendar year to the assessed valuation that would have been attributable to the Project for such calendar year if the City did not hold title to such property.

"Test Date" means September 30 of each year, beginning on September 30, 2023, and ending on September 30, 2033.

"Trustee" means UMB Bank, N.A., as trustee under the Indenture.

ARTICLE II

ISSUANCE OF BONDS

Section 2.1. Issuance of the Bonds. As described herein, the City will issue the Bonds under the Act for the purpose of paying Project Costs. In connection with the issuance of the Bonds and the payment of Project Costs from the proceeds of the Bonds, the City will acquire the fee simple interest in the Project Site at the time of the issuance of the Bonds and will acquire title to the Project Improvements and the Project Equipment as acquired and constructed.

ARTICLE III

PROPERTY TAX EXEMPTION; PILOT PAYMENTS

Section 3.1. Property Tax Exemption. So long as the City owns the Project, the Project will be exempt from all ad valorem taxes assessed by all state and local governments and taxing districts (collectively "Property Taxes") on real and personal property (the "Exemption").

Section 3.2. Payments in Lieu of Taxes. The City and the Company covenant and agree that the Project purchased with the proceeds of the Bonds is exempt from Property Taxes by reason of the City's ownership thereof. The Company will annually pay to the City (or to the County if so directed by the City) payments in-lieu-of tax (the "PILOT Payments") with respect to the Project for each year that any portion of the Project is owned by the City in the amounts for each year as set out on **Exhibit B** hereto (except as adjusted as described in **Section 3.3(d)** herein).

Each PILOT Payment shall be due on December 1st of each year. In the event the PILOT Payments are not paid by December 31st of any particular year, such PILOT Payments shall bear interest commencing such December 31st at the rate of 5% per annum until paid. Each PILOT Payment shall be paid to the City at the address set forth in **Section 1403** of the Indenture.

Section 3.3. Additional PILOT Payments; Adjustments to PILOT Payments.

(a) In the event the Company fails to spend at least $41,000,000 (approximately 80% of anticipated Project Costs) on the Project on or before September 30, 2022 (as certified to the Trustee and the City through requisition certificates submitted to the Trustee in accordance with the Lease Agreement), the Company shall make Additional PILOT Payments in an amount equal to the Investment Deficiency Percentage (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due during the year in which the failure occurs and any subsequent year in which such failure persists as of September 30 of such year and during which the Exemption applies by virtue of City ownership. The Investment Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Investment Deficiency Percentage = (1 – (certified Project Costs / $41,000,000)) x 100.

(b) In the event the Company fails to maintain the Required Number of Jobs at the Project Site on the Test Date for any two consecutive Test Dates, measured by determining the highest actual number of Jobs during the 90-day period ending on such Test Dates, the Company shall make an Additional PILOT Payment for the year in which the second of such Test Dates falls in an amount equal to the Jobs Deficiency Percentage for such year (calculated as shown below) multiplied by the amount of the difference between the PILOT Payments and the Taxes Otherwise Due. The Jobs Deficiency Percentage shall be calculated, beginning at zero percent (0%) for compliance, in accordance with the following formula, with the result expressed as a percentage:

Jobs Deficiency Percentage = (1 – (a / b)) x 100, where

a = Highest number of Jobs during the 90 day period ending on Test Date, and

b = Required Number of Jobs for the Test Date.

Notwithstanding the foregoing, upon recommendation of the Chamber and certification by the Company that unforeseeable business conditions have caused the Company to employ fewer Jobs than projected at the time this Agreement was executed, the City Council may by ordinance waive the Additional PILOT Payments, or any portion thereof, otherwise required by this subsection.

(c) Each Additional PILOT Payment shall be due on December 1 of the year in which the failure giving rise to the Additional PILOT Payment occurs (and on December 1 of each subsequent year in which such failure persists as of September 30 of such year). In no event shall the sum of the Additional PILOT Payments payable under this Section, together with the PILOT Payments pursuant to **Section 3.2** hereof, for any given tax year exceed 100% of the Taxes Otherwise Due. Additional PILOT Payments shall not apply retrospectively to any years prior to the year in which a failure occurs and shall not accrue prospectively for future years based on current or past failures.

(d) In the event that any Additional PILOT Payment becomes due under this Agreement, the assessed valuation for purposes of calculating the Taxes Otherwise Due shall be determined by adding the following amounts:

(1) the amount shown as the "Estimated Assessed Value of Site Only (Assuming Project Occurs)" for the applicable year on page 4 of the CBA; *plus*

(2) the amount shown as the "Estimated Assessed Value of Project Improvements" for the applicable year on page 5 of the CBA; *plus*

(3) the cost (without freight, installation or sales tax) of the current Project Equipment (as certified to the Trustee and the City through requisition certificates submitted to the Trustee in accordance with the Lease Agreement), depreciated for each item of Project Equipment from its placed-in-service date in accordance with the 7-year recovery period shown in the "Project Assumptions" provided on page 1 of the CBA;

provided that, the Company, by providing notice to the City of such request by November 15th of the year for which the applicable Additional PILOT Payment would be due, may request that the Assessor of Jasper County, Missouri provide an estimated assessed value of the Project in lieu of the calculation shown above, provided further that (i) the Company agrees to pay to the Assessor the actual costs (including employee time) incurred by the Assessor in determining the estimated assessed valuation, and (ii) if the Assessor is unable to make such determination on or prior to December 15th of such year, the assessed valuation for purposes of determining the Taxes Otherwise Due for such year shall be calculated as shown above.

Section 3.4. Obligation to Effect Tax Abatement. The City shall take all actions, subject only to limitations imposed by applicable law, to obtain and/or maintain in effect the Exemption, including any timely filing required with any governmental authorities ("Abatement Obligations"); provided that the City shall not be liable for any failure of any other governmental taxing authority to recognize the exemption provided herein. Notwithstanding the forgoing, the City shall only be required to instigate litigation to effect the Exemption if the Company agrees in writing that the Company shall be responsible for the costs of such litigation actually incurred by the City. In the event that the Exemption is not recognized by any taxing authority, the amount paid to the City for PILOT Payments and Additional PILOT Payments shall be reduced by the amount of Property Taxes actually paid, if any, and the amount paid in PILOT Payments and Additional PILOT Payments shall be applied by the City, to the extent necessary, to the payment of such Property Taxes.

The City covenants that it will not act or fail to act in a manner that may cause or induce the Exemption to not be recognized. The City covenants that it will not act or fail to act in a manner that may cause or induce any levy or assessment of Property Taxes on the Project. In the event such a levy or assessment of Property Taxes should occur, the City shall, at the Company's request and at the Company's expense, cooperate with the Company in all reasonable ways to prevent and/or remove any levy or assessment of Property Taxes against the Project. Nothing herein shall prevent the Company from paying any such levy or assessment of Property Taxes under protest.

Section 3.5. Other Property Taxes in Connection with the Project; Credits. The Exemption provided by the City's ownership of the Project shall apply to all interests in the Project during the period they are owned by the City. If any Property Taxes are levied by or on behalf of any taxing jurisdiction against any interest in the Project during the period the City owns the Project (including, without limitation, any ad valorem taxes levied against the Company's rights in the Lease Agreement), the amount of Property Tax payments related to such levy or levies that are paid by Company and received by the City, the County, or any other Missouri taxing jurisdiction shall be credited against and reduce on a dollar for dollar basis the amount payable by the Company to the City for PILOT Payments and Additional PILOT Payments pursuant to this Agreement. The Company shall be responsible for any taxes related to any interest in the improvements or equipment on the Project Site which the Company owns in its own name or possession of which is granted to the Company other than pursuant to the Lease Agreement. There shall be no reduction in PILOT Payments or Additional PILOT Payments for any sales taxes imposed by any governmental authority, including the Missouri Department of Revenue, in connection with the Company's acquisition of construction materials for the Project Improvements or the Company's acquisition of the Project Equipment.

Section 3.6. Annual Jobs Report. On or before November 15th after each Test Date, the Company shall provide to the City and the Chamber a completed Annual Jobs Report, in the form attached hereto as **Exhibit A**. A failure to provide any Annual Jobs Report in a timely fashion may result in an Event of Default as described in **Section 6.1(d)**.

Section 3.7. No Abatement on Special Assessments, Licenses or Fees. The City and the Company hereby agree that the Exemption described in this Agreement shall not apply to special assessments except to the extent that such are Property Taxes or are levied in lieu of Property Taxes ("Special Assessments") and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project so long as such special assessments, licenses or fees are not applied in a manner that discriminates against the Company on the basis of the tax abatement incentives received by the Company by virtue of the Exemption. The Company hereby agrees to make payments with respect to all Special Assessments, licenses and fees which would otherwise be due with respect to the Project if the Project were not owned by the City. Notwithstanding the foregoing, nothing herein shall waive the Company's right to any notice required under law or limit the ability of the Company from protesting any Special Assessments, licenses or fees.

Section 3.8. Company's Right to Protest Taxes. No provision of this Agreement shall be construed to limit or in any way restrict the availability of any provision of Missouri law which confers upon the Company the appeal, protest or otherwise contest any property tax valuation, assessment or classification of the Project. In addition, the parties agree that the Company may, in its own name or in the City's name, contest the validity or amount of any tax, assessment, valuation, or classification related to the Project. The City agrees, at the Company's expense, to cooperate fully with the Company in connection with any and all administrative or judicial proceedings related to any such tax, assessment, valuation, classification or other governmental charge relating to the Project.

Section 3.9 Additional Personal Property. The Company may acquire additional personal property on its own accord and such personal property need not be financed with the proceeds of the Bonds or become part of the Project Equipment and shall not be subject to the terms of this Agreement; provided, however, any such personal property shall be subject to ad valorem taxes.

ARTICLE IV

COVENANTS, REPRESENTATIONS AND AGREEMENTS

Section 4.1. Inspection. The City may conduct such periodic inspections of the Project as may be generally provided in the City's code. In addition, the Company agrees that the City and its duly authorized agents may at reasonable times (during business hours but without disruption to the business), subject to at least two (2) business days' advance written notice and in observance of the Company's usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Project and the records of the Company that demonstrate compliance with this Agreement.

Section 4.2. Representations and Warranties.

(a) The Company represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The Company is a corporation duly formed and existing under the laws of the State of Iowa, has power and authority to own its properties (and interests therein) and carry on its business as now being conducted, and is duly qualified to do such business in the State of Missouri;

(2) The Company has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement;

(3) The execution, delivery and performance by the Company of this Agreement has been duly authorized by all necessary action, and does not violate the articles of organization or operating agreement of the Company, as the same may be amended and supplemented, or to the Company's knowledge, any applicable provision of law, nor to the Company's knowledge does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the Company is now a party or by which the Company is now or may become bound;

(4) To the Company's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Company that would impair its ability to enter into or perform its material obligations under this Agreement;

(5) To the Company's knowledge, the Company has obtained (or prior to the applicable time required will obtain) and will maintain all government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to complete the Project; and

(6) To the Company's knowledge, the Project is and will be in material compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive

orders and codes pertaining to or affecting the Project, including environmental laws, subject to all applicable rights of the Company to contest the same.

(b) The City represents that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(1) The City is a constitutional charter city duly organized and validly existing under the laws of the State of Missouri;

(2) The execution, delivery and performance by the City of this Agreement has been duly authorized by all necessary City actions;

(3) The City has the right, power and authority to enter into, execute, deliver and perform its duties and obligations under this Agreement; and

(4) To the best of the City's knowledge, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the City that would impair its ability to enter into or perform its obligations under this Agreement.

Section 4.3. Survival of Covenants. All obligations of the Company to make payments or indemnify the City contained herein, to the extent that the same accrue or arise during the term of this Agreement, shall survive termination of this Agreement for any reason.

Section 4.4. Sales and Use Tax Exemption.

(a) *Construction Materials*. Upon request after issuance of the Bonds, the City will provide a project exemption certificate to the Company for the acquisition of construction materials for the Project. This project exemption certificate shall be used by the Company solely for the acquisition of construction materials to be incorporated into the Project and the Company shall not apply such project exemption certificate to the acquisition of any other personal property.

(b) *DED Approved Personal Property.* The City recognizes that the Company has applied to the Missouri Department of Economic Development ("DED") for certification of the extent to which certain personal property other than construction materials constitutes eligible tangible personal property for purposes of exemption from sales and use tax. The City will cooperate with the Company and take reasonable efforts to facilitate the exemption of such personal property as is approved by DED (the "DED Approved Personal Property"). Upon receipt by the City of a conditional approval letter from DED (and proof that the Company has provided its tax clearance letter to the Missouri Department of Revenue and has complied with any other requirements of the conditional approval letter), the City will provide the Company with a project exemption certificate for the DED Approved Personal Property. Such project exemption certificate shall not be used by the Company in connection with the acquisition of any personal property other than the DED Approved Personal Property, as approved in the DED conditional approval letter.

(c) *Liability for Sales Determined to be Taxable.* Upon a determination by the Missouri Department of Revenue that any purchase made by the Company using a project exemption certificate described herein was not exempt from sales or use tax, the Company shall pay to the Missouri Department of Revenue all sales or use taxes so determined to be due

(whether by virtue of failure of the Company to comply with the terms of this Agreement or the procedures and requirements of DED or otherwise). The Company shall indemnify and defend the City and its respective officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the project exemption certificates to the Company or its affiliates. There shall be no reduction in PILOT Payments or Additional PILOT Payments for any sales or use taxes paid by the Company in connection with the Project.

ARTICLE V

SALE AND ASSIGNMENT

The benefits granted by the City to the Company pursuant to this Agreement shall belong solely to the Company, and such benefits shall not be transferred, assigned, pledged or in any other manner hypothecated, except as provided in **Section 13.1** of the Lease Agreement.

ARTICLE VI

DEFAULT AND REMEDIES

Section 6.1. Events of Default. If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

(a) The Company fails to make any PILOT Payment or Additional PILOT Payment required to be paid hereunder, and such failure continues for 10 business days following written notice to the Company from the City of such failure;

(b) The Company fails to perform any of its material obligations hereunder for a period of 30 days (or such longer period as the City may agree in writing) following written notice to the Company from the City of such failure, or if such failure is not subject to cure within such 30 days after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently;

(c) Either (1) any representation of the Company contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 30 days (except for situations described in subsection 6.1(c)(2), below), or such longer period as the City may agree in writing, after the City has given written notice to the Company specifying the false or erroneous representation and requiring it to be remedied, or (2) if such matter is not subject to cure within such 30 days after such notice, the Company fails to initiate action to cure the default within such 30 days after such notice and fails to pursue such action diligently; or

(d) The Company both (i) fails to provide any Annual Jobs Report on or before November 15th of the applicable year, *and* (ii) after notice of such failure is provided to the Company by the City or the Chamber, fails to provide such Annual Jobs Report within 10 business days of the postmarked date of such notice.

Section 6.2. Remedies on Default. Any Event of Default referred to in **Section 6.1** hereof shall also constitute an Event of Default under the Lease Agreement, affording the City the remedies specified therein.

Section 6.3. Interest on Late Payments. Any amounts due hereunder which are not paid when due shall bear interest at the interest rate of 5% per annum from the date 30 days after such payment was first due.

Section 6.4. Enforcement. In addition to the remedies specified in **Section 6.2**, upon the occurrence of an Event of Default, the City or any taxing jurisdictions that would benefit from the PILOT Payments and Additional PILOT Payments provided for in this Agreement may bring an action for specific performance to enforce such payments. In the event of litigation pertaining to the enforcement of this Agreement, the losing party shall pay all costs of litigation, including reasonable attorneys' fees.

ARTICLE VII

TERM OF AGREEMENT

Section 7.1. Term of Agreement. This Agreement shall become effective upon execution by the parties hereto and shall terminate upon the earliest to occur of the following:

(a) the payment in full of the Bonds (or any bonds issued to refund the Bonds) and the payment of all amounts due under this Agreement;

(b) the occurrence and continuance of an Event of Default (beyond any applicable cure period) and the subsequent termination of this Agreement pursuant to the provisions of the Lease Agreement and this Agreement;

(c) the expiration of the Lease Term set forth in **Section 3.2** of the Lease Agreement; or

(d) the exercise by the Company of its option to purchase all of the Project.

Section 7.2. Payments in Last Year. The foregoing provisions of **Section 7.1** shall not relieve the Company of its obligation to make any PILOT Payment or Additional PILOT Payment owing during the year in which the Bonds are paid, to the extent the Company receives the tax abatement contemplated for that year and such PILOT Payment or Additional PILOT Payment is due under this Agreement.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1. Mutual Assistance. The City and the Company agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

Section 8.2. Notices. All notices, certificates or other communications required or desired to be given hereunder shall be given in the manner specified in the Lease Agreement.

Section 8.3. Severability; Effect of Invalidity. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, such invalid or unenforceable term will be

deemed severed from this Agreement and the validity and enforceability of the other provisions hereof shall not be affected thereby (except in the event that the Exemption is determined to be invalid or unenforceable, then the provisions requiring any PILOT Payments or Additional PILOT Payments shall also be deemed invalid and unenforceable). If this Agreement, or any portion hereof, or any agreements related hereto, are determined to be invalid, the City may not recover or recapture any taxes subject to abatement as provided herein or benefits accruing to the Company prior to such determination if the Company has paid the PILOT Payments and Additional PILOT Payments due under this Agreement prior to such date.

Section 8.4. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

Section 8.5. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 8.6. Waiver. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease Agreement executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company or any affiliate in any bankruptcy court.

Section 8.7. Entire Agreement. This Agreement, together with the Lease Agreement, the Indenture and any other documents entered into of even date herewith in connection with the issuance of the Bonds, constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements, representations, negotiations and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

Section 8.8. Electronic Storage. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 8.9. Employee Verification. The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo. with respect to the Project, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Project, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Project. The Company shall provide such affidavits and documentation to the City on or before December 1 of each year during the term of this Agreement, beginning December 1, 2020.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective corporate names by their duly authorized officers, all as of the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Name: Gary Shaw
Title: Mayor

[SEAL]

ATTEST:

By: _____
Name: Barbara Gollhofer
Title: City Clerk

Approved as to form:

_____
City Attorney

CASEY'S MARKETING COMPANY,
an Iowa corporation

By: _____
Name:
Title:

EXHIBIT A

ANNUAL JOBS REPORT –CASEY'S MARKETING COMPANY PROJECT

To be filed with the City and the Chamber on or before November 15 of each year during the term of the Lease Agreement, starting on November 15, 2023:

Business Name **CASEY'S MARKETING COMPANY**	MO. Tax I.D. Number
County, State, Zip Code	Federal Employer I.D. Number (FEIN)
Highest number of Jobs during the 90 day period ending on Test Date:_____	"Test Date" (during the Reporting Period)
PILOT Payment Due Per Section 3.3 (if applicable)	Report Due

The undersigned, duly authorized representative of CASEY'S MARKETING COMPANY hereby states and certifies that the information set forth in this report is true and correct.

Authorized Signature	Date
Contact Name	Phone Number

For questions, please contact Rob O'Brian at (417) 624-4150 or email at rob@joplincc.com.

Please send form to:

Toby Teeter
President of Joplin Area Chamber of Commerce
320 East 4th Street
Joplin, Missouri 64801

EXHIBIT B

SCHEDULE OF PILOT PAYMENTS

Year	PILOT Payment
2019	$282
2020	915
2021	933
2022	933
2023	952
2024	952
2025	971
2026	971
2027	990
2028	990
2029	1,010
2030	1,010
2031	1,030
2032	1,030
2033	1,051

BILL NO. _____ ORDINANCE NO. _____

AN ORDINANCE APPROVING A PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT CONSISTING OF THE ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF A WAREHOUSE AND DISTRIBUTION FACILITY; AUTHORIZING THE CITY OF JOPLIN, MISSOURI TO ISSUE ITS TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED $51,400,000 TO FINANCE THE COSTS OF SUCH PROJECT; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Joplin, Missouri (the "City") is a constitutional charter city and municipal corporation of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the City is authorized under the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend, improve and equip certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, Casey's Marketing Company, an Iowa corporation (the "Company"), has proposed a project consisting of acquiring, constructing, improving, purchasing, equipping and installing a warehouse and distribution facility on approximately 40 acres of land located at 2715 Prosperity Road in the City (the "Project"); and

WHEREAS, the City, in accordance with Section 100.050 of the Act, prepared a plan for industrial development (the "Plan"), gave notice of the Plan on October 28, 2019 by mail to the taxing jurisdictions in accordance with Section 100.059.1 of the Act, and held a public hearing regarding the Plan on November 18, 2019, during which hearing those in attendance were given the opportunity to provide comments with respect to the Plan; and

WHEREAS, the City now desires to approve the Plan; and

WHEREAS, the City desires to finance the costs of the Project out of the proceeds of industrial development revenue bonds to be issued under the Act (the "Bonds"); and

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City proceed with the issuance of the Bonds for the purpose described above; and

WHEREAS, Section 4.23 of the City Charter requires that all bonds sold by the City be sold at public sale upon sealed proposals after at least fifteen days' notice in a newspaper published in Joplin, Missouri; and

WHEREAS, a notice of sale was published in the *Joplin Globe* on _____ __, 2019 inviting potential bond purchasers to submit bids for the Bonds and the City has received one bid for the bonds; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with approval of the Plan and the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

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

Section 1. Promotion of Economic Development. The Council hereby finds and determines that the Project will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Approval of Plan. The Council hereby approves the Plan attached hereto as **Exhibit A** in accordance with Section 100.050 of the Act.

Section 3. Authorization and Sale of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Hearthstone Project), in an aggregate principal amount not to exceed $51,400,000, for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the herein authorized Trust Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rate, shall be in such form, shall be subject to redemption, shall have such other terms and provisions, shall be issued, executed and delivered in such manner and shall be subject to such provisions, covenants and agreements as are specified in the Trust Indenture upon the execution thereof, and the signatures of the officers of the City executing the Trust Indenture shall constitute conclusive evidence of their approval and the City's approval thereof.

The City hereby determines that the sealed proposal for purchase of the bonds submitted by the Company was the only bid submitted at the public sale of the Bonds and that it is in the best interest of the City to accept the bid submitted by the Company. The sale of the Bonds to the Company at the interest rate and upon the terms set forth in the Trust Indenture is hereby approved.

Section 4. Limited Obligations. The Bonds and the interest thereon shall be limited obligations of the City payable solely out of the payments, revenues and receipts derived by the City from the herein authorized Lease Agreement, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Trust Indenture. The Bonds and the interest thereon shall not be deemed to constitute a debt or liability of the City within the meaning of any constitutional provision, statutory limitation or City Charter provision and shall not constitute a pledge of the full faith and credit of the City. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City to levy any form of taxation therefore or to make any appropriation for their payment.

Section 5. Approval and Authorization of Documents. The following documents (the "City Documents") are hereby approved in substantially the forms presented to the Council at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents with such changes therein as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture dated as of the date set forth therein (the "Trust Indenture"), between the City and UMB Bank, N.A., as trustee (the "Trustee"), pursuant to which the Bonds shall be issued and the City shall pledge and assign the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Trust Indenture;

(b) Lease Agreement dated as of the date set forth therein (the "Lease Agreement"), between the City and the Company, under which the City will provide funds for the acquisition, construction, improvement and equipping of the Project and lease the Project to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds;

(c) Bond Purchase Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the Company agrees to purchase the Bonds;

(d) Performance Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the City has granted the Company certain rights with respect to the abatement of ad valorem real property taxes on the Project in consideration for the Company's agreement to pay certain payments in lieu of taxes; and

Section 6. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor, City Manager or Finance Director of the City is hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 7. Further Authority. The Mayor, City Manager, Finance Director, City Clerk and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents. The Mayor is authorized to grant on behalf of the City such consents and waivers relating to the Bonds, the Trust Indenture, the Performance Agreement or the Lease Agreement as may be requested during the term thereof and as the Mayor may deem appropriate with the advice and counsel of city staff; provided, such consents and/or waivers shall not increase the principal amount of the Bonds, increase the term of the Lease or the tax exemption as provided for therein, or materially change the nature of the transaction.

Section 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and adoption by the City Council and approval by the Mayor.

PASSED by the City Council of the City of Joplin, Missouri and APPROVED by the Mayor this _____ day of December, 2019.

[SEAL] MAYOR

ATTEST:

CITY CLERK

Approved as to form:

CITY ATTORNEY

EXHIBIT A

PLAN FOR AN INDUSTRIAL DEVELOPMENT PROJECT

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-523 – Approving certain fee changes in the fire department

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-523 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Fire Chief: Jimmy Furgerson; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the fire department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to fire department fees.

The proposed changes are as follows:

- Change the fire operational permit from $50.00 to $75.00
- Change the fireworks stand fee from $100.00 to $150.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 general fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-523 ORDINANCE NO.

AN ORDINANCE repealing Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, 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 City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

WHEREAS, the Council of the City of Joplin desires to change certain fees to better reflect services provided by the fire department.

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

Section 1. That Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection, be repealed and a new Section 58-68, Schedule of Fees, Article II, Fire Prevention Code, Division 2, International Fire Code, of Chapter 58, Fire Prevention and Protection of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"**ARTICLE II. FIRE PREVENTION CODE**

DIVISION 2. INTERNATIONAL FIRE CODE

Sec. 58-68. Schedule of Fees.

The following is a schedule of the fire department permit fees:

(1) *Plan Review.* Where a fire plan review is required for any reason, fees shall be collected for such plan review as follows:
   a. *Fire Commercial Plan Review* fee shall be .001 multiplied by the value of the project, with a maximum cap of $2,500.00 per plan review.
      i. The value of the project in this section shall be computed by one of the following methods and approved by the Fire Marshal, but in no case shall the value of the project be less than the minimum set forth in this section.

a) Provided by the person applying for the permit and verified by the Fire Marshal.
b) Calculated using the Building Valuation Data published in the Building Safety Journal each February issue (on file in the City Clerk's office) based on square footage of the project, and modified for the City of Joplin, using a multiplier of 0.87.

ii. The minimum value of the project shall be calculated using the Building Valuation Data published in the Building Safety Journal each February issue (on file in the City Clerk's office) based on square footage of the project, and modified for the City of Joplin, using a multiplier of .65.

b. *Sprinkler/Standpipe Plan Review* fee shall be $200.00 for commercial permits and $50.00 for residential permits.
c. *Alarm System Plan Review* fee shall be $200.00 for commercial permits and $50.00 for residential permits.

(2) *Inspection Fees.* Where an inspection for an underground sprinkler system or a hood suppression system is required for any reason, fees shall be collected as follows:
a. *Underground Sprinkler Inspection* fee shall be $100.00 for commercial permits.
b. *Hood Suppression Inspection* fee shall be $75.00 for commercial permits.

(3) *Permit Fees.* No permit will be issued prior to the plan review process or prior to the beginning of construction.
a. *Operational Permit fee*. Operational permits, as referenced in the International Fire Code, may be revoked by the Fire Marshal at any time for cause. Operational permits shall be $75.00 per permit.

(4) *Burn Permit Fees.*
a. *General Burn Permit Fee.* A general burn permit shall be issued prior to any such burning inside the City of Joplin. A general burn permit for piles less than 3 feet diameter by 2 feet high shall cost $10.00. A burn permit shall be valid for up to three consecutive days. Prior to burning, a holder of a valid burn permit must contact the Joplin Fire Department to obtain permission to burn on that given day.

(5) *Reinspection Fees.*
a. There will be a reinspection fee when extra inspections are necessary due to any of the following reasons:
1) When wrong address is provided.
2) When work is not ready for inspection when called.

3) When work is not installed in compliance with city ordinances and/or applicable codes
4) In any other event that is of no fault of city inspectors.

For each trip, residential: $25.00, commercial/industrial: $50.00.

(6) *Firework Stand Fees.*
a. $150.00 per calendar year as referenced in Section 58-66.

(7) *Fee Review Process.*
City Council shall review the costs of services with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fees charge."

Section 2. That this ordinance shall become effective on January 1, 2020.

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

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-524 – Approving certain fee and language changes in the public works department

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-524 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Public Works Director: David Hertzberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees and related language in the public works department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to public works department fees.

The proposed changes are as follows:

- Remove "Except that no fees for permit or inspection shall be charged an individual making his own repairs". This is to ensure the work is completed to city standards.
- Create a new commercial stormwater permit in the amount of $100.00
- Create a new traffic control plan review fee in the amount of $50.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 general fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-524 ORDINANCE NO.

AN ORDINANCE repealing Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalk and Other Public Places, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, and Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalks and Other Public Places, 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 City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

WHEREAS, the Council of the City of Joplin desires to establish new fees to help recover the cost of services provided by the engineering department.

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

Section 1. That Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, of Chapter 106, Streets, Sidewalks and Other Public Places, be repealed and a new Section 106-32, Duty of Abutting Property Owners, Article II, Repairs, of Chapter 106, Streets, Sidewalks, and Other Public Places of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. REPAIRS

Sec. 106-32. Duty of abutting property owners.

> When any sidewalk, curb or guttering or driveway crossing the sidewalk or any part thereof shall be in need of repair or replacement, or shall be defective due to the change of grade of the subsurface or subarea beneath or adjacent to the sidewalk, curb or guttering or driveway, it shall be the duty of the adjacent or abutting property owner to repair or correct such condition after complying with the procedure and conditions of article III of this chapter."

Section 2. That Section 106-62, Inspection and Permit Fees, Article III, Improvement Permits, of Chapter 106, Streets, Sidewalks and Other Public Places, be repealed and a new Section 106-62, Plan Review and Permit Fees, Article III, Improvement Permits, of

Chapter 106, Streets, Sidewalks and Other Public Places of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"**ARTICLE III. IMPROVEMENT PERMITS**

Sec. 106-62. Plan Review and Permit Fees.

(1) Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay a fee determined as follows:

a. *Driveway.* The fee for driveway permits shall be as follows:
    i. Residential - $50.00
    ii. Commercial - $100.00

b. *Sidewalk.* The fee for sidewalk permits shall be as follows:
    i. Residential - $50.00
    ii. Commercial - $100.00

c. *Curb & Gutter.* The fee for curb and gutter permits shall be as follows:
    i. Residential - $50.00
    ii. Commercial - $100.00
d. *Stormwater.* The fee for stormwater permits shall be as follows:
    i. Commercial - $100.00

(2) *Special Event Permit.* When a special event held within the limits of the City of Joplin requires city labor and materials, the applicant therefor shall pay a fee of $150.00 per special event.

(3) *Road Closure Permit.* When a road or street within the limits of the City of Joplin requires a temporary closure for construction, utility repairs, special events or any other reason, the applicant therefor shall pay a fee of $75.00 per road closure.

(3) *Plan Review*. Where an engineering plan review is required for any reason, fees shall be collected for such plan review as follows:

a. *Engineering Commercial Plan Review* fee shall be .001 multiplied by the value of the project, with a maximum cap of $2,500.00 per plan review.
    i. The value of the project in this section shall be computed by one of the following methods and approved by the Public Works Director, but in no case shall the value of the project be less than the minimum set forth in this section.
        a) Provided by the person applying for the permit and verified by the Public Works Director.
        b) Calculated using the Building Valuation Data published in the Building Safety Journal each February issue (on file in the City Clerk's office) based on square footage

of the project, and modified for the City of Joplin, using a multiplier of 0.87.

ii. The minimum value of the project shall be calculated using the Building Valuation Data published in the Building Safety Journal each February issue (on file in the City Clerk's office) based on square footage of the project, and modified for the City of Joplin, using a multiplier of .65.

b. *Engineering Residential Subdivision Plan Review* fee shall be assessed upon the submission of a preliminary plat in the amount of $100.00, plus $10.00 per lot. The fee shall be paid at the time the preliminary plat is submitted and shall apply to approval of the preliminary plat and final plat, provided that the final plat includes the same area as the preliminary plat.

c. *Engineering Traffic Control Plan Review* fee shall be assessed upon the submission of a temporary roadway closure plan for traffic lane adjustments in the amount of $50.00 per plan. The fee shall be paid at the time the plan is submitted.

(4) *Fee Review Process.*

City Council shall review the costs of services with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fees charge."

Section 3. That this ordinance shall become effective on January 1, 2020.

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

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-525 – Approving certain fee changes in the parks department

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-525 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Parks Director: Paul Bloomberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the parks department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to parks department fees.

The proposed changes are as follows:

- Change the lot space fee from $500.00 to $600.00
- Change the grave opening/close fee from $500.00 to $600.00
- Change the grave marker per square inch fee from $0.35 to $0.50
- Change the cremains fee from $200.00 to $250.00
- Change the cremains including set up fee from $275.00 to $300.00
- Change the columbarium-single niche fee from $750.00 to $850.00
- Change the columbarium-companion niche fee from $1,100.00 to $1,200.00
- Change the additional fee for weekends or evenings from $100.00 to $150.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 general fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-525 ORDINANCE NO.

AN ORDINANCE repealing Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, 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 City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function.

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

Section 1. That Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries, be repealed and a new Section 34-2, Prices of lots and grave rights; charge for setting stones, of Chapter 34, Cemeteries of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"Sec. 34-2. Prices of lots and grave rights; charge for setting stones.

(A) Charge for lots, grave rights, and setting stones:

(1) Lot space…….$600.00
(2) Grave opening/close…….$600.00
(3) Grave opening/close-Infants……..$200.00
(4) Grave marker (*cost per square inch)……..*$0.50
(5) Cremains ……$250.00
(6) Cremains including set up……$300.00
(7) Columbarium-Single niche, includes opening/closing and some engraving…..$850.00
(8) Columbarium-Companion niche, includes opening/closing and some engraving……$1,200.00

(B) An additional charge of $150.00 for grave opening shall be made for any openings when the procession enters the ceremony later than 4:00 p.m. on Monday through Friday and on Saturday before noon. On Saturday after 12:00 noon, the charge shall be the base of $500.00 plus the hourly rate of $150.00 for each additional hour.

(C) City council shall review the costs of services associated with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fees charge."

Section 2. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-526 – Approving certain health department fee changes related to business licenses

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-526 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Interim Health Director: Ryan Talken; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing health department fees related to business licenses.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes related to business license fees.

The proposed changes are as follows:

- Change the Health Permit-Low Risk fee from $110.00 to $115.00
- Change the Health Permit-Medium Risk fee from $220.00 to $230.00
- Change the Health Permit-High Risk fee from $330.00 to $345.00
- Change the Health Permit-Swimming Pool-Seasonal Facility fee from $125.00 to $131.00
- Change the Health Permit-Swimming Pool-Yearly Facility fee from $300.00 to $315.00
- Change the Health Permit-Change of ownership inspection fee from $40.00 to $42.00
- Change the Health Permit-New construction/remodel inspection fee from $125.00 to $131.00

The fee changes will be effective on April 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 general fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-526 ORDINANCE NO.

AN ORDINANCE repealing Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, of the Code of Ordinances of the City of Joplin to implement certain classification changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function.

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

Section 1. That Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses, be repealed and a new Section 30-121, License Classifications and Fees, of Article III, Licenses, Division 2, Schedule of Fees, of Chapter 30, Businesses of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"DIVISION 2. SCHEDULE OF FEES

Sec. 30-121. License classifications and fees.

Except as otherwise indicated in this article, the annual schedule of license fees and classification of occupations, trades, pursuits, businesses and vocations shall be as follows:

Abstracting Business …The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Accountant, Auditor, Bookkeeper ……The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Advertising Agencies or Services ……....100.00

Agent or Agency not enumerated ……100.00

Ambulance Services or Companies, ……175.00

Amusement Centers, Card Tables, Recreation

A) Bowling Alley, Per Alley……..15.00
B) Billiard or Pool Hall, Per Table ……15.00

C) Dancehall ……100.00
Per Month……..10.00
Per Day …….. 5.00
D) Miniature Golf ……100.00
E) Domino Parlor
Per Table …… …15.00
F) Shuffleboard or Card Table
Per Table …….15.00
G) Any Other Amusement Type Activity, Per Activity……15.00

Apartment Houses and Complexes……25.00
Plus each unit offered for rent……..2.00

Architects
1-25 Employees…….……125.00
26-100 Employees…….200.00
101-300 Employees…… ……..……300.00
301 and more Employees……...500.00

Armored Car Services ……..……The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Artist, per year ……30.00

Auction House or Business …….The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Auctioneer ……150.00

Automobile Dealers-New and/or Used ..... The fee provided in section 30-92 (1), with a minimum license fee of $175.00 per year in any case.

Automobile Dealer Tags
A) First Tag …….10.00
B) Each Additional Tag ……5.00

Automobile Leasing or Renting…… The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Automobile Parking Lots or Storage Garage …… The fee provided in section 30-92 (1).

Automobile Washing, Waxing or Polishing
Establishments, Power Washers …….. The fee provided in section 30-92 (1).

Banking, Trust, or Mortgage Company
Having Deposit Market Share inside Joplin of in (000's):
$0-$20,000…….. ……100.00

$20,001-$50,000……..200.00
$50,001-$100,000……300.00
$100,001-$200,000……..400.00
$200,001 and Up……..500.00

Barbers and Beauty Operators, without a place of business
Per year……10.00

Barbershops and Beauty Parlors
Per Chair or Per Operator ……5.00

Billboard Business, Outdoor Advertising Companies … The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Bondsmen, Bail
A) Professional Bondsmen ……...100.00
B) Agent/Employee……..50.00

Brokers and Brokerage Companies ……100.00

Business or Correspondence School, For Profit ….The fee provided in section 30-92 (1).

Carnivals, For Profit
A) Per Day ……250.00
B) Per Week ……..…1,000.00

Carnivals, Not for Profit (excluding school functions)
A) First Ten Days, Per Day ……10.00
B) Each Day After, Per Day ……..5.00

Carnivals, Inside Facility for more than 30 days….The fee provided in section 30-92(1).

Cash Register Agency ……. The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Caterer (other than as part of a licensed restaurant)……50.00

Circus, For Profit
A) First Day ……..300.00
B) Each Day After, Per Day ……200.00

Circus, Not for Profit (excluding school functions)
A) First Ten Days, Per Day……10.00
B) Each Day After, Per Day ……5.00

Cleaners of Windows, Buildings, Carpet & Rugs,
Furniture & Similar Items ……..…… The fee provided in section 30-92 (1)

Coin Operated Devices
- (1) Operator's License for any type Coin
  - Operated Machine, Amusement/Prophylactic Machine ……50.00
  - Operated Machine, Vending Machine ……...30.00
    - A) Amusement Machine, Each …… 10.00
    - B) Vending Machine, Each …… …2.00
    - C) Prophylactic Device Machine, Each ……..10.00

Cold Storage Warehouse & Locker Plants ……100.00

Collection Agency, Credit Bureau or Retail Credit Association ……100.00

Contractors
- A) General Builders, Commercial ……500.00
- B) General Builders, Residential ……...200.00
- C) Subcontractor or Specialty (Including Demolition) ……150.00
- D) Electrical
  - (1) First Master ……150.00
  - (2) Renewal Master ……...100.00
  - (3) First Journeyman ……25.00
  - (4) Renewal Journeyman ……15.00
  - (5) Apprentice ……5.00
- E) Plumber
  - (1) First Master ……150.00
  - (2) Renewal Master ……...100.00
  - (3) First Journeyman ……25.00
  - (4) Renewal Journeyman ……15.00
  - (5) Apprentice ……5.00
- F) Mechanical
  - (1) First Master ……150.00
  - (2) Renewal Master ……...100.00
  - (3) First Journeyman ……25.00
  - (4) Renewal Journeyman ……15.00
  - (5) Apprentice ……5.00

Dental Laboratories ……. The fee provided in section 30-92 (1)

Employment Agency ……...100.00

Engineer or Engineering Company
- 1-25 Employees……125.00
- 26-100 Employees……200.00
- 101-300 Employees…… ……..……300.00
- 301 and more Employees……...500.00

Florist, Greenhouse, Nurseries ……..…… The fee provided in section 30-92 (1)

Fortunetelling ……50.00

Garage Repair Shop ……. The fee provided in section 30-92 (1)

Health Permit
- Low Priority ……..…..115.00
- Medium Priority ……..230.00
- High Priority ……345.00
- Change of Ownership Inspection ……..42.00
- New Construction/Remodel Inspection ……...131.00
- Tattoo Parlor Plan Review-New Facilities ……85.00
- Swimming Pools, Public and Semi-Public, Seasonal ……..…131.00
  - Each Additional Seasonal Facility…….15.00
- Swimming Pools, Public and Semi-Public, Year-Round ……315.00
  - Each Additional Yearly Facility…….50.00

Hospital, Private ……500.00

Hotels and Motels
- A) First Room ……15.00
- B) Each Additional Room ……...1.00

House Mover ……50.00

Ice Cream Stand ……50.00

Ice Dealer
- A) First Delivery Vehicle ……..30.00
- B) Each Additional Vehicle ……..10.00

Insurance Adjusters & Claim Agents or Agencies ……175.00

Insurance Agent, Agency or Broker
Representing Fire, Casualty, Bonding, Plate Glass, Accident or Life Insurance Companies
- A) Not more than 1 Person ……...100.00
- B) For each additional Partner, Member of the Firm or Officer of the Company engaged in the Sales Part of the Business…….10.00

Internet Service Providers…….$2 per employee, with a minimum license fee of $30.00 per year in any case.

Investment Company ……100.00
A) Plus, Each Salesman or Solicitor ……10.00

Junk, Scrap, Salvage Dealer …….. The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Land Surveyor
1-25 Employees…….……125.00
26-100 Employees…….200.00
101-300 Employees…… ……..……300.00
301 and more Employees……...500.00

Laundry, Cleaning and Pressing …… The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Laundry, Self-Service ……..50.00

Lead-Litharge Smelting ……The fee provided in section 30-92 (1), with a minimum license fee of $1,200.00 per year in any case.

Liquor
A) Dealers at Retail in Intoxicating Liquor-
for consumption on premises where sold ……..450.00
B) Dealers at Retail in Intoxicating Liquor-
in original package ……200.00
C) Dealers at Retail in Intoxicating Liquor-
restaurant bars ……450.00
D) Dealers at Retail in Intoxicating Liquor-
not in excess of 5% alcohol by weight
for consumption on premises where sold ……...100.00
E) Dealers at Retail in Intoxicating Liquor-
not in excess of 5% alcohol by weight
for sale in original package ……100.00
F) Dealers at Retail in Intoxicating Liquor-
not in excess of 5% alcohol by weight
for sale in original package on Sundays ……300.00
G) Dealers at Retail in Nonintoxicating Beer (3.2%)
in original package ……..50.00
H) Dealers at Retail in Nonintoxicating Beer (3.2%)
for consumption on premises where sold ……75.00
I) Dealers at Wholesale & Solicitation in Intoxicating Liquor-
all intoxicating liquor …….600.00
J) Dealers at Wholesale & Solicitation in Intoxicating Liquor-
containing not in excess of 22% alcohol by weight ……..300.00
K) Dealers at Wholesale & Solicitation in Intoxicating Liquor-

containing not in excess of 5% alcohol by weight ……150.00
L) Dealers at Wholesale in Nonintoxicating Beer (3.2%) …….100.00
M) Wine, malt beverages, and distilled spirits tasting permit ……..25.00

Locksmith & Gunsmith …… The fee provided in section 30-92 (1)

Manufacturer ……..The fee provided in section 30-92 (1)

Masseurs, Physical Therapy, Weight Control,
Exercise or Health Studios or similar establishments ……..……..…100.00

Merchants, Wholesale & Retail ……..…….. The fee provided in section 30-92 (1)

Merchant, Temporary
Temporary Merchant means any person who sells or offers for sale merchandise or wares on a temporary basis and shall include special events, which constitutes less than on an annual basis.
A) Each Event …….5.00
B) Per Week ……..……10.00
C) Per Month …….20.00

Messenger Service …….100.00

Mobile Home Park
A) First Mobile Home Lot ……15.00
B) Each Additional Lot ……..2.00

Mortuary, Undertakers or Funeral Establishments …… The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Nurseries, Daycare, Preschools
A) First five children ……..10.00
B) Each Additional child ……..1.00

Nursing, Convalescent or Old-Age Homes ……30.00

Office Buildings
A) First Ten Rooms ……25.00
B) Each Additional Room ……1.00

Optical Goods, Manufacturing, Wholesale or Retail …….……. The fee provided in section 30-92 (1)

Parcel Delivery or Express Company
A) For 1 Vehicle ……..30.00

B) Each Additional Vehicle …….10.00

Pawnbroker, which shall include the buying and selling of gold, silver and jewelry …
The fee provided in section 30-92 (1), with a minimum license fee of $200.00 per year in any case.

Peddlers
A) Conducting Business on foot
1. Per Special Event……5.00
2. Per Week ……..…10.00
3. Per Month ……..…20.00
4. Per Year …….50.00

B) Using a wagon, automobile, cart or other vehicle or conveyance, which shall include concession trailers, per such vehicle
1. Per Special Event……5.00
2. Per Week ……..…10.00
3. Per Month ……..…20.00
4. Per Year …….50.00

Pest, Vermin Control …… The fee provided in section 30-92 (1)

Photographer ……..50.00
A) Plus each agent or solicitor per day ……..5.00

Printing Establishment
Printing, typesetting or linotype, mimeographing, photostating, engraving, photocopying or lithographing services …… The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Private Investigators and Security Guards …….…….50.00

Processing Services
Those processing establishments or processing services not otherwise enumerated …… The fee provided in section 30-92 (1)

Promoters or Booking Agents or Agencies
Promoters of all types of entertainment where an admission is charged to the public for profit or the expectation of profit ……..50.00

Radio Stations ……..150.00

Railroads or Railways ……...500.00
This item shall apply to every person operating a railroad or railway company and transacting business within the

city (but not including business done to or from points within the state and not including any business done for the government of the United States, its officers or agents), and every person operating a railroad or railway company operating its trains or keeping and maintaining its tracks across, upon or along any street, alley or other public place in the city, by means of any surface track, bridge, viaduct or tunnel, and every person operating a railroad or railway company occupying any portion of any street, alley or other public place of the city with its roadbed, tracks, ties, switches, bridges, viaducts, tunnels or other structures

Real Estate Agent, Agency or Broker ……..……....100.00
A) Plus, for each salesman ……15.00

Rental Businesses ……..……. The fee provided in section 30-92 (1)

Repair Establishments ……. The fee provided in section 30-92 (1)

Restaurants, Café, Cafeteria's & Lunchrooms…The fee provided in section 30-92 (1), but in no case shall a restaurant license be more than $500 per year.

Sales/Service Agent or Agency
Receiving gross annual commissions, fees, charges or compensation of
A) $25,000 or less per year ……25.00
B) More than $25,000 and not more than $50,000, per year…….….35.00
C) More than $50,000 and not more than $100,000 per year ……50.00
D) More than $100,000 and not more than $250,000 per year ……100.00
E) More than $250,000 and not more than $500,000 per year …….250.00
F) More than $500,000, per year ……..400.00

Septic Tank Cleaning ……..75.00

Service Center (all other service businesses not enumerated)……..…..$2 per employee, a minimum license fee of $30.00 per year in any case.

Service Station, Filling Station, Gasoline Station … The fee provided in section 30-92 (1)

Shows, Transient
Tent shows, exhibits, exhibitions or other attractions held indoors or outdoors or in automotive or other conveyances, other than carnivals or circuses
A) First day ……..……10.00
B) Each additional day ……5.00

Sign Makers and Sign Painters ……75.00

Skating Rinks, Ice or Roller ……...150.00

Sound Recording and Reproduction Services ….. The fee provided in section 30-92 (1)

Stocks and Bonds, Sale or Purchase ……..…….100.00

Stockyard ……500.00

Storage Houses and Warehouses ……. The fee provided in section 30-92 (1), with a minimum license fee of $100.00 per year in any case.

Street Stand, Temporary in nature, Special Events Only

A street stand is any place near to or adjoining any sidewalk, alley, or other public way, or any common area, whether such common area is enclosed or open, where articles are eaten or drunk or articles of ornament or necessity are sold, offered or exposed for sale, this item shall not apply for purposes of stands near to or adjoining any sidewalk, alley or other public way or any common area operating for the sale of fireworks.

A) Each Special Event ……..……5.00
B) Per Week ……10.00
C) Per Month ……...20.00
D) Per Year ……..50.00

Tailoring Business …… The fee provided in section 30-92 (1)

Tattoo Parlor's, per year ……125.00

A) Plus, per operator ……25.00

Taxicab Business

A) Base fee ……..50.00
B) Plus, each cab, per year ……..50.00

Taxicab Drivers

A) Original License ……5.00
B) Each renewal ……3.00

Taxidermists ……..30.00

Theaters and Moving Picture Houses

Those having a seating capacity of:

A) 500 or less ……100.00
B) 501 to 1,000 ……150.00
C) 1,001 to 1,500 ……..175.00
D) 1,501 to 2,000 ……..200.00
E) 2,001 or more ……...250.00

Towel Supply Company ……..50.00

Transfer & Moving Van Companies
A) First vehicle ……30.00
B) Each additional vehicle ……...10.00

Travel Agencies or Agents ……30.00

Tree Surgeons ……..150.00
Those persons engaged in the occupation of tree surgeons, tree trimming, tree and plant treating or spraying services

Truck Terminal or Truck Loading & Unloading Depot ……..150.00

Welding Company …….. The fee provided in section 30-92 (1).

No individual annual occupational license shall exceed $50,000."

Secs. 30-123--30-140. Reserved.

Section 2. That this ordinance shall become effective on April 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-527 – Approving certain fee changes in the parks department

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-527 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Parks Director: Paul Bloomberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the parks department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to parks department fees.

The proposed changes are as follows:

- Change the Golf 18 holes weekday fee from $17.00 to $18.00
- Change the Golf 18 holes weekend fee from $19.00 to $20.00
- Change the Golf 18 holes Senior weekday fee from $11.75 to $12.00
- Change the Golf 18 holes Senior weekend fee from $14.00 to $15.00
- Change the Golf weekday twilight fee from $11.00 to $12.00
- Change the Golf weekend twilight fee from $13.00 to $14.00
- Change the Golf Cart 9 holes per person fee from $7.00 to $8.00
- Change the Golf Cart 18 holes per person fee from $12.00 to $13.00
- Change the Golf pull cart fee from $2.50 to $3.00
- Change the Golf adult annual pass fee from $650.00 to $750.00
- Change the Golf adult with cart annual pass fee from $1,300.00 to $1,400.00
- Change the Golf family pass fee from $1,000.00 to $1,100.00
- Change the Golf family with one unlimited cart fee from $1,600.00 to $1,700.00

- Change the Golf senior annual pass fee from $500.00 to $550.00
- Change the Golf senior with cart annual pass fee from $1,025.00 to $1,125.00
- Change the Golf twilight pass fee from $300.00 to $350.00
- Change the Golf twilight pass with cart fee from $600.00 to $700.00
- Change the Tennis annual pass fee from $37.50 to $40.00
- Change the Swimming Pool family season pass fee from $140.00 to $150.00
- Change the Swimming Pool adult season pass fee from $70.00 to $75.00
- Change the Swimming Pool youth season pass fee from $60.00 to $65.00
- Change the Swimming Pool senior season pass fee from $60.00 to $65.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE

This revenue is included in the fiscal year 2020 parks fund budget and golf fund budget.

RECOMMENDATION

Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-527 ORDINANCE NO.

AN ORDINANCE repealing Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin and enacting in lieu thereof a new Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, and Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, and Section 86-152, Admission Fee, of Article V, Swimming Pools, 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 City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

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 repealed and a new Section 86-5, Fees at Schifferdecker Golf Course, of Article I, In General, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE I. IN GENERAL

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 $18.00 per player per 18 holes, except on week-ends and holidays, when the green fees shall be $20.00 per player per 18 holes. The green fees shall be $9.00 per player per 9 holes, except on week-ends and holidays, when the green fees shall be $10.00 per player per 9 holes.

(2) *Green fees for senior citizens.* The green fees for senior citizens shall be $12.00 per player per 18 holes, except on week-ends and holidays, when the green fees for senior citizens shall be $15.00 per player per 18 holes. The green fees shall be $6.00 per player per 9 holes, except on week-ends and holidays, when the green fees shall be $7.00 per player per 9 holes.

(3) *Season passes.*

a. The single annual pass fee shall be $750.00 per person per year.

b. Senior citizen single annual pass fee shall be $550.00 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 $10.00.

c. A single annual pass with unlimited cart use fee shall be $1,400.00 per person per year.

d. A senior citizen annual pass with unlimited cart use fee shall be $1,125.00 per person per year.

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 $9.00. 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 $1,100.00 per family per year. A family annual pass with one (1) unlimited cart use fee shall be $1,700.00. The fee for an additional unlimited cart use shall be an additional $600.00 per person per year.

g. A twilight annual pass fee shall be $350.00 per person per year. A twilight annual pass with one (1) unlimited cart use fee shall be $700.00.

(4) *Green fees for students.* The green fees for qualified students (also known as "junior" or "youth") shall be $9.00. Qualifications for participation shall be set by the director of the parks and recreation department.

(5) *Green fees for students with cart (per seat).* The green fees with cart for qualified students (also known as "junior" or "youth") shall be $10.00 per seat. Qualifications for participation shall be set by the director of the parks and recreation department.

(6) *Green fees for leagues.* The green fees for league play shall be $10.00. 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.

(7) *Twilight green fee.* The twilight green fee shall be $12.00 on weekdays and $14.00 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 $3.00 per day.

(9) *Power cart rental.* The power cart rental charge shall be $13.00 per 18 holes per seat. The power cart rental charge shall be $8.00 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 Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, of Chapter 86, Parks and Recreation, be repealed and a new Section 86-6, Fees for Parks Programs and Parks Facilities, of Article I, In General, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE I. IN GENERAL

Sec. 86-6 Fees for parks programs and parks facilities.

(a) In addition to any fees or charges established pursuant to this chapter, the fees and charges for programs and facilities at the City of Joplin Parks and Recreation Facilities are as follows:

(1) *Tennis Programs at the Joplin Athletic Complex.*

a. A family pass/proximity card shall be $150.00 per family for one year from the date of issuance.
b. An individual, aged 18 years and older, pass/proximity card shall be $75.00 per person for one year from the date of issuance.
c. An individual, aged 17 years and under, pass/proximity card shall be $40.00 per person for one year from the date of issuance.
d. A senior citizen pass/proximity card shall be $50.00 per person for one year from the date of issuance.
e. The tennis court rental fee shall be $5.00 per day.
f. The tennis tournament fee shall be $5.00 per day.
g. The high school age and college age tennis tournament fee shall be $4.00 per day.
h. The high school age and college age tennis practice fee and game fee shall be $500.00 per school year.
i. A tennis activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.

(2) *Baseball programs at Joe Becker and the Joplin Athletic Complex.*

a. A college level and similar level baseball game shall be $200.00 per game.
b. A college level and similar level baseball practice shall be $50.00 per practice.
c. A high school age and similar level baseball game shall be $75.00 per game.
d. A high school age and similar level baseball practice shall be $30.00 per game.
e. A baseball activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.
f. In the event a baseball tournament is cancelled within ten (10) days of the tournament date for any reason other than weather-related, field condition or at the request of the city, there shall be a cancellation fee of twenty-five percent (25%) of the tournament fee.

(3) *Soccer programs at the Joplin Athletic Complex and Dover Hill.*

a. A high school, college, youth level soccer tournament shall be $40.00 per match.
b. An adult soccer tournament shall be $60.00 per match.
c. A soccer activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.

(4) *Softball programs.*

a. The adult softball program fee shall be $40.00 per game.

b. Practice fees per field (2-hour allotment):

i. $15.00 per hour per field without lights.

c. Daily tournament fee per field (8:00 a.m. to 11:00 p.m.)

i. $150.00 per day per field without lights, plus $10.00 per team per tournament.

ii. $200.00 per day per field with lights, plus $10.00 per team per tournament.

iii. A deposit in the amount of 50 percent of the total tournament fees is required to hold a tournament date.

d. A softball activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.

e. Additional fees.

i. Additional bags of field drying agent are available at market cost (first four bags per field are provided).

(5) *Football programs.*

a. A football activity fee assessed for the usage of city facilities shall be $10.00 per participant per session.

(5) *Shelter facilities.*

a. The shelter facility rental fee shall be $40.00 per day.

(b) Fee review process. City Council shall review the costs of services associated with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fee charges.

(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."

Section 3. That Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, be repealed and a new Section 86-152, Admission Fee, of Article V, Swimming Pools, of Chapter 86, Parks and Recreation, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE V. SWIMMING POOLS

Sec. 86-152 Admission Fee.

(a) The pool admission fee for Schifferdecker Family Aquatic Center shall be $6.00 for adults over 15 years of age, and $5.00 for children 15 years of age and under, except that children age two and under, shall be admitted without charge.

(b) The admission fee for Ewert Family Aquatic Center shall be $4.00 for adults over 15 years of age and $3.00 for children 15 years of age and under, except that children age two and under, shall be admitted without charge.

(c) The admission fee for Cunningham Family Aquatic Center shall be $5.00 for adults over 15 years of age and $4.00 for children 15 years of age and under, except that children age two and under, shall be admitted without charge.

(d) The supervisor, with the approval of the parks and recreation board, shall have authority to set certain times when there shall be no admission fee for swimming in the municipal pools, and the park supervisor shall have the authority to place certain restrictions on free admission.

(e) Season passes for all municipal swimming pools.

(1) A family (three or more) season pass shall be $150.00 per family per year.

(2) An adult individual, aged 18 years and older, season pass shall be $75.00 per person per year.

(3) A youth individual, aged 17 years and under, season pass shall be $65.00 per person per year.

(4) A senior citizen season pass shall be $65.00 per person per year.

(f) 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.

(g) 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.

(h) The director of parks and recreation is hereby authorized to establish a program granting a reduced rate, up to 50 percent for pool memberships based upon family income."

Section 4. That this ordinance shall become effective on January 1, 2020.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-528 – Approving certain fee changes in the zoning subdivision regulations

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-528 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Planning & Community Development Director: Troy Bolander; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the planning and zoning department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to planning and zoning department fees.

The proposed changes are as follows:

- Change the subdivision plat fee from $100.00 to $150.00, and the additional lot fee from $10.00 to $15.00
- Change the lot split fee from $100.00 to $125.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 community planning fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-528 ORDINANCE NO.

AN ORDINANCE repealing Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B as adopted by Ordinance No. 97-161 of the City of Joplin and enacting in lieu thereof a new Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B of the City of Joplin to implement certain fee changes; and setting a date when this Ordinance shall become effective.

WHEREAS, the City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

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

Section 1. That Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B as adopted by Ordinance No. 97-161 be repealed and a new Section 9, Filing Fees, of the Subdivision Regulations, Appendix 29B of the City of Joplin be enacted in lieu thereof to read as follows:

"**CITY OF JOPLIN, MISSOURI**
SUBDIVISION REGULATIONS

SECTION 9

FILING FEES

1. Subdivision Plats: There shall be paid by all persons or corporations submitting preliminary plats for approval by the City a filing fee of One Hundred Fifty Dollars ($150.00), plus Fifteen Dollars ($15.00) per lot. This fee shall be paid at the time that the preliminary plat is submitted to the Planning and Zoning Commission and shall apply to approval of the preliminary plat and final plat, provided that the final plat, includes the same area to be subdivided as the preliminary plat.

2. Lot Splits: The filing fee for lot splits shall be One Hundred Twenty-Five Dollars ($125.00).

3. City Council shall review the costs of services associated with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fee charge.

Section 2. That this ordinance shall become effective on January 1, 2020.

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

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-529 – Approving certain fee changes in the zoning regulations

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-529 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Planning & Community Development Director: Troy Bolander; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the planning and zoning department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to planning and zoning department fees.

The proposed changes are as follows:

- Change the rezoning application fee from $500.00 to $550.00
- Change the special use permit application fee from $500.00 to $550.00
- Change the special use permit renewal fee from $500.00 to $550.00
- Change the request for board of zoning adjustment fee from $500.00 to $550.00
- Change the request for vacations fee from $500.00 to $550.00
- Change the site plan/development review fee from $500.00 to $550.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 community planning fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-529 ORDINANCE NO.

AN ORDINANCE repealing Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations of the City of Joplin and enacting in lieu thereof a new Section 29A-2514, Fees, of Appendix 29A, of the Zoning Regulations 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 City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function; and,

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

Section 1. That Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations be repealed and a new Section 29A-2514, Fees, Article II, of Appendix 29A, of the Zoning Regulations of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"**CITY OF JOPLIN, MISSOURI – ZONING REGULATIONS**
Article 25 - Administration

Sec. 29A-2514. *Fees.*

Rezoning Application	$550.00
Special Use Permit Application	$550.00
Special Use Permit Renewal	$550.00
Request for Board of Zoning Adjustments	$550.00
Request of Vacation of Streets, Alleys, and Easements	$550.00
Site Plan/Development Review	$550.00

1. City Council shall review the costs of services associated with all user fees at least on a biennial basis during the budget process to determine the appropriateness of the fee charge."

Section 2. That this ordinance shall become effective on January 1, 2020.

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

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-530 – Approving certain fee changes in public works

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-530 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Public Works Director: David Hertzberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain existing fees in the public works department.

BACKGROUND
The City recently completed the biennial user fee review, which was discussed with City Council at the budget work session on September 24, 2019. User fees are fees for services for specific users. User fees should recover most of the related cost of providing the service, so general taxes are not supporting services for specific users. Under Hancock provisions, the City is only allowed to recover the cost of providing the service. As detailed in the biennial user fee review, certain user fees need to be increased to recover more of the costs associated with providing these services.

In the fee review, staff proposed various changes to public works department fees.

The proposed changes are as follows:

- Change the waste hauler fee from .03 per gallon to .04 per gallon
- Change the sewer saddle fee from $175.00 to $200.00
- Change the sewer riser locate fee from $75.00 to $100.00
- Add a new sewer extension fee inside the city at $300.00
- Add a new sewer extension fee outside the city at $400.00

The fee changes will be effective on January 1, 2020.

FUNDING SOURCE
This revenue is included in the fiscal year 2020 sanitary sewer fund budget.

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-530 ORDINANCE NO.

AN ORDINANCE repealing Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, 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 City performed the biennial fee review and the cost of services has increased and exceeds revenues; and,

WHEREAS, the Council of the City of Joplin desires to increase fees to meet the reasonable expenditures of this function.

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

Section 1. That Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, be repealed and a new Section 118-211, Hauled Wastewater Fee, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. SEWERS AND SEWAGE DISPOSAL

Division 6. Rates and Charges

Sec. 118-211. Hauled wastewater fee.

> Hauled wastewater may be introduced into the POTW pursuant to the provisions of Section 11989 and any other applicable provision of this Code. A fee of $0.04 shall be assessed for each gallon of hauled wastewater so introduced."

Section 2. That Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, be repealed and a new Section 118-235, Permit Fee, Connection Fee, and other Sewer Fees, of Article II, Sewers and Sewage Disposal, of Division 7, Building Sewers, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. SEWERS AND SEWAGE DISPOSAL

Division 7. Building Sewers

Sec. 118-235. Permit fee, connection fee, and other sewer fees.

(1) *Fees.*

(a) A sewer reconnection permit and inspection fee of $100.00 shall be charged for any sewer reconnection service inside the limits of the City of Joplin.

(b) A sewer reconnection permit and inspection fee of $125.00 shall be charged for any sewer reconnection service outside the limits of the City of Joplin.

(c) A sewer new connection permit and inspection fee of $300.00 shall be charged for any new sewer connection service inside the limits of the City of Joplin.

(d) A sewer new connection permit and inspection fee of $400.00 shall be charged for any new sewer connection service outside the limits of the City of Joplin.

(e) A sewer extension permit and inspection fee of $300.00 shall be charged for any new sewer extension inside the limits of the City of Joplin.

(f) A sewer extension permit and inspection fee of $400.00 shall be charged for any new sewer extension outside the limits of the City of Joplin.

(g) There shall be an additional fee of $200.00 as determined by the director of public works when sewer connection work as described in this section is performed on concrete and/or clay pipes.

(h) There shall be an additional sewer riser locate permit fee of $100.00 for city personnel to inspect or locate a sewer connection point to the city sewer main."

Section 3. That this ordinance shall become effective on January 1, 2020.

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

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-531 – Approving certain language changes related to sewer billing and collecting

MEETING DATE
November 18, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-531 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Public Works Director: David Hertzberg; City Attorney: Peter Edwards; City Manager: Dan Pekarek

SUMMARY
This Council Bill changes certain language to improve sewer billing and collection procedures.

BACKGROUND
The City bills residential users based on a winter quarter average for the months of December, January and February. If a resident isn't at the location for these winter quarter months, the City uses an "average" of 6,000 gallons by policy. This ordinance changes the language to include adjusting the average for these customers annually based on the actual average consumption of all residential customers rather than a set "average". This change has been factored into the wastewater rate study.

Additionally, this ordinance changes the language relating to when the late penalty is assessed. Currently, the late penalty is assessed at 30 days past due. However, the next bill is currently being generated and then the late penalty is assessed under the 30-day timeframe. As a result, customer's bills with past due amounts are incorrect due to this timing issue. Therefore, this ordinance changes the penalty assessment to 25 days, which will correct this issue.

The language changes will be effective on January 1, 2020.

FUNDING SOURCE
Not applicable

RECOMMENDATION
Staff recommends this council bill be approved on first reading.

COUNCIL BILL NO. 2019-531 ORDINANCE NO.

AN ORDINANCE repealing Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin, and enacting in lieu thereof a new Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, and Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, 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 Council of the City of Joplin desires to make certain language changes to improve sewer billing and collection procedures.

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

Section 1. That Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, be repealed and a new Section 118-203, Basis for Computation, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. SEWERS AND SEWAGE DISPOSAL

Division 6. Rates and Charges

Sec. 118-203. Basis for computation.

Sewer service charges for residential establishments shall be based upon the average consumption for the months of December, January and February and shall be billed monthly for the 12-month period beginning in April of each year on the basis of said average monthly water consumption for the immediately preceding months of December, January, and February.

For any residential customer that did not occupy said residence during the months of December, January, and February, a city-wide average shall be billed monthly for the 12-month period beginning in April of each year. The city-wide average shall be adjusted annually based on the actual average consumption of residential customers.

Residential sewer service charges based upon the average consumption for a user at a location less than a full month shall be prorated to the number of days the same user is at the same location."

Section 2. That Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, be repealed and a new Section 118-206, Billing and Collection Procedures, of Article II, Sewers and Sewage Disposal, of Division 6, Rates and Charges, of Chapter 118, Utilities, of the Code of Ordinances of the City of Joplin be enacted in lieu thereof to read as follows:

"ARTICLE II. SEWERS AND SEWAGE DISPOSAL

Division 6. Rates and Charges

Sec. 118-206. Billing and collection procedures.

(a) All sewer service charges shall be paid to the city, or its authorized agent, at the location or locations designated by the city. Sewer service charges shall be paid within 15 days of the date of their billing.

(b) Every sewer service charge specified in this section remaining unpaid for 25 days after the date of its billing may be increased by ten percent for the current month outstanding balance.

(c) Sewer services shall be deemed to be furnished to both the occupant and owner of all residential properties receiving sewer service, and the occupant and owner of such properties shall be severally and jointly liable to the city for payment of the charges for such service rendered on or to premises upon which such properties are located. If any bill for such services is not paid within 15 days from the date of such bill, the city may sue the occupant, the owner, or both, of the properties receiving such service, or for which such service has been made available, and receive any sums due for such services plus reasonable attorney's fees to be fixed by the court and the costs of such suit. In addition, the city may use other such means now or hereafter available to it under the statutes of Missouri and the ordinances of the city to effect the collection of any bill for sewer service remaining unpaid upon the expiration of 15 days from the date of such bill.

(d) In the event either the occupant or owner of property which receives sewer service furnished by the city has reason to dispute the amount or nature of any bill, the recipient shall be permitted to make payment under protest, provided that the recipient of service provides to the city at the time of payment the following information:

(1) The period of time for which the service is disputed.

(2) The reason for the dispute.

(3) The requested remedy.

Nothing contained herein shall in any way forgive or avoid any payment to the city as outlined in this chapter for sewer services. Upon receipt of any such payment under protest, the finance director in coordination with the city attorney shall

respond in writing to the recipient of the service with a response to their complaint and a copy shall be forwarded to the city manager and a reply shall be forthcoming within a reasonable period of time.

(e) In addition to any fees or charges established pursuant to this chapter, there shall be a fee for the termination of water service due to a delinquent sewer bill that remains unpaid or in arrears for at least 30 days. The fee shall be established by the water company for:

(1) Standard termination or restoration per metered connection, including unsuccessful attempts; and,

(2) After hours restoration per metered connection, including unsuccessful attempts.

(f) When the occupant of rental property is delinquent in payment of sewer fees, the City of Joplin shall make a good faith effort to notify the owner of the premises receiving such service of the delinquency and the amount thereof. Notwithstanding any other provision of this section to the contrary, when an occupant of rental property is delinquent more than 90 days, the owner shall not be liable for sums due for more than 90 days of service. The city shall make a good faith effort to notify both the occupant and owner of the premises of any termination of service.

Section 3. That this ordinance shall become effective on January 1, 2020.

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

_____ day of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-159 – authorizing the City of Joplin to enter into an agreement with MCI Communications Services, Inc. ("MCICS") for the purpose of MCICS installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property.

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Public Works

ATTACHMENTS
CB2019-159 Ordinance; Rights-of-Way Use Agreement for Communications Facilities

REVIEWED BY
Dept. Head: David Hertzberg; Director of Finance: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
Council Bill 2019-159 authorizes the City of Joplin to enter into an agreement with MCICS for the purpose of MCICS installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property.

BACKGROUND
The City adopted the Rights-of-Way Management Code on May 6, 2019. The City's Rights-of-Way Use Agreement for Communications Facilities with MCICS is an agreement produced under the ROW Management Code. MCICS will maintain 9,337 linear feet of underground facilities and pay a linear foot fee of $2,987.84 per month. The agreement is for a term of 10 years.

FUNDING SOURCE
N/A

RECOMMENDATION
Staff recommends adoption of this Council Bill on an Emergency basis, being an Ordinance dealing with a public improvement, within the meaning of Section 2.12(6) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, this Ordinance shall become effective immediately upon its passage.

Exhibit A
MCI Communications Services, Inc. Rights-of-Way Use Agreement

RIGHTS-OF-WAY USE AGREEMENT FOR COMMUNICATIONS FACILITIES

THIS RIGHTS-OF-WAY USE AGREEMENT FOR COMMUNICATIONS FACILITIES ("Agreement") is made and entered into as of the Effective Date (as defined in Section 11.1), by and between, **MCI Communications Services, Inc.**, a Delaware corporation registered to do business in Missouri (the "Licensee"), and the **City of Joplin, Missouri**, a municipality of the State of Missouri (the "City"). Licensee and City may sometimes be referred to in this Agreement individually as a "Party" or collectively as the "Parties."

WHEREAS, Licensee has requested consent from the City to authorize its use of the City's Rights-of-Way to construct, install, maintain, and operate facilities for communications or related capabilities; and

WHEREAS, Missouri law provides conditions relating to the City's consent to, and authorizes the City to regulate the use and occupancy of its Rights-of-Way ("Rights-of-Way" or "ROW") for placement of various communications facilities; and

WHEREAS, the City is authorized to and has established standards for occupancy of the Rights-of-Way by communications facilities and other uses that are consistent with and recognize the Public Service Commission's duties and jurisdiction; and

WHEREAS, the City and Licensee desire to enter into this Agreement, to establish the terms of Licensee's use of the Rights-of-Way, and to incorporate the provisions and definitions of the ROW Code (as defined in Section 1.2); and

WHEREAS, the City and Licensee desire to compromise, resolve, and settle their disputes regarding unpaid ROW compensation amounts due and payment obligations of the Licensee for the 9,337 linear feet of Facilities represented by the Licensee as currently being within the City's ROW, and any tax credit or other credits Licensee claims as any offset to such amounts claimed owed for past use of the City's Rights-of-Way by Licensee and its predecessor entities (the "Dispute"), and a settlement and release relating to that the Dispute between the City and Licensee is contained within Licensee's ROW Use Agreement; and

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

SECTION 1. GENERAL

1.1 Preservation of Police Power Authority. Any rights granted to Licensee pursuant to this Agreement are subject to the authority of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public.

1.2 Defined Terms. For purposes of this Agreement, the capitalized terms shall have the meanings as set forth herein and in the Code of Ordinances, City of Joplin, Missouri, including specifically Article VI of Chapter 106, and as may be amended ("ROW Code"). Words used in the present tense include the future tense, words in the single number include the plural number, and words in the plural number include the singular. The words "shall" and "will" are mandatory,

and "may" is permissive. Words not defined shall be given their common and ordinary meaning. The following additional capitalized terms shall also apply to this Agreement:

A. "**Communications**" The transmission via the Facilities, in whole or in part, between or among points specified by the user, of information of the user's choosing (e.g., data, video, voice), without change in the form or content of the information as sent and received, regardless of the statutory or regulatory scheme to which such transmissions may be subject.

B. "**Communications Service**" The transmission of writing, signs, signals, pictures, sounds or other forms of intelligence through wire, wireless or other means, including, but not limited to, any "telecommunications service," "enhanced service," "information service," or "Internet Service," as such terms are now, or may in the future, be defined under applicable law, and including all instrumentalities, Facilities, apparatus (Communications Facilities), and services (among other things, the receipt, forwarding, and delivery of Telecommunications) incidental to such transmission or designed to directly or indirectly facilitate or accept such transmission and shall also include "video services" as defined in § 67.2677 RSMo. The term "Communications Service" does not include the rental of conduit or physical facilities, which if proposed must be expressly separately approved in Exhibit A below or sought directly by such third party from City. Any party seeking to provide cable television, video services, or use wireless communication facilities shall be subject to additional and separate requirements, limitations and/or approvals of federal, state and local law and shall have on file with the City such authorization to provide such services prior to commencement.

1.3 Agreement Subject to Provisions of ROW Code. This Agreement fully incorporates the provisions of the ROW Code as if fully set forth herein, and Licensee agrees as a part of this Agreement to abide by the provisions of the ROW Code and other applicable ordinances and law of the City as a ROW User, and to be subject to the enforcement by the City as provided therein and in this Agreement as a material term herein. This Agreement may establish Licensee obligations that are supplementary to the ROW Code, but nothing in this Agreement shall be deemed to waive any obligation or requirement applicable to Licensee authorized or established by the ROW Code. The consent to use the Rights-of-Way authorized by this Agreement is subject to the continuing accuracy during the term of this Agreement of the application information provided by and maintained by Licensee for this authorization as provided to and on file with the City.

SECTION 2. GRANT OF AUTHORITY TO USE THE RIGHTS-OF-WAY

2.1 Agreements Non-Exclusive. This Agreement shall grant nonexclusive privileges to use the Rights-of-Way. The City specifically reserves the right to grant, at any time, such additional agreements or other rights to use the Rights-of-Way for any purpose and to any other person, including itself, as it deems appropriate, subject to applicable federal and state law. Nothing in this Agreement shall relieve Licensee from its obligations to apply for and obtain all necessary permits for installation of its Facilities including excavation, building, electrical, zoning, etc., before installation of its Facilities within the Rights-of-Way.

2.2 Nature of Rights Granted by this Agreement. This Agreement shall not convey title to Licensee, equitable or legal in the Rights-of-Way, and gives only the right to occupy the City's Rights-of-Way for the purposes and for the period stated in this Agreement and subject to the requirements of this Agreement. This Agreement also shall not grant the right to use Facilities owned or controlled by the City or a third-party, without the separate consent of the City or such third-party owning or controlling the Facilities, nor shall it excuse Licensee from obtaining appropriate access or pole attachment agreements before locating on Facilities controlled or owned by the City or a third-party.

2.3 Grant. Subject to the terms and conditions of this Agreement, the ROW Code, and the conditions set forth on Exhibit A attached hereto and incorporated by reference into this Agreement, Licensee is hereby granted the nonexclusive right and privilege to construct, operate, and maintain Facilities in, through, over, above, and along the City's Rights-of-Way for the purposes of supplying **Communications Service** within the City, subject, however, to the terms and conditions herein set forth within this Agreement and the Row Code and all such special conditions as may be set forth in Exhibit A. Licensee agrees that this Rights-of-Way Use Agreement shall supersede any existing franchise or other rights-of-way use agreement between the Licensee and the City, if any. As a condition of this grant, Licensee is required to obtain and maintain any permit, license certification, grant, registration or any other authorization lawfully required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission, or the Missouri Public Service Commission. Licensee shall not have the right to install wireless antennae or antennae support structures in the ROW pursuant to this Agreement, nor provide services not authorized herein, except as provided in Exhibit A, or such subsequent amendment as may be approved thereto. The size, location, and specifications of the underground and above-ground Facilities are subject to prior City approval and consent. In the event that the use of the Rights-of-Way is proposed to change or Licensee desires to provide services other than as described herein, Licensee shall be required to seek amendment hereto prior to commencing such service or changed use.

2.4 Use of Rights-of-Way; Police Powers; Licensee's Use Subordinate. The Licensee shall construct and maintain its Facilities in accordance with all applicable federal, state and local laws, codes and ordinances, including all permit requirements, and fee payments, in effect as of the Effective Date or adopted after the Effective Date, to the extent such are not in contravention of applicable law. The City makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of Licensee's Facilities on any particular segment of Rights-of-Way. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon Licensee. The use of the Rights-of-Way authorized by this Agreement shall in all matters be subordinate to the City's use of, and rights to, the same and Licensee shall be limited to such uses as have been expressly granted to Licensee by the City. Licensee shall excavate in or install Facilities in the Rights-of-Way in locations and in a manner only as authorized by a permit granted by the City. Licensee shall further be subject to the City's exercise of its powers, including but not limited to its administration and regulation related to the management of the Rights-of-Way exercised in a competitively neutral and non-discriminatory reasonable manner.

2.5 No Interference. Licensee shall construct and maintain its Facilities to be so located, constructed, and maintained as to avoid interference with the proper use of all Rights-of-

Ways and so as not to materially or without authority interfere with other users of the Rights-of-Way. Except as may otherwise be provided, the Licensee shall reasonably notify all residents and properties materially affected by the proposed work prior to commencement of such work. All construction and maintenance by Licensee or its subcontractors shall be performed in accordance with generally accepted industry standards and all standard specifications, drawings, and procedures required or approved by the City.

2.6 Notification, Joint Installation, and Collocation Requirements. Licensee shall, prior to any excavation or installation within the Rights-of-Way, provide sufficient notification and joint installation opportunity on a shared-cost basis to potential users of the Rights-of-Way under such generally applicable written policy or direction as may be established by the City. Licensee shall further make its installed Facilities available to other licensees on a nondiscriminatory competitively neutral basis as may be required by federal law codified at 47 U.S.C. § 224.

2.7 Licensee Responsible for Costs. The Licensee shall be responsible for all reasonable, lawfully reimbursable, documented costs incurred by the City that are directly associated with its installation, maintenance, repair, operation, use, and replacement of its Facilities within the Rights-of-Way, that are not otherwise accounted for as part of the permit fee established pursuant to the ROW Code and not contrary to any applicable requirements of Sections 67.1830 to 67.1846 RSMo. All such costs shall be itemized and the City's books and records related to these costs shall be made available upon request to the Licensee. Licensee shall be responsible for its own costs incurred removing or relocating its Facilities when required to do so by the City due to the City requirements relating to maintenance and use of the Rights-of-Way as set forth in Section 7.6, below.

SECTION 3. TERM AND COMPENSATION

3.1 Term. This Agreement shall be effective for a term commencing for **Ten years from the Effective Date** and subject to earlier termination or forfeiture as provided for elsewhere in this Agreement.

3.2 Compensation. The Licensee agrees to pay the User Fees and such other compensation in the amount and under such additional regulations and provisions as are set forth in the City's policies and ordinances. Unless otherwise established by the City Council, Licensee shall pay to the City as monthly compensation for the use of the Rights-of-Way pursuant to this executed Agreement:

a. Linear Foot Fee: one thousand dollars ($1,000.00)/month for the first (1st) mile of linear Facilities, or part thereof, plus a monthly payment of $0.16 per linear foot for each additional linear foot of Facilities located in the Rights-of-Way, with the User Fee being capped at eight thousand dollars ($8,000.00)/month for each user; and

provided that all Right-of-Way Users shall be entitled to a credit against the User Fee due hereunder equal to the payment(s) from such Right-of-Way User in accordance with Section 67.1846 RSMo.; provided, however, such credit cannot exceed the amount due under this subsection and may not be carried forward or back to any other time period and a credit shall not

apply to any taxes paid under protest or otherwise paid with qualification unless so required by law. Unless otherwise provided by law, including lawful action of the Council, the User Fee herein shall increase by two percent (2%) per year during the term of this Agreement (and annually thereafter if the term is extended without a change in this provision).

Licensee represents that it currently has 9,337 linear feet of Facilities and 0 antennas installed in City Rights-of-Way ("Existing Facilities"), as depicted on Exhibit B attached hereto and incorporated herein. Licensee has also represented to the City that the Facilities described in the application submitted to the City on September 3, 2019 (the "Application") (9,337 linear feet) are the only Facilities that Licensee has within the City's Rights-of-Way, which Facilities are depicted on Exhibit B. If it is discovered that Licensee has underrepresented the total Facilities within the Rights-of-Way, or otherwise has additional Facilities therein, Licensee shall owe the City for such amount pursuant to the City's Code, including but not limited to § 106-142 on such additional Facilities from May 1, 2019 and thereafter, or such later date if installed after that date. The actual authorized installation shall be limited to that which has received approved permits from the City and the User Fee shall be paid based on the sum of the actual linear foot of Facilities installed and any additional linear foot approved by permit for installation. All User Fees shall be due and payable every month of each calendar year within thirty (30) days after the end of each such month for which the payment is owed. Each User Fee payment shall be accompanied by an affidavit, signed as true, which may be sent electronically in advance of payment, stating the greatest total linear feet of Facilities located in the Rights-of-Way during the preceding month, the total amount of antennas located in the Rights-of-Way, any credit taken for gross receipt taxes or business license fees paid to the City, and the payment of the User Fee made. If any fee statement is determined to understate the User Fee owed, then such additional amount owed shall be made with a corrected statement, including interest on said amount as provided herein. Any payments due to the City hereunder and not paid at the due date shall bear interest at the rate of one and one-half percent (1.5%) per month, unless such other maximum rate is established by law. On an annual basis by January 31, Licensee shall submit an affidavit certifying as true each statement submitted for the previous twelve (12) months, including the statement for the immediately preceding December. If any statement for the previous twelve (12) months was incorrect, a corrected statement shall be submitted with the affidavit. If an incorrect fee statement understated the User Fee owed, then such additional amount owed, including with interest on said amount as provided herein, shall be submitted with the affidavit. Licensee's credit to the User Fee as authorized above shall be calculated based upon gross receipt taxes paid and attributable to gross receipts received for the same months in which the User Fee is attributable. The User Fee required in this Section shall be paid by Licensee as required herein without offset, credit, refund, or deduction except for such credit as is expressly provided for above for gross receipts taxes paid. Licensee may make the User Fee and eligible tax payment that is subject to credit above all as a single combined payment or in separate payments, and may also send a combined statement or separate monthly statements meeting the applicable requirements.

3.3 User Fee Not a Tax. The above required User Fee and other compensation required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City, except as may be provided for in the ROW Code, herein, and as set forth in § 67.1846. Licensee acknowledges that the User Fee is compensation for use of the Rights-of-Way, both underground and above ground, and shall in no way be deemed a tax of any kind.

3.4 Settlement Payment and Release For Past Right-of-Way User Fees. Licensee will pay to the City on or before December 20, 2019, the amount of $21,587.15 as payment ("Settlement Payment") in full for its and its predecessor entities' use of the Rights-of-Way for the linear footage represented by Licensee in the Application up to and including November 30, 2019. The Settlement Payment shall be non-refundable and shall not be subject to credit or offset. Licensee's agreement to make this payment and City's agreement to accept this payment to settle the Dispute shall not constitute or be considered an admission of liability or wrongdoing (including, without limitation, noncompliance with permitting requirements), or an agreement as to the validity of any of the positions advanced by the other regarding the Dispute. Each Party agrees, on behalf of itself and its past, present, and future employees, officers, directors, attorneys, shareholders, representatives, predecessors, successors, permitted assigns, subsidiaries, parents, and partners absolutely, unconditionally, completely, and without reservation, to release, acquit, irrevocably remise, and forever discharge the other Party and its respective past, present, and future employees, officers, directors, attorneys, shareholders, representatives, predecessors, successors, permitted assigns, parents, and partners of and from any and all manner of claims, counterclaims, costs, expenses, demands, rights, liabilities, damages, potential actions, causes of action, suits, judgments, decrees, retroactive adjustments or refunds, interest, late payment charges, fines, bonds, bills, and controversies of any kind and nature whatsoever, at law, in equity, or otherwise including, without limitation, claims based on specific or punitive damages, whether known or unknown, arising from the Dispute, provided nothing herein shall be deemed to release any claim to enforce this Agreement, and any other lawful obligation of Licensee to City or City to Licensee not released herein, including but not limited to such obligations of taxes or regulatory compliance to City as a governmental entity. The Parties acknowledge and agree that, although they may hereafter discover law or facts in addition to or different from those which they know or believe to be true as of the Effective Date related to the Dispute, it is their intention with respect to each other, to settle and release the Dispute fully, finally, and forever; and, in furtherance of such intention, the releases shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts or law; provided nothing herein shall release Licensee from any obligations relating to payment or otherwise for linear feet of Facilities beyond those disclosed in Paragraph 3.2 (the "Existing Facilities" disclosed in 3.2). The Parties may have other disputes between them, known or unknown, that are not settled or released herein. Nothing in this Agreement binds or can bind any entity other than those named above, except as to any predecessor entities pursuant to which the Dispute has arisen. Each Party warrants and represents that it has not assigned, transferred, or conveyed all or any portion of the claims covered by this Agreement and that this warranty and representation is an essential and material term of this Agreement, without which it would not have entered into it.

SECTION 4. TAXES

4.1 Taxes. The Licensee agrees to pay all legally applicable taxes including license taxes, business taxes, utility taxes, video services provider fees, and other applicable taxes of the City and failure to pay such taxes shall be considered a breach of this Agreement. Nothing herein is intended to alter, amend, modify or expand the taxes that may be lawfully assessed on Licensee's business activities under applicable law. Licensee shall be subject to audit and shall itemize by category of service the amount received and taxes paid for services provided by Facilities in the Rights-of-Way. Such taxes shall be in addition to compensation, if any, required by the City by ordinance or otherwise subject to any limitations herein and of applicable state or federal law.

SECTION 5. TRANSFER OF AGREEMENT OR FACILITIES

5.1 Transfer of Agreement. Unless otherwise prohibited by law, Licensee shall not sell, transfer, lease, or assign this Agreement or its rights under this Agreement, in whole or in part, without obtaining the City's prior consent, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing sentence, Licensee may sell, transfer, lease or assign this Agreement or its rights under this Agreement, in whole or in part, with prior thirty (30) days' written notice to the City if to: (a) any entity controlling, controlled by or under common control with Licensee; (b) any surviving successor entity or newly created successor entity in the event of a merger, reorganization or consolidation involving Licensee. The City reserves the right to be reimbursed for its reasonable costs relating to a transfer of ownership or this Agreement. Licensee shall not change its name under which it does business with the public without providing at least thirty (30) days' prior written notice to the City.

5.2 Agreement Binding. In the event of a sale, transfer, assignment or any other transaction Licensee may enter into that involves transfer of Licensee's rights, duties, and privileges under this Agreement, all provisions of this Agreement that are obligatory upon, or that inure to the benefit of Licensee, shall also be obligatory upon and shall inure to the benefit of any and all successors and assigns of Licensee. Further, all obligations, duties, liabilities, limitations, prohibitions, amendments and forfeitures by this Agreement created or imposed upon Licensee shall be binding upon and be assumed, kept and performed by its legal and bona fide assigns and successors in interest, according to the true intent and purpose of this Agreement, whether expressly so stated or not.

5.3 Sale or Lease of Facilities. Except as otherwise may be provided by law, Licensee shall not lease, sell, sublet or otherwise transfer possession or control or use of the Facilities, or any portion thereof, for any purpose to any person that has not obtained a duly issued Agreement, or other grant by the City to use the Rights-of-Way and which includes the authority to use or maintain such leased or transferred Facilities. Notwithstanding the foregoing, Licensee may use and maintain Licensee's installed Facilities for the benefit of its customers of its Communications Services provided that any such customer shall have no right of physical access to the Facilities in the ROW without a separate agreement with the City.

SECTION 6. FORFEITURE OF LICENSE AND PRIVILEGE.

6.1 Forfeiture. In case of material failure on the part of the Licensee, its successors and assigns, to comply with any of the provisions of this Agreement, including the provisions of any applicable law, or if the Licensee, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this Agreement, including the provisions of the ROW Code, or if the Licensee loses authority to provide its Communication Services or do business within the City under applicable law, or if the Licensee, its successors and assigns, shall forfeit all rights and privileges permitted herein, and all rights hereunder shall cease, terminate, and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings: before the City proceeds to forfeit this Agreement, it shall first serve a written notice upon the Licensee, setting forth in detail the neglect or failure complained of, and the Licensee shall have thirty (30) days thereafter in which to cure the default

by complying with the conditions of this Agreement. If at the end of such thirty (30) day period the City determines that the conditions have not been complied with, unless said material default could not have been cured within said thirty (30) day period by Licensee exercising reasonable diligence and Licensee is exercising diligence to cure said default, the City shall take action by an affirmative vote of the City Council present at the meeting and voting, at which Licensee may appear and be heard, to terminate the Agreement; setting out the grounds upon which said Agreement is to be canceled or terminated. Nothing herein shall prevent the City from taking any other action or remedy as may be set forth in the City's ordinances, or as may otherwise exist at law. All remedies described in this Section are cumulative and in addition to any other rights and remedies to which City may be entitled at law, in equity or under this Agreement.

SECTION 7. GENERAL CONDITIONS

7.1 Compliance With Laws. In performing activities and exercising its rights and obligations under this Agreement, the Licensee shall comply with all applicable federal, state and local laws, ordinances, regulations and policies, including, but not limited to, all laws, ordinances, zoning, and other regulations and policies relating to construction, bonding, insurance, and use of public property.

7.2 Insurance. In addition to the requirements of Section 106-148 of the ROW Code, except as may be prohibited by law, Licensee shall provide, at its sole expense, and maintain during the term of this Agreement commercial general liability insurance with a reputable, qualified, and financially sound company licensed to do business in the State of Missouri, and unless otherwise approved by the City, with a rating by Best of not less than "A," that shall protect the Licensee, the City, and the City's officials, officers, and employees from claims which may arise from operations under this Agreement, whether such operations are by the Licensee, its officers, directors, employees and agents, or any subcontractors of Licensee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from all Licensee operations, products, services or use of automobiles, or construction equipment. The amount of insurance for Single Limit Coverage applying to Bodily and Personal Injury and Property Damage shall be at least $2,804,046, but in no event less than the individual and combined sovereign immunity limits established by § 537.610 RSMo., or its successor, for political subdivisions; provided that nothing herein shall be deemed to waive the City's sovereign immunity. An endorsement shall be provided which states that the City is named as an additional insured with full and equivalent coverage as the insured under the insured's policy and stating that the policy shall not be cancelled or materially modified so as to be out of compliance with the requirements of this Section, or not renewed without thirty (30) days' advance written notice of such event being given to the Director. The City's additional insured coverage shall have no deductible. **The insurance requirements in this Section or otherwise shall not apply to Licensee to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to § 67.1830(6)(a) RSMo. and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets and the facts otherwise establishing that Licensee is therefore so exempted and provided that this exemption shall not apply if Licensee uses or obtains the right to use any City poles or other facilities.**

7.3 Construction Guarantee and Maintenance. Licensee agrees that it shall be responsible to guarantee for a period of four years the restoration of the Rights-of-Way in the area where such Licensee conducted excavation and performed the restoration minimally as required by § 67.1834 RSMo. A bond, letter of credit or other surety (collectively "Surety") in the form approved by the City shall be posted if required by the City to guarantee construction performance. **Surety shall not be required to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to § 67.1830(6)(a) RSMo. and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets and the facts otherwise establishing that Licensee is therefore so exempted and provided that this exemption shall not apply if Licensee uses or obtains the right to use any City poles or other facilities.** Licensee shall also be responsible for maintenance of its Facilities and any and all damage caused to the Rights-of-Way, equipment within the Rights-of-Way, or otherwise by Licensee's use of the Rights-of-Way.

7.4 Enforcement; Attorneys' Fees. The City shall be entitled to enforce this Agreement through all remedies lawfully available, and Licensee shall pay the City its costs of enforcement, including reasonable attorneys' fees, in the event that Licensee is determined judicially to have violated the terms of this Agreement.

7.5 Relationship of the Parties. Under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture, or employment between the Parties.

7.6 Relocation or Removal of Facilities.

7.6.1 In addition to the requirements of Section 106-147 of the ROW Code, the City may in its exercise of the public interest require that Licensee, at Licensee's sole cost and expense, relocate, adjust, or reinstall any of its Licensee's Facilities. The City shall give reasonable notice of such requirement to Licensee, including the location of Facilities to be relocated and a reasonable time to relocate such Facilities. Licensee shall forthwith remove, adjust, or relocate such Facilities within the reasonable time provided by the City in its written notice. The cost of such relocation, removal, or reinstallation of the Facilities shall be the exclusive obligation of said Licensee without expense to the City. If any Facilities are not relocated in accordance with this Section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be jointly and severally liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages. Any time period during which Licensee is unable to relocate its Facilities due to the actions or inactions of a third party, which is unaffiliated to Licensee and not under contract with or control of Licensee, including, without limitation, the City, will not be counted against the reasonable time frame allowed to Licensee to relocate its Facilities.

7.6.2 Licensee shall upon request of any person other than the City requesting relocation of Facilities and holding a validly issued building or moving permit and within a reasonable period as may be established by the City, temporarily raise, lower, adjust, or relocate its Facilities as may be reasonably necessary for such permit-holder to exercise its rights under the permit. Except where good cause is approved by the City, a permit-holder must make its request at least fourteen (14) days prior to the date it intends to exercise its rights under the permit. If applicable, Licensee will, within seven (7) days of its receipt of such a request, deliver to the

permit-holder an invoice for the services. However, Licensee will not be required to honor any such request unless and until the permit-holder makes payment in advance for any expenses incurred by said Licensee pursuant to said person's request. If any Facilities are not relocated in accordance with this Section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be jointly and severally liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages. Any time period during which Licensee is unable to relocate its facilities due to the actions or inactions of a third party, which is unaffiliated to Licensee and not under contract with or control of Licensee, including, without limitation, the City, will not be counted against the reasonable time frame allowed to Licensee to relocate its Facilities.

7.7 **No Cause of Action Against the City.** The Licensee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from any of the provisions or requirements of this Agreement, or because of the enforcement thereof by said City, or for the failure of the City to have the authority to grant, all, or any part, of the rights herein granted; provided that said Licensee expressly acknowledges that it accepted the rights herein granted under this Agreement in reliance upon its independent and personal investigation and understanding of the power or authority of the City to enter into the Agreement herein with Licensee; provided further that the Licensee acknowledges by its acceptance of said Agreement that it has not been induced to enter into this Agreement upon any understanding, or promise, whether given verbally or in writing by or on behalf of any Party, or by any other person concerning any term or condition of this Agreement not expressed herein; provided further that the Licensee acknowledges by the acceptance of this Agreement that it has carefully read the provisions, terms, and conditions hereof and all incorporated provisions and is willing to, and does accept, all of the risk attendant to said provisions, terms, and conditions of this Agreement. Nothing herein shall be deemed to waive the City's sovereign immunity.

SECTION 8. INDEMNIFICATION

8.1 Indemnification. Licensee at its sole cost and expense, hereby agrees to indemnify, protect, release, defend (with counsel acceptable to the City) and hold harmless the City, its municipal officials, elected officials, councils, boards, commissions, officers, employees, attorneys, and agents, from and against any and all causes of action, claims, demands, all contractual damages and losses, economic damages and losses, all other damages and losses, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, from the action or inaction of Licensee, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Licensee may be liable, in constructing, operating, using, maintaining, repairing, restoring or removing Facilities, or in carrying on Licensee's business or operations in the City, or out of the fact that the City entered into this Agreement with Licensee, the rights granted to Licensee, or the activities performed, or failed to be performed, by Licensee under this Agreement, or otherwise, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of the City, its elected officials, officers, employees, agents or contractors, or as otherwise may be limited by law. This indemnity shall apply, without limitation, to any claim or cause of action for invasion of privacy, defamation, antitrust, negligence, theft, fire, violation or infringement of any copyright, trademark, trade name,

service mark or patent or intellectual property right of any person, whether or not any act or omission complained of is authorized, allowed or prohibited by this Agreement. The indemnification, duty to defend, and hold harmless obligations set forth in this Section shall survive for a period of five (5) years after the date of expiration or termination of this Agreement. Any payments required by Licensee to City pursuant to this indemnification paragraph or otherwise required under this Agreement shall accrue interest from the date due at one and one-half percent (1.5%) interest per month until fully paid.

SECTION 9. NOTICE

9.1 Any notice, demand, consent, approval, request or other communication required or permitted to be given to either Party under or with respect to this Agreement (collectively, "Notice") must be in writing and must be delivered in person, by a reputable overnight delivery service or by certified mail, postage prepaid, return receipt requested, to the appropriate address(es) set forth below:

If Notice to Licensee:

MCI Communications Services, Inc.
600 Hidden Ridge Drive, E02E85
Irving, TX 75038
Attn: Manoj Devdas, Franchise Group

If Notice to City:

City of Joplin, Missouri
602 South Main Street
Joplin, MO 64801
Attn: City Manager

City of Joplin, Missouri
602 South Main Street
Joplin, MO 64801
Attn: Legal Department

9.2 If notice is given by personal delivery, a receipt indicating that personal delivery was made must be obtained. Notice will be deemed effective on the date of receipt by the addressee as shown on the receipt if given by personal delivery, on the return receipt if notice is given by certified mail or the confirmation of delivery form if notice is given by overnight delivery service. Rejection or refusal to accept or the inability to deliver because of a changed address of which no proper notice was given will be deemed to be receipt of the notice as of the date of rejection, refusal or inability to deliver. Either Party may change its address for notice by giving notice of address change to the other Party in the manner for giving notice prescribed in Section 9.1.

SECTION 10. MISCELLANEOUS

10.1 This Agreement and all Exhibits constitute the entire Agreement between the

Parties as to the subject matter of this Agreement, and no negotiations or discussions prior to the Effective Date shall be of any effect.

10.2 The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of any other provision.

10.3 No term or condition of this Agreement will be deemed to have been waived by a Party unless the waiver is made in writing and is signed by the Party against whom the waiver is claimed. No waiver of default or breach of this Agreement or consent to the default or breach will be deemed to have been waived or consented to unless the waiver or consent is made in writing and signed by the Party against whom the waiver or consent is claimed. The waiver of or consent to a breach or default of this Agreement will not be deemed to be a waiver of or consent to any other breach or default of this Agreement, or to or any subsequent breach or default of the same term, or condition of this Agreement. No course of dealing or conduct or failure of a Party to strictly enforce any term, right or condition of this Agreement constitutes a general waiver or relinquishment of the term, right or condition.

10.4 The rights and remedies of the Parties shall be cumulative and in addition to any other rights and remedies provided by law or equity. The laws of the State of Missouri shall govern this Agreement.

10.5 This Agreement is for the benefit of the Parties and not for any other person or entity. This Agreement creates no third-party beneficiary rights.

SECTION 11. EFFECTIVE DATE AND ACCEPTANCE

11.1 This Agreement shall be effective on the date this Agreement is last signed by both Parties ("Effective Date"). The Parties acknowledge that this Agreement is a lawful contract between them, that they entered into this Agreement voluntarily, and have full authority to sign this Agreement.

IN WITNESS WHEREOF, this Agreement is entered into as of the Effective Date.

CITY OF JOPLIN, MISSOURI

_____
Gary Shaw, Mayor

Date: _____

ATTEST:

_____
Barbara Gollhofer, City Clerk

MCI COMMUNICATIONS SERVICES, INC.

By: Robert J. Hayes

Print Name: Robert J. Hayes

Title: Sr. Manager Network Engineering

Date: 11/19/2019

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)

The forgoing instrument was acknowledged before me this November 19, 2019, by Robert J. Hayes, Sr. Manager, Network Engineering, on behalf of MCI Communications Services, Inc. This person is personally known to me or has produced Drivers License as identification.

(Signature of Notary taking Acknowledgment)

Notary Public, State of Texas

JOHN BRADLEY DUHE
Notary ID #131952939
My Commission Expires
March 29, 2023

My Commission Expires: 3/29/2023

EXHIBIT A

SPECIAL CONDITIONS

The following special conditions shall be a condition of this Agreement and shall supplement and limit any provision in this Agreement to the contrary:

1. All new Licensee Facilities shall be installed underground, except where good cause is shown to authorize use of existing above-ground Licensee Facilities, including (1) when and where nearby similar facilities exist above ground or (2) when conditions are such that underground construction is impossible, impracticable or economically unfeasible, as determined by the City. Above-ground Facilities authorized for good cause shall, in the City's reasonable judgment be limited to construction and Facilities having minimal detrimental impact on the area where construction is proposed. Ground-mounted pedestals customarily installed for underground Facilities shall be authorized subject to applicable permit requirements and design, location, appearance and other reasonable requirements of the City, provided that such pedestals or equipment that are larger than 3 feet in height or otherwise not customarily found within the City limits shall not be deemed authorized by this Agreement without specific separate written authorization of the City.

2. Licensee acknowledges and agrees that pursuant to its obligation to pay all applicable taxes it shall pay the City's license tax as an entity authorized to furnish exchange telephone service, if applicable, and shall remit to the City such tax on gross receipts of its business as required by Division 3 of Article III of Chapter 30 of the City Code of Ordinances, or as may be amended, regardless of technology or nomenclature used by Licensee to provide such services, including but not limited to wire, wireless, internet-based transmissions, and switched or unswitched, to the extent permitted by law.

3. Licensee represents and agrees that it (including its duly licensed contractors acting on its behalf identified on the right-of-way permit application or otherwise to the City) shall not authorize third-parties without a valid license, Right-of-Way Use Agreement, or other lawful authorization in writing from the City to be within the City's Rights-of-Way to install or perform maintenance on its Facilities or have physical access thereto in the Rights-of-Way.

4. For purposes of clarification only, a document providing Communication Service to a third party as authorized herein but nominated or referred to as lease authorizing a service or use to a third-party shall not be deemed to violate Section 5.3, or constitute rent outside the scope of providing a Communication Service, solely because of such nomenclature or reference provided it otherwise complies with the requirements of this Agreement and meets the following conditions:

    - Does not provide the third-party with an ownership or property interest in or any form or type of title in the ROW, ROW Agreement, or any facilities in the ROW, whether temporary or otherwise, and the lessee does not acquire the right to own,

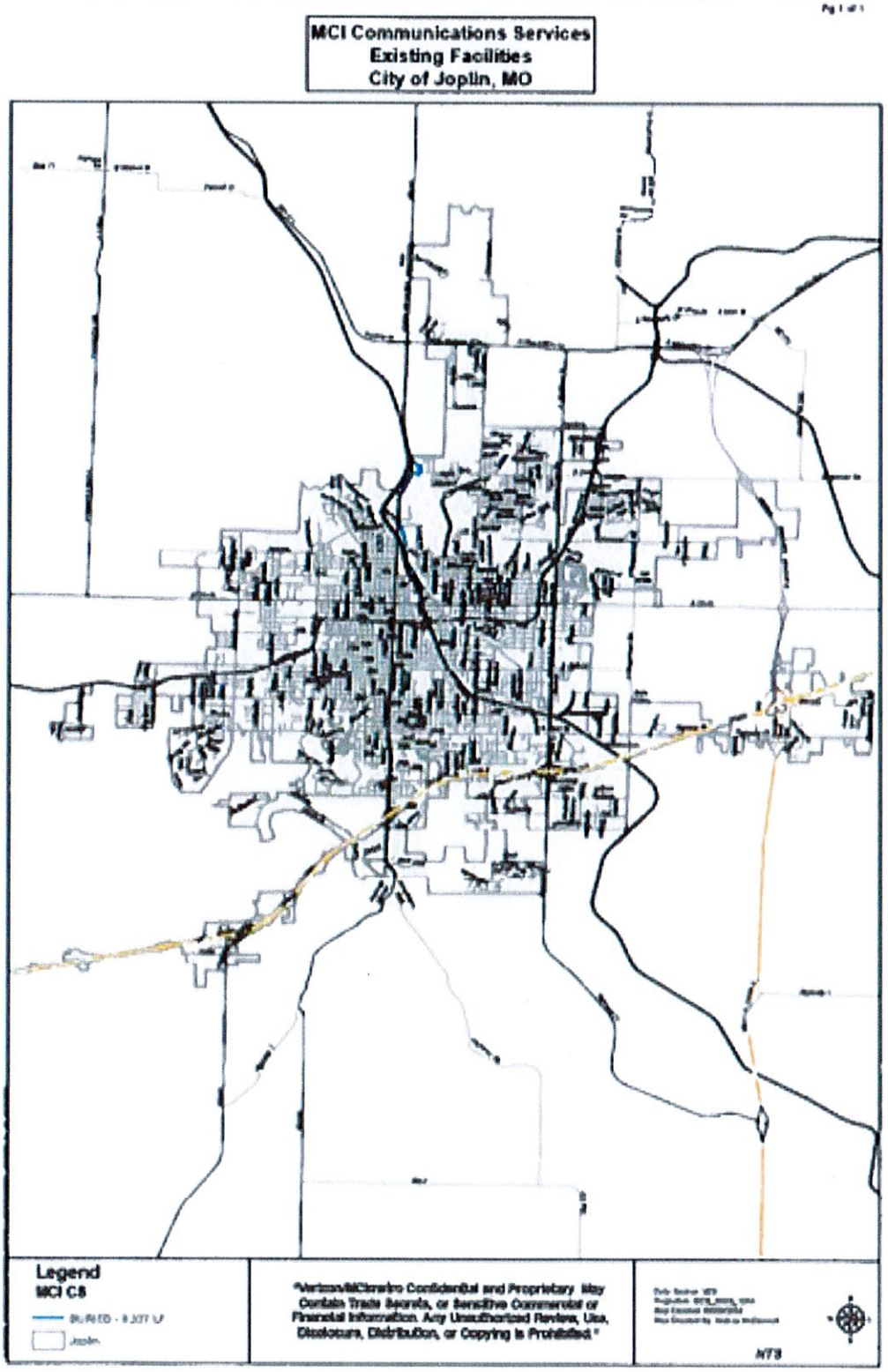
control, maintain, modify, physical access, or revise the facilities in the ROW, whether specific facilities or not; and

- Does not grant any rights or remedies as against the City and any such rights or remedies are limited to those as may be granted herein to be directly exercised by Licensee.

5. Wireless Facility locations or wireless Facilities requested or approved: None.

EXHIBIT B

Map of MCI Communications Services, Inc.'s Existing Facilities



COUNCIL BILL NO. 2019-159 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin to enter into an agreement with MCI Communications Services, Inc. ("MCICS") for the purpose of MCICS installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property; authorizing the City Manager to execute the same 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, as follows:

Section 1. That the agreement by and between the City of Joplin and MCI Communications Services, Inc. for the purpose of MCICS installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property, a true and accurate copy of said agreement being attached hereto and incorporated as "Exhibit A," be and the same is hereby approved.

Section 2. That the City and MCICS also desire to compromise, resolve, and settle their disputes regarding unpaid Rights-of-Way compensation amounts due and payment obligations of MCICS for the 9,337 linear feet of Facilities represented by MCICS as currently being within the City's Rights-of-Way, and any tax credit or other credits MCICS claims as any offset to such amounts claimed owed for past use of the City's Rights-of-Way by MCICS and its predecessor entities (the "Dispute"), and a settlement and release relating to that Dispute between the City and MCICS is contained within MCICS' Rights-of-Way Use Agreement.

Section 3. That the City Manager of the City of Joplin, Missouri, is hereby authorized to execute said agreement, or agreement in substantially similar form, by and on behalf of the City of Joplin.

Section 4. That the City hereby declares that this Ordinance, being an Ordinance relating to any public improvement, is considered an emergency within the meaning of Section 2.12(6) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, this Ordinance shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of December, 2019, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-160 – authorizing the City of Joplin to enter into an agreement with MCImetro Access Transmission Service Corp. d/b/a Verizon Access Transmission Services ("MCImetro") for the purpose of MCImetro installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property.

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Public Works

ATTACHMENTS
CB2019-160 Ordinance; Rights-of-Way Use Agreement for Communications Facilities

REVIEWED BY
Dept. Head: David Hertzberg; Director of Finance: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
Council Bill 2019-160 authorizes the City of Joplin to enter into an agreement with MCImetro for the purpose of MCImetro installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property.

BACKGROUND
The City adopted the Rights-of-Way Management Code on May 6, 2019. The City's Rights-of-Way Use Agreement for Communications Facilities with MCImetro is an agreement produced under the ROW Management Code. MCImetro will maintain 19,846 linear feet of underground facilities and pay a linear foot fee of $6,350.72 per month. The agreement is for a term of 10 years.

FUNDING SOURCE
N/A

RECOMMENDATION
Staff recommends adoption of this Council Bill on an Emergency basis, being an Ordinance dealing with a public improvement, within the meaning of Section 2.12(6) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, this Ordinance shall become effective immediately upon its passage.

Exhibit A
MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services Rights-of-Way Use Agreement

RIGHTS-OF-WAY USE AGREEMENT FOR COMMUNICATIONS FACILITIES

THIS RIGHTS-OF-WAY USE AGREEMENT FOR COMMUNICATIONS FACILITIES ("Agreement") is made and entered into as of the Effective Date (as defined in Section 11.1), by and between, **MCImetro Access Transmission Services Corp.**, a Delaware corporation, **d/b/a Verizon Access Transmission Services**, registered to do business in Missouri (the "Licensee"), and the **City of Joplin, Missouri**, a municipality of the State of Missouri (the "City"). Licensee and City may sometimes be referred to in this Agreement individually as a "Party" or collectively as the "Parties."

WHEREAS, Licensee has requested consent from the City to authorize its use of the City's Rights-of-Way to construct, install, maintain, and operate facilities for communications or related capabilities; and

WHEREAS, Missouri law provides conditions relating to the City's consent to, and authorizes the City to regulate the use and occupancy of its Rights-of-Way ("Rights-of-Way" or "ROW") for placement of various communications facilities; and

WHEREAS, the City is authorized to and has established standards for occupancy of the Rights-of-Way by communications facilities and other uses that are consistent with and recognize the Public Service Commission's duties and jurisdiction; and

WHEREAS, the City and Licensee desire to enter into this Agreement, to establish the terms of Licensee's use of the Rights-of-Way, and to incorporate the provisions and definitions of the ROW Code (as defined in Section 1.2); and

WHEREAS, the City and Licensee desire to compromise, resolve, and settle their disputes regarding unpaid ROW compensation amounts due and payment obligations of the Licensee for the 19,846 linear feet of Facilities represented by the Licensee as currently being within the City's ROW, and any tax credit or other credits Licensee claims as any offset to such amounts claimed owed for past use of the City's Rights-of-Way by Licensee and its predecessor entities (the "Dispute"), and a settlement and release relating to that the Dispute between the City and Licensee is contained within Licensee's ROW Use Agreement; and

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

SECTION 1. GENERAL

1.1 Preservation of Police Power Authority. Any rights granted to Licensee pursuant to this Agreement are subject to the authority of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public.

1.2 Defined Terms. For purposes of this Agreement, the capitalized terms shall have the meanings as set forth herein and in the Code of Ordinances, City of Joplin, Missouri, including specifically Article VI of Chapter 106, and as may be amended ("ROW Code"). Words used in the present tense include the future tense, words in the single number include the plural number,

and words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning. The following additional capitalized terms shall also apply to this Agreement:

A. "**Communications**" The transmission via the Facilities, in whole or in part, between or among points specified by the user, of information of the user's choosing (e.g., data, video, voice), without change in the form or content of the information as sent and received, regardless of the statutory or regulatory scheme to which such transmissions may be subject.

B. "**Communications Service**" The transmission of writing, signs, signals, pictures, sounds or other forms of intelligence through wire, wireless or other means, including, but not limited to, any "telecommunications service," "enhanced service," "information service," or "Internet Service," as such terms are now, or may in the future, be defined under applicable law, and including all instrumentalities, Facilities, apparatus (Communications Facilities), and services (among other things, the receipt, forwarding, and delivery of Telecommunications) incidental to such transmission or designed to directly or indirectly facilitate or accept such transmission and shall also include "video services" as defined in § 67.2677 RSMo. The term "Communications Service" does not include the rental of conduit or physical facilities, which if proposed must be expressly separately approved in Exhibit A below or sought directly by such third party from City. Any party seeking to provide cable television, video services, or use wireless communication facilities shall be subject to additional and separate requirements, limitations and/or approvals of federal, state and local law and shall have on file with the City such authorization to provide such services prior to commencement.

1.3 Agreement Subject to Provisions of ROW Code. This Agreement fully incorporates the provisions of the ROW Code as if fully set forth herein, and Licensee agrees as a part of this Agreement to abide by the provisions of the ROW Code and other applicable ordinances and law of the City as a ROW User, and to be subject to the enforcement by the City as provided therein and in this Agreement as a material term herein. This Agreement may establish Licensee obligations that are supplementary to the ROW Code, but nothing in this Agreement shall be deemed to waive any obligation or requirement applicable to Licensee authorized or established by the ROW Code. The consent to use the Rights-of-Way authorized by this Agreement is subject to the continuing accuracy during the term of this Agreement of the application information provided by and maintained by Licensee for this authorization as provided to and on file with the City.

SECTION 2. GRANT OF AUTHORITY TO USE THE RIGHTS-OF-WAY

2.1 Agreements Non-Exclusive. This Agreement shall grant nonexclusive privileges to use the Rights-of-Way. The City specifically reserves the right to grant, at any time, such additional agreements or other rights to use the Rights-of-Way for any purpose and to any other person, including itself, as it deems appropriate, subject to applicable federal and state law. Nothing in this Agreement shall relieve Licensee from its obligations to apply for and obtain all necessary permits for installation of its Facilities including excavation, building, electrical, zoning, etc., before installation of its Facilities within the Rights-of-Way.

2.2 Nature of Rights Granted by this Agreement. This Agreement shall not convey title to Licensee, equitable or legal in the Rights-of-Way, and gives only the right to occupy the City's Rights-of-Way for the purposes and for the period stated in this Agreement and subject to the requirements of this Agreement. This Agreement also shall not grant the right to use Facilities owned or controlled by the City or a third-party, without the separate consent of the City or such third-party owning or controlling the Facilities, nor shall it excuse Licensee from obtaining appropriate access or pole attachment agreements before locating on Facilities controlled or owned by the City or a third-party.

2.3 Grant. Subject to the terms and conditions of this Agreement, the ROW Code, and the conditions set forth on Exhibit A attached hereto and incorporated by reference into this Agreement, Licensee is hereby granted the nonexclusive right and privilege to construct, operate, and maintain Facilities in, through, over, above, and along the City's Rights-of-Way for the purposes of supplying **Communications Service** within the City, subject, however, to the terms and conditions herein set forth within this Agreement and the Row Code and all such special conditions as may be set forth in Exhibit A. Licensee agrees that this Rights-of-Way Use Agreement shall supersede any existing franchise or other rights-of-way use agreement between the Licensee and the City, if any. As a condition of this grant, Licensee is required to obtain and maintain any permit, license certification, grant, registration or any other authorization lawfully required by any appropriate governmental entity, including, but not limited to, the City, the Federal Communications Commission, or the Missouri Public Service Commission. Licensee shall not have the right to install wireless antennae or antennae support structures in the ROW pursuant to this Agreement, nor provide services not authorized herein, except as provided in Exhibit A, or such subsequent amendment as may be approved thereto. The size, location, and specifications of the underground and above-ground Facilities are subject to prior City approval and consent. In the event that the use of the Rights-of-Way is proposed to change or Licensee desires to provide services other than as described herein, Licensee shall be required to seek amendment hereto prior to commencing such service or changed use.

2.4 Use of Rights-of-Way; Police Powers; Licensee's Use Subordinate. The Licensee shall construct and maintain its Facilities in accordance with all applicable federal, state and local laws, codes and ordinances, including all permit requirements, and fee payments, in effect as of the Effective Date or adopted after the Effective Date, to the extent such are not in contravention of applicable law. The City makes no express or implied representation or warranty regarding its rights to authorize the installation or construction of Licensee's Facilities on any particular segment of Rights-of-Way. The burden and responsibility for making all such determinations in advance of construction or installation shall be entirely upon Licensee. The use of the Rights-of-Way authorized by this Agreement shall in all matters be subordinate to the City's use of, and rights to, the same and Licensee shall be limited to such uses as have been expressly granted to Licensee by the City. Licensee shall excavate in or install Facilities in the Rights-of-Way in locations and in a manner only as authorized by a permit granted by the City. Licensee shall further be subject to the City's exercise of its powers, including but not limited to its administration and regulation related to the management of the Rights-of-Way exercised in a competitively neutral and non-discriminatory reasonable manner.

2.5 No Interference. Licensee shall construct and maintain its Facilities to be so located, constructed, and maintained as to avoid interference with the proper use of all Rights-of-Ways and so as not to materially or without authority interfere with other users of the Rights-of-Way. Except as may otherwise be provided, the Licensee shall reasonably notify all residents and properties materially affected by the proposed work prior to commencement of such work. All construction and maintenance by Licensee or its subcontractors shall be performed in accordance with generally accepted industry standards and all standard specifications, drawings, and procedures required or approved by the City.

2.6 Notification, Joint Installation, and Collocation Requirements. Licensee shall, prior to any excavation or installation within the Rights-of-Way, provide sufficient notification and joint installation opportunity on a shared-cost basis to potential users of the Rights-of-Way under such generally applicable written policy or direction as may be established by the City. Licensee shall further make its installed Facilities available to other licensees on a nondiscriminatory competitively neutral basis as may be required by federal law codified at 47 U.S.C. § 224.

2.7 Licensee Responsible for Costs. The Licensee shall be responsible for all reasonable, lawfully reimbursable, documented costs incurred by the City that are directly associated with its installation, maintenance, repair, operation, use, and replacement of its Facilities within the Rights-of-Way, that are not otherwise accounted for as part of the permit fee established pursuant to the ROW Code and not contrary to any applicable requirements of Sections 67.1830 to 67.1846 RSMo. All such costs shall be itemized and the City's books and records related to these costs shall be made available upon request to the Licensee. Licensee shall be responsible for its own costs incurred removing or relocating its Facilities when required to do so by the City due to the City requirements relating to maintenance and use of the Rights-of-Way as set forth in Section 7.6, below.

SECTION 3. TERM, COMPENSATION, AND SETTLEMENT

3.1 Term. This Agreement shall be effective for a term commencing for **Ten years from the Effective Date** and subject to earlier termination or forfeiture as provided for elsewhere in this Agreement.

3.2 Compensation. The Licensee agrees to pay the User Fees and such other compensation in the amount and under such additional regulations and provisions as are set forth in the City's policies and ordinances. Unless otherwise established by the City Council, Licensee shall pay to the City as monthly compensation for the use of the Rights-of-Way pursuant to this executed Agreement:

a. Linear Foot Fee: one thousand dollars ($1,000.00)/month for the first (1st) mile of linear Facilities, or part thereof, plus a monthly payment of $0.16 per linear foot for each additional linear foot of Facilities located in the Rights-of-Way, with the User Fee being capped at eight thousand dollars ($8,000.00)/month for each user; and

provided that all Right-of-Way Users shall be entitled to a credit against the User Fee due hereunder equal to the payment(s) from such Right-of-Way User in accordance with Section

67.1846 RSMo.; provided, however, such credit cannot exceed the amount due under this subsection and may not be carried forward or back to any other time period and a credit shall not apply to any taxes paid under protest or otherwise paid with qualification unless so required by law. Unless otherwise provided by law, including lawful action of the Council, the User Fee herein shall increase by two percent (2%) per year during the term of this Agreement (and annually thereafter if the term is extended without a change in this provision).

Licensee represents that it currently has 19,846 linear feet of Facilities and 0 antennas installed in City Rights-of-Way ("Existing Facilities"), as depicted on Exhibit B attached hereto and incorporated herein. Licensee has also represented to the City that the Facilities described in the application submitted to the City on September 3, 2019 (the "Application") (19,846 linear feet) are the only Facilities that Licensee has within the City's Rights-of-Way, which Facilities are depicted on Exhibit B. If it is discovered that Licensee has underrepresented the total Facilities within the Rights-of-Way, or otherwise has additional Facilities therein, Licensee shall owe the City for such amount pursuant to the City's Code, including but not limited to § 106-142 on such additional Facilities from May 1, 2019 and thereafter, or such later date if installed after that date. The actual authorized installation shall be limited to that which has received approved permits from the City and the User Fee shall be paid based on the sum of the actual linear foot of Facilities installed and any additional linear foot approved by permit for installation. All User Fees shall be due and payable every month of each calendar year within thirty (30) days after the end of each such month for which the payment is owed. Each User Fee payment shall be accompanied by an affidavit, signed as true, which may be sent electronically in advance of payment, stating the greatest total linear feet of Facilities located in the Rights-of-Way during the preceding month, the total amount of antennas located in the Rights-of-Way, any credit taken for gross receipt taxes or business license fees paid to the City, and the payment of the User Fee made. If any fee statement is determined to understate the User Fee owed, then such additional amount owed shall be made with a corrected statement, including interest on said amount as provided herein. Any payments due to the City hereunder and not paid at the due date shall bear interest at the rate of one and one-half percent (1.5%) per month, unless such other maximum rate is established by law. On an annual basis by January 31, Licensee shall submit an affidavit certifying as true each statement submitted for the previous twelve (12) months, including the statement for the immediately preceding December. If any statement for the previous twelve (12) months was incorrect, a corrected statement shall be submitted with the affidavit. If an incorrect fee statement understated the User Fee owed, then such additional amount owed, including with interest on said amount as provided herein, shall be submitted with the affidavit. Licensee's credit to the User Fee as authorized above shall be calculated based upon gross receipt taxes paid and attributable to gross receipts received for the same months in which the User Fee is attributable. The User Fee required in this Section shall be paid by Licensee as required herein without offset, credit, refund, or deduction except for such credit as is expressly provided for above for gross receipts taxes paid. Licensee may make the User Fee and eligible tax payment that is subject to credit above all as a single combined payment or in separate payments, and may also send a combined statement or separate monthly statements meeting the applicable requirements.

3.3 User Fee Not a Tax. The above required User Fee and other compensation required herein shall be in addition to, not in lieu of, all taxes, charges, assessments, licenses, fees and impositions otherwise applicable that are or may be imposed by the City, except as may be provided for in the ROW Code, herein, and as set forth in § 67.1846. Licensee acknowledges that

the User Fee is compensation for use of the Rights-of-Way, both underground and above ground, and shall in no way be deemed a tax of any kind.

3.4 Settlement Payment and Release For Past Right-of-Way User Fees. Licensee will pay to the City on or before December 20, 2019, the amount of $43,238.53 as payment ("Settlement Payment") in full for its and its predecessor entities' use of the Rights-of-Way for the linear footage represented by Licensee in the Application up to and including November 30, 2019. The Settlement Payment shall be non-refundable and shall not be subject to credit or offset. Licensee's agreement to make this payment and City's agreement to accept this payment to settle the Dispute shall not constitute or be considered an admission of liability or wrongdoing (including, without limitation, noncompliance with permitting requirements), or an agreement as to the validity of any of the positions advanced by the other regarding the Dispute. Each Party agrees, on behalf of itself and its past, present, and future employees, officers, directors, attorneys, shareholders, representatives, predecessors, successors, permitted assigns, subsidiaries, parents, and partners absolutely, unconditionally, completely, and without reservation, to release, acquit, irrevocably remise, and forever discharge the other Party and its respective past, present, and future employees, officers, directors, attorneys, shareholders, representatives, predecessors, successors, permitted assigns, parents, and partners of and from any and all manner of claims, counterclaims, costs, expenses, demands, rights, liabilities, damages, potential actions, causes of action, suits, judgments, decrees, retroactive adjustments or refunds, interest, late payment charges, fines, bonds, bills, and controversies of any kind and nature whatsoever, at law, in equity, or otherwise including, without limitation, claims based on specific or punitive damages, whether known or unknown, arising from the Dispute, provided nothing herein shall be deemed to release any claim to enforce this Agreement, and any other lawful obligation of Licensee to City or City to Licensee not released herein, including but not limited to such obligations of taxes or regulatory compliance to City as a governmental entity. The Parties acknowledge and agree that, although they may hereafter discover law or facts in addition to or different from those which they know or believe to be true as of the Effective Date related to the Dispute, it is their intention with respect to each other, to settle and release the Dispute fully, finally, and forever; and, in furtherance of such intention, the releases shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts or law; provided nothing herein shall release Licensee from any obligations relating to payment or otherwise for linear feet of Facilities beyond those disclosed in Paragraph 3.2 (the "Existing Facilities" disclosed in 3.2). The Parties may have other disputes between them, known or unknown, that are not settled or released herein. Nothing in this Agreement binds or can bind any entity other than those named above, except as to any predecessor entities pursuant to which the Dispute has arisen. Each Party warrants and represents that it has not assigned, transferred, or conveyed all or any portion of the claims covered by this Agreement and that this warranty and representation is an essential and material term of this Agreement, without which it would not have entered into it.

SECTION 4. TAXES

4.1 Taxes. The Licensee agrees to pay all legally applicable taxes including license taxes, business taxes, utility taxes, video services provider fees, and other applicable taxes of the City and failure to pay such taxes shall be considered a breach of this Agreement. Nothing herein is intended to alter, amend, modify or expand the taxes that may be lawfully assessed on Licensee's business activities under applicable law. Licensee shall be subject to audit and shall itemize by

category of service the amount received and taxes paid for services provided by Facilities in the Rights-of-Way. Such taxes shall be in addition to compensation, if any, required by the City by ordinance or otherwise subject to any limitations herein and of applicable state or federal law.

SECTION 5. TRANSFER OF AGREEMENT OR FACILITIES

5.1 Transfer of Agreement. Unless otherwise prohibited by law, Licensee shall not sell, transfer, lease, or assign this Agreement or its rights under this Agreement, in whole or in part, without obtaining the City's prior consent, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing sentence, Licensee may sell, transfer, lease or assign this Agreement or its rights under this Agreement, in whole or in part, with prior thirty (30) days' written notice to the City if to: (a) any entity controlling, controlled by or under common control with Licensee; (b) any surviving successor entity or newly created successor entity in the event of a merger, reorganization or consolidation involving Licensee. The City reserves the right to be reimbursed for its reasonable costs relating to a transfer of ownership or this Agreement. Licensee shall not change its name under which it does business with the public without providing at least thirty (30) days' prior written notice to the City.

5.2 Agreement Binding. In the event of a sale, transfer, assignment or any other transaction Licensee may enter into that involves transfer of Licensee's rights, duties, and privileges under this Agreement, all provisions of this Agreement that are obligatory upon, or that inure to the benefit of Licensee, shall also be obligatory upon and shall inure to the benefit of any and all successors and assigns of Licensee. Further, all obligations, duties, liabilities, limitations, prohibitions, amendments and forfeitures by this Agreement created or imposed upon Licensee shall be binding upon and be assumed, kept and performed by its legal and bona fide assigns and successors in interest, according to the true intent and purpose of this Agreement, whether expressly so stated or not.

5.3 Sale or Lease of Facilities. Except as otherwise may be provided by law, Licensee shall not lease, sell, sublet or otherwise transfer possession or control or use of the Facilities, or any portion thereof, for any purpose to any person that has not obtained a duly issued Agreement, or other grant by the City to use the Rights-of-Way and which includes the authority to use or maintain such leased or transferred Facilities. Notwithstanding the foregoing, Licensee may use and maintain Licensee's installed Facilities for the benefit of its customers of its Communications Services provided that any such customer shall have no right of physical access to the Facilities in the ROW without a separate agreement with the City.

SECTION 6. FORFEITURE OF LICENSE AND PRIVILEGE.

6.1 Forfeiture. In case of material failure on the part of the Licensee, its successors and assigns, to comply with any of the provisions of this Agreement, including the provisions of any applicable law, or if the Licensee, its successors and assigns, should do or cause to be done any act or thing prohibited by or in violation of the terms of this Agreement, including the provisions of the ROW Code, or if the Licensee loses authority to provide its Communication Services or do business within the City under applicable law, or if the Licensee, its successors and assigns, shall forfeit all rights and privileges permitted herein, and all rights hereunder shall cease, terminate, and become null and void, provided that said forfeiture shall not take effect until the

City shall carry out the following proceedings: before the City proceeds to forfeit this Agreement, it shall first serve a written notice upon the Licensee, setting forth in detail the neglect or failure complained of, and the Licensee shall have thirty (30) days thereafter in which to cure the default by complying with the conditions of this Agreement. If at the end of such thirty (30) day period the City determines that the conditions have not been complied with, unless said material default could not have been cured within said thirty (30) day period by Licensee exercising reasonable diligence and Licensee is exercising diligence to cure said default, the City shall take action by an affirmative vote of the City Council present at the meeting and voting, at which Licensee may appear and be heard, to terminate the Agreement; setting out the grounds upon which said Agreement is to be canceled or terminated. Nothing herein shall prevent the City from taking any other action or remedy as may be set forth in the City's ordinances, or as may otherwise exist at law. All remedies described in this Section are cumulative and in addition to any other rights and remedies to which City may be entitled at law, in equity or under this Agreement.

SECTION 7. GENERAL CONDITIONS

7.1 Compliance With Laws. In performing activities and exercising its rights and obligations under this Agreement, the Licensee shall comply with all applicable federal, state and local laws, ordinances, regulations and policies, including, but not limited to, all laws, ordinances, zoning, and other regulations and policies relating to construction, bonding, insurance, and use of public property.

7.2 Insurance. In addition to the requirements of Section 106-148 of the ROW Code, except as may be prohibited by law, Licensee shall provide, at its sole expense, and maintain during the term of this Agreement commercial general liability insurance with a reputable, qualified, and financially sound company licensed to do business in the State of Missouri, and unless otherwise approved by the City, with a rating by Best of not less than "A," that shall protect the Licensee, the City, and the City's officials, officers, and employees from claims which may arise from operations under this Agreement, whether such operations are by the Licensee, its officers, directors, employees and agents, or any subcontractors of Licensee. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from all Licensee operations, products, services or use of automobiles, or construction equipment. The amount of insurance for Single Limit Coverage applying to Bodily and Personal Injury and Property Damage shall be at least $2,804,046, but in no event less than the individual and combined sovereign immunity limits established by § 537.610 RSMo., or its successor, for political subdivisions; provided that nothing herein shall be deemed to waive the City's sovereign immunity. An endorsement shall be provided which states that the City is named as an additional insured with full and equivalent coverage as the insured under the insured's policy and stating that the policy shall not be cancelled or materially modified so as to be out of compliance with the requirements of this Section, or not renewed without thirty (30) days' advance written notice of such event being given to the Director. The City's additional insured coverage shall have no deductible. **The insurance requirements in this Section or otherwise shall not apply to Licensee to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to § 67.1830(6)(a) RSMo. and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets and the facts otherwise establishing that Licensee is therefore so exempted and**

provided that this exemption shall not apply if Licensee uses or obtains the right to use any City poles or other facilities.

7.3 **Construction Guarantee and Maintenance.** Licensee agrees that it shall be responsible to guarantee for a period of four years the restoration of the Rights-of-Way in the area where such Licensee conducted excavation and performed the restoration minimally as required by § 67.1834 RSMo. A bond, letter of credit or other surety (collectively "Surety") in the form approved by the City shall be posted if required by the City to guarantee construction performance. **Surety shall not be required to the extent and for such period during this Agreement as Licensee is exempted from such requirements pursuant to § 67.1830(6)(a) RSMo. and has on file with the City Clerk an affidavit certifying that Licensee has twenty-five million dollars in net assets and the facts otherwise establishing that Licensee is therefore so exempted and provided that this exemption shall not apply if Licensee uses or obtains the right to use any City poles or other facilities.** Licensee shall also be responsible for maintenance of its Facilities and any and all damage caused to the Rights-of-Way, equipment within the Rights-of-Way, or otherwise by Licensee's use of the Rights-of-Way.

7.4 **Enforcement; Attorneys' Fees.** The City shall be entitled to enforce this Agreement through all remedies lawfully available, and Licensee shall pay the City its costs of enforcement, including reasonable attorneys' fees, in the event that Licensee is determined judicially to have violated the terms of this Agreement.

7.5 **Relationship of the Parties.** Under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture, or employment between the Parties.

7.6 **Relocation or Removal of Facilities.**

7.6.1 In addition to the requirements of Section 106-147 of the ROW Code, the City may in its exercise of the public interest require that Licensee, at Licensee's sole cost and expense, relocate, adjust, or reinstall any of its Licensee's Facilities. The City shall give reasonable notice of such requirement to Licensee, including the location of Facilities to be relocated and a reasonable time to relocate such Facilities. Licensee shall forthwith remove, adjust, or relocate such Facilities within the reasonable time provided by the City in its written notice. The cost of such relocation, removal, or reinstallation of the Facilities shall be the exclusive obligation of said Licensee without expense to the City. If any Facilities are not relocated in accordance with this Section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be jointly and severally liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages. Any time period during which Licensee is unable to relocate its Facilities due to the actions or inactions of a third party, which is unaffiliated to Licensee and not under contract with or control of Licensee, including, without limitation, the City, will not be counted against the reasonable time frame allowed to Licensee to relocate its Facilities.

7.6.2 Licensee shall upon request of any person other than the City requesting relocation of Facilities and holding a validly issued building or moving permit and within a reasonable period as may be established by the City, temporarily raise, lower, adjust, or relocate its Facilities as may be reasonably necessary for such permit-holder to exercise its rights under the

permit. Except where good cause is approved by the City, a permit-holder must make its request at least fourteen (14) days prior to the date it intends to exercise its rights under the permit. If applicable, Licensee will, within seven (7) days of its receipt of such a request, deliver to the permit-holder an invoice for the services. However, Licensee will not be required to honor any such request unless and until the permit-holder makes payment in advance for any expenses incurred by said Licensee pursuant to said person's request. If any Facilities are not relocated in accordance with this Section and within the reasonable time frames required by the City, the City or its contractors may relocate the Facilities and the Licensee and its surety shall be jointly and severally liable to the City for any and all costs incurred by the City, including but not limited to any liquidated delay damages. Any time period during which Licensee is unable to relocate its facilities due to the actions or inactions of a third party, which is unaffiliated to Licensee and not under contract with or control of Licensee, including, without limitation, the City, will not be counted against the reasonable time frame allowed to Licensee to relocate its Facilities.

7.7 No Cause of Action Against the City. The Licensee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from any of the provisions or requirements of this Agreement, or because of the enforcement thereof by said City, or for the failure of the City to have the authority to grant, all, or any part, of the rights herein granted; provided that said Licensee expressly acknowledges that it accepted the rights herein granted under this Agreement in reliance upon its independent and personal investigation and understanding of the power or authority of the City to enter into the Agreement herein with Licensee; provided further that the Licensee acknowledges by its acceptance of said Agreement that it has not been induced to enter into this Agreement upon any understanding, or promise, whether given verbally or in writing by or on behalf of any Party, or by any other person concerning any term or condition of this Agreement not expressed herein; provided further that the Licensee acknowledges by the acceptance of this Agreement that it has carefully read the provisions, terms, and conditions hereof and all incorporated provisions and is willing to, and does accept, all of the risk attendant to said provisions, terms, and conditions of this Agreement. Nothing herein shall be deemed to waive the City's sovereign immunity.

SECTION 8. INDEMNIFICATION

8.1 Indemnification. Licensee at its sole cost and expense, hereby agrees to indemnify, protect, release, defend (with counsel acceptable to the City) and hold harmless the City, its municipal officials, elected officials, councils, boards, commissions, officers, employees, attorneys, and agents, from and against any and all causes of action, claims, demands, all contractual damages and losses, economic damages and losses, all other damages and losses, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and expenses of any kind, including, without limitation, reasonable attorney's fees and costs of defense arising, directly or indirectly, in whole or in part, from the action or inaction of Licensee, its agents, representatives, employees, contractors, subcontractors or any other person for whose acts Licensee may be liable, in constructing, operating, using, maintaining, repairing, restoring or removing Facilities, or in carrying on Licensee's business or operations in the City, or out of the fact that the City entered into this Agreement with Licensee, the rights granted to Licensee, or the activities performed, or failed to be performed, by Licensee under this Agreement, or otherwise, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of the City, its elected officials,

officers, employees, agents or contractors, or as otherwise may be limited by law. This indemnity shall apply, without limitation, to any claim or cause of action for invasion of privacy, defamation, antitrust, negligence, theft, fire, violation or infringement of any copyright, trademark, trade name, service mark or patent or intellectual property right of any person, whether or not any act or omission complained of is authorized, allowed or prohibited by this Agreement. The indemnification, duty to defend, and hold harmless obligations set forth in this Section shall survive for a period of five (5) years after the date of expiration or termination of this Agreement. Any payments required by Licensee to City pursuant to this indemnification paragraph or otherwise required under this Agreement shall accrue interest from the date due at one and one-half percent (1.5%) interest per month until fully paid.

SECTION 9. NOTICE

9.1 Any notice, demand, consent, approval, request or other communication required or permitted to be given to either Party under or with respect to this Agreement (collectively, "Notice") must be in writing and must be delivered in person, by a reputable overnight delivery service or by certified mail, postage prepaid, return receipt requested, to the appropriate address(es) set forth below:

If Notice to Licensee:

MCImetro Access Transmission Services Corp.
d/b/a Verizon Access Transmission Services
600 Hidden Ridge Drive, E02E85
Irving, TX 75038
Attn: Manuj Devdas, Franchise Group

If Notice to City:

City of Joplin, Missouri
602 South Main Street
Joplin, MO 64801
Attn: City Manager

City of Joplin, Missouri
602 South Main Street
Joplin, MO 64801
Attn: Legal Department

9.2 If notice is given by personal delivery, a receipt indicating that personal delivery was made must be obtained. Notice will be deemed effective on the date of receipt by the addressee as shown on the receipt if given by personal delivery, on the return receipt if notice is given by certified mail or the confirmation of delivery form if notice is given by overnight delivery service. Rejection or refusal to accept or the inability to deliver because of a changed address of which no proper notice was given will be deemed to be receipt of the notice as of the date of rejection, refusal or inability to deliver. Either Party may change its address for notice by giving notice of address change to the other Party in the manner for giving notice prescribed in Section 9.1.

SECTION 10. MISCELLANEOUS

10.1 This Agreement and all Exhibits constitute the entire Agreement between the Parties as to the subject matter of this Agreement, and no negotiations or discussions prior to the Effective Date shall be of any effect.

10.2 The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of any other provision.

10.3 No term or condition of this Agreement will be deemed to have been waived by a Party unless the waiver is made in writing and is signed by the Party against whom the waiver is claimed. No waiver of default or breach of this Agreement or consent to the default or breach will be deemed to have been waived or consented to unless the waiver or consent is made in writing and signed by the Party against whom the waiver or consent is claimed. The waiver of or consent to a breach or default of this Agreement will not be deemed to be a waiver of or consent to any other breach or default of this Agreement, or to or any subsequent breach or default of the same term, or condition of this Agreement. No course of dealing or conduct or failure of a Party to strictly enforce any term, right or condition of this Agreement constitutes a general waiver or relinquishment of the term, right or condition.

10.4 The rights and remedies of the Parties shall be cumulative and in addition to any other rights and remedies provided by law or equity. The laws of the State of Missouri shall govern this Agreement.

10.5 This Agreement is for the benefit of the Parties and not for any other person or entity. This Agreement creates no third-party beneficiary rights.

SECTION 11. EFFECTIVE DATE AND ACCEPTANCE

11.1 This Agreement shall be effective on the date this Agreement is last signed by both Parties ("Effective Date"). The Parties acknowledge that this Agreement is a lawful contract between them, that they entered into this Agreement voluntarily, and have full authority to sign this Agreement.

IN WITNESS WHEREOF, this Agreement is entered into as of the Effective Date.

CITY OF JOPLIN, MISSOURI

_____
Gary Shaw, Mayor

Date: _____

ATTEST:

_____
Barbara Gollhofer, City Clerk

MCIMETRO ACCESS TRANSMISSION SERVICES CORP. d/b/a VERIZON ACCESS TRANSMISSION SERVICES

By: Robert J. Hayes

Print Name: Robert J. Hayes

Title: Sr. Manager Network Engineering

Date: 11/19/2019

STATE OF TEXAS)
) ss.
COUNTY OF DALLAS)

The forgoing instrument was acknowledged before me this November 19, 2019, by Robert J. Hayes, Sr. Manager, Network Engineering, on behalf of MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services. This person is personally known to me or has produced Drivers License as identification.

_____
(Signature of Notary taking Acknowledgment)

Notary Public, State of Texas

My Commission Expires: 3/29/2023

JOHN BRADLEY DUHE
Notary ID #131952939
My Commission Expires
March 29, 2023

EXHIBIT A

SPECIAL CONDITIONS

The following special conditions shall be a condition of this Agreement and shall supplement and limit any provision in this Agreement to the contrary:

1. All new Licensee Facilities shall be installed underground, except where good cause is shown to authorize use of existing above-ground Licensee Facilities, including (1) when and where nearby similar facilities exist above ground or (2) when conditions are such that underground construction is impossible, impracticable or economically unfeasible, as determined by the City. Above-ground Facilities authorized for good cause shall, in the City's reasonable judgment be limited to construction and Facilities having minimal detrimental impact on the area where construction is proposed. Ground-mounted pedestals customarily installed for underground Facilities shall be authorized subject to applicable permit requirements and design, location, appearance and other reasonable requirements of the City, provided that such pedestals or equipment that are larger than 3 feet in height or otherwise not customarily found within the City limits shall not be deemed authorized by this Agreement without specific separate written authorization of the City.

2. Licensee acknowledges and agrees that pursuant to its obligation to pay all applicable taxes it shall pay the City's license tax as an entity authorized to furnish exchange telephone service, if applicable, and shall remit to the City such tax on gross receipts of its business as required by Division 3 of Article III of Chapter 30 of the City Code of Ordinances, or as may be amended, regardless of technology or nomenclature used by Licensee to provide such services, including but not limited to wire, wireless, internet-based transmissions, and switched or unswitched, to the extent permitted by law.

3. Licensee represents and agrees that it (including its duly licensed contractors acting on its behalf identified on the right-of-way permit application or otherwise to the City) shall not authorize third-parties without a valid license, Right-of-Way Use Agreement, or other lawful authorization in writing from the City to be within the City's Rights-of-Way to install or perform maintenance on its Facilities or have physical access thereto in the Rights-of-Way.

4. For purposes of clarification only, a document providing Communication Service to a third party as authorized herein but nominated or referred to as lease authorizing a service or use to a third-party shall not be deemed to violate Section 5.3, or constitute rent outside the scope of providing a Communication Service, solely because of such nomenclature or reference provided it otherwise complies with the requirements of this Agreement and meets the following conditions:

    - Does not provide the third-party with an ownership or property interest in or any form or type of title in the ROW, ROW Agreement, or any facilities in the ROW, whether temporary or otherwise, and the lessee does not acquire the right to own,

control, maintain, modify, physical access, or revise the facilities in the ROW, whether specific facilities or not; and

- Does not grant any rights or remedies as against the City and any such rights or remedies are limited to those as may be granted herein to be directly exercised by Licensee.

5. Wireless Facility locations or wireless Facilities requested or approved: None.

EXHIBIT B

Map of MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services's Existing Facilities



COUNCIL BILL NO. 2019-160 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin to enter into an agreement with MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services ("MCImetro") for the purpose of MCImetro installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property; authorizing the City Manager to execute the same 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, as follows:

Section 1. That the agreement by and between the City of Joplin and MCImetro Access Transmission Services Corp. d/b/a Verizon Access Transmission Services for the purpose of MCImetro installing, maintaining, and operating facilities for communications related capabilities within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property, a true and accurate copy of said agreement being attached hereto and incorporated as "Exhibit A," be and the same is hereby approved.

Section 2. That the City and MCImetro also desire to compromise, resolve, and settle their disputes regarding unpaid Rights-of-Way compensation amounts due and payment obligations of MCImetro for the 19,846 linear feet of Facilities represented by MCImetro as currently being within the City's Rights-of-Way, and any tax credit or other credits MCImetro claims as any offset to such amounts claimed owed for past use of the City's Rights-of-Way by MCImetro and its predecessor entities (the "Dispute"), and a settlement and release relating to that Dispute between the City and MCImetro is contained within MCImetro's Rights-of-Way Use Agreement.

Section 3. That the City Manager of the City of Joplin, Missouri, is hereby authorized to execute said agreement, or agreement in substantially similar form, by and on behalf of the City of Joplin.

Section 4. That the City hereby declares that this Ordinance, being an Ordinance relating to any public improvement, is considered an emergency within the meaning of Section 2.12(6) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, this Ordinance shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of December, 2019, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-533 – Approving a budget amendment for FY 2020

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-533 Ordinance; Schedule "A" Budget Amendment

REVIEWED BY
Department Head: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
This Council Bill amends the adopted 2019-2020 Budget of the City of Joplin.

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

Here is the explanation for the items in Schedule A:

- Amend the City Facilities Maintenance budget in the amount of $10,250.00 to replace one of the 75-ton compressors at the Justice Center.

The purpose of the budget amendment is to recognize changes that have occurred since the annual budget was adopted. This budget amendment increases expenditures by $10,250.00.

FUNDING SOURCE
This item is not applicable for budget amendments.

RECOMMENDATION
Staff recommends approval of this council bill on an emergency basis.

COUNCIL BILL NO. 2019-533 **ORDINANCE NO.**

AN ORDINANCE amending the Annual Budget of the City of Joplin for the Fiscal Year 2019-2020 as adopted by Ordinance 2019-166 on October 21, 2019, to adjust appropriations and containing an emergency clause.

WHEREAS, the City of Joplin, Missouri passed Ordinance 2019-166 on October 21, 2019, which estimated revenues and appropriated funds for the fiscal year 2019-2020, and

WHEREAS, the Council of the City of Joplin has previously approved the programs and projects which require additional appropriations for completion.

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

Section 1. That fiscal year 2019-2020 budgeted appropriations as adopted by Ordinance 2019-166 be amended by increasing appropriations by the total amount of Ten Thousand Two Hundred Fifty Dollars and No Cents ($10,250.00) for the purposes and amounts as shown in Schedule "A" attached hereto.

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 order to continue the day-to-day operations of the City and as such shall become effective immediately upon its passage.

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

of _____, 2019, by a _____vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

SCHEDULE A

CITY OF JOPLIN
BUDGET AMENDMENT
2019-2020 ADOPTED BUDGET
2-Dec-19

FUND	ACTIVITY	ACCOUNT	DESCRIPTION		REVENUES	EXPENDITURES
001	General Fund					
	City Facility Maintenance	001-4502-520-8220	Operating Equipment	$	-	10,250
	Total General Fund			$	-	10,250
	Grand Total			$	-	10,250

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-534 – Changing the exempt status of two positions on the Salary Administration Plan

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-534 Ordinance; Exhibit "A" Salary Administration Plan

REVIEWED BY
Department Head: Leslie Haase; Human Resources Director: Dave Allgood; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
This Council Bill changes the exempt status of two positions on the Salary Administration Plan.

BACKGROUND
The U.S. Department of Labor changed the minimum salary threshold to qualify for exemption from overtime in the Fair Labor Standards Act (FLSA) from the current level of $23,660.00 annually to $35,308.00 effective January 1, 2020. As a result of this change, Human Resources and Finance reviewed any positions currently classified as exempt that have a starting pay less than this amount.

We have two positions on the pay plan, a Nutritionist I at Grade 180 and an Environmental Public Health Specialist I at Grade 190 affected by this change. After reviewing the exemption rules for these positions, it has been determined that both positions should be classified as non-exempt positions. As such, the Salary Administration Plan is being revised to reflect these changes. With this change, employees in these positions will be eligible for overtime under the FLSA rules.

FUNDING SOURCE
This is not applicable for this item.

RECOMMENDATION
Staff recommends approval of this council bill on an emergency basis.

COUNCIL BILL NO. 2019-534 **ORDINANCE NO.**

AN ORDINANCE approving exempt status changes to the Salary Administration Plan for the City of Joplin and containing an emergency clause.

WHEREAS, the U.S. Department of Labor has changed the minimum salary threshold to qualify for exemption from overtime in the Fair Labor Standards Act (FLSA); and,

WHEREAS, the current Salary Administration Plan requires changes to remain in compliance with this change in the law; and,

WHEREAS, the City of Joplin desires to change the Plan to meet federal regulations.

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

Section 1. That approval of the change in exempt status for Nutritionist I and Environmental Public Health Specialist I as shown within the Salary Administration Plan as set forth in Exhibit "A" attached hereto and incorporated herein and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri is hereby authorized to establish these changes in accordance with the attached, for and on behalf of the City of Joplin.

Section 3. This Ordinance is declared by the City Council to be an emergency within this meaning of Section 2.12 (3), of the Home Rule Charter of the City of Joplin, Missouri, in order to continue the day-to-day operations of the City and as such shall become effective immediately upon its passage.

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

of _____, 2019, by a _____vote.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
EXHIBIT "A"-SALARY ADMINISTRATION PLAN
FOR CLASSIFIED AND UNCLASSIFIED POSITIONS
EFFECTIVE DECEMBER 2, 2019
* - unclassified position according to city charter (E) - exempt according to FLSA

Grade	Position (* - unclassified according to city charter)	Step 1 (hrly/annual)	Step 2 (hrly/annual)	Step 3 (hrly/annual)	Step 4 (hrly/annual)	Step 5 (hrly/annual)	Step 6 (hrly/annual)	Step 7 (hrly/annual)	Step 8 (hrly/annual)	Step 9 (hrly/annual)	Step 10 (hrly/annual)	Step 11 (hrly/annual)	Step 12 (hrly/annual)	Step 13 (hrly/annual)	Step 14 (hrly/annual)	Step 15 (hrly/annual)	Step 16 (hrly/annual)	Step 17 (hrly/annual)	Step 18 (hrly/annual)	Step 19 (hrly/annual)	Step 20 (hrly/annual)	Step 21 (hrly/annual)	Step 22 (hrly/annual)
100	Cook	$9.719	$9.913	$10.112	$10.314	$10.520	$10.731	$10.945	$11.164	$11.387	$11.615	$11.847	$12.084	$12.326	$12.573	$12.824	$13.080	$13.342	$13.609	$13.881	$14.159		
		$20,216	$20,620	$21,032	$21,453	$21,882	$22,320	$22,766	$23,221	$23,686	$24,159	$24,643	$25,135	$25,638	$26,151	$26,674	$27,207	$27,752	$28,307	$28,873	$29,450		
110	Custodian	$10.714	$10.928	$11.147	$11.370	$11.597	$11.829	$12.066	$12.307	$12.553	$12.804	$13.060	$13.322	$13.588	$13.860	$14.137	$14.420	$14.708	$15.002	$15.302	$15.608		
	Laborer I	$22,285	$22,731	$23,185	$23,649	$24,122	$24,605	$25,097	$25,599	$26,111	$26,633	$27,165	$27,709	$28,263	$28,828	$29,405	$29,993	$30,593	$31,205	$31,829	$32,465		
	Utility Worker																						
	WIC Certifier																						
120	Airport Operations Worker	$11.250	$11.475	$11.705	$11.939	$12.177	$12.421	$12.669	$12.923	$13.181	$13.445	$13.714	$13.988	$14.268	$14.553	$14.844	$15.141	$15.444	$15.753	$16.068	$16.389		
	Court Assistant I	$23,400	$23,868	$24,345	$24,832	$25,329	$25,835	$26,352	$26,879	$27,417	$27,965	$28,524	$29,095	$29,677	$30,270	$30,876	$31,493	$32,123	$32,766	$33,421	$34,089		
	Transit Dispatcher																						
	Transit Driver I																						
130	Automotive Service Worker	$11.812	$12.048	$12.289	$12.535	$12.786	$13.041	$13.302	$13.568	$13.840	$14.116	$14.399	$14.687	$14.980	$15.280	$15.586	$15.897	$16.215	$16.540	$16.870	$17.208		
	Laborer II	$24,569	$25,060	$25,562	$26,073	$26,594	$27,126	$27,669	$28,222	$28,786	$29,362	$29,949	$30,548	$31,159	$31,783	$32,418	$33,067	$33,728	$34,402	$35,091	$35,792		
	Recreation Leader																						
	Senior Clerk																						
	Transit Driver II																						
	Wastewater Laboratory Assistant																						
	Wastewater Plant Utility Worker																						
140	Compliance Officer I	$12.402	$12.650	$12.903	$13.161	$13.424	$13.693	$13.967	$14.246	$14.531	$14.822	$15.118	$15.420	$15.729	$16.043	$16.364	$16.691	$17.025	$17.366	$17.713	$18.067		
	Detention Officer	$25,796	$26,312	$26,838	$27,375	$27,923	$28,481	$29,051	$29,632	$30,224	$30,829	$31,445	$32,074	$32,716	$33,370	$34,037	$34,718	$35,413	$36,121	$36,843	$37,580		
	Engineering Assistant																						
	Equipment Operator																						
	Human Resources Assistant																						
	Parks Caretaker																						
	Police Services Assistant																						
	Utility Locator																						
150	Animal Control Officer	$13.023	$13.283	$13.549	$13.820	$14.097	$14.378	$14.666	$14.959	$15.259	$15.564	$15.875	$16.192	$16.516	$16.847	$17.184	$17.527	$17.878	$18.235	$18.600	$18.972		
	Court Assistant II	$27,088	$27,630	$28,182	$28,746	$29,321	$29,907	$30,505	$31,115	$31,738	$32,372	$33,020	$33,680	$34,354	$35,041	$35,742	$36,457	$37,186	$37,930	$38,688	$39,462		
	CVB Tourism & Events Specialist																						
	Parks Facilities Maintenance Technician																						
	Recreation Coordinator																						
	Traffic Markings and Sign Technician																						
	Transit Driver Supervisor																						
160	Accounting Specialist	$14.358	$14.645	$14.938	$15.237	$15.542	$15.852	$16.169	$16.493	$16.823	$17.159	$17.502	$17.852	$18.209	$18.574	$18.945	$19.324	$19.710	$20.105	$20.507	$20.917		
	Automotive Mechanic I	$29,865	$30,462	$31,071	$31,693	$32,326	$32,973	$33,632	$34,305	$34,991	$35,691	$36,405	$37,133	$37,876	$38,633	$39,406	$40,194	$40,998	$41,818	$42,654	$43,507		
	Compliance Officer II																						
	Evidence Technician																						
	Heavy Equipment Operator																						
	Human Resources Specialist																						
	Legal Specialist																						
	Public Safety Communications Operator																						
	Wastewater Plant Operator																						
170	Assistant City Clerk	$15.077	$15.379	$15.686	$16.000	$16.320	$16.646	$16.979	$17.319	$17.665	$18.018	$18.379	$18.746	$19.121	$19.504	$19.894	$20.292	$20.697	$21.111	$21.534	$21.964		
	Chief Wastewater Plant Operator	$31,360	$31,987	$32,627	$33,280	$33,945	$34,624	$35,317	$36,023	$36,743	$37,478	$38,228	$38,992	$39,772	$40,568	$41,379	$42,207	$43,051	$43,912	$44,790	$45,686		
	Crime Analyst/Accreditation Coordinator																						
	Engineering Technician																						
	Executive Assistant/Secretary to City Manager																						
	Jail Shift Supervisor																						
	Lead Cemetery Caretaker																						
	Lead Parks Caretaker																						
	Neighborhood Improvement Officer																						
	Traffic Signal Technician																						
	Wastewater Laboratory Technician																						

Grade	Position (* - unclassified according to city charter)	Step 1 (hrly/annual)	Step 2 (hrly/annual)	Step 3 (hrly/annual)	Step 4 (hrly/annual)	Step 5 (hrly/annual)	Step 6 (hrly/annual)	Step 7 (hrly/annual)	Step 8 (hrly/annual)	Step 9 (hrly/annual)	Step 10 (hrly/annual)	Step 11 (hrly/annual)	Step 12 (hrly/annual)	Step 13 (hrly/annual)	Step 14 (hrly/annual)	Step 15 (hrly/annual)	Step 16 (hrly/annual)	Step 17 (hrly/annual)	Step 18 (hrly/annual)	Step 19 (hrly/annual)	Step 20 (hrly/annual)	Step 21 (hrly/annual)	Step 22 (hrly/annual)
180	Airport Operations Supervisor	$15.829	$16.146	$16.468	$16.798	$17.134	$17.476	$17.826	$18.183	$18.546	$18.917	$19.295	$19.681	$20.075	$20.476	$20.886	$21.304	$21.730	$22.164	$22.608	$23.060		
	Automotive Mechanic II	$32,924	$33,583	$34,254	$34,940	$35,638	$36,351	$37,078	$37,820	$38,576	$39,348	$40,135	$40,937	$41,756	$42,591	$43,443	$44,312	$45,198	$46,102	$47,024	$47,965		
	Building Maintenance Technician																						
	Nutritionist I																						
	Recycling Coordinator																						
	Wastewater Plant Technician																						
190	Building Inspector	$16.621	$16.953	$17.292	$17.638	$17.991	$18.351	$18.718	$19.092	$19.474	$19.864	$20.261	$20.666	$21.079	$21.501	$21.931	$22.370	$22.817	$23.273	$23.739	$24.214		
	Construction Inspector	$34,572	$35,263	$35,968	$36,688	$37,421	$38,170	$38,933	$39,712	$40,506	$41,316	$42,143	$42,986	$43,845	$44,722	$45,617	$46,529	$47,460	$48,409	$49,377	$50,364		
	Environmental Public Health Specialist I																						
	GIS Technician																						
	Property Negotiator/Appraiser																						
200	Community Health Planner/Educator (E)	$17.451	$17.800	$18.156	$18.519	$18.890	$19.267	$19.653	$20.046	$20.447	$20.856	$21.273	$21.698	$22.132	$22.575	$23.026	$23.487	$23.956	$24.436	$24.924	$25.423		
	Golf Course Maintenance Supervisor (E)	$36,298	$37,024	$37,765	$38,520	$39,290	$40,076	$40,878	$41,695	$42,529	$43,380	$44,247	$45,132	$46,035	$46,955	$47,895	$48,852	$49,829	$50,826	$51,843	$52,879		
	Nutritionist II (E)																						
	Planner (E)																						
	Public Safety Communications Supervisor																						
	Utility Billing Supervisor																						
	Wastewater Pretreatment Technician																						
210	Asst CVB Dir/Director of Sales/CVB (E)	$18.324	$18.690	$19.064	$19.446	$19.834	$20.231	$20.636	$21.049	$21.469	$21.899	$22.337	$22.784	$23.239	$23.704	$24.178	$24.662	$25.155	$25.658	$26.171	$26.695		
	Building Maintenance Supervisor (E)	$38,114	$38,876	$39,654	$40,447	$41,256	$42,081	$42,922	$43,781	$44,657	$45,550	$46,461	$47,390	$48,338	$49,304	$50,291	$51,296	$52,322	$53,369	$54,436	$55,525		
	Chief Wastewater Plant Technician																						
	Communications Technician																						
	Environmental Public Health Specialist II (E)																						
	Fire Apparatus Fleet Manager																						
	IT Analyst																						
	Land Surveyor (E)																						
	Public Safety Communications Manager (E)																						
300	Assistant to the City Manager (E)	$19.240	$19.625	$20.017	$20.418	$20.826	$21.243	$21.667	$22.101	$22.543	$22.994	$23.453	$23.923	$24.401	$24.889	$25.387	$25.895	$26.412	$26.941	$27.479	$28.029	$28.590	$29.161
	Fleet Maintenance Supervisor (E)	$40,019	$40,820	$41,636	$42,469	$43,318	$44,184	$45,068	$45,969	$46,889	$47,827	$48,783	$49,759	$50,754	$51,769	$52,804	$53,861	$54,938	$56,037	$57,157	$58,300	$59,466	$60,656
	Golf Course Professional (E)																						
	Infrastructure Maintenance Supervisor (E)																						
	Plans Reviewer																						
	Recreation Manager (E)																						
	Wastewater Laboratory Supervisor																						
	Wastewater Pretreatment Inspector																						
310	Assistant Wastewater Plant Superintendent	$20.203	$20.607	$21.019	$21.440	$21.868	$22.306	$22.752	$23.207	$23.671	$24.144	$24.627	$25.120	$25.622	$26.135	$26.657	$27.191	$27.734	$28.289	$28.855	$29.432	$30.021	$30.621
	Communications Technician Manager (E)	$42,022	$42,863	$43,720	$44,594	$45,486	$46,396	$47,324	$48,270	$49,236	$50,220	$51,225	$52,249	$53,294	$54,360	$55,447	$56,556	$57,688	$58,841	$60,018	$61,218	$62,443	$63,692
	Community Health Nurse (E)																						
	Emergency Management Coordinator (E)																						
	Jail Administrator (E)																						
	Public Information Officer (E)																						
	Regional Response Planner (E)																						
	Senior Accountant (E)																						
	Transportation Coordinator (E)																						
	WIC Services Coordinator (E)																						
320	* Assistant Director of Human Resources/Safety Manager (E)	$21.213	$21.637	$22.070	$22.511	$22.962	$23.421	$23.889	$24.367	$24.854	$25.351	$25.859	$26.376	$26.903	$27.441	$27.990	$28.550	$29.121	$29.703	$30.297	$30.903	$31.521	$32.152
	Athletic Facilites Superintendent (E)	$44,123	$45,006	$45,906	$46,824	$47,760	$48,715	$49,690	$50,684	$51,697	$52,731	$53,786	$54,861	$55,959	$57,078	$58,219	$59,384	$60,571	$61,783	$63,019	$64,279	$65,565	$66,876
	Capital Improvement Project Manager (E)																						
	Cemetery Superintendent (E)																						
	Financial Analyst (E)																						
	Medical Services Coordinator (E)																						
	Parks Maintenance Superintendent (E)																						
330	Airport Manager (E)	$22.274	$22.719	$23.174	$23.637	$24.110	$24.592	$25.084	$25.586	$26.098	$26.619	$27.152	$27.695	$28.249	$28.814	$29.390	$29.978	$30.577	$31.189	$31.813	$32.449	$33.098	$33.760
	* Assistant City Prosecutor (E)	$46,330	$47,257	$48,202	$49,166	$50,149	$51,152	$52,175	$53,219	$54,283	$55,369	$56,476	$57,605	$58,758	$59,933	$61,131	$62,354	$63,601	$64,873	$66,171	$67,494	$68,844	$70,221
	Civil Engineer I (E)																						
	* Municipal Court Administrator (E)																						
340	CDBG Project Manager (E)	$23.388	$23.856	$24.333	$24.820	$25.316	$25.822	$26.339	$26.865	$27.403	$27.951	$28.510	$29.080	$29.662	$30.255	$30.860	$31.477	$32.107	$32.749	$33.404	$34.072	$34.753	$35.448
	Chief Building Official (E)	$48,647	$49,620	$50,612	$51,625	$52,657	$53,710	$54,784	$55,880	$56,998	$58,138	$59,300	$60,486	$61,696	$62,930	$64,189	$65,473	$66,782	$68,118	$69,480	$70,870	$72,287	$73,733
	City Prosecutor (E)																						
	* Infrastructure Superintendent (E)																						
	Network Manager																						
	Wastewater Plant Superintendent (E)																						

Grade	Position (* - unclassified according to city charter)	Step 1 (hrly/annual)	Step 2 (hrly/annual)	Step 3 (hrly/annual)	Step 4 (hrly/annual)	Step 5 (hrly/annual)	Step 6 (hrly/annual)	Step 7 (hrly/annual)	Step 8 (hrly/annual)	Step 9 (hrly/annual)	Step 10 (hrly/annual)	Step 11 (hrly/annual)	Step 12 (hrly/annual)	Step 13 (hrly/annual)	Step 14 (hrly/annual)	Step 15 (hrly/annual)	Step 16 (hrly/annual)	Step 17 (hrly/annual)	Step 18 (hrly/annual)	Step 19 (hrly/annual)	Step 20 (hrly/annual)	Step 21 (hrly/annual)	Step 22 (hrly/annual)
350	* Assistant City Attorney (E)	$24.557	$25.048	$25.549	$26.060	$26.581	$27.113	$27.655	$28.208	$28.772	$29.348	$29.935	$30.534	$31.144	$31.767	$32.402	$33.050	$33.711	$34.386	$35.073	$35.775	$36.490	$37.220
	* Assistant Director of Health & Env/Epid Coordinator (E)	$51,079	$52,100	$53,142	$54,205	$55,289	$56,395	$57,523	$58,673	$59,847	$61,044	$62,264	$63,510	$64,780	$66,076	$67,397	$68,745	$70,120	$71,522	$72,953	$74,412	$75,900	$77,418
	* Assistant Director of Planning, Development and Neighborhood Services (E)																						
	Civil Engineer II (E)																						
	* CVB Director (E)																						
360	* Assistant Director of Public Works/Operations (E)	$25.785	$26.301	$26.827	$27.363	$27.911	$28.469	$29.038	$29.619	$30.211	$30.815	$31.432	$32.060	$32.702	$33.356	$34.023	$34.703	$35.397	$36.105	$36.827	$37.564	$38.315	$39.081
	* Assistant Finance Director (E)	$53,633	$54,705	$55,800	$56,916	$58,054	$59,215	$60,399	$61,607	$62,839	$64,096	$65,378	$66,686	$68,019	$69,380	$70,767	$72,183	$73,626	$75,099	$76,601	$78,133	$79,696	$81,289
370	* Human Resources Director/Risk Mgmt (E)	$29.848	$30.445	$31.054	$31.675	$32.308	$32.955	$33.614	$34.286	$34.972	$35.671	$36.385	$37.112	$37.854	$38.612	$39.384	$40.171	$40.975	$41.794	$42.630	$43.483	$44.353	$45.240
		$62,084	$63,326	$64,592	$65,884	$67,202	$68,546	$69,916	$71,315	$72,741	$74,196	$75,680	$77,193	$78,737	$80,312	$81,918	$83,557	$85,228	$86,932	$88,671	$90,444	$92,253	$94,098
380	* Assistant Director of Public Works/Engineering (E)	$31.342	$31.969	$32.608	$33.260	$33.926	$34.604	$35.296	$36.002	$36.722	$37.457	$38.206	$38.970	$39.749	$40.544	$41.355	$42.182	$43.026	$43.886	$44.764	$45.659	$46.573	$47.504
	* Community Health Director (E)	$65,191	$66,495	$67,825	$69,182	$70,565	$71,977	$73,416	$74,884	$76,382	$77,910	$79,468	$81,057	$82,678	$84,332	$86,019	$87,739	$89,494	$91,284	$93,109	$94,972	$96,871	$98,808
	* Director of Planning, Development and Neighborhood Services (E)																						
	* Parks & Recreation Director (E)																						
390	* Director of Information Technology (E)	$32.908	$33.566	$34.237	$34.922	$35.621	$36.333	$37.060	$37.801	$38.557	$39.328	$40.115	$40.917	$41.735	$42.570	$43.421	$44.290	$45.176	$46.079	$47.001	$47.941	$48.900	$49.878
	* Finance Director (E)	$68,449	$69,818	$71,214	$72,638	$74,091	$75,573	$77,084	$78,626	$80,198	$81,802	$83,439	$85,107	$86,809	$88,546	$90,317	$92,123	$93,965	$95,845	$97,762	$99,717	$101,711	$103,745
410	* Public Works Director (E)	$36.281	$37.007	$37.747	$38.502	$39.272	$40.057	$40.858	$41.675	$42.509	$43.359	$44.226	$45.111	$46.013	$46.933	$47.872	$48.829	$49.806	$50.802	$51.818	$52.855	$53.912	$54.990
		$75,464	$76,974	$78,513	$80,084	$81,685	$83,319	$84,985	$86,685	$88,419	$90,187	$91,991	$93,831	$95,707	$97,621	$99,574	$101,565	$103,597	$105,668	$107,782	$109,937	$112,136	$114,379
162	Firefighter Trainee	$10.2301	$10.4839	$10.7380	$10.9921	$11.2459	$11.5000	$11.7541	$12.0079	$12.2620	$12.5161	$12.7699	$13.0240	$13.2782	$13.5319	$13.7861	$14.0398	$14.2940	$14.5481	$14.8019	$15.0560		
		$29,790	$30,529	$31,269	$32,009	$32,748	$33,488	$34,228	$34,967	$35,707	$36,447	$37,186	$37,926	$38,666	$39,405	$40,145	$40,884	$41,624	$42,364	$43,103	$43,843		
172	Firefighter/EMT	$10.7679	$11.0361	$11.3029	$11.5701	$11.8379	$12.1051	$12.3719	$12.6401	$12.9069	$13.1741	$13.4420	$13.7091	$13.9770	$14.2442	$14.5110	$14.7788	$15.0460	$15.3128	$15.5810	$15.8479		
		$31,356	$32,137	$32,914	$33,692	$34,472	$35,250	$36,027	$36,808	$37,585	$38,363	$39,143	$39,921	$40,701	$41,479	$42,256	$43,036	$43,814	$44,591	$45,372	$46,149		
192	Fire Driver/Engineer	$11.9880	$12.2751	$12.5622	$12.8489	$13.1360	$13.4231	$13.7102	$13.9969	$14.2840	$14.5711	$14.8578	$15.1449	$15.4320	$15.7191	$16.0058	$16.2919	$16.5790	$16.8661	$17.1532	$17.4399		
		$34,909	$35,745	$36,581	$37,416	$38,252	$39,088	$39,924	$40,759	$41,595	$42,431	$43,266	$44,102	$44,938	$45,774	$46,609	$47,442	$48,278	$49,114	$49,950	$50,785		
312	Fire Captain	$14.4900	$14.8359	$15.1820	$15.5282	$15.8740	$16.2191	$16.5649	$16.9111	$17.2569	$17.6020	$17.9481	$18.2940	$18.6401	$18.9859	$19.3310	$19.6769	$20.0230	$20.3692	$20.7139	$21.0601	$21.4059	$21.7521
		$42,195	$43,202	$44,210	$45,218	$46,225	$47,230	$48,237	$49,245	$50,252	$51,257	$52,265	$53,272	$54,280	$55,287	$56,292	$57,299	$58,307	$59,315	$60,319	$61,327	$62,334	$63,342
342	Battalion Chief (E)	$24.447	$24.962	$25.476	$25.991	$26.505	$27.020	$27.534	$28.049	$28.563	$29.078	$29.592	$30.107	$30.621	$31.136	$31.650	$32.165	$32.679	$33.194	$33.708	$34.223	$34.737	$35.252
	Fire Marshal (E)	$50,849	$51,921	$52,990	$54,061	$55,130	$56,202	$57,270	$58,342	$59,411	$60,482	$61,551	$62,623	$63,691	$64,763	$65,832	$66,903	$67,972	$69,044	$70,112	$71,184	$72,253	$73,324
	Fire Training Chief (E)																						
		$17.4619	$17.8300	$18.1971	$18.5649	$18.9320	$19.3001	$19.6669	$20.0350	$20.4021	$20.7699	$21.1370	$21.5052	$21.8719	$22.2400	$22.6071	$22.9749	$23.3420	$23.7102	$24.0769	$24.4451	$24.8122	$25.1799
		$50,849	$51,921	$52,990	$54,061	$55,130	$56,202	$57,270	$58,342	$59,411	$60,482	$61,551	$62,623	$63,691	$64,763	$65,832	$66,903	$67,972	$69,044	$70,112	$71,184	$72,253	$73,324
362	Deputy Fire Chief (E)	$27.917	$28.465	$29.013	$29.561	$30.109	$30.657	$31.205	$31.753	$32.301	$32.849	$33.397	$33.945	$34.492	$35.040	$35.588	$36.136	$36.684	$37.232	$37.780	$38.328	$38.876	$39.424
		$58,067	$59,207	$60,347	$61,487	$62,627	$63,767	$64,906	$66,046	$67,186	$68,326	$69,466	$70,606	$71,743	$72,883	$74,023	$75,163	$76,303	$77,443	$78,582	$79,722	$80,862	$82,002
402	Fire Chief (E)	$35.011	$35.824	$36.637	$37.450	$38.263	$39.076	$39.889	$40.702	$41.515	$42.328	$43.141	$43.954	$44.767	$45.580	$46.392	$47.205	$48.018	$48.831	$49.644	$50.457	$51.270	$52.083
		$72,823	$74,514	$76,205	$77,896	$79,587	$81,278	$82,969	$84,660	$86,351	$88,042	$89,733	$91,424	$93,115	$94,806	$96,495	$98,186	$99,877	$101,568	$103,260	$104,951	$106,642	$108,333
166	Airport Police Officer	$14.167	$14.536	$14.904	$15.272	$15.640	$16.008	$16.376	$16.744	$17.113	$17.481	$17.849	$18.217	$18.585	$18.953	$19.321	$19.690	$20.058	$20.426	$20.794	$21.162		
	Police Officer Trainee	$29,467	$30,235	$31,000	$31,766	$32,531	$33,297	$34,062	$34,828	$35,595	$36,360	$37,126	$37,891	$38,657	$39,422	$40,188	$40,955	$41,721	$42,486	$43,252	$44,017		
196	Police Officer	$16.668	$17.101	$17.534	$17.967	$18.400	$18.833	$19.266	$19.699	$20.132	$20.566	$20.999	$21.432	$21.865	$22.298	$22.731	$23.164	$23.597	$24.030	$24.464	$24.897		
		$34,669	$35,570	$36,471	$37,371	$38,272	$39,173	$40,073	$40,974	$41,875	$42,777	$43,678	$44,579	$45,479	$46,380	$47,280	$48,181	$49,082	$49,982	$50,885	$51,786		
206	Police Corporal	$17.959	$18.409	$18.858	$19.307	$19.757	$20.206	$20.655	$21.105	$21.554	$22.003	$22.453	$22.902	$23.351	$23.801	$24.250	$24.699	$25.149	$25.598	$26.047	$26.496		
		$37,355	$38,291	$39,225	$40,159	$41,095	$42,028	$42,962	$43,898	$44,832	$45,766	$46,702	$47,636	$48,570	$49,506	$50,440	$51,374	$52,310	$53,244	$54,178	$55,112		
316	Police Sergeant	$20.203	$20.691	$21.179	$21.667	$22.155	$22.643	$23.131	$23.619	$24.107	$24.596	$25.084	$25.572	$26.060	$26.548	$27.036	$27.524	$28.012	$28.500	$28.988	$29.476	$29.964	$30.452
		$42,022	$43,037	$44,052	$45,067	$46,082	$47,097	$48,112	$49,128	$50,143	$51,160	$52,175	$53,190	$54,205	$55,220	$56,235	$57,250	$58,265	$59,280	$60,295	$61,310	$62,325	$63,340
346	Police Captain (E)	$26.170	$26.779	$27.388	$27.997	$28.606	$29.214	$29.823	$30.432	$31.041	$31.649	$32.258	$32.867	$33.476	$34.085	$34.693	$35.302	$35.911	$36.520	$37.128	$37.737	$38.346	$38.955
		$54,434	$55,700	$56,967	$58,234	$59,500	$60,765	$62,032	$63,299	$64,565	$65,830	$67,097	$68,363	$69,630	$70,897	$72,161	$73,428	$74,695	$75,962	$77,226	$78,493	$79,760	$81,026
366	Assistant Police Chief (E)	$26.866	$27.526	$28.185	$28.844	$29.504	$30.163	$30.822	$31.482	$32.141	$32.800	$33.460	$34.119	$34.778	$35.438	$36.097	$36.756	$37.416	$38.075	$38.734	$39.394	$40.053	$40.712
		$55,881	$57,254	$58,625	$59,996	$61,368	$62,739	$64,110	$65,483	$66,853	$68,224	$69,597	$70,968	$72,338	$73,711	$75,082	$76,452	$77,825	$79,196	$80,567	$81,940	$83,310	$84,681
406	Police Chief (E)	$34.555	$35.389	$36.224	$37.059	$37.894	$38.728	$39.563	$40.398	$41.232	$42.067	$42.902	$43.736	$44.571	$45.406	$46.240	$47.075	$47.910	$48.744	$49.579	$50.414	$51.248	$52.083
		$71,874	$73,609	$75,346	$77,083	$78,820	$80,554	$82,291	$84,028	$85,763	$87,499	$89,236	$90,971	$92,708	$94,444	$96,179	$97,916	$99,653	$101,388	$103,124	$104,861	$106,596	$108,333

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-161: New Rate Structure for Joplin Sewer Utilities.

MEETING DATE
December 2, 2019

ORIGINATING DEPARTMENT
Public Works - Operations

REVIEWED BY
Director of Public Works -David Hertzberg; Director of Finance - Leslie Haase; City Attorney -Peter Edwards; Interim City Manager - Daniel Pekarek

ATTACHMENTS
Council Bill No. 2019-161; Joplin MO Sewer Rate Study and Structure for Joplin Sewer Utilities.

SUMMARY
Approval of a New Rate Structure for all customers inside and outside the city limits for sewer utilities per guidance set by the 2019 wastewater rate study.

BACKGROUND
The current sewer rates were established in a rate study conducted in 2014 and became effective on January 1, 2015. Council Bill 2014-183 was authorized by the city to incorporate the City's current rate structure for the customers of Joplin. Those rates were set for a five-year period that will end March 31, 2020.

On January 22, 2019 the City of Joplin hired Burns and McDonnell (Council Bill 2019-104) to convene a rate study analysis to determine what rates are needed to fund the city's wastewater treatment and maintenance programs. That study was completed and is the basis for the recommended action.

On November 19, 2019 Staff held a meeting with the satellite jurisdictions that transport their wastewater to the City of Joplin where it is treated and discharged in accordance with our NPDES permit issued by the State of Missouri.

DISCUSSION
The staff and a representative of Burns and McDonnell presented council with the proposed new rate structure on November 11, 2019 during a Council work session. At the conclusion of that meeting, Council directed Staff to proceed with preparing the necessary council bill for consideration at the December 2, 2019 City Council meeting. The rate study recommends increasing the sewer rates by 5% in each of the five years from 2020 to 2024 and that these rates would be applicable to all customers. All customers served that are not within the city limits of Joplin will pay those same rates, times a multiplier of 1.3. Approval of this rate structure will provide the City with the resources to adequately operate and maintain the wastewater collection and treatment system in a manner that will meet our permit requirements.

RECOMMENDATION
Staff recommends approval of Council Bill 2019-161 on first reading.

Sewer Rate Study

City of Joplin, Missouri

Project No. 114532

Draft Report
11/1/2019

Sewer Rate Study

prepared for

City of Joplin, Missouri

Project No. 114532

Draft Report
11/1/2019

prepared by

Burns & McDonnell Engineering Company, Inc.
Kansas City, Missouri

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LIST OF ABBREVIATIONS

Abbreviation	Term/Phrase/Name
AWWA	American Water Works Association
BLS	United States Bureau of Labor Statistics
Burns & McDonnell	Burns & McDonnell Engineering Company, Inc.
CIP	Capital Improvement Program
CPI-U	Consumer Price Index for all Urban Consumers
EPA	Environmental Protection Agency
Kgal	Thousand Gallons
FY	Fiscal Year
MHI	Median Household Income
NACWA	The National Association of Clean Water Agencies
O&M	Operation and Maintenance
The City	The City of Joplin, Missouri
The Study	Financial Plan and Rate Analysis

1.0 INTRODUCTION

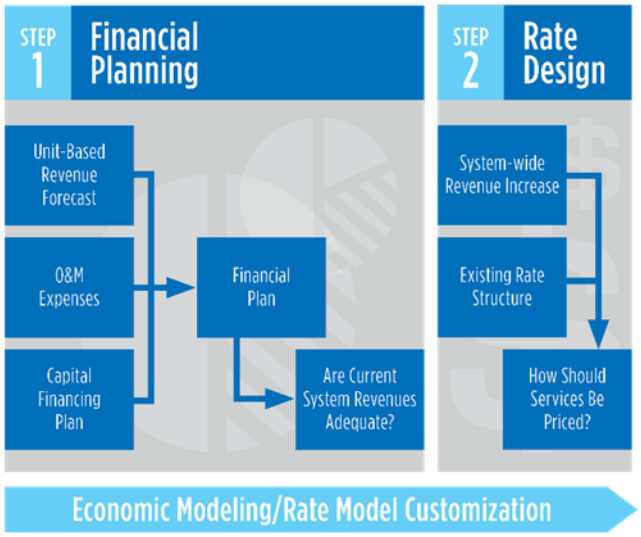
1.1 Study Background

The City of Joplin, Missouri (the City) retained Burns & McDonnell to perform a wastewater rate study (Study) including financial planning and rate analysis for the City's wastewater system. The Study provides a five-year financial plan that evaluates the sufficiency of revenues under existing rates to meet future operating and capital costs of the utility. If revenues are insufficient to meet funding requirements, recommendations are made to increase rates sufficiently to meet the utility's revenue requirements. Throughout this report various years are referenced regarding the City's financial plan. The years referenced are the City's fiscal years (FY), which are November 1st through October 31st.

1.2 Project Approach

To meet the Study objectives, Burns & McDonnell conducted the analysis in a two-step approach. This approach is depicted in Figure 1-1.

Figure 1-1: Study Methodology



Step 1: Financial Planning provides an indication of the adequacy of the revenue generated by current rates. The results of the financial forecast analysis answer the questions "Are the existing rates adequate?" and "If not, what level of overall revenue increase is needed?" The Financial Planning Analysis is presented in Section 2 of this report.

Step 2: Rate Design provides for the required revenue recovery. Once the overall level of revenue required is identified, a schedule of proposed rates is developed using the existing rate structure and

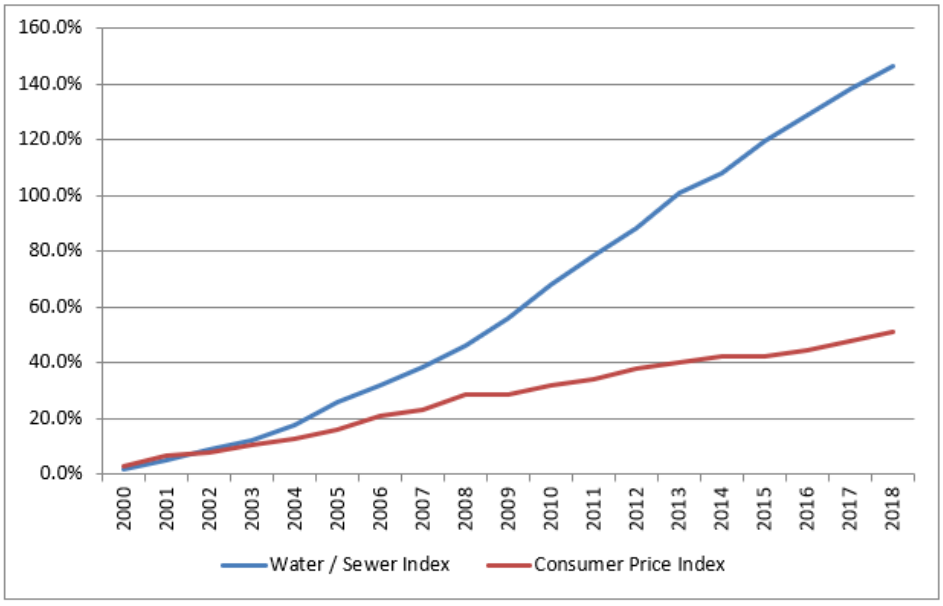
revenue increases from the financial plan. The development of proposed rates is discussed in Section 3.0 of this report.

1.3 Industry Trends in Sewer Rate Increases

Nationally, the cost of residential water and sewer service is rising faster than many other household costs. Replacement of aging infrastructure is one of several dynamics impacting utility rates. Other dynamics generally include increasing regulatory requirements, inflation on operating and capital costs, and a trend in declining consumption most often associated with more efficient fixtures and appliances and greater awareness of water conservation.

Every utility is different, and the relative importance of these dynamics will vary by utility. However, there is no doubt that water and sewer rate increases have substantially outpaced general inflation in the United States. The United States Bureau of Labor Statistics (BLS) tracks many facets of inflation. The most commonly referenced measure is the Consumer Price Index for all Urban Consumers (CPI-U) which measures inflation at the consumer level for a representative basket of goods. The BLS also tracks a combined inflation index for consumer water and sewer costs. Figure 1-2 compares changes in the BLS' consumer price index to changes in the BLS' water and sewer cost index.

Figure 1-2: Changes in General Inflation vs. Water and Sewer Rates



Source: Bureau of Labor Statistics, Consumer Price Index & Water & Sewer Maintenance Series

Annually, the water and sewer index has been increasing at approximately 5.0 percent per year, while CPI's annual rate of change is about 2.0 percent per year.

Other industry surveys reach similar conclusions regarding water and/or sewer rates. The National Association of Clean Water (NACWA) annually updates its *Cost of Clean Water Index*, which specifically surveys sewer utilities across the nation regarding the cost of residential sewer service. From 1985 through 2018, the annual increase according to this survey has been 5.0 percent per year. American Water Works Association (AWWA) also conducts a broad, annual water and sewer rate survey with comparable results regarding increases in water and sewer rates.

Despite these increasing costs for water and sewer service, many utilities continue to be challenged to adequately fund renewal and replacement of existing infrastructure. Understanding the reality of increasing costs within the sewer industry provides helpful context in evaluating proposed financial plans and rates for the City's sewer service.

2.0 FINANCIAL PLANNING ANALYSIS

2.1 Introduction to Financial Planning

The primary issue addressed in Financial Planning Analysis is revenue sufficiency. The results of Financial Planning Analysis answer the questions:

- "Are the existing rates adequate to meet future funding needs?"
- "If not, what level of overall revenue increase is needed?"

To determine if the existing schedule of rates can be expected to generate enough revenue to meet the City's operating and capital costs, Burns & McDonnell prepared a five-year financial projection of revenues and expenditures for the utility. A comparison of projected revenues and expenditures provides insight into the adequacy of overall revenue levels.

Our approach to Financial Planning involves the following basic steps:

1. Project revenues under existing rates.
2. Project utility expenditures.
3. Develop a multi-year financial plan
4. Evaluate financial sufficiency based on key performance indicators such as reserve balances.

The planning period includes the current fiscal year (FY) 2019 and a five-year forecast period, 2020 – 2024. The City utilizes a twelve-month fiscal year beginning November 1. The Financial Plan Analysis recognizes and references the same fiscal year in the forecast period.

The remainder of this section of the report discusses how the sewer utility financial plan was developed and identifies the sufficiency of existing rates to adequately meet future costs.

2.2 Sewer Utility Revenues under Existing Rates

The first step in Financial Planning Analysis was to project revenues under the existing schedule of rates. To support this effort an analysis of customer billing determinants and revenues was performed.

2.2.1 Historical and Projected Customers

Table 2-1 presents the historical sewer customers served by the City from 2016 to 2018 and the projection of customers for the 2020 to 2024 planning period. In recent years, the City has experienced a slight increase in the number of accounts. For the purpose of this Study, forecasted accounts are anticipated to remain consistent with 2018 historical levels.

2.2.2 Historical and Projected Volumes

Table 2-1 also presents the historical and projected billed sewer volume, which has also been relatively stable. Projected volumes are anticipated to remain consistent with recent history throughout the Study period.

Table 2-1: Historical and Projected Accounts and Volume

Line No.		Historical			Budget	Projected				
		2016	2017	2018	2019	2020	2021	2022	2023	2024
	Accounts									
1	Residential - Inside	18,462	19,047	19,118	19,118	19,118	19,118	19,118	19,118	19,118
2	Residential - Outside	348	365	356	356	356	356	356	356	356
3	Commercial - Inside	1,947	1,951	1,938	1,938	1,938	1,938	1,938	1,938	1,938
4	Commercial - Outside	30	30	30	30	30	30	30	30	30
5	Industrial - Inside	37	37	35	35	35	35	35	35	35
6	Inside Meter-Related Residence	102	104	103	103	103	103	103	103	103
7	Other Public Authority - Inside	90	94	95	95	95	95	95	95	95
8	Outside Meter-Related Residence	-	3	3	3	3	3	3	3	3
9	Total Accounts	21,015	21,631	21,679	21,678	21,678	21,678	21,678	21,678	21,678
	Billed Volume *(1000 Gallons)*									
10	Residential - Inside	917,414	940,764	958,283	958,270	958,270	958,270	958,270	958,270	958,270
11	Residential - Outside	7,679	8,137	8,043	8,030	8,030	8,030	8,030	8,030	8,030
12	Commercial - Inside	597,465	594,907	599,146	599,300	599,300	599,300	599,300	599,300	599,300
13	Commercial - Outside	40,734	49,080	45,332	45,460	45,460	45,460	45,460	45,460	45,460
14	Industrial - Inside	715,889	854,444	794,009	794,010	794,010	794,010	794,010	794,010	794,010
15	Inside Meter-Related Residence	27,739	29,064	31,623	31,500	31,500	31,500	31,500	31,500	31,500
16	Other Public Authority - Inside	36,056	81,150	39,994	39,820	39,820	39,820	39,820	39,820	39,820
17	Outside Meter-Related Residence	-	1,739	2,113	2,110	2,110	2,110	2,110	2,110	2,110
18	Total Billed Volume	2,342,975	2,559,284	2,478,543	2,478,500	2,478,500	2,478,500	2,478,500	2,478,500	2,478,500

2.2.3 Existing Sewer Rates

The current sewer rate schedule is shown in Table 2-2 and features a fixed monthly base fee that varies by meter size, and a uniform volumetric rate applicable to all domestic strength customers. High strength industrial customers pay surcharge rates based on sampled wastewater strength. Outside City rates reflect a multiplier of 1.3x the Inside City rates.

Table 2-2: Existing Sewer Rates

Line No.	Service Charge:		In City		Out of City
1	3/4" or smaller	$	31.56	$	41.03
2	1"	$	40.51	$	52.66
3	1.5"	$	62.94	$	81.82
4	2"	$	89.82	$	116.77
5	3"	$	152.56	$	198.33
6	4"	$	242.13	$	314.77
7	6"	$	466.20	$	606.06
	Volume Charge:				
8	per 1,000 gallons	$	2.07	$	2.69
	Surcharges ($/lb):				
9	BOD	$	0.87	$	1.13
10	SS	$	0.53	$	0.69

2.2.4 User Revenues under Existing Rates

Table 2-3 presents historical user revenues for 2016 to 2018 and a projection of user revenues under existing rates for the planning period. The projection of user revenues was estimated based on the forecasted accounts, estimated volumes, and existing rates.

Historical sewer user revenues ranged from approximately $11.2 million in 2016 to $14.1 million in 2018. Increases in historical revenues are associated primarily with rate increases adopted in the last rate study. Overall, sewer user charge revenues under existing 2019 rates are projected to remain consistent with 2019 through the end of the Study period.

Table 2-3: Historical and Projected Sewer User Charge Revenues

Line No.		Historical 2016	Historical 2017	Historical 2018	Budget 2019	Projected 2020	Projected 2021	Projected 2022	Projected 2023	Projected 2024
	User Revenues Under Existing Rates									
1	Residential - Inside	$ 6,714,703	$ 7,603,229	$ 8,471,456	$ 9,318,500	$ 9,318,500	$ 9,318,500	$ 9,318,500	$ 9,318,500	$ 9,318,500
2	Residential - Outside	397,761	449,387	456,341	501,200	501,200	501,200	501,200	501,200	501,200
3	Commercial - Inside	1,738,392	1,911,881	2,145,499	2,360,700	2,360,700	2,360,700	2,360,700	2,360,700	2,360,700
4	Commercial - Outside	109,151	114,383	141,868	156,500	156,500	156,500	156,500	156,500	156,500
5	Industrial - Inside [1]	2,074,325	2,715,921	2,744,802	3,019,300	3,019,300	3,019,300	3,019,300	3,019,300	3,019,300
6	Inside Meter-Related Residence	81,875	90,239	105,512	115,600	115,600	115,600	115,600	115,600	115,600
7	Other Public Authority - Inside	123,446	214,430	91,278	100,000	100,000	100,000	100,000	100,000	100,000
8	Outside Meter-Related Residence	-	6,234	8,034	8,800	8,800	8,800	8,800	8,800	8,800
9	Total User Revenues	$ 11,239,653	$ 13,105,705	$ 14,164,790	$ 15,580,600	$ 15,580,600	$ 15,580,600	$ 15,580,600	$ 15,580,600	$ 15,580,600
10	Adjustment for Change in Default Use	$ -	$ -	$ -	$ -	$ (104,300)	$ (104,300)	$ (104,300)	$ (104,300)	$ (104,300)
11	Total Net User Revenues	$ 11,239,653	$ 13,105,705	$ 14,164,790	$ 15,580,600	$ 15,476,300	$ 15,476,300	$ 15,476,300	$ 15,476,300	$ 15,476,300

[1] Includes BOD and SS charges

2.2.5 Proposed Default Use Adjustment

For residential billing purposes, the City uses average water use over a winter quarter for determining billable sewer flow for its wastewater residential customers. Use of average water use during a winter period as a basis for sewer billing is a common approach, since sewer flow is not metered, and winter use generally reflects indoor water use that is most likely to be conveyed through the sewer system. This winter quarter billable flow is calculated on the most recent history for each residential account. When a new sewer account is created that does not have enough water use history to establish an average winter quarter, the City uses a proxy or default usage level of 6 thousand gallons per month. Based on analysis performed by the City, the default usage level is recommended to be lowered to 5 thousand gallons beginning in 2020. The City estimates 4,200 accounts are typically billed on a default usage basis. As such, reducing the default usage by 1 thousand gallons per month is projected to reduce revenues by about $104,000. This adjustment is shown on Line 10 of Table 2-3.

2.3 Sewer Utility Expenditures

The Sewer Utility's primary cash expenditures include the following operating and capital costs:

- Operation and Maintenance (O&M) Expenses
- Revenue-Financed Capital Improvement Program (CIP) Expenditures
- Existing Debt Service Expenditures

2.3.1 Operation and Maintenance Expenses

Table 2-4 presents the recent historical and projected sewer system operation and maintenance (O&M) expenses through the 2024 planning period. The sewer O&M expenses include the collection, treatment, and administrative operating costs incurred by the utility in providing sewer service to the City. Costs related to major capital projects are excluded from Table 2-4 and will be discussed later in this report.

O&M costs for 2019 reflect the approved budget. Projected O&M expenses are escalated from the 2019 budget amounts based on 2.0 percent annual inflation applied uniformly to all existing O&M costs from 2020 through 2024.

Lines 15 through 21 of Table 2-4 include allowances for incremental personnel costs over the five-year projection period. Over the course of the five-year forecast, these incremental costs are phased-in to mitigate the impact to each year's operating cost.

Table 2-4: Historical and Projected Operation and Maintenance Expenses

Line No.		Historical			Budgeted	Projected				
		2016	2017	2018	2019	2020	2021	2022	2023	2024
	Billing & Collection									
1	Personnel Services	132,200	153,300	190,800	183,000	186,700	190,400	194,200	198,100	202,100
2	Supplies	194,800	149,800	202,700	178,900	182,500	186,200	189,900	193,700	197,600
3	Other Purchases	317,300	363,100	388,500	394,400	402,300	410,300	418,500	426,900	435,400
4	Total Billing & Collection	644,300	666,200	782,000	756,300	771,500	786,900	802,600	818,700	835,100
			3.4%	*17.4%*	*-3.3%*	*2.0%*	*2.0%*	*2.0%*	*2.0%*	*2.0%*
	Sewer Treatment									
5	Personnel Services	1,695,900	1,812,300	1,876,300	1,911,300	1,949,500	1,988,500	2,028,300	2,068,900	2,110,300
6	Supplies	1,831,000	1,805,200	1,846,500	2,138,600	2,181,400	2,225,000	2,269,500	2,314,900	2,361,200
7	Other Purchases	94,200	110,700	96,500	107,500	109,700	111,900	114,100	116,400	118,700
8	Other Financing Uses	249,300	2,600	2,600	2,600	2,600	2,600	2,600	2,600	2,600
9	Total Sewer Treatment Expense	3,870,400	3,730,800	3,821,900	4,160,000	4,243,200	4,328,000	4,414,500	4,502,800	4,592,800
			-3.6%	*2.4%*	*8.8%*	*2.0%*	*2.0%*	*2.0%*	*2.0%*	*2.0%*
	Sewer Maintenance									
10	Personnel Services	365,300	389,000	532,700	538,500	549,200	560,200	571,400	582,800	594,500
11	Supplies	309,000	463,700	306,400	340,400	347,200	354,100	361,200	368,400	375,800
12	Other Purchases	29,600	36,400	31,300	34,500	35,200	35,900	36,600	37,300	38,000
13	Other Financing Uses	38,700	1,300	51,300	1,300	1,300	1,300	1,300	1,300	1,300
14	Total Sewer Maintenance Expense	742,600	890,400	921,700	914,700	932,900	951,500	970,500	989,800	1,009,600
			19.9%	*3.5%*	*-0.8%*	*2.0%*	*2.0%*	*2.0%*	*2.0%*	*2.0%*
	Incremental O&M									
15	Heavy Equipment Operator	-	-	-	-	57,300	58,500	59,700	60,900	62,100
16	Laborer I	-	-	-	-	-	47,300	48,300	49,300	50,300
17	WW Maintenance Electrician	-	-	-	-	69,600	71,000	72,400	73,800	75,300
18	Chief Operator to WWTP Manager	-	-	-	-	25,500	26,000	26,500	27,000	27,500
19	WWTP Maintenance Personnel	-	-	-	-	-	-	64,000	65,300	66,600
20	Maintenance Plant Technician	-	-	-	-	-	-	-	60,600	61,800
21	Total Incremental O&M	-	-	-	-	152,400	202,800	270,900	336,900	343,600
							33.1%	*33.6%*	*24.4%*	*2.0%*
22	Total O&M	5,257,300	5,287,400	5,525,600	5,831,000	6,100,000	6,269,200	6,458,500	6,648,200	6,781,100
			0.6%	*4.5%*	*5.5%*	*4.6%*	*2.8%*	*3.0%*	*2.9%*	*2.0%*

[1] All projected costs are assumed to inflate at 2%

2.3.2 Projected Capital Improvement Expenditures

Table 2-5 presents the projected capital improvement (CIP) expenditures anticipated for the planning period. The CIP used for this Study is based on the five-year capital planning estimates developed by the City. Overall, the total CIP through 2024 amounts to $46.7 million and includes projects ranging from truck and pump replacement to sewer interceptor replacement. Improvements are anticipated throughout the system, including projects at the treatment plant, lift stations, interceptors, force mains and other components of the collection system. Improvements will enable the rehabilitation of existing critical infrastructure, help mitigate infiltration and inflow into the collection system, and help manage peak flow during wet weather events.

Table 2-5: Capital Improvement Program

Line No.		Budgeted 2019	Projected 2020	2021	2022	2023	2024	Total
1	Replacement Computer	850	-	-	-	-	-	850
2	Rehabilitate Able Body Lift Station	15,000	-	-	-	-	-	15,000
3	Twin Equalization Basin Rehabilitation - Phase 2	175,000	-	-	-	-	-	175,000
4	Digester Rehabilitation - Turkey Creek	200,000	-	-	-	-	-	200,000
5	Replacement Boiler - Turkey Creek	225,000	-	-	-	-	-	225,000
6	Control Panels SCADA - Remaining Lift Stations	65,000	-	-	-	-	-	65,000
7	Replacement 1 1/2 - Ton Truck with Crane Body	95,000	-	-	-	-	-	95,000
8	Replacement Truck with Utility Vehicle	12,000	-	-	-	-	-	12,000
9	Replacement Generator - Filmore Bridge Lift Station	65,000	-	-	-	-	-	65,000
10	Portable Compressor	3,000	-	-	-	-	-	3,000
11	Replacement High-End Computer	1,750	-	-	-	-	-	1,750
12	Replacement Ruggedized Laptop Computer (4)	17,600	-	-	-	-	-	17,600
13	7th Street East Annexation Sanitary Sewer Extension	400,000	-	-	-	-	-	400,000
14	I / I Rehabilitation	1,750,000	-	-	-	-	-	1,750,000
15	Parallel Line from Fillmore Bridge	2,500,000	-	-	-	-	-	2,500,000
16	Peak Flow Storage Study - Phase 2	300,000	-	-	-	-	-	300,000
17	Replacement Pressure Main - 44th & Virginia	500,000	-	-	-	-	-	500,000
18	Parallel Line Tin Cup to Filmore Bridge Lift Station Desig	500,000	-	-	-	-	-	500,000
19	Water's Edge Project	-	-	931,100	-	-	-	931,100
20	Replace Rodder Truck	-	300,000	-	-	-	-	300,000
21	Lone Elm Interceptor Project	-	-	500,000	1,000,000	1,500,000	-	3,000,000
22	Inflow & Infiltration (Part of Plan w/DNR)	-	1,750,000	1,500,000	1,500,000	1,500,000	1,500,000	7,750,000
23	Tertiary Filter Replacement	1,800,000	-	-	-	-	-	1,800,000
24	Replace Junction Box Soccer Field	-	200,000	-	-	-	-	200,000
25	Install Parallel Gravity from Junction box to Lone Elm	-	1,200,000	-	-	-	-	1,200,000
26	Replace WEMCO Pump	-	-	-	-	-	-	-
27	Freightliner	-	225,000	-	-	-	-	225,000
28	Phase I Planning Installation of Offline Storage Basin	-	350,000	-	-	-	-	350,000
29	Parallel Force Main Tin Cup to Filmore Bridge	-	2,000,000	1,000,000	-	-	-	3,000,000
30	Roof Replacement for 3 Digeters	-	775,000	-	-	-	-	775,000
31	Replace P/U 4x4 Sampler Truck	-	-	-	-	-	-	-
32	Replace/Rehab Lift Station	-	-	80,000	-	-	-	80,000
33	Rehab 60 " Main Sewer line	-	-	-	1,500,000	-	-	1,500,000
34	Replace Media Trickling Filter (TC)	-	-	-	-	-	1,100,000	1,100,000
35	Replace WEMCO Pump	-	-	-	-	-	-	-
36	Dump Truck	-	-	-	200,000	-	-	200,000
37	Mower	-	-	-	-	-	-	-
38	Replace P/U	-	-	-	-	-	-	-
39	Rehab Digestors	-	-	300,000	-	-	-	300,000
40	Install Equipment Building TC WWTP	-	-	-	700,000	-	-	700,000
41	Rehab 44th Street & Virginia Lift Station	-	-	300,000	-	-	-	300,000
42	Glendale Interceptor Sewer Replacement Phase 1	-	-	842,700	-	-	-	842,700
43	Glendale Interceptor Sewer Replacement Phase 2	-	-	-	837,300	-	-	837,300
44	Replace/Rehab Lift Station	-	-	-	85,000	-	-	85,000
45	Replace Pressure Main	-	-	-	500,000	-	-	500,000
46	Replace WEMCO Pump	-	-	-	-	-	-	-
47	Replace Generators & Pumps at Misc. Lift Stations	-	-	-	185,000	-	-	185,000
48	Replace P/U Truck	-	-	-	-	-	-	-
49	Equalization Basin Rehab TC WWTP	-	-	-	-	-	250,000	250,000
50	Install Equipment Building SC WWTP	-	-	-	-	700,000	-	700,000
51	VACTOR Truck	-	-	-	350,000	-	-	350,000
52	Install Offline Storage Detention Basin	-	-	-	1,500,000	2,000,000	-	3,500,000
53	Glendale Interceptor Sewer Replacement Phase 3	-	-	-	-	823,100	-	823,100
54	I-44 Interceptor Sewer Replacement	-	-	-	-	-	2,000,000	2,000,000
55	RODDER TRUCK	-	-	-	-	-	350,000	350,000
56	Replace/Rehab Lift Station	-	-	-	-	85,000	-	85,000
57	Buy new Jetter Truck	-	-	-	-	250,000	-	250,000
58	Replace/Rehab Lift Station	-	-	-	-	250,000	-	250,000
59	Replace Pressure	-	-	-	-	150,000	-	150,000
60	Rehab Trickling Filter (TC)	-	-	-	-	-	-	-
61	Pumps for in plant operations	-	-	-	-	-	320,000	320,000
62	Scrubbers for Bio Gas (Two)	-	-	-	-	150,000	-	150,000
63	Piston Pump	-	-	-	-	300,000	-	300,000
64	Peterbilt Press VAC	-	-	-	-	225,000	-	225,000
65	I-44 Interceptor Sewer Replacement	-	-	-	-	-	-	-
66	Rehab Clarifier	-	-	-	-	-	125,000	125,000
67	Replace Pumps	-	-	-	-	-	55,000	55,000
68	Replace Media in Digestor	-	-	-	-	-	80,000	80,000
69	Clean-out of Digester	-	-	-	-	-	-	-
70	Replace Pressure Main	-	-	-	-	-	1,000,000	1,000,000
71	Replace Control Boxes	-	-	-	-	-	150,000	150,000
72	Replace P/U Truck	-	-	-	-	-	-	-
73	Replace SS Main Trunk Line	-	-	-	-	-	1,000,000	1,000,000
74	New Development Project	-	320,000	320,000	320,000	320,000	320,000	1,600,000
75	Total	8,625,200	7,120,000	5,773,800	8,677,300	8,253,100	8,250,000	46,699,400

2.3.3 Projected Debt Service Requirements

The City currently has four outstanding sewer system debt issues, summarized in Table 2-6. The Series 2009 and 2010 debt will be fully amortized in 2031, the Series 2011 debt will be fully amortized in 2033, and the Series 2014 debt will be fully amortized in 2035.

All proposed CIP will be funded on a pay-as-you-go basis, with no new debt issuance anticipated during the Study period.

Table 2-6: Existing and Proposed Debt Service

Line No.		Budgeted 2019	Projected 2020	2021	2022	2023	2024
	Existing Debt Issues						
1	Series 2009	82,515	83,993	84,353	84,793	85,110	85,606
2	Series 2010	378,733	400,674	400,687	398,863	400,828	400,848
3	Series 2011	1,600,522	1,713,001	1,716,685	1,720,674	1,723,946	1,728,479
4	Series 2014	150,625	162,685	162,831	164,815	165,837	166,695
5	Total Existing Debt Service	2,212,400	2,360,400	2,364,600	2,369,100	2,375,700	2,381,600
	Proposed Debt [1]						
6	N/A	-	-	-	-	-	-

[1] No new issuance included in the plan
[2] Does not include the debt administrative fee

Sewer administrative fees are included in the cashflow in Table 2-7.

2.4 Sewer Utility Financial Plan Cash Flow

Table 2-7 presents a cash flow that evaluates the sufficiency of revenues under existing rates to meet future cash requirements of the system.

Line 1 of Table 2-7 shows net user revenues under existing rates as shown previously on Table 2-1. Lines 2 through 6 of Table 2-7 present proposed revenue increases needed to finance the City's operating and capital costs for the planning period and sustain reserves. Beginning in 2020, a levelized plan of 5.0 percent increases are proposed to be implemented annually through 2024.

The first proposed increase is anticipated to take effect in April of 2020. All other proposed increases are anticipated to take effect in January of their respective years. With input from City Finance, the incremental revenue associated with the proposed increases has been adjusted to prudently reflect price elasticity associated with the proposed increases.

Other revenues are shown on Lines 9 through 14 of Table 2-7. These revenue streams are based on the 2019 Budget and are estimated to remain constant over the forecast period. Line 15 summarizes the total operating revenues forecasted over the study period. Including proposed revenue adjustments, total Sewer Utility operating revenues are projected to range from $15.8 million in 2019 to $19.0 million in 2024.

Operating revenue requirements are shown on Lines 16 through 23 of Table 2-7 and include O&M expenses, transfers to the General Fund, and existing debt service payments and associated debt administrative fees. O&M expenses, identified previously on Line 22 of Table 2-4, are shown on Line 16 of Table 2-7. Transfers to the General Fund are based on the 2019 Budget and inflated at 2.0 percent annually, consistent with all other O&M. Total Debt Service on Line 22 of Table 2-7 includes existing debt shown previously in Table 2-6, and the Missouri Department of Natural Resources debt administrative fee shown on Line 20. Line 23 summarizes total operating revenue requirements for each year of the Study period.

Annual operating balance is shown on Line 24 and is determined by deducting total revenue requirements, Line 23, from the grand total sewer revenue found on Line 15.

Lines 25 through 29 projects the operating fund balance. The 2018 audit indicates an ending unrestricted net position of $10.7 million and represents the beginning balance shown on Line 25 of Table 2-7. Note that this amount excludes restricted reserves of $3.7 million for capital replacement and $0.4 million for debt service. The annual operating cash projected to be generated by each fiscal year, shown previously on Line 24, is added to the operating balance on Line 26. As a matter of policy, the utility is targeting a minimum operating reserve of $5.0 million. After taking into consideration the beginning balance and annual cash flow, any monies in excess of the minimum reserve target are considered available for capital projects and are transferred to the capital flow of funds as represented on Line 27.

Table 2-7: Projected Sewer Utility Cash Flow

Line No.		Budget 2019	Projected 2020	2021	2022	2023	2024
	Sewer Utility Operating Flow of Funds						
1	Net Revenue [1]	15,580,600	15,476,300	15,476,300	15,476,300	15,476,300	15,476,300
	Proposed Revenue Adjustments [2]						
	Year / Month / Increase						
2	2020 / 5 / 5.0%		412,700	619,100	619,100	619,100	619,100
3	2021 / 2 / 5.0%			590,200	643,800	643,800	643,800
4	2022 / 2 / 5.0%				613,800	669,600	669,600
5	2023 / 2 / 5.0%					638,300	696,400
6	2024 / 2 / 5.0%						663,900
7	Total Proposed Additional Revenue	-	412,700	1,209,300	1,876,700	2,570,800	3,292,800
8	Total Sewer User Charge Revenue	15,580,600	15,889,000	16,685,600	17,353,000	18,047,100	18,769,100
	Other Revenue						
9	Charges and Assessments	160,600	160,600	160,600	160,600	160,600	160,600
10	Other Income and Donations	22,100	22,100	22,100	22,100	22,100	22,100
11	Federal Grants	-	-	-	-	-	-
12	State Grants	-	-	-	-	-	-
13	Local Grants	-	-	-	-	-	-
14	Total Other Revenue	182,700	182,700	182,700	182,700	182,700	182,700
15	**Grand Total Sewer Revenue**	**15,763,300**	**16,071,700**	**16,868,300**	**17,535,700**	**18,229,800**	**18,951,800**
	Revenue Requirements						
16	Operation and Maintenance Expense	5,831,000	6,100,000	6,269,200	6,458,500	6,648,200	6,781,100
17	Transfers Out	1,447,800	1,476,800	1,506,300	1,536,400	1,567,100	1,598,400
18	Total O&M	7,278,800	7,576,800	7,775,500	7,994,900	8,215,300	8,379,500
	Debt Service						
19	Existing Debt	2,212,400	2,360,400	2,364,600	2,369,100	2,375,700	2,381,600
20	Debt Admin Fee	143,600	135,200	126,600	116,100	108,900	99,700
21	Proposed Debt	-	-	-	-	-	-
22	Total Debt Service	2,356,000	2,495,600	2,491,200	2,485,200	2,484,600	2,481,300
23	**Total Revenue Requirements**	**9,634,800**	**10,072,400**	**10,266,700**	**10,480,100**	**10,699,900**	**10,860,800**
24	**Annual Operating Balance**	**6,128,500**	**5,999,300**	**6,601,600**	**7,055,600**	**7,529,900**	**8,091,000**
25	Beginning Balance	10,672,900	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
26	Annual Operating Balance	6,128,500	5,999,300	6,601,600	7,055,600	7,529,900	8,091,000
27	Transfers to Capital	(11,801,400)	(5,999,300)	(6,601,600)	(7,055,600)	(7,529,900)	(8,091,000)
28	**Ending Balance**	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
29	*Op. Reserve Target [3]*	*5,000,000*	*5,000,000*	*5,000,000*	*5,000,000*	*5,000,000*	*5,000,000*
	Sewer Utility Capital Flow of Funds						
	Sources						
30	Beginning Balance Capital Funds	-	3,176,200	2,055,500	2,883,400	1,261,700	538,500
31	Transfer from Operations	11,801,400	5,999,300	6,601,600	7,055,600	7,529,900	8,091,000
32	Anticipated Grants	-	-	-	-	-	-
33	Debt Issuance	-	-	-	-	-	-
34	**Total Capital Sources**	**11,801,400**	**9,175,500**	**8,657,100**	**9,939,000**	**8,791,600**	**8,629,500**
	Uses						
35	Capital Improvement Projects	8,625,200	7,120,000	5,773,700	8,677,300	8,253,100	8,250,000
36	Bond Issuance Expense	-	-	-	-	-	-
37	**Total Capital Uses**	**8,625,200**	**7,120,000**	**5,773,700**	**8,677,300**	**8,253,100**	**8,250,000**
38	**Annual Capital Balance**	**3,176,200**	**2,055,500**	**2,883,400**	**1,261,700**	**538,500**	**379,500**
	Debt Service Coverage						
39	Net Operating Revenue Available for Debt Service	9,932,300	9,971,700	10,599,100	11,077,200	11,581,600	12,170,700
40	Annual Debt Service	2,356,000	2,495,600	2,491,200	2,485,200	2,484,600	2,481,300
41	Debt Service Coverage	4.22	4.00	4.25	4.46	4.66	4.90
	Affordability Projection						
42	Typical Monthly Wastewater Bill [4]	41.91	43.99	46.20	48.49	50.92	53.49
43	Median Household Income [5]	42,565	43,337	44,122	44,922	45,736	46,566
44	Annual Average Bill/ MHI [6]	1.18%	1.22%	1.26%	1.30%	1.34%	1.38%

[1] Assumes default use is reduced from 6 kgal to 5 kgal beginning in 2020

[2] Effectivness of proposed revenue increases is reduced 20%

[3] Operating Reserve Target is roughly 70% of annual O&M

[4] The typical bill calculation reflects average use of 5 kgal per month. Future bills reflect proposed increases of 5% per year in FY 2020 through 2024

[5] MHI based on 5-Year American Community Survey 2017 estimate. Forecasted MHI assumes 1.81% annual increases based on historical rate of change since 2009.

[6] (Monthly Bill x 12) / MHI

Capital sources and uses of funds are shown on Lines 30 through 38 of Table 2-7. The primary source of funds for capital projects are the transfers from operations shown on Line 31. There are no proposed debt issuances with the financial plan for the funding of capital projects, as shown on Line 33. Uses of funds are shown on Line 35 and match the total CIP shown on Line 75 of Table 2-5. Line 38 shows a positive annual capital balance for all the years of the forecast.

Lines 39 through 41 evaluate the debt service coverage requirements for the City. Debt service coverage is shown on Line 41. Debt service coverage is a frequent requirement in bond covenants associated with utility revenue bonds. This coverage ratio is calculated as follows:

$$\left(\frac{Grand\ Total\ Sewer\ Revenue\ -O\&M\ Expense}{Total\ Debt\ Service}\right)$$

Debt service coverage represents a degree of security to bondholders that the utility could encounter lower revenues or higher O&M and still have the financial capacity to pay annual debt service. The City has an internal debt service coverage target of 1.5x. As shown on Line 41 the City is above this internal target throughout the Study period.

Lines 42 through 44 provide some context regarding the affordability of wastewater bills. One of the measures utilized by the Environmental Protection Agency (EPA) in considering the burden associated with Consent Decrees is the "residential indicator." This indicator compares the annual wastewater bill of a residential user to median household income (MHI). For the purpose of this analysis, 5 thousand gallons a month has been used to calculate the annual wastewater bill. Dividing the 2019 annual wastewater bill by the City of Joplin's MHI indicates that wastewater bills generally represent about 1.18 percent of MHI. Generally speaking, the EPA considers this ratio to be "high burden" when it exceeds 2.0 percent.

This ratio has been projected out through the Study period by inflating MHI based on growth in the City's MHI since 2009, as shown on Line 43. The cost for annual wastewater service is increasing by 5.0 percent annually as has been proposed in the financial plan, as shown on Line 42. At the end of the Study period, it is estimated that wastewater bills will represent approximately 1.38 percent of MHI, well below a high burden designation.

3.0 PROPOSED RATE DESIGN

3.1 Introduction

The primary focus of Step 2, Rate Design is the development of proposed rates. The objective of rate design is to design rates for the utility that generate adequate revenues to meet the projected operating and capital costs, while sustaining the utility's sound financial performance.

3.2 Existing and Proposed Wastewater Rates

The existing schedule of wastewater rates, which was shown previously in Table 2-2, became effective January 1, 2019. The existing rates feature a monthly facility charge based on meter size and a volume charge per 1,000 gallons. Outside City rates are based on a 30 percent differential over Inside City rates. Industrial customers with high strength discharge are monitored and assessed a surcharge based on pounds in excess of domestic strength.

Existing and proposed wastewater rates are shown in Table 3-1. Proposed wastewater rates were designed using the existing rate structure, adjusted proportionately in accordance with the system adjustments summarized in Table 2-7. Proposed rates for 2020 are assumed to be effective in April 2020, while all subsequent rates are assumed to be effective on January 1 of each fiscal year.

Table 3-1: Proposed Wastewater Rates

Line No.	Description	Existing 2019	Proposed 2020	2021	2022	2023	2024
	INSIDE CITY						
	Monthly Facility Charge - $/bill						
1	3/4" or smaller	$ 31.56	$ 33.14	$ 34.80	$ 36.54	$ 38.37	$ 40.29
2	1"	$ 40.51	$ 42.54	$ 44.67	$ 46.90	$ 49.25	$ 51.71
3	1.5"	$ 62.94	$ 66.09	$ 69.39	$ 72.86	$ 76.50	$ 80.33
4	2"	$ 89.82	$ 94.31	$ 99.03	$ 103.98	$ 109.18	$ 114.64
5	3"	$ 152.56	$ 160.19	$ 168.20	$ 176.61	$ 185.44	$ 194.71
6	4"	$ 242.13	$ 254.24	$ 266.95	$ 280.30	$ 294.32	$ 309.04
7	6"	$ 466.20	$ 489.51	$ 513.99	$ 539.69	$ 566.67	$ 595.00
8	**Volume Charge - $/1,000 gal**	$ 2.07	$ 2.17	$ 2.28	$ 2.39	$ 2.51	$ 2.64
9	**BOD Surcharge - $/lb**	$ 0.87	$ 0.91	$ 0.96	$ 1.01	$ 1.06	$ 1.11
10	**SS Surcharge - $/lb**	$ 0.53	$ 0.56	$ 0.59	$ 0.62	$ 0.65	$ 0.68
	OUTSIDE CITY						
	Monthly Facility Charge - $/bill						
11	3/4" or smaller	$ 41.03	$ 43.08	$ 45.24	$ 47.50	$ 49.88	$ 52.38
12	1"	$ 52.66	$ 55.30	$ 58.07	$ 60.97	$ 64.03	$ 67.22
13	1.5"	$ 81.82	$ 85.92	$ 90.21	$ 94.72	$ 99.45	$ 104.43
14	2"	$ 116.77	$ 122.60	$ 128.74	$ 135.17	$ 141.93	$ 149.03
15	3"	$ 198.33	$ 208.25	$ 218.66	$ 229.59	$ 241.07	$ 253.12
16	4"	$ 314.77	$ 330.51	$ 347.04	$ 364.39	$ 382.62	$ 401.75
17	6"	$ 606.06	$ 636.36	$ 668.19	$ 701.60	$ 736.67	$ 773.50
18	**Volume Charge - $/1,000 gal**	$ 2.69	$ 2.82	$ 2.96	$ 3.11	$ 3.26	$ 3.43
19	**BOD Surcharge - $/lb**	$ 1.13	$ 1.18	$ 1.25	$ 1.31	$ 1.38	$ 1.44
20	**SS Surcharge - $/lb**	$ 0.69	$ 0.73	$ 0.77	$ 0.81	$ 0.85	$ 0.88

3.3 Typical Bills and Residential Bill Comparison

A comparison of a typical monthly wastewater bill for a residential customer with 5 thousand gallons of billable flow has been calculated under existing and proposed rates in Table 3-2. In 2020, the monthly wastewater bill for an average residential customer under proposed rates will be $2.08 more per month. The percentage adjustment of the residential typical bill is shown on Line 3 and correlates to the overall system revenue increase for each fiscal year.

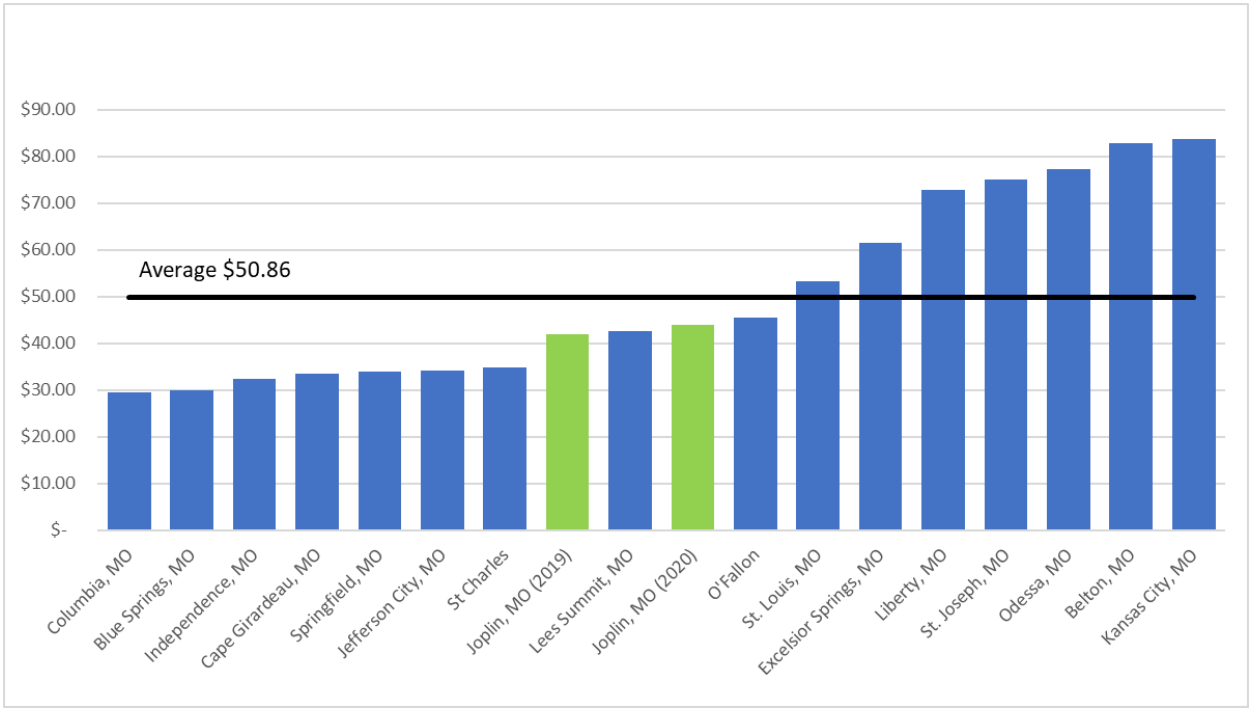
Table 3-2: Proposed Monthly Wastewater Bills

Line No.	Description	Billable Flow Kgal	Existing 2019	Proposed Monthly Bill 2020	2021	2022	2023	2024
1	Typical Residential Bill	5.0	$ 41.91	$ 43.99	$ 46.20	$ 48.49	$ 50.92	$ 53.49
	Incremental Increase in Typical Bill							
2	Dollars			$ 2.08	$ 2.21	$ 2.29	$ 2.43	$ 2.57
3	Percentage			5.0%	5.0%	5.0%	5.0%	5.0%

A comparison of monthly Residential typical bills from other regional wastewater utilities was also completed and is shown in Figure 3-1. Under existing rates, the typical Joplin residential bill is indicated to be in the middle within this regional comparison. Under proposed rates, the position of Joplin's typical residential bill remains in the middle when compared to other regional and state wastewater utilities. It should also be noted that it is likely that surrounding community's sewer rates will increase in the future as well.

Overall, the comparison shown in Figure 3-1 indicates that the typical residential wastewater bill under proposed rates is competitively positioned among regional wastewater utilities.

Figure 3-1: Residential Monthly Bill Comparison



3.4 Statement of Limitations

In preparation of the City of Joplin Sewer Rate Study (Study), Burns & McDonnell relied upon information provided by the City. The information included various analyses, computer-generated information and reports, audited financial reports, and other financial and statistical information, as well as other documents such as operating budgets and current retail water rate schedules. In addition, input to key assumptions regarding expected future levels of revenue, sales, and expenditures was provided by City staff to Burns & McDonnell. While Burns & McDonnell has no reason to believe that the information provided, and upon which Burns & McDonnell has relied, is inaccurate or incomplete in any material respect, Burns & McDonnell has not independently verified such information and cannot guarantee its accuracy or completeness.

Estimates and projections prepared by Burns & McDonnell relating to financial forecasting and costs are based on Burns & McDonnell's experience, qualifications, and judgment as a professional consultant. Since Burns & McDonnell has no control over weather, cost and availability of labor, material and equipment, labor productivity, contractors' procedures and methods, unavoidable delays, economic conditions, government regulations and laws (including interpretation thereof), competitive bidding, and market conditions or other factors affecting such estimates or projections, Burns & McDonnell does not guarantee the accuracy of its estimates or predictions.

BURNS McDONNELL

CREATE AMAZING.

Burns & McDonnell World Headquarters
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Kansas City, MO 64114
O 816-333-9400
F 816-333-3690
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COUNCIL BILL NO. 2019-161 ORDINANCE NO.

AN ORDINANCE amending Chapter 118, Utilities, Article II, Sewers and Sewage Disposal, Division 6 Rates and Charges, of the Joplin City Code, by repealing sections 118-201 through 118-202, inclusive, of Division 6 in their entirety and enacting new sections 118-201 through 118-202, inclusive of Divisions 6, Rates and Charges; dealing generally with the establishment of sewer rates for the City of Joplin, Missouri.

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

WHEREAS, in 2014 the Council of the City of Joplin established a sewer rate based upon the cost of providing the sewer infrastructure and the cost of treating, on a per usage basis, the waste stream; and, for industrial and commercial users with additional surcharges for usage and waste water strength; and,

WHEREAS, the Council of the City of Joplin heard an engineering report regarding the proposed rates at the December 2, 2019 regular meeting of the Council; and,

WHEREAS, in 2019 the consulting firm of Burns and McDonnell have reviewed the City's wastewater treatment system and have provided rate recommendations; and,

WHEREAS, the rates increase each year, 2020 through 2024; and,

WHEREAS, only those residential, commercial, industrial and governmental persons or entities utilizing the system will be responsible for payment of sewer fees; and,

WHEREAS, the rate charged to out-of-town users is higher, in part, because those users do not bear the potential liability associated with a wastewater treatment system that City residents may incur; and,

WHEREAS, the Council of the City of Joplin has determined that the rate structure proposed is the most equitable way to balance the cost maintaining an environmentally compliant and effective sewerage system.

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

Section 1. That Sections 118-201 through 118-202, inclusive, of Division 6. Rates and Charges. of Division II. Sewers and Sewage Disposal. of Chapter 118. Utilities. of the Joplin City Code, are hereby repealed in their entirety, and a new Division 6. Rates and Charges., Sections 118-201 through 118-202 are hereby enacted in lieu thereof, to read as follows:

DIVISION 6. RATES AND CHARGES

Sec. 118-201. Generally.

Sewer service charges are hereby levied against every residential, commercial, industrial and governmental user connected to public sewers in accordance with the rate recommendation documented in the 2019 Burns and McDonnell rate study, said rate study is incorporated herein by reference as Appendix 1. The proceeds of such charges so derived will be used first, for the purpose of retiring the debt for the public wastewater treatment works and then for the purpose of operation, maintaining and replacing the sewer system and equipment.

Sec. 118-202. Rates and surcharges.

(a.) All residential, commercial, industrial and governmental establishments shall be charged for sewer service in accordance with the following rate table. The sewer service charge shall consist of a monthly facility charge based upon the size of water meter plus a charge based upon the gallons of water used per month. The charges shall become effective on the dates listed in the table. The rate effective on April 1, 2020, shall be effective thereafter until changed.

RATE TABLE I
3/4 Inch Meter or Smaller

EFFECTIVE DATE	FACILITY CHARGE PER MONTH		VOLUME CHARGE PER 1000 GAL.	
	In City	Out of City	In City	Out of City
Present Rate	31.56	41.03	2.07	2.69
April 1, 2020	33.14	43.08	2.17	2.82
January 1, 2021	34.80	45.23	2.28	2.96
January 1, 2022	36.54	47.49	2.39	3.11
January 1, 2023	38.37	49.86	2.51	3.27
January 1, 2024	40.29	52.35	2.64	3.43

1 Inch Meter

EFFECTIVE DATE	FACILITY CHARGE PER MONTH		VOLUME CHARGE PER 1000 GAL.	
	In City	Out of City	In City	Out of City
Present Rate	40.51	52.66	2.07	2.69
April 1, 2020	42.54	55.29	2.17	2.82
January 1, 2021	44.67	58.05	2.28	2.96
January 1, 2022	46.90	60.95	2.39	3.11
January 1, 2023	49.25	64.00	2.51	3.27
January 1, 2024	51.71	67.20	2.64	3.43

1 ½ Inch Meter

EFFECTIVE DATE	FACILITY CHARGE PER MONTH		VOLUME CHARGE PER 1000 GAL.	
	In City	Out of City	In City	Out of City

Present Rate	62.94	81.82	2.07	2.69
April 1, 2020	66.09	85.91	2.17	2.82
January 1, 2021	69.39	90.21	2.28	2.96
January 1, 2022	72.86	94.72	2.39	3.11
January 1, 2023	76.50	99.46	2.51	3.27
January 1, 2024	80.33	104.43	2.64	3.43

2 Inch Meter

EFFECTIVE DATE	FACILITY CHARGE PER MONTH		VOLUME CHARGE PER 1000 GAL.	
	In City	Out of City	In City	Out of City
Present Rate	89.92	116.77	2.07	2.69
April 1, 2020	94.31	122.61	2.17	2.82
January 1, 2021	99.03	128.74	2.28	2.96
January 1, 2022	103.98	135.18	2.39	3.11
January 1, 2023	109.18	141.94	2.51	3.27
January 1, 2024	114.64	149.04	2.64	3.43

3 Inch Meter

EFFECTIVE DATE	FACILITY CHARGE PER MONTH		VOLUME CHARGE PER 1000 GAL.	
	In City	Out of City	In City	Out of City
Present Rate	152.56	198.33	2.07	2.69
April 1, 2010	160.19	208.25	2.17	2.82
January 1, 2021	168.20	218.66	2.28	2.96
January 1, 2022	176.61	229.59	2.39	3.11
January 1, 2023	185.44	241.07	2.51	3.27
January 1, 2024	194.71	253.12	2.64	3.43

4 Inch Meter

EFFECTIVE DATE	FACILITY CHARGE PER MONTH		VOLUME CHARGE PER 1000 GAL.	
	In City	Out of City	In City	Out of City
Present Rate	242.13	314.77	2.07	2.69
April 1, 2020	254.24	330.51	2.17	2.82

January 1, 2021	266.95	347.04	2.28	2.96
January 1, 2022	280.30	364.39	2.39	3.11
January 1, 2023	294.32	382.61	2.51	3.27
January 1, 2024	309.04	401.74	2.64	3.43

6 Inch Meter

EFFECTIVE DATE	FACILITY CHARGE PER MONTH		VOLUME CHARGE PER 1000 GAL.	
	In City	Out of City	In City	Out of City
Present Rate	466.20	606.06	2.07	2.69
April 1, 2020	489.51	636.36	2.17	2.82
January 1, 2021	513.99	668.18	2.28	2.96
January 1, 2022	539.69	701.59	2.39	3.11
January 1, 2023	566.67	736.67	2.51	3.27
January 1, 2024	595.00	773.50	2.64	3.43

(b.) A surcharge rate is established for each user which discharges wastewater into the city treatment works which contains excess strength biochemical oxygen demand (BOD) and total suspended solids (TSS.) Excess strength BOD and TSS are defined as wastewater with a BOD concentration in excess of 2.5 lb/l,000 gallons or a TSS concentration in excess of 2.5 lb/l,000 gallons. Surcharges for BOD and TSS shall be paid at the rates established in Rate Table II, and shall be paid in addition to the normally established rates listed in Rate Table I. The charges shall become effective on the dates listed in the table and shall be applicable through the subsequent year. The rate effective on April 1, 2019 shall be effective thereafter until changed.

RATE TABLE II

EFFECTIVE DATE	BOD SURCHARGE RATE PER POUND		SS SURCHARGE RATE PER POUND	
	In City	Out of City	In City	Out of City
Present Rate	0.87	1.13	0.53	0.69
April 1, 2020	0.91	1.19	0.56	0.72
January 1, 2021	0.96	1.25	0.59	0.76
January 1, 2022	1.01	1.31	0.62	0.80
January 1, 2023	1.06	1.38	0.65	0.84

January 1, 2024	1.11	1.45	0.68	0.88

(c) In addition to any fee or surcharge described hereinabove, any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or sludge from the city's treatment works, or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost or operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each user shall be as determined by the responsible plant operating personnel and approved by the city council.

Passed by the Council of the City of Joplin, Missouri, this _____ day of _____, 2019.

_____

ATTEST: Gary L. Shaw, Mayor

_____

Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-535 – Approving amendments to the Employee Manual for the voluntary migration of Tier II public safety employees from the pension plan to the LAGERS retirement system

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-535 Ordinance; Exhibit "A" Section 3.9, Exhibit "B" Section 3.12, Exhibit "C" Section 4.9, Exhibit "D" Fringe Benefits Sections (2), (3), (9), (11), (13) and (18)

REVIEWED BY
Department Head: Leslie Haase; Human Resources Director: Dave Allgood; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
This Council Bill amends the Employee Manual for the voluntary migration of Tier II public safety employees from the pension plan to the LAGERS retirement system.

BACKGROUND
In late 2018, an internal work group began working on a recommendation to improve public safety recruiting and retention. The recommendation from the work group was as follows:

- Fund and close the pension plan to new hires
- Move new hires to the LAGERS retirement L-11 plan
- Allow Tier II employees the voluntary option to migrate to LAGERS

This plan required voter approval of a ½-cent sales tax dedicated for these purposes until the pension plan is either 120% funded or 12 years, whichever occurs first. Voters approved this tax on November 5, 2019. It is anticipated this tax will go into effect on April 1, 2020 with the first collections by the City in June.

There are many steps to implementing this plan. Currently, individual meetings are being held with each Tier II public safety employee to discuss and review their retirement plan options. Tier II employees must elect by January 31, 2020 to either remain in the pension plan or migrate to LAGERS. If a Tier II employee elects to migrate to LAGERS, under LAGERS rules the employee must be a new employee. As a result, employees making the election to migrate will voluntarily terminate their service with the City on February 28, 2020 and be rehired by the City on February 29, 2020.

Employees making this election will not forfeit any service-related benefits, such as vacation, sick leave, insurance benefits, and longevity pay. They also will not be required to serve additional probationary time. As a result, revisions to the Employee Manual are required to reflect this transition by public safety employees from the policemen's and firemen's pension plan to the LAGERS retirement system.

The Sections that are being revised are as follows:

- Amend Section 3.9 Rehire
- Amend Section 3.12 Probationary Period
- Add new Section 4.9 Prior Service Credit Benefit
- Amend Fringe Benefits Sections
    - (2) Annual Leave-Vacation
    - (3) Sick and Emergency Leave
    - (9) Group Hospital and Medical Benefits
    - (11) Retirement Programs
    - (13) Disability and Income Protection Plan
    - (18) Longevity Pay

The City's outside consultant assisting the internal work group with this plan rewrote the required sections of the Employee Manual, which was reviewed by the work group. The Personnel Board approved the revisions to the Employee Manual by a vote of 4-0-1 on November 21, 2019.

FUNDING SOURCE

This item is not applicable for this council bill.

RECOMMENDATION

Staff recommends approval of this council bill on first reading.

COUNCIL BILL NO. 2019-535 ORDINANCE NO.

AN ORDINANCE amending the City of Joplin Employee Manual, Policy Section 3.9 Rehire, Section 3.12 Probationary Period, Section 4.9 Prior Service Credit Benefit and Fringe Benefits Sections (2), (3), (9), (11), (13) and (18).

WHEREAS, the voters of the City of Joplin approved a ½-cent sales tax dedicated to close the pension plan to new hires and transition public safety employees to LAGERS; and,

WHEREAS, Tier II public safety employees currently under the policemen's and firemen's pension plan have the voluntary option to migrate to LAGERS on February 29, 2020; and,

WHEREAS, LAGERS requires said employees to be new hires, which requires Tier II employees to terminate service and then be reinstated by the City of Joplin without forfeiting any service related benefits; and,

WHEREAS, the Employee Manual requires revisions to address this migration from the pension plan to LAGERS; and,

WHEREAS, the Personnel Board has reviewed and approved the changes to Section 3.9, 3.12, 4.9 and the Fringe Benefits Sections; and,

WHEREAS, the City Manager has reviewed the revisions to the Policies and has recommended these changes to the Council as stated; and,

WHEREAS, the City Council desires to adopt the needed changes to the Employee Manual for those Tier II employees electing to voluntarily migrate to LAGERS.

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

Section 1. That the City of Joplin Employee Manual, Rules and Regulations, Section 3.9, Rehire, attached hereto as "Exhibit A", be amended to include the changes required for the migration of Tier II public safety employees to the LAGERS retirement system.

Section 2. That the City of Joplin Employee Manual, Rules and Regulations, Section 3.12, Probationary Period, attached hereto as "Exhibit B", be amended to include the changes required for the migration of Tier II public safety employees to the LAGERS retirement system.

Section 3. That the City of Joplin Employee Manual, Rules and Regulations, Section 4.9, Prior Service Credit Benefit, attached hereto as "Exhibit C", be added to include the changes required for the migration of Tier II public safety employees to the LAGERS retirement system.

Section 4. That the City of Joplin Employee Manual, Rules and Regulations, Fringe Benefits Sections (2) Annual Leave-Vacation, (3) Sick and Emergency Leave, (9) Group Hospital and Medical Benefits, (11) Retirement Programs, (13) Disability and Income Protection Plan, and

(18) Longevity Pay, attached hereto as "Exhibit D", be amended to include the changes required for the migration of Tier II public safety employees to the LAGERS retirement system.

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

of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

EXHIBIT "A"

3.9 REHIRE

When an employee resigns their employment with the City of Joplin and wishes to return to employment with the City, they are subject to the same original hire policy as all other applicants. Some pension and retirement plans may allow credit for years of prior service with the City, if certain conditions are met. However, the employee in all other matters shall be subject to the same employment status and procedures as other new hires. They are not entitled to any benefits, leave accruals, or credited years of service from the prior service time with the City, except as pursuant to applicable law. If an employee is rehired within one year of separation and the employee exceeds the minimum qualifications for the position, with the recommendation of the Department Head and the Director of Human Resources, the City Manager may approve any pay rate within the appropriate pay range not to exceed the amount attained at the time of separation.

All employees newly hired, promoted, reappointed, transferred or demoted shall serve a six months probationary period except that newly appointed public safety employees will serve a one-year probationary period. A Tier II Police or Fire employee, who elects to terminate on February 28. 2020 and be reinstated on February 29, 2020, shall have their probationary period waived upon reinstatement.

EXHIBIT "B"

3.12 PROBATIONARY PERIOD

The Probationary Period shall be an integral part of the screening process and shall be utilized for closely observing employee's work, for communicating with the employee about the work, for securing the most effective adjustment of a new, transferred, or promoted employee to the position.

1. Duration:

   a. Every person employed, re-employed, promoted, transferred to a different department, or demoted to any full-time, regular position with the City shall be required to complete a successful probationary period of at least six (6) continuous months.

   b. The probationary or qualifying period shall begin immediately upon employment to a position. The probation or qualifying time period may be extended for one (1) six (6) month period if deemed necessary by the department head.

   c. Consecutive time spent in an "acting" capacity prior to receiving an appointment to the same position and department shall be considered as time spent as a probationary employee in the position.

   d. An employee who is promoted or transferred to another department prior to completing a probationary period shall begin a new probationary period in the new position unless such a new probationary period would be shorter than the original probationary period. Any such employee shall have no grievance/appeal privileges until a probationary period is successfully completed in one classification.

   e. An employee whose position is re-classified will not be required to complete a new probationary period. An employee whose position is re-classified prior to completing a probationary period will not complete a new probationary period but shall be required to successfully complete the original probationary period.

   f. Any employee hired as a Police Officer Trainee shall begin the probationary period upon entering the Police Academy and throughout the field training process. Upon successful completion of field training and promotion to Police Officer II a new probationary period of six (6) months shall begin.

g. A change of assignment made by a department head shall not be subject to a probationary period.

h. A Tier II Police or Fire employee who elects to terminate on February 28, 2020 and reinstate on February 29, 2020 shall not be subject to a probationary period, unless the employee was in probationary status at the time of the reinstatement.

2. Removal

a. All probationary employees shall be considered part of the unclassified service as provided by Section 5.05 of the Joplin City Charter and shall have no grievance or appeal rights. At any time during the probationary period, the department head may remove an employee, if, in the department head's opinion, such employee is unable or unwilling to perform the duties of the position satisfactorily or if the employee's attitude, habits, performance or dependability do not merit continuation in the service. Prior to removal, the department head shall meet with the employee to discuss the issues noted by the department head. If, after such meeting, the department head believes that the employee does not merit continuation of service, such employee shall be removed immediately. An employee removed during the probationary or qualifying period cannot appeal such removal to the Personnel Board. Employees promoted or transferred into a position who do not successfully complete a probationary period shall be demoted into their previous or similar classification unless they are terminated.

3. Police Officer Certification

a. A probationary police officer shall not be retained in the position of full-time police officer unless the officer successfully completes the minimum certification requirements under the State of Missouri Peace Officers Standards and Training (POST) Program within one (1) year of employment.

4. Administration

a. Prior to the expiration of an employee's probationary period, the department head shall notify the Director of Human Resources in writing whether the services of the employee have been satisfactory and whether the department head desires to continue the employee in the position. A copy of such notice shall be given to the employee. Should the department head recommend the employee not be retained, the employee shall be removed from the position.

Employees who satisfactorily complete their probationary period shall be entitled to all rights and benefits applicable to such employee under the City Charter and Code, and shall be eligible for full grievance, appeal and fringe benefit privileges. Any service during the probationary period shall be credited to the employee's length of service for all purposes including but not limited to applicable pensions, longevity, vacation and other fringe benefits. Employees shall not be eligible for appeal privileges until completion of the probationary period.

b. Failure of the probationary employee's department to notify the Director of Human Resources as required shall not shorten the probationary period or prevent the department from discharging the employee or extending the employee's probationary period, but such action must occur prior to the scheduled expiration of the probationary period.

EXHIBIT "C"

4.9 PRIOR SERVICE CREDIT BENEFIT (Tier II to LAGERS migration)

In addition to any other compensation and benefits authorized by City ordinance, Fire and Police Department employees, hired after January 31, 2009 and prior to February 01, 2020 , who are active members of the City of Joplin Police and Fire Pension Plan (Tier II), and who voluntarily elect to terminate, reinstate and transition to the LAGERS L-11 retirement program are eligible to purchase all forfeited service credit, as earned as a Tier II employee if:

A) The employee elects to terminate, reinstate and transition to LAGERS between February 28 and 29, 2020; and
B) The employee becomes vested in LAGERS (normally five (5) years); and
C) The employee requests and remits to the City the written estimate to purchase the forfeited prior service as calculated by LAGERS no later than September 30, 2025, or six months following their LAGERS vesting date, whichever comes first; and
D) The employee remits 100% of the amount received from the Police and Fire Pension Plan from their return of contribution directly to LAGERS no later than September 30, 2025, or six months following their vesting date, whichever comes first, as their payment towards their purchase of all, or a portion of, their forfeited prior service credit.

If the employee elects to purchase the prior service credit as outlined above, then at the time of such purchase, the City shall remit to LAGERS, on behalf of the employee, 100% of the difference between the amount that LAGERS computes as the cost of the prior service credit and the amount that the employee received from the City of Joplin Police and Fire Pension Plan for their return of contribution upon termination as a Tier II eligible member. The City's payment is considered taxable compensation and payment by the City will be remitted to LAGERS on the employee's behalf.

If an employee elects to migrate under this section, they will be treated as having no break in or separation of service for any purpose other than pension benefit rights and eligibility.

EXHBIT "D"

FRINGE BENEFITS SECTION

2. ANNUAL LEAVE – VACATION

Vacation time is intended to benefit the employee and serve as a time of mental and physical refreshment; therefore, employees are encouraged to use their vacation time.

Vacations are determined for employees assigned to full or part time positions by length of continuous service. The following schedule will determine the number of hours earned per month, yearly, and accumulation totals. Annual leave may not be taken by new employees during the first six (6) months of their employment and shall be limited to one week during the remaining six (6) months of the year.

POLICE AND GENENRAL EMPLOYEES

LENGTH OF SERVICE	MONTHLY ACCRUALS	YEARLY ACCRUALS	DAYS ACCRUED	MAXIMUM ACCRUAL
0 - 9 years	6.67 hrs	80 hrs	10	160 hrs
9 - 14 years	10 hrs	120 hrs	15	240 hrs
Over 14 years	13.34 hrs	160 hrs	20	240 hrs

FIRE DEPARTMENT EMPLOYEES

LENGTH OF SERVICE	MONTHLY ACCRUALS	YEARLY ACCRUALS	DAYS ACCRUED	MAXIMUM ACCRUAL
0 - 9 years	10 hrs	120 hrs	5	240 hours
9 - 14 years	14 hrs	168 hrs	7	336 hours
Over 14 years	18.67 hrs	224 hrs	9.34	336 hours

Part-time employees who are employed throughout the year and work on a basis of one-half (1/2) a normal week shall receive vacation time proportioned to their average work week.

Upon separation from service for any cause, an employee shall be paid a lump sum payment for any accumulated vacation time with the final paycheck.

Vacation shall not be used to extend a date of retirement or termination date unless specifically approved by the City Manager.

Vacation leave and holiday leave may not be used for the same work shift.

Sick and Emergency Leave will not be substituted for scheduled vacation leave. The only exception will be employees who have a verifiable workers compensation injury and are under doctor's orders to remain off work. Employees who are on pre-approved vacation schedule and get injured on the job prior to the use of the vacation time to the extent that by doctor's orders they must remain off work during the period in which the vacation time was scheduled, may reschedule their annual vacation.

3. SICK AND EMERGENCY LEAVE

In all cases where applicable, leave will be subject to and designated by the City of Joplin as FMLA leave and counted against an eligible employee's FMLA leave entitlement. All situations which are eligible under the FMLA will be governed by the rules and regulations stated in section 3B (Fringe Benefits), FMLA. Only those situations which do not meet the eligibility requirements for the FMLA, will be governed by the Sick and Emergency Leave policy.

Sick leave with pay shall be granted to an employee only when the employee is unable to perform their duties due to the reason of personal sickness or injury; except an employee shall be granted sick leave for necessary medical, dental and optical examination and treatment provided that sick leave granted for such reasons shall not exceed the actual time necessary for examination or treatment.

An employee who is absent for a period of more than three (3) consecutive working days or consistently for shorter periods and requests sick leave to cover such absences may be required to furnish a doctor's certificate as a condition of granting, attesting to the fact that the employee's absence has been due to personal sickness or injury.
Employees will be allowed to use Sick Leave when there is illness in the family requiring the attendance of the employee. The employee may be required to furnish the employees immediate supervisor with a written reason of why the attendance was necessary. The list below shall be a description of the members of the family an employee will be allowed to use Sick Leave for. This list may be expanded in circumstances that would be impractical to deny the employee their attendance to the family member. The expansion of the list must be done a case by case basis and approved by the Personnel Director.

1. Spouse
2. Child
3. Parent
4. Brother/Sister (Emergency Only)

5. Father/Mother
6. Father/Mother-in-Law (Emergency Only)
7. Fiancé or Fiancée
8. Legal Guardian
9. Other persons who are dependent upon the employee for their care and maintenance

This shall include all step and half relatives for the above-mentioned family members.

Employees who use Sick Leave must notify their Supervisor prior to the beginning of each workday or as soon as possible thereafter. All regular full-time employees shall accrue sick leave at the rate of one (1) day for each month of service or major fraction thereof.

Part-time employees who are employed throughout the year and work on a basis of on half (1/2) a normal work week shall receive sick leave proportioned to their average work week.

When an employee is absent from work due to Sick or Emergency Leave, the employee's time off from work shall be charged to the employees accrued sick leave balance.

Temporary/seasonal and contract employees shall not accrue sick leave.

A seasonal/temporary employee who is retained as a regular full-time employee without a break in service shall accrue sick leave from date of temporary employment.

Sick Leave shall accrue from the date of full-time appointment or retroactive to date of employment for seasonal/temporary employees.

Unused sick leave shall be accumulated and available for an employee's future use.

On separation for the City's service, an employee shall not be entitled to receive reimbursement for accrued sick leave. A Tier II Police or Fire employee who elects to terminate on February 28, 2020 and reinstate on February 29, 2020 shall not forfeit their unused sick leave.

Any employee discovered misusing the sick leave privileges will be subject to discipline.

The minimum amount of Sick Leave to be charged shall be one (1) working hour. Sick Leave shall not be used to extend the date of retirement.

9. GROUP HOSPITAL AND MEDICAL BENEFITS

The City of Joplin will provide health benefits to full time regular employees and their dependents and part time employees and dependents who do not have a break in service and average thirty (30) hours per week through policies purchased either from a commercial insurance carrier, or through a self-funding program. Coverage begins on the

first day of the month following one (1) complete month of City employment. Individual employee premiums are paid in full by the City of Joplin. Dependent premiums will be paid monthly in advance and in full by the employee. Other health benefits may be available as described in the Flexible Benefit Plan and may be purchased by the employee. A Tier II Police or Fire employee who elects to terminate on February 28, 2020 and reinstate on February 29, 2020 will not have a break in service for purposes of Group Hospital and Medical benefits coverage and eligibility.

11. RETIREMENT PROGRAMS

A. Missouri Local Government Employees Retirement Systems (LAGERS) The City of Joplin participates in the LAGERS pension system and employee participation is mandatory for the following employees:

General Employees, who are not part-time/temporary working less than 1500 hours annually, will be enrolled in the LAGERS L-6 pension plan.

Sworn Police Employees and Uniformed Fire Employees hired on or after February 1, 2020, who are not part-time/temporary working less than 1500 hours annually, will be enrolled in the LAGERS L-11 pension plan.

Eligibility begins on the first date of employment. Additional information, including the plan provisions, can be reviewed at www.molagers.org

B. CITY OF JOPLIN SWORN POLICE OFFICERS AND FIREFIGHTERS PENSION PLAN

This plan is mandatory for all sworn Tier I Police Officers and Firefighters of the Joplin Police and Fire Departments and Tier II Police Officers and Firefighters of the Joplin Police and Fire Departments who elect not to transition to LAGERS on February 29, 2020. This plan was frozen to new hires effective February 01, 2020. Eligibility begins on the first day of employment. Additional information regarding the plan and the plan provisions are available on the City's intranet.

13. DISABILITY AND INCOME PROTECTION PLANS

A. LAGERS

LAGERS provides a non-duty and duty disability benefit for eligible employees. LAGERS also provides a duty death benefit. Eligibility and plan provisions can be reviewed at www.molagers.org

B. POLICE AND FIRE PENSION PLAN

The Police and Fire Pension Plan provides a non-duty and duty disability benefit for eligible employees. The Police and Fire Pension Plan also provides a non-duty and duty death benefit. Eligibility and plan provisions can be reviewed on the City's intranet.

C. LONG TERM DISABILITY PLAN

The City of Joplin provides a long-term disability benefit for all employees eligible for LAGERS. The Police and Fire Pension Plan also provides a long-term disability benefit for all employees covered by the Pension Plan. Details regarding plan benefits, eligibility, and other plan provisions can be found on the City's intranet.

18. LONGEVITY PAY

Longevity pay shall be for full-time employees based exclusively on years of unbroken continuous service. Continuous service shall be defined as uninterrupted period of service with the City that is not marked by resignation, dismissal, reduction of work force, unauthorized or unexcused absenteeism, or similar circumstances. A Tier II Police or Fire employee who elects to terminate on February 28, 2020 and reinstate on February 29, 2020 will not have a break in service for purposes of Longevity Pay.

Compensation for the number of years of service shall commence from the date of employment of the last unbroken period of employment for the number of years serviced set forth as follows:

1. Employees with an annual base salary excluding longevity of less than $30,000:

After 5 years through 10 years	$ 300 per year
After 10 years through 15 years	$ 600 per year
After 15 years through 20 years	$ 900 per year
After 20 years through 25 years	$1,200 per year
After 25 years through 30 years	$1,500 per year
After 30 years through 35 years	$1,800 per year
Each 5 year period thereafter, an additional	$ 300 per year

2. Employees with an annual base salary excluding longevity of $30,000 or greater:

After 5 years through 10 years	1% of annual salary
After 10 years through 15 years	2% of annual salary
After 15 years through 20 years	3% of annual salary
After 20 years through 25 years	4% of annual salary
After 25 years through 30 years	5% of annual salary
After 30 years through 35 years	6% of annual salary
Each 5 year period thereafter, an additional	1% of annual salary

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-536 – Adopting the LAGERS retirement system for public safety employees effective February 1, 2020

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-536 Ordinance

REVIEWED BY
Department Head: Leslie Haase; Human Resources Director: Dave Allgood; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
This Council Bill adopts the LAGERS retirement system for public safety employees hired on or after February 1, 2020.

BACKGROUND
In late 2018, an internal work group began working on a recommendation to improve public safety recruiting and retention. The recommendation from the work group was as follows:

- Fund and close the pension plan to new hires
- Move new hires to the LAGERS retirement L-11 plan
- Allow Tier II employees the voluntary option to migrate to LAGERS

This plan required voter approval of a ½-cent sales tax dedicated for these purposes until the pension plan is either 120% funded or 12 years, whichever occurs first. Voters approved this tax on November 5, 2019. It is anticipated this tax will go into effect on April 1, 2020 with the first collections by the City in June.

The council bill approves an ordinance for the City to participate in the LAGERS retirement system for public safety employees hired on or after February 1, 2020. Public safety employees will be covered by the L-11 plan option, with the following main components:

- 2.5% benefit multiplier
- Not covered by social security
- Eligible to receive full retirement benefit at age 55
- No employee contribution

The City received a final cost as a percentage of payroll for the police employees and the fire

employees. The City's cost for police will be 16.4%, while fire will be 19.8%. Over the next two years, $2 million of the ½-cent sales tax will be sent to LAGERS to decrease this cost as a percentage of pay. As a result, the percentage of payroll cost will decrease over at least the next two years.

FUNDING SOURCE

This item is not applicable for this council bill.

RECOMMENDATION

Staff recommends approval of this council bill on first reading.

COUNCIL BILL NO. 2019-536 ORDINANCE NO.

AN ORDINANCE adopting the Missouri Local Government Employees Retirement System (LAGERS) L-11 plan for public safety employees of the City of Joplin hired on or after February 1, 2020, in accordance with RSMo. Sections 70.600 through 70.755; and, setting a date when this ordinance shall become effective.

WHEREAS, the voters of the City of Joplin approved a ½-cent sales tax dedicated to close the pension plan to new hires and transition public safety employees to LAGERS; and,

WHEREAS, the Council of the City of Joplin, Missouri, desires to include its eligible Police and Fire Department employees in the retirement system provided by the Missouri Local Government Employees Retirement System (LAGERS), pursuant to the provisions of Sections 70.600 through 70.755, RSMo.; and,

WHEREAS, the City Council of the City of Joplin, Missouri understands that by covering its eligible Police and Fire Department employees in LAGERS, the Council of the City of Joplin, Missouri is accepting the legal obligation to fully fund the elected benefits now, and, in the future and that it will be financially able to do so; and,

WHEREAS, the City Administration duly requested an actuarial evaluation of the proposed LAGERS Benefit Program and the same has been on file with the City Clerk since November 18, 2019, in accordance with Section 105.675 RSMo.; and,

WHEREAS, the City Council desires to adopt the LAGERS retirement system for Police and Fire Department employees effective February 1, 2020.

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

Section 1. That it is declared to be the policy of the City of Joplin, a political subdivision as defined by section 70.600 RsMo., to consider as eligible for coverage Police and Fire Department employees hired on or after February 1, 2020 who are eligible by state law.

Section 2. That all Police and Fire Department employees hired on or after February 1. 2020 and declared to be eligible, who have 1,500 or more hours of annual employment, shall be covered under Benefit Program L-11 (2.50%).

Section 3. That the final average salary for each employee shall be determined on the basis of a sixty (60) consecutive month period.

Section 4. That contributions to LAGERS of 0% total gross wages shall be required from all eligible employees.

Section 5. That all qualified employment after the effective date shall be considered membership service, as defined in 70.600(15) RSMo.

Section 6. That employee retirement benefits shall be based on the "minimum service retirement age", in accordance with the provisions of section 70.600(16) RSMo.

Section 7. That the Finance Director is hereby directed to deduct from the wages and salaries of each eligible Police and Fire Department employee member, the contributions, if any, required by Section 70.705 RSMo. and to remit the deductions to LAGERS, together with the employer contributions required by Section 70.705 and 70.750 RSMo.

Section 8. That the City Council of the City of Joplin agrees to hold LAGERS harmless from any liability with respect to this transaction, apart from those obligations imposed on LAGERS by sections 70.600 – 70.755 RSMo., provided the transaction is completed according to the terms contained herein.

Section 9. That the City Manager of the City of Joplin is hereby authorized and directed to take all actions, sign all documents, and to do any and all things and take any and all actions required to place the foregoing ordinance into effect, including the revision of any relevant ordinances and resolutions of the City of Joplin which shall be promptly submitted to the City Council for approval.

Section 10. That remittances and other required reports and records shall be forwarded to LAGERS in accordance with administrative guidelines established by officials of LAGERS.

Section 11. That this ordinance shall become effective on February 1, 2020.

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

of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-537 – Amending Policemen's and Firemen's Pension Plan to close the plan to new hires effective February 1, 2020

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2019-537 Ordinance; Exhibit A-Restated Pension Plan; Proposed Plan Changes Summary

REVIEWED BY
Department Head: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Dan Pekarek

SUMMARY
This Council Bill amends the Policemen's and Firemen's Pension Plan to close the plan to new hires effective February 1, 2020.

BACKGROUND
In late 2018, an internal work group began working on a recommendation to improve public safety recruiting and retention. The recommendation from the work group was as follows:

- Fund and close the pension plan to new hires
- Move new hires to the LAGERS retirement L-11 plan
- Allow Tier II employees the voluntary option to migrate to LAGERS

This plan required voter approval of a ½-cent sales tax dedicated for these purposes until the pension plan is either 120% funded or 12 years, whichever occurs first. Voters approved this tax on November 5, 2019. It is anticipated this tax will go into effect on April 1, 2020 with the first collections by the City in June.

The council bill amends the language in the Pension Plan to close the plan to new hires effective February 1, 2020. The following sections are being amended:

1. Section 1.13-Covered Employee
2. Section 1.14-Credited Service
3. Section 2.1-Eligibility
4. Section 2.2-Participation
5. Section 2.4-Reemployment of a Former Participant
6. Section 6.2-Employer Contributions

A summary of the plan changes is attached for your review. The Board of Trustees of the Pension Board submitted the amendments to the qualified participants and held an official election from July 15 to August 9, 2019. The membership voted 211 in favor and 5 against the proposed pension plan amendments.

Any change to the Policemen's and Firemen's Pension Plan must be approved by the membership through an election and ratified by the City Council in an ordinance.

FUNDING SOURCE
This item is not applicable for this council bill.

RECOMMENDATION
Staff recommends approval of this council bill on first reading.

COUNCIL BILL NO. 2019-537 ORDINANCE NO.

AN ORDINANCE amending the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri as adopted January 5, 2009, effective January 31, 2009 and amended September 24, 2012, May 1, 2013, January 21, 2014, December 7, 2015 and August 15, 2016, to close the Pension Plan to new hires effective February 1, 2020; and, setting a date when this ordinance shall become effective.

WHEREAS, the voters of the City of Joplin approved a ½-cent sales tax dedicated to close the pension plan to new hires and transition public safety employees to LAGERS; and,

WHEREAS, the Board of Trustees of the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri submitted to the qualified Plan Participants the question as to whether certain amendments should be made to the Plan; and,

WHEREAS, an election of the qualified participants of the plan was held from July 15, 2019 to August 9, 2019; and,

WHEREAS, of the 194 active and 127 retired Pension Policemen and Firemen, 211 voted in favor of the Plan amendments, and 5 voted against the proposed Plan amendments.

WHEREAS, the City Council desires to approve the Pension Plan amendments to close the Plan to new hires effective February 1, 2020.

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

Section 1. That Section 1.13 of the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri is hereby amended to read as follows:

1.13 COVERED EMPLOYEE

shall mean an Employee who is employed in covered employment. The term "covered employment" as used herein means employment by the City of Joplin, Missouri, in the Fire Department in active service in any capacity; except that no secretary or clerk, shall be deemed to be in covered employment; or in the Police Department as a uniformed or sworn police officer in active service. Secretaries, clerks, dispatchers, jailers, animal wardens, street painters, cooks, and any other employee or associate of the Police Department shall not be deemed to be in covered employment. Temporary, seasonal, or part-time employees of either the Fire Department or Police Department shall not be deemed to be in covered employment and shall not be required to contribute to the Plan, nor receive any benefit from the Plan. A Plan Participant who, due to medical restriction, is working in other than his/her normal duty, job or hours, is still deemed a member of the covered employment and shall make contributions to the Plan and receive

benefits from the Plan.

Section 2. That Section 1.14 of the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri is hereby amended to read as follows:

1.14 CREDITED SERVICE

shall mean the total time in complete and fractional years (based on the number of complete months) during which the Employee is a Covered Employee and a Participant, and makes the contribution required in Section 6.1. Such service need not be continuous or uninterrupted.

Section 3. That Section 2.1 of the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri is hereby amended to read as follows:

2.1 ELIGIBILITY

Each Covered Employee whose employment or reemployment began prior to February 1, 2020 was eligible to become a Participant upon satisfaction of the requirements for employment in his or her position as stipulated by the City. As a condition of employment, a Covered Employee agrees to make the contributions required pursuant to Section 6.1.

Section 4. That Section 2.2 of the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri is hereby amended to read as follows:

2.2 PARTICIPATION

Subject to Section 2.4, all Participants in the Plan on the Restatement Effective Date shall continue to be Participants. No other Employee shall become a Participant in the Plan.

Participation in the Plan shall not give any Employee the right to be retained in the employ of the City, nor, on dismissal, to have any right or interest in the Trust Fund other than as provided in this Plan.

Section 5. That Section 2.4 of the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri is hereby amended to read as follows:

2.4 REEMPLOYMENT OF FORMER PARTICIPANT

(A) In the event a Participant terminated employment and was later reemployed as a Covered Employee prior to February 1, 2020, participation in the Plan resumed immediately upon reemployment. If the Covered Employee had at least 20 years of Credited Service at the time of his termination of employment, upon his reemployment he may continue to accrue additional years of Credited Service, up to the maximum permitted by the Plan.

If the Covered Employee did not have at least 20 years of Credited Service at the time of his termination of employment, but was reemployed prior to February 1, 2020 before incurring a Break-in-Service, then upon his reemployment his Credited Service earned prior to termination of employment shall be taken into account for purposes of Section 3.1, provided that the Covered Employee repays to the Plan an amount equal to the amount paid to him by the Plan upon his termination of employment, plus interest at the rate of one-half of one percent (.5%) per month from the date of the Plan's payment to the date of repayment. Repayment shall be required within six (6) months of reemployment.

If the Covered Employee did not have at least 20 years of Credited Service at the time of his termination of employment, and either is reemployed after incurring a Break-in-Service, or does not repay the amount described in the preceding paragraph, then his Credited Service as of the date of his termination of employment shall not be taken into account for purposes of Section 3.1.

(B) Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code 414(u).

Accordingly, a Covered Employee is treated as having had continuous Credited Service for purposes of participation, vesting and accrual of benefits by reason of a period of absence from employment due to or necessitated by service in the uniformed services, provided the Covered Employee:

(1) is reemployed in a covered position within the time specified in regulations or other guidance under the Uniformed Services Employment and Reemployment Rights Act;

(2) repays any lump sum payment previously paid to the employee; and

(3) pays to the Plan an amount equal to the amount of any employee contributions that would have been made to the Plan if the employee had remained in Covered Employment.

If a Covered Employee dies while performing qualified military service, as defined in Section 414(u) of the Code, the Plan shall treat such Covered Employee as having died during covered employment, in accordance with the provisions of Section 401 (a)(37) of the Code.

(C) Notwithstanding anything to the contrary, if a Covered Employee terminated employment and his date of reemployment is on or after February 1, 2020, such Employee shall not be eligible to resume participation in the Plan upon reemployment.

Section 6. That Section 6.2 of the Policemen's and Firemen's Pension Plan of the City of Joplin, Missouri is hereby amended to read as follows:

6.2 EMPLOYER CONTRIBUTIONS

The City shall make monthly contributions to the Plan equal to the net amount after reduction for the priorities described below from the one-half cent (½ ¢) general sales tax approved by voters in the November 2019 election, which will expire upon the earlier of 12 years after enactment, or the date that the Plan's actuary certifies that the Plan is 120% funded. The priorities referred to in the preceding sentence are the following:

(A) the amount needed to contribute to the Missouri Local Government Employees Retirement System ("LAGERS") $1,000,000 per Plan Year for two (2) consecutive Plan Years beginning November 1, 2019, for a total of $2,000,000.

(B) The amount needed for each former Participant hired after January 31, 2009 (a "Tier II Participant"), along with such Tier II Participant's Accumulated Employee Contributions, to purchase under LAGERS the number of years and months of Credited Service the Tier II Participant forfeited by terminating employment with the City in order to join LAGERS. For example, suppose that a Tier II Participant had 8 years and 3 months of Credited Service when the Tier II Participant terminated employment with the City to join LAGERS. Suppose further that the cost for such Tier II Participant to purchase 8 years and 3 months of service under LAGERS is $75,000, and the Tier II Participant is refunded the amount of $50,000 for his Accumulated Employee Contributions. The amount of the priority under this paragraph (B) would be $25,000.

For example, suppose that the sales tax generates a total of $6.5 million each Plan Year until it expires, for an average of approximately $541,667 per month. Such gross amount would be reduced by approximately $83,333 per month for two years for the payments to LAGERS described in paragraph (A), and by an additional $83,333 per month for five years for the payments described in paragraph (B). Therefore, the average monthly payment for the two Plan Years beginning November 1, 2019 and November 1, 2020 would be approximately $375,000, the average monthly payment for the three Plan Years beginning November 1, 2021, 2022, and 2023 would be approximately $458,333, and the average monthly payment for the remaining during of the sales tax would be approximately $541, 667.

During the period that such general sales tax is in effect, if the Plan is less than 70% funded as determined by the Plan's actuary, and if the aggregate contribution funded by such tax for any Plan Year is less than the actuarial contribution rate for the City set forth in the Actuarial Valuation for the Plan Year, then the City shall make an additional

contribution equal to such shortfall.

If during the period after such general sales tax is in effect, the Plan is not fully (100%) funded as determined by the Plan's actuary, then the City shall be responsible for making contributions in the amounts determined by the Plan's actuary to make the Plan fully funded.

If the City becomes more than 30 days delinquent in any of its obligations, the City will be notified in writing by the trustees of the delinquency. The City shall catch-up fully on any delinquent obligations within 60 days after notification in writing by the trustees. If the City fails to catch-up fully within those 60 days, the City shall pay any past due obligation, plus interest at the statutory rate, per §408.020 RSMo., currently nine percent. If the City is delinquent 60 days after written notice of delinquency by the trustees, then the trustees may pursue any course of action deemed necessary and may pursue any and all remedies that the trustees may have, in law or equity, including suit in a court of competent jurisdiction.

Section 7. That this ordinance shall become effective on February 1, 2020.

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

of _____, 2019.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

POLICEMEN'S AND FIREMEN'S PENSION PLAN OF THE CITY OF JOPLIN, MISSOURI

Amended and Restated Effective February 1, 2020 by Ordinance No. 2019-___

POLICEMEN'S AND FIREMEN'S PENSION PLAN
OF THE CITY OF JOPLIN, MISSOURI

Effective January 1, 1947, the City Council of the City of Joplin established the Policemen's and Firemen's Pension Plan (the "Plan") pursuant to Ordinance Number 19655 adopted on the 17th day of September, 1946, for the benefit of salaried members of the organized police and fire departments.

The Plan has since been amended by Ordinance Number 26598, adopted March 20, 1972; Ordinance Number 27283 adopted December 2, 1974; Ordinance Number 77-172 adopted December 28, 1977; Ordinance Number 93-162 adopted October 18, 1993; Ordinance Number 93-207 adopted December 20, 1993; Ordinance Number 99-056 adopted April 19, 1999; Ordinance Number 99-165 adopted October 18, 1999; Ordinance Number 2000-023 adopted February 21, 2000; Ordinance Number 2002-063 adopted February 4, 2002; Ordinance No. 2009-001 adopted January 5, 2009, Ordinance No. 2012-159 adopted September 24, 2012, Ordinance No. 2013-068 adopted May 1,2013, Ordinance No. 2014-012 adopted January 21, 2014, Ordinance No. 2015-210 adopted December 7, 2015 and Ordinance No. 2016-123 adopted August 15, 2016.

The purpose of the Plan continues to be to provide retirement and disability benefits for eligible employees who become Participants in the Plan and Death Benefits for Beneficiaries of deceased Participants, but limited to those who qualify herein in accordance with the terms and conditions hereinafter set forth. Pursuant to Ordinance No. 2019-___ adopted _____ ___, 2019, the Plan is closed to any employee whose day of employment or reemployment is on or after February 1, 2020.

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SECTION I

DEFINITIONS

1.1 ACCUMULATED EMPLOYEE CONTRIBUTIONS

shall mean the mandatory contributions made by the Participant pursuant to Section 6.1. Lump sum payments by the Plan of Accumulated Employee Contributions are made without interest.

1.2 ADMINISTRATOR

shall mean the Board of Trustees as elected or appointed pursuant to Section 7.4, which shall administer the Plan in accordance with the terms of Section VII.

1.3 ANNIVERSARY DATE

shall mean November 1 of each year.

1.4 AVERAGE MONTHLY COMPENSATION

shall mean the Compensation of a Participant during the highest thirty six (36) consecutive months out of the last sixty (60) consecutive months immediately preceding retirement, divided by thirty six (36). If the Participant does not have thirty six (36) months in which Compensation was received, the average shall be based on the actual period (in months and days) in which Compensation was received. If the Participant has a Break-in-Service so that there are not thirty six (36) consecutive months of Compensation out of the sixty (60) months immediately preceding retirement, the last thirty six (36) months of Compensation shall be averaged, even if not consecutive.

1.5 BENEFICIARY

shall mean an Eligible Spouse, or Qualified Child(ren) who is (are) entitled to receive the benefits which are payable under the Plan upon or after the death of a Participant.

1.6 BENEFIT PAYMENT COMMENCEMENT DATE

shall mean the first day of the first period for which a benefit is payable under the Plan.

1.7 BOARD OF TRUSTEES

shall mean the individuals described in Section 7.4 responsible for the administration of the Plan and investment of Trust assets pursuant to Sections VII and VIII of the Plan.

1.8 BREAK-IN-SERVICE

shall occur when a Participant voluntarily terminates his employment and is not reemployed within one (1) year of such termination. An approved leave of absence shall not be considered a Break-In-Service if the Employee returns to work at the expiration of the approved leave.

1.9 CITY

shall mean the City of Joplin, Missouri, which is the Plan sponsor.

1.10 CODE

shall mean the Internal Revenue Code of 1986, as amended.

1.11 COMPENSATION

shall mean amounts paid by the City which constitute regular wages, longevity pay, stipends, overtime pay, sick pay, vacation pay, compensable time pay, amounts deferred pursuant to Section 457 of the Code and employee salary reduction amounts contributed pursuant to Section 125 of the Code to the City's Flexible Benefits Plan. Compensation shall also include payments made by the City's authorized Third Party Administrator for lost wages as a result of worker's compensation related injuries limited to the Participant's regular base salary. Clothing and Cell Phone allowances shall not qualify as Compensation.

For all purposes under the Plan, a Participant's compensation from the City shall be disregarded to the extent it exceeds the limit of Section 401(a)(17) of the Code.

If a determination period consists of fewer than 12 months, the annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

Notwithstanding any other provision in the Plan, each Section 401(a)(17) employee's benefit under this Plan will be the greater of:

(A) the Employee's benefit as of the last day of the Plan Year ending December 31, 1993, frozen in accordance with Section 1.401(a)(4)-13 of the regulations, or

(B) the Employee's benefit determined with respect to the benefit formula applicable for the Plan Year beginning January 1, 1994, as applied to the Employee's total years of service taken into account under the Plan for purposes of benefit accruals.

A Section 401(a)(17) employee means an Employee whose current Accrued Benefit as of a date on or after January 1, 1994, is based on Compensation for a year beginning prior to January 1, 1994, that exceeded $150,000.

1.12 CONTRIBUTIONS

shall mean the City and Employee contributions to the Plan, made in accordance with Section VI.

1.13 COVERED EMPLOYEE

shall mean an Employee who is employed in covered employment. The term "covered employment" as used herein means employment by the City of Joplin, Missouri, in the Fire Department in active service in any capacity; except that no secretary or clerk, shall be deemed to be in covered employment; or in the Police Department as a uniformed or sworn police officer in active service. Secretaries, clerks, dispatchers, jailers, animal wardens, street painters, cooks, and any other employee or associate of the Police Department shall not be deemed to be in covered employment. Temporary, seasonal, or part-time employees of either the Fire Department or Police Department shall not be deemed to be in covered employment and shall not be required to contribute to the Plan, nor receive any benefit from the Plan. A Plan Participant who, due to medical restriction, is working in other than his/her normal duty, job or hours, is still deemed a member of the covered employment and shall make contributions to the Plan and receive benefits from the Plan.

1.14 CREDITED SERVICE

shall mean the total time in complete and fractional years (based on the number of complete months) during which the Employee is a Covered Employee and a Participant, and makes the contribution required in Section 6.1. Such service need not be continuous or uninterrupted.

1.15 EARLY RETIREMENT DATE

shall mean for a Participant hired after January 31, 2009, who has not attained age 60, the date the Participant has attained twenty (20) years of Credited Service, but

not yet attained twenty-five (25) years of Credited Service and elected to retire and receive a reduced benefit.

1.16 ELIGIBLE SPOUSE

shall mean the Participant's legal spouse who is married to the Participant on the date the Participant ceases to be employed by the City. If a surviving Eligible Spouse shall become remarried, such individual will cease to be an Eligible Spouse, and benefit payments under this Plan will be discontinued. See Section 10.3 for a special rule concerning how a former spouse of a Participant may be considered the Participant's "Eligible Spouse."

1.17 EMPLOYEE

shall mean any person who is employed by the City and classified by the City as an employee, but excludes any person who is an independent contractor. A person classified as an employee is an employee and no subsequent classification of such a person by the Internal Revenue Service or court shall have any effect on the individual's employment status for purposes of the Plan.

1.18 EMPLOYEE CONTRIBUTIONS

shall mean the amount a Participant is required to contribute to the Plan pursuant to Section 6.1 in order to earn benefits derived from City contributions.

1.19 NORMAL RETIREMENT AGE

shall mean the earliest of the following:

(A) Age 60 or

(B) Whichever of the following applies:

(1) For Participants hired on or before January 31, 2009, the completion of twenty (20) years of Credited Service.

(2) For Participants hired after January 31, 2009, the completion of twenty-five (25) years of Credited Service.

Retirement under this Section 1.19 shall be contingent on the Participant being continuously employed as a Covered Employee by the City for the twelve (12) months ending on the applicable retirement date.

1.20 NORMAL RETIREMENT DATE

shall mean the date a Participant has attained the age specified in Section 1.19 or the applicable number of years of Credited Service specified in Section 1.19, and has elected to retire and receive a normal retirement benefit.

1.21 PARTICIPANT

shall mean any Covered Employee who is or becomes eligible to participate in the Plan in accordance with Section II.

1.22 PLAN

shall mean the Policemen's and Firemen's Pension Plan of the City of Joplin, as set forth in this document and as may be amended from time to time in the future.

1.23 PLAN YEAR

shall mean a 12-month period beginning on November 1 and ending on October 31 of the following year.

1.24 RESTATEMENT EFFECTIVE DATE

shall mean the date set forth in Article XI.

1.25 QUALIFIED CHILD OR QUALIFIED CHILDREN

shall mean a child of a Participant under the age of eighteen (18) years who is either (i) a natural or adopted unmarried child of a Participant, or (ii) an unmarried child of the Participant's Eligible Spouse where the child is permanently residing with the Participant as of the date of the Participant's death. Any benefit payable on behalf of or on account of a person who is a Qualified Child shall cease when the person ceases to be a Qualified Child.

1.26 TRUST AGREEMENT

shall mean the agreement entered into between the City and the Trustee.

1.27 TRUST FUND

shall mean all cash, securities, real estate, annuity contracts or any other property held by the Trustee pursuant to the terms of the Trust Agreement, together with income therefrom.

1.28 TRUSTEES

shall mean the Board of Trustees as defined in Section 7.4.

SECTION II

ELIGIBILITY AND PARTICIPATION

2.1 ELIGIBILITY

Each Covered Employee whose employment or reemployment began prior to February 1, 2020 was eligible to become a Participant upon satisfaction of the requirements for employment in his or her position as stipulated by the City. As a condition of employment, a Covered Employee agrees to make the contributions required pursuant to Section 6.1.

2.2 PARTICIPATION

Subject to Section 2.4, all Participants in the Plan on the Restatement Effective Date shall continue to be Participants. No other Employee shall become a Participant in the Plan.

Participation in the Plan shall not give any Employee the right to be retained in the employ of the City, nor, on dismissal, to have any right or interest in the Trust Fund other than as provided in this Plan.

2.3 TERMINATION OF ELIGIBILITY

In the event a Participant shall continue to be employed by the City, but not as a Covered Employee, such former Participant shall be entitled to a retirement benefit only if the requirements of Section III for receiving a retirement benefit have been satisfied.

2.4 REEMPLOYMENT OF FORMER PARTICIPANT

(A) In the event a Participant terminated employment and was later reemployed as a Covered Employee prior to February 1, 2020, participation in the Plan resumed immediately upon reemployment. If the Covered Employee had at least 20 years of Credited Service at the time of his termination of employment, upon his reemployment he may continue to accrue additional years of Credited Service, up to the maximum permitted by the Plan.

If the Covered Employee did not have at least 20 years of Credited Service at the time of his termination of employment, but was reemployed prior to February 1, 2020 before incurring a Break-in-Service, then upon his reemployment his Credited Service earned prior to termination of employment shall be taken into account for purposes of Section 3.1, provided that the Covered Employee repays to the Plan an amount equal to the amount paid to him by the Plan upon his termination of employment,

plus interest at the rate of one-half of one percent (.5%) per month from the date of the Plan's payment to the date of repayment. Repayment shall be required within six (6) months of reemployment.

If the Covered Employee did not have at least 20 years of Credited Service at the time of his termination of employment, and either is reemployed after incurring a Break-in-Service, or does not repay the amount described in the preceding paragraph, then his Credited Service as of the date of his termination of employment shall not be taken into account for purposes of Section 3.1.

(B) Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code 414(u).

Accordingly, a Covered Employee is treated as having had continuous Credited Service for purposes of participation, vesting and accrual of benefits by reason of a period of absence from employment due to or necessitated by service in the uniformed services, provided the Covered Employee:

(1) is reemployed in a covered position within the time specified in regulations or other guidance under the Uniformed Services Employment and Reemployment Rights Act;

(2) repays any lump sum payment previously paid to the employee; and

(3) pays to the Plan an amount equal to the amount of any employee contributions that would have been made to the Plan if the employee had remained in Covered Employment.

If a Covered Employee dies while performing qualified military service, as defined in Section 414(u) of the Code, the Plan shall treat such Covered Employee as having died during covered employment, in accordance with the provisions of Section 401 (a)(37) of the Code.

(C) Notwithstanding anything to the contrary, if a Covered Employee terminated employment and his date of reemployment is on or after February 1, 2020, such Employee shall not be eligible to resume participation in the Plan upon reemployment.

SECTION III

RETIREMENT DATES AND BENEFITS

3.1 NORMAL RETIREMENT

A Participant may retire on or after his Normal Retirement Date, and payment of the retirement benefit shall be governed by the following provisions:

(A) Benefit Amount:

(1) The monthly normal retirement benefit of a Participant hired on or before January 31, 2009, shall be equal to fifty percent (50%) of the Participant's Average Monthly Compensation, adjusted, as applicable, in accordance with the following:

(a) For each year of Credited Service in excess of twenty (20), the Participant shall receive an additional benefit of one percent (1%) of Average Monthly Compensation, up to a maximum total benefit of sixty-five percent (65%) of Average Monthly Compensation.

(b) If the Participant has less than twenty (20) years of Credited Service, the benefit shall be reduced by one-twentieth (1/20) for each year less than twenty (20) years.

(2) The monthly normal retirement benefit of a Participant hired after January 31, 2009, shall be equal to fifty-five percent (55%) of the Participant's Average Monthly Compensation, adjusted, as applicable, in accordance with the following:

(a) For each year of Credited Service in excess of twenty-five (25), the Participant shall receive an additional benefit of one percent (1%) of Average Monthly Compensation, up to a maximum total benefit of sixty percent (60%) of Average Monthly Compensation.

(b) If the Participant has less than twenty-five (25) years of Credited Service, the benefit shall be reduced by one-twenty fifth (1/25) for each year less than twenty-five (25) years.

(B) Benefit Payments: Retirement benefits shall be payable on the same day of each month, as determined by the Trustees. The first payment shall be made for the month in which the Participant's Normal Retirement Date falls, and all payments shall be made as provided in Section 3.6, Normal Form of Benefit Payment.

3.2 EARLY RETIREMENT

A Participant hired after January 31, 2009, may retire on his Early Retirement Date, and payment of the retirement benefit shall be governed by the following provisions:

(A) Benefit Amount: The monthly early retirement benefit of a Participant hired after January 31, 2009, shall be equal to the number of full years of Credited Service times two percent (2%) of the Participant's Average Monthly Compensation.

(B) Benefit Payments: Early retirement benefits shall be payable on the same day of each month, as determined by the Trustees. The first payment shall be made for the month in which the Participant's Early Retirement Date falls, and all payments shall be made as provided in Section 3.6, Normal Form of Benefit Payment.

3.3 BENEFIT ADJUSTMENTS FOR CERTAIN RETIREES

As long as this Plan is in force and has not been terminated, as of each Anniversary Date, the monthly retirement benefit payable to a Participant who retired before April 9, 1972 shall be adjusted to one-half of the "average prevailing monthly salary" determined as of the Anniversary Date.

The "average prevailing monthly salary" shall be computed by adding the monthly salary of each member of both the police and fire departments who qualifies as a Covered Employee, and dividing the total by the number of such Covered Employees.

3.4 BENEFITS OF REEMPLOYED RETIREES

If any retired Participant should be reemployed as a paid Employee of the City, any benefits said Participant is receiving from this Plan shall continue as if the individual were still retired.

3.5 TERMINATION OF EMPLOYMENT

Credited Service with respect to any Participant who terminates employment and is later re-employed by the City as a Covered Employee, before incurring a Break-in-Service, shall be determined under Section 2.4.

3.6 NORMAL FORM OF BENEFIT PAYMENT

shall be a monthly annuity payable for the Participant's lifetime.

3.7 MAXIMUM BENEFIT LIMITATION

The total annual benefit (as hereinafter defined) of any Participant from this Plan and all other defined benefit pension plans of the City shall not exceed the limitations set forth in this Section 3.7 and its subsections.

(A) For purposes of this Section 3.7, the term "annual benefit" means a benefit payable in the form of a straight life annuity with no ancillary benefits under a plan to which employees do not contribute and under which no rollover contributions (as defined in Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3) and 457 (e)(16) of the Code) are made.

(B) The total annual benefit shall not exceed the amount specified in Section 415(b)(1)(A) of the Code ($210,000 for 2015), as such amount may be adjusted by the Secretary of the Treasury, pursuant to Section 415(d)(1) of the Code as of January 1 of the Plan Year in which the Participant's benefits become payable hereunder.

(C) When retirement benefits under this Plan are payable in any form other than the form described in Section 3.7, the determination as to whether the limitation described in this Section 3.7 has been satisfied shall be made in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, by adjusting such benefit so that it is the actuarial equivalent (as that term is used in Code Section 415(b)) of the benefit described in Section 3.7. For purposes of this Section 3.7, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that portion of any joint and survivor annuity which constitutes a qualified joint and survivor annuity (as defined in Section 417(b) of the Code, notwithstanding the inapplicability of such Section) shall not be taken into account.

(D) If the payment of a retirement benefit under this Plan commences after the first day of the month coincident with or next following the date the Participant has attained age sixty-five (65), the limit described in paragraph (B) is increased to:

(1) If the annuity starting date is in a limitation year beginning before July 1, 2007, the total annual benefit payable in the form set forth in paragraph (A) commencing at the Participant's annuity starting date that is the actuarial equivalent of the dollar limitation, with the actuarial equivalence computed using whichever of the following produces the smaller annual amount: (a) the interest rate and mortality table or other tabular factor specified in the plan for determining actuarial equivalence for delayed retirement purposes; or (b) a 5 percent interest rate assumption and the applicable mortality table; or

(2) If the annuity starting date is in a limitation year beginning on or after July 1, 2007, the total annual benefit payable in the form set forth in paragraph (A) commencing at the participant's annuity starting date that is the lesser of (a) the actuarial equivalent of the amount in paragraph (B), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table, and expressing the Participant's age based on completed calendar months as of the annuity starting date; and (b) the product of the dollar limitation under paragraph (B) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of section 415.

The applicable mortality table is the mortality table described in Rev. Rul. 2001-62.

(E) Notwithstanding the preceding provisions of this Section 3.7, the benefits payable with respect to a Participant under this Plan shall be deemed not to exceed the limitations of this Section 3.7 if:

(1) the retirement benefits payable with respect to such Participant under this Plan and under all other qualified defined benefit plans to which the City contributes do not exceed ten thousand dollars ($10,000) for the applicable Plan Year and for any prior Plan Year; and

(2) the City has not at any time maintained a qualified defined contribution plan in which the Participant participated.

(F) In the case of a Participant who has fewer than ten (10) years of participation in the Plan, the limitation referred to in Section 3.7 shall be multiplied by a fraction, the numerator of which is the number of his years (or part thereof) of Plan participation and the denominator of which is ten (10), but in no event shall such fraction be less than one-tenth ($1/10^{th}$).

(G) The limitation year for this Plan shall be the Plan Year.

(H) The $10,000 minimum benefit limitation of paragraph (E)(1), if provided, must be reduced if a participant has less than 10 years of service with the City at the time the participant begins to receive retirement benefits under the Plan. The reduction is made by multiplying the limit of paragraph (E)(1) by a fraction, the numerator of which is the participant's years of service with the City as of and including, the current limitation year, and the denominator of which is 10.

(I) When applying the limitations of this Section, all defined benefit plans (whether or not terminated) of the City, not including a Code Section 415(m) plan, are to be treated as one defined benefit plan.

(J) No repayment of contributions and earnings that were previously refunded due to a forfeiture of credited service pursuant to Code Section 415(k)(3) shall be taken into account under this Section.

(K) In the case of a Participant with less than 15 years of service as in Covered Employee, whose annuity starting date occurs before the Participant attains age 62, the limit described in paragraph (B) is limited to:

(1) If the annuity starting date is in a limitation year beginning before July 1, 2007, the total annual benefit payable in the form set forth in paragraph (A) commencing at the Participant's annuity starting date that is the actuarial equivalent of the dollar limitation, with the actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table described in Treasury Regulation Section 1.417(c)-1(d)(2); or

(2) If the annuity starting date is in a limitation year beginning on or after July 1, 2007, the total annual benefit payable in the form set forth in paragraph (A) commencing at the participant's annuity starting date that is the actuarial equivalent of the dollar limitation, with the actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table, and expressing the Participant's age based on completed calendar months as of the annuity starting date.

3.8 APPLICABLE BENEFIT PROVISIONS

The determination of the benefits to which any Participant or Beneficiary is entitled shall be governed by the terms of the Plan in effect on the date of the Participant's termination of employment, unless a subsequently adopted amendment should provide otherwise.

3.9 FURTHER DISTRIBUTION REQUIREMENTS

Notwithstanding any provision of this Plan to the contrary, a Participant's monthly retirement income shall commence or otherwise be paid no later than the Participant's "required beginning date," and all amounts payable hereunder shall be paid in accordance with Code Section 401(a)(9) , including the incidental death benefit requirement in Code Section 401 (a)(9)(G), and Treasury Regulation Sections 1.401 (a)(9)-1 through 1.401 (a)(9)-9. A Participant's required beginning date is the first day of April of the calendar year following the later of the calendar year in which the Participant attains age seventy and one-half (70 ½) or retires. Monthly retirement income shall be paid over a period not longer than the lives (or, if applicable, the joint life expectancies) of the Participant and any designated Beneficiary. Solely for the purposes of this Section, if the designated

Beneficiary is not the Spouse and is more than ten (10) years younger than the Participant, the joint life expectancy shall be calculated as though the age difference were ten (10) years. If the Participant dies before his annuity starting date, distribution of a survivor benefit shall commence no later than the date the Participant would have reached age seventy and one-half (70 ½). If a Participant dies after his annuity starting date but before his entire interest has been distributed to him, the remaining portion of such interest shall be distributed to his Spouse or Beneficiary at least as rapidly as under the method of distribution as of his date of death.

3.10 OFFSET FOR WORKER'S COMPENSATION

The duty death benefit pursuant to Section 4.1 and the duty disability benefit pursuant to Section 5.1 payable to any Employee, Eligible Spouse or Qualified Child shall not exceed the difference between any worker's compensation payment received by the recipient(s) for the same death or disability and the larger of the "average prevailing monthly salary" (as defined in Section 3.3) or the Covered Employee's Average Monthly Compensation.

3.11 RETURN OF EMPLOYEE CONTRIBUTIONS

(A) With respect to a Covered Employee hired on or before January 31, 2009:

(1) When the Covered Employee terminates employment and retires upon reaching his Normal Retirement Date as defined in Section 1.20, in addition to the benefits payable under Section 3.1, the Plan shall pay each covered employee who retires, dies, or becomes disabled, his Accumulated Employee Contributions, without interest as soon as practicable after his termination of employment.

(2) When the Covered Employee terminates employment for any reason prior to the attainment of the Normal Retirement Date as defined in Section 1.20, the Plan shall pay the Covered Employee his Accumulated Employee Contributions, without interest as soon as practicable after his termination of employment.

(B) With respect to a Covered Employee hired after January 31, 2009:

(1) When the Covered Employee attains twenty (20) years of Credited Service or age 60, the Accumulated Employee Contributions will not be refunded to the Covered Employee but will remain in the Plan. The benefits payable shall be as set forth in Section 3.1 or 3.2.

(2) When the Covered Employee terminates employment for any reason prior to the attainment of twenty (20) years of Credited Service or age 60, the Plan shall pay the Covered Employee his

Accumulated Employee Contributions, without interest as soon as practicable after his termination of employment.

SECTION IV

DEATH BENEFITS

4.1 DUTY DEATH BENEFIT

(A) Eligibility for Benefit

If a Covered Employee dies as a result of a disease or injury contracted or sustained while in the actual discharge and performance of the duties of his or her covered employment, then the duty death benefit described below shall be payable.

(B) Benefit Amount

The duty death benefit payable to an Eligible Spouse shall be a monthly benefit equal to one hundred percent (100%) of the Covered Employee's monthly normal retirement benefit described in Section 3.1, plus an additional twenty percent (20%) of the Covered Employee's monthly normal retirement benefit for each Qualified Child in the care of such Eligible Spouse, up to a maximum total monthly benefit of one hundred fifty percent (150%) of the Covered Employee's monthly normal retirement benefit.

If the Covered Employee's Eligible Spouse does not survive him, the duty death benefit payable on behalf of the surviving Qualified Children, if any, shall be a monthly benefit equal to one hundred percent (100%) of the Covered Employee's monthly normal retirement benefit where there is one surviving Qualified Child, increased by twenty percent (20%) of the Covered Employee's monthly normal retirement benefit for each additional surviving Qualified Child, up to a maximum total benefit of one hundred fifty percent (150%) of the Covered Employee's monthly normal retirement benefit.

4.2 NON-DUTY DEATH BENEFIT

(A) Eligibility

If a Covered Employee, having completed three (3) or more years of Credited Service, shall die under such circumstances that his Eligible Spouse and Qualified Children shall not qualify for the duty death benefit described in Section 4.1 above, and such Covered Employee has not retired, then his Eligible Spouse and/or Qualified Children, if any, shall qualify for the non-duty death benefit described below.

(B) Benefit Amount

The non-duty death benefit payable to his Eligible Spouse shall be a monthly benefit equal to two and one-half percent (2 ½%), plus one-half of one percent (1/2%) for each Qualified Child in her care, of the Covered Employee's monthly normal retirement benefit as defined in Section 3.1, for each full year of the Covered Employee's Credited Service, with an overall maximum monthly benefit equal to four percent (4%) of the Covered Employee's monthly normal retirement benefit for each full year of the Covered Employee's Credited Service.

If the Covered Employee's Eligible Spouse does not survive him, the non-duty death benefit payable on behalf of the surviving Qualified Children, if any, shall be a monthly benefit equal to one and one-half percent (1 ½%) of the Covered Employee's monthly normal retirement benefit where there is one surviving Qualified Child, plus one-half of one percent (1/2%) the Covered Employee's monthly normal retirement benefit for each additional surviving Qualified Child, for each full year of the Covered Employee's Credited Service, with an overall maximum benefit equal to four percent (4%) of the Covered Employee's monthly normal retirement benefit for each full year of the Covered Employee's Credited Service.

4.3 SURVIVOR'S BENEFITS

Upon the death of a Participant who has retired either after reaching age 60 or after acquiring twenty (20) or more years of Credited Service or after becoming disabled, his Eligible Spouse shall be entitled to a monthly survivor's benefit equal to fifty percent (50%), plus twenty percent (20%) for each Qualified Child in her care, of the Participant's monthly normal retirement benefit, with an overall maximum of one hundred percent (100%) of the Participant's monthly normal retirement benefit. In the event that no Eligible Spouse survives the Participant, the monthly survivor's benefit payable on behalf of the surviving Qualified Children, if any, shall be equal to forty percent (40%) of the Participant's monthly normal retirement benefit where there is one surviving Qualified Child, plus fifteen percent (15%) of the monthly normal retirement benefit for each additional surviving Qualified Child, with an overall maximum monthly survivor's benefit of one hundred percent (100%) of the Participant's monthly normal retirement benefit.

Notwithstanding the foregoing, see Sections 4.1 and 4.2 for a description of the circumstances under which this Survivor's Benefit is not payable, on account of the entitlement of an Eligible Spouse or Qualified Children to benefits under those Sections.

4.4 DEATH OF PARTICIPANT WITH NO SPOUSE OR CHILDREN

(A) If a Participant dies before attainment of twenty (20) years of Credited Service or age 60 without being survived by an Eligible Spouse or Qualified Children, the Participant's Accumulated Employee Contributions, without interest, will be paid to the beneficiary designated by the Participant, or, if no such beneficiary is designated, to the Participant's estate. Any beneficiary designation executed by the Participant and on file with the City shall be considered a valid beneficiary designation for this purpose until such designation is affirmatively revoked in writing by the Participant or until the Participant validly executes a new beneficiary designation.

(B) If a Participant, hired on or before January 31, 2009, dies after his Normal Retirement Date without being survived by an Eligible Spouse or Qualified Children, the Participant's Accumulated Employee Contributions, without interest, will be paid to the beneficiary designated by the Participant, or, if no such beneficiary is designated, to the Participant's estate. Any beneficiary designation executed by the Participant and on file with the City shall be considered a valid beneficiary designation for this purpose until such designation is affirmatively revoked in writing by the Participant or until the Participant validly executes a new beneficiary designation.

(C) If a Participant, hired after January 31, 2009, dies after his Normal Retirement Date or Early Retirement Date without being survived by an Eligible Spouse or Qualified Children, the Participant's Accumulated Employee Contributions will remain in the Plan.

4.5 CONTINUATION OF BENEFITS TO QUALIFIED CHILDREN

In the event benefits are paid under Section 4.1, 4.2, or 4.3 to a surviving Eligible Spouse and one or more surviving Qualified Children of a deceased Participant, and the surviving Eligible Spouse ceases to be an Eligible Spouse prior to the date the surviving Qualified Children cease to be Qualified Children, payments will continue to the Qualified Children to the same extent as payments would have been made to such Qualified Children had there been no surviving Eligible Spouse on the date of the Participant's death.

SECTION V

DISABILITY BENEFITS

5.1 DUTY DISABILITY BENEFIT

(A) Eligibility for Benefit

If a Covered Employee becomes physically or mentally unfit for the regular duties of his covered employment, or other duties of similar nature and compensation in such Employee's department, as the result of a disease or injury contracted or sustained while in the actual discharge and performance of the duties of his covered employment, then he shall qualify for the duty disability benefit described below.

(B) Benefit Amount

The duty disability benefit payable to a Covered Employee is a monthly benefit equal to one hundred percent (100%) of the Covered Employee's monthly normal retirement benefit described in Section 3.1. If, at the time a Covered Employee qualifies for duty disability benefits, he has fewer than: (1) twenty (20) years of Credited Service, if hired on or before January 31, 2009; or (2) twenty-five (25) years of Credited Service, if hired after January 31, 2009, the Covered Employee shall receive an additional ten percent (10%) of his monthly normal retirement benefit for his Eligible Spouse and for each Qualified Child, but with an overall maximum benefit of one hundred and thirty percent (130%) of his monthly normal retirement benefit.

Any benefit payable under this Section shall be adjusted pursuant to Section 5.4 as applicable.

5.2 NON-DUTY DISABILITY BENEFIT

(A) Eligibility for Benefit

If a Covered Employee has completed three (3) or more years of Credited Service and becomes physically or mentally unfit for the regular duties of his covered employment, or other duties within such Covered Employee's department of similar nature and compensation and does not qualify for the duty disability benefit described in Section 5.1, then he shall qualify for the non-duty disability benefit described below.

(B) Benefit Amount

The non-duty disability benefit for a Covered Employee with fewer than: (1) twenty (20) years of Credited Service, if hired on or before January 31, 2009; or (2) twenty-five (25) years of Credited Service, if hired after January 31, 2009, shall be a monthly benefit equal to two and one-half percent (2 ½%), plus one-half of one percent (1/2%) for his Eligible Spouse and for each Qualified Child, of the Covered Employee's monthly normal retirement benefit described in Section 3.1 for each full year of the Covered Employee's Credited Service, with an overall maximum of four percent (4%) of the Covered Employee's monthly normal retirement benefit for each full year of his Credited Service.

5.3 DETERMINATION OF DISABILITY

The Board of Trustees may, at their option, hire a physician to examine any Covered Employee who appears to qualify for a disability benefit under this Section V, and to provide a medical opinion as to whether or not the condition causing the disability existed on the date of employment of such Covered Employee. If it is determined that the condition existed on the date of employment, no disability benefits shall be payable under this Section V.

If a Covered Employee who has been determined to have had a pre-existing condition, produces a contrary medical opinion issued by a physician of his choosing and hired at his expense, a third physician will make the final determination. Such third physician shall be one selected by the other two physicians, and the cost shall be shared by the Covered Employee and the Plan.

In the event a Covered Employee continues in covered employment (see the definition of "covered employment" in Section 1.13) for thirty-six (36) consecutive months, he shall not be denied disability benefits due solely to a pre-existing condition.

Notwithstanding anything to the contrary, at any time a disability insurance policy purchased by the Board of Trustees is in force with respect to a Covered Employee, any determination of whether the Covered Employee is disabled shall be made by the insurer that issued such policy. If the insurer determines that a Covered Employee is not disabled, the Covered Employee may appeal to the Board of Trustees to review such insurer's determination, provided that (a) the Covered Employee has timely pursued and exhausted all appeals offered by the insurer, (b) the appeal to the Board of Trustees is submitted within six (6) months after the date of the insurer's final determination, and (c) the Covered Employee causes the Board of Trustees to receive a copy of all information provided to the insurer in making its determination. The review by the Board of Trustees shall review only the information provided to the insurer, and the Board of Trustees shall not consider any information in support of the Covered Employee's appeal

that was not provided to the insurer, except that the Board of Trustees may request and consider information from a third party that was not provided to the insurer that the Board of Trustees, in its sole and absolute discretion, deems necessary to make a decision on appeal.

5.4 PROOF OF CONTINUING DISABILITY

The Board of Trustees may, from time to time, require a Participant under the age of sixty (60) years who is receiving disability benefits hereunder to undergo a physical examination by a physician or physicians designated by the Board. Should such examination disclose that the disability of the Participant no longer exists, the eligibility of such Participant to receive benefits hereunder on account thereof shall terminate. Any Participant receiving disability benefits refusing to undergo such examination shall not be eligible to receive further benefits, pending his submission to such examination. If such refusal continues for a period of one (1) year, all rights of such Participant to any benefits of any kind hereunder shall be finally terminated. If any Covered Employee shall make a claim for disability benefits and the City shall tender to such Covered Employee necessary or proper medical treatment, surgical treatment, hospitalization or any other service, which such Covered Employee may undergo without unusual or undue danger to him, and such Covered Employee shall fail to accept such tender, then any disability benefits payable to such Covered Employee shall be terminated and he shall thereafter have no claim for benefits hereunder, except as noted below. Failure to accept such tender for a period of ninety (90) days shall be deemed to be a refusal.

If a former Covered Employee who has disability benefits terminated pursuant to this Section 5.4 does not return to work as a Covered Employee, such individual shall receive his Accumulated Employee Contributions reduced by that portion of the disability benefits received which was deemed to be attributable to the Employee contributions.

Any Participant who is receiving disability benefits pursuant to this Section V shall not have such benefits reduced, upon the Participant's attainment of Normal Retirement Age or eligibility for early retirement benefits.

5.5 OFFSET FOR DISABILITY INSURANCE

The amount of any duty or non-duty disability benefit payable to a Covered Employee pursuant to this Section V (in the case of a duty disability benefit after reduction for any worker's compensation payment) shall be reduced, but not below zero, by the amount of any payments made on account of the Covered Employee's disability pursuant to any disability insurance purchased by the Board of Trustees.

SECTION VI

CONTRIBUTIONS

6.1 REQUIRED PARTICIPANT CONTRIBUTIONS

As a condition of employment, each Participant is required to contribute biweekly to the Plan.

(A) If a Participant is hired on or before January 31, 2009, the required Employee Contributions shall be at an amount as is recommended by the independent actuarial study of the Plan for the Plan Year then ended, not to exceed 18.08% of Compensation.

(B) If a Participant is hired after January 31, 2009, the required Employee Contributions shall be equal to 10% of Compensation.

6.2 EMPLOYER CONTRIBUTIONS

The City shall make monthly contributions to the Plan equal to the net amount after reduction for the priorities described below from the one-half cent (½ ¢) general sales tax approved by voters in the November 2019 election, which will expire upon the earlier of 12 years after enactment, or the date that the Plan's actuary certifies that the Plan is 120% funded. The priorities referred to in the preceding sentence are the following:

(A) the amount needed to contribute to the Missouri Local Government Employees Retirement System ("LAGERS") $1,000,000 per Plan Year for two (2) consecutive Plan Years beginning November 1, 2019, for a total of $2,000,000.

(B) The amount needed for each former Participant hired after January 31, 2009 (a "Tier II Participant"), along with such Tier II Participant's Accumulated Employee Contributions, to purchase under LAGERS the number of years and months of Credited Service the Tier II Participant forfeited by terminating employment with the City in order to join LAGERS. For example, suppose that a Tier II Participant had 8 years and 3 months of Credited Service when the Tier II Participant terminated employment with the City to join LAGERS. Suppose further that the cost for such Tier II Participant to purchase 8 years and 3 months of service under LAGERS is $75,000, and the Tier II Participant is refunded the amount of $50,000 for his Accumulated Employee Contributions. The amount of the priority under this paragraph (B) would be $25,000.

For example, suppose that the sales tax generates a total of $6.5 million each Plan Year until it expires, for an average of approximately $541,667 per month. Such gross amount would be reduced by approximately $83,333 per month for two years for the payments to LAGERS described in paragraph (A), and by an additional $83,333 per month for five years for the payments described in paragraph (B). Therefore, the average monthly payment for the two Plan Years beginning November 1, 2019 and November 1, 2020 would be approximately $375,000, the average monthly payment for the three Plan Years beginning November 1, 2021, 2022, and 2023 would be approximately $458,333, and the average monthly payment for the remaining during of the sales tax would be approximately $541, 667.

During the period that such general sales tax is in effect, if the Plan is less than 70% funded as determined by the Plan's actuary, and if the aggregate contribution funded by such tax for any Plan Year is less than the actuarial contribution rate for the City set forth in the Actuarial Valuation for the Plan Year, then the City shall make an additional contribution equal to such shortfall.

If during the period after such general sales tax is in effect, the Plan is not fully (100%) funded as determined by the Plan's actuary, then the City shall be responsible for making contributions in the amounts determined by the Plan's actuary to make the Plan fully funded.

If the City becomes more than 30 days delinquent in any of its obligations, the City will be notified in writing by the trustees of the delinquency. The City shall catch-up fully on any delinquent obligations within 60 days after notification in writing by the trustees. If the City fails to catch-up fully within those 60 days, the City shall pay any past due obligation, plus interest at the statutory rate, per §408.020 RSMo., currently nine percent. If the City is delinquent 60 days after written notice of delinquency by the trustees, then the trustees may pursue any course of action deemed necessary and may pursue any and all remedies that the trustees may have, in law or equity, including suit in a court of competent jurisdiction.

SECTION VII

MANAGEMENT AND ADMINISTRATION

7.1 PARTIES TO THE PLAN

The parties listed below are the named fiduciaries of the Plan;

(A) The City of Joplin (through the City Council)

(B) The Board of Trustees

7.2 GENERAL FIDUCIARY DUTIES

(A) Fiduciaries shall act with the care, skill, prudence, and diligence under the circumstances that a prudent person, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims.

(B) Each fiduciary is responsible for the duties and responsibilities which are specifically allocated to him under this Section VII to the extent not delegated in writing to another fiduciary, and is responsible for no other duties under the Plan.

(C) A fiduciary may serve in more than one fiduciary capacity with respect to the Plan.

7.3 RESPONSIBILITIES OF THE CITY

The City shall authorize contributions to the Fund in accordance with Section VI. To the extent not paid from the Trust Fund, all expenses incurred before termination of the Plan that arise in connection with the administration of the Plan, including but not limited to proper charges of the actuary, accountant, counsel, specialist, or other person who shall be employed by the Trustees, shall be paid by the City. The City shall be responsible for amending the Plan as provided in Section 9.1.

7.4 BOARD OF TRUSTEES

The Board of Trustees shall have seven members consisting of:

(A) the Mayor of the City of Joplin;

(B) two (2) citizens of the City of Joplin;

(C) two (2) actively employed Covered Employees of the Police Department, who shall be elected through a secret ballot by a majority vote of all Covered Employees of the Police Department; and

(D) two (2) actively employed Covered Employees of the Fire Department, who shall be elected through a secret ballot by a majority vote of all Covered Employees of the Fire Department.

Citizen Trustees appointed as stated above shall be appointed to two-year terms by the Mayor with the majority consent of the members of the City Council. One such appointment shall occur in each even-numbered year, and one such appointment shall occur in each odd-numbered year. The appointment to be made in any given year shall be made not later than the second meeting of the City Council in the month of April in the year which the appointment is to occur, and shall be effective on the first Tuesday in May of that year.

Covered Employee Trustees elected as stated above shall serve a term of two (2) years; provided, however, that at the first election after the adoption of this restated Plan one Trustee from the Fire Department and one Trustee from the Police Department shall be elected to a one-year term, so that thereafter the election of one Trustee from the Police Department and one Trustee from the Fire Department shall occur in each even-numbered year, and the election of one Trustee from the Police Department and one Trustee from the Fire Department shall occur in each odd-numbered year. The elections shall be held on the first Tuesday in April, and shall be effective on the first Tuesday in May of the year in which the election is held. Each actively employed Covered Employee of the Police Department and Fire Department shall be notified of each election at least one week in advance of the date each election is to be held. The notice shall include the date, time, place and purpose of the election.

A Citizen Trustee described above may be removed and replaced at any time by the majority vote of the Mayor and the City Council. The term of any person appointed to fill a vacancy created by the death, resignation or removal of a Trustee described above shall expire on the date the replaced Trustee's term would have expired but for his death, resignation or removal.

A Covered Employee Trustee described above may be removed by majority vote of the actively employed Covered Employees of the Department from which the Trustee was elected. The Board of Trustees shall call an election to remove such a Trustee upon request of at least ten (10) actively employed Covered Employees of the Department from which the Trustee was elected. Any vacancy resulting from the death, resignation or removal of a Trustee described above shall be filled by an election, called by the Board of Trustees, by a majority of the actively employed Covered Employees of the Department from which the replaced Trustee was elected. The term of any person elected to fill a vacancy created by

death, resignation or removal of a Trustee described above shall expire on the date the replaced Trustee's term would have expired but for his death, resignation or removal.

No Trustee shall receive any compensation as Trustee.

The City Attorney shall be the legal adviser to the Board of Trustees.

The Mayor shall be the Chairman of the Board and shall preside at all meetings. The Board shall, by majority vote, select a Secretary who may or may not be one of its members. All official meetings of the Board shall be conducted at the Joplin Municipal Building. The Board shall meet whenever necessary at the call of the Chairman and transact all business before it. It shall hold at least one meeting each month at a time to be fixed by the majority of the members.

7.5 ADMINISTRATIVE POWERS, DUTIES AND RESPONSIBILITIES

The Board of Trustees shall administer the Plan for the exclusive benefit of the Participants and their Eligible Spouses and Qualified Children, subject to the specific terms of the Plan. The Board shall have the power to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination shall be conclusive and binding upon all persons. The Board may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of this Agreement; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a non-discriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a qualified plan under the terms of Code Section 401(a), and shall comply with the terms of the Act and all regulations issued pursuant thereto. The Administrator shall have all powers necessary or appropriate to accomplish his duties under this Plan.

The Trustees shall be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

(A) to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder;

(B) to compute and certify the amount and the kind of benefits to which any Participant, Eligible Spouse or Qualified Child shall be entitled hereunder;

(C) to authorize all non-discretionary or otherwise directed disbursements from the Plan;

(D) to maintain all necessary records for the administration of the Plan;

(E) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;

(F) to provide for medical examinations of all applicants for benefits on account of claims of disability, and the result of such examinations shall be submitted to and become the property of the Board; provided, however, the applicant shall have the right to submit the report of any physician of his own choice, and such report, if so submitted, shall likewise become a part of the permanent records of the Board.

The Board may appoint counsel, specialists, advisors, and other persons as it deems necessary or desirable in connection with the administration of this Plan.

The Board shall keep a record of all proceedings, which record shall be open to public inspection; provided, however, the records of medical examinations made of any applicant for any purpose shall not be subject to inspection by the public.

The enumeration of the specific powers and authority of the Board of Trustees herein shall not be construed in limitation of its powers and authority to do all other things necessary or reasonably required to carry out and make effective the specific powers herein granted.

7.6 CLAIMS PROCEDURE

The Board of Trustees shall have the power, and it is required, to provide suitable forms of application and other forms to be used in making claims for benefits from the Fund, to prescribe rules and regulations, not inconsistent with State Laws, or this Plan, or City Ordinance No. 19655, to govern and control the hearing, consideration and disposition of all claims, and other administrative matters and proceedings before such Board.

The Trustees shall have exclusive original jurisdiction to receive, hear and rule upon all claims for benefits from the Fund and to hear and determine all such claims in the first instance. The decision of the Trustees shall be in writing, and the Board shall take and preserve the evidence on any disputed claim and such evidence, records, finding and decision of the Board shall be subject to judicial review by certiorari or other proper legal procedure with the full right of appeal from the decision of the reviewing court on appeal, as in other civil cases.

SECTION VIII

TRUST FUND AND TRUSTEE

8.1 BASIC RESPONSIBILITIES OF THE TRUSTEE

The Trustee shall have the following categories of responsibilities:

(A) Consistent with the "funding policy and method" established by the Board, to invest, manage, and control the Plan assets subject, however, to the direction of an Investment Manager if the Trustee should appoint such manager as to all or a portion of the assets of the Plan;

(B) To pay benefits required under the Plan to be paid to Participants, or, in the event of their death, to their Eligible Spouse or Qualified Children; and

(C) To maintain records of receipts and disbursements.

8.2 INVESTMENT POWERS AND DUTIES OF THE TRUSTEE

(A) The Trustees shall invest and reinvest the Trust Fund to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to, stocks, common or preferred, bonds and other evidences of indebtedness or ownership, and real estate or any interest therein. The Trustee shall at all times in making investments of the Trust Fund consider, among other factors, the short and long-term financial needs of the Plan on the basis of information furnished by the Employer. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by state law so that at all times the Plan may qualify under applicable federal and state laws for favorable tax treatment.

(B) The Trustee may employ a bank or trust company pursuant to the terms of its usual and customary bank agency agreement, under which the duties of such bank or trust company shall be of a custodial, clerical and recordkeeping nature.

8.3 OTHER POWERS OF THE TRUSTEE

The Trustees, in addition to all powers and authorities under common law, statutory authority and other provisions of the Plan, shall have the following powers and authorities, to be exercised in the Trustee's sole discretion:

(A) To purchase, or subscribe for, any securities or other property and to retain the same;

(B) To sell, exchange, convey, transfer, grant options to purchase, or otherwise dispose of any securities or other property held by the Trustee, by private contract or at public auction. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition, with or without advertisement;

(C) To vote upon any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with our without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property;

(D) To cause any securities or other property to be registered in the Trustee's own name or in the name of one or more of the Trustee's nominees, and to hold any investments in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

(E) To keep such portion of the Trust Fund in cash or cash balances as the Trustees may, from time to time, deem to be in the best interests of the Plan, without liability for interest thereon;

(F) To accept and retain for such time as the Trustees may deem advisable any securities or other property received or acquired as Trustees hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;

(G) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other

instruments that may be necessary or appropriate to carry out the powers herein granted;

(H) To settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;

(I) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be agent or counsel for the Employer;

(J) To apply for and procure from responsible insurance companies, to be selected by the Trustees, as an investment of the Trust Fund such annuity, or other Contracts (on the life of any Participant) as the Trustees shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such annuity, or other Contracts; to collect, receive, and settle for the proceeds of all such annuity or other Contracts as and when entitled to do so under the provisions thereof;

(K) To invest in Treasury Bills and other forms of United States government obligations;

(L) To invest in shares of investment companies registered under the Investment Company Act of 1940;

(M) To sell, purchase and acquire put or call options if the options are traded on and purchased through a national securities exchange registered under the Securities Exchange Act of 1934, as amended, or, if the options are not traded on a national securities exchange, are guaranteed by a member firm of the New York Stock Exchange;

(N) To deposit monies in federally insured savings accounts or certificates of deposit in banks or savings and loan associations;

(O) To purchase and hold one or more group contracts of disability insurance to insure against the disability of Covered Employees;

(P) To do all such acts and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to carry out the purposes of the Plan.

8.4 DUTIES OF THE TRUSTEE REGARDING PAYMENTS

The Trustees shall, from time to time, in accordance with the terms of the Plan, make payments out of the Trust Fund. The Trustee shall not be responsible in any way for the application of such payments.

SECTION IX

AMENDMENT AND TERMINATION

9.1 AMENDMENT OF THE PLAN

(A) The Board of Trustees may, at any time, recommend that the Plan be amended for any reason. Any amendment is subject to approval by the Participants (by majority vote of those voting with respect to the amendment), and final ratification by the City Council. No amendment shall authorize or permit any part of the Trust Fund to be diverted for purposes other than for the exclusive benefit of Participants and their Beneficiaries. Also, no amendment shall have the effect of revesting in the City any portion of the Trust Fund.

(B) Any proposed amendment to the Plan shall be submitted to the participants under the following procedure:

The proposed amendment shall be in writing, and posted at each work site. Notice of the vote on the amendment shall be given to each participant and mailed to all retirees which shall specify the dates of the election, and procedure. Voting shall occur in person, by secret ballot, at the City Clerk's Office, or, by notarized ballot mailed or delivered to the City Clerk and received by him within the time allotted for voting which shall be for a period of not less than four (4) weeks. The results shall be tabulated by the City Clerk, under the supervision of two (2) members of the non-Police and Fire Classified Service of the City, and the results reported to the Board of Trustees at its next meeting, and posted publicly at each work site.

9.2 TERMINATION OF THE PLAN

Any termination of the Plan shall be in accordance with Section 28 of Ordinance No. 26598 (as amended by Ordinance No. 77-172) or the duly enacted successor to that provision. Section 28 of Ordinance No. 26598 provides as follows:

> [T]he Council of the City of Joplin, Missouri, may by Ordinance create a different Pension Plan which may include Social Security System, Statewide Municipal Retirement Plan, or a separate new City Plan, or any combination thereof, for all employees of the Police and Fire Departments of the City employed after February 1, 1978, and after the passage of the new Ordinance giving effect to such Plan. This Section shall not apply to covered employees of

the Police and Fire Departments on the effective date of this Ordinance.

In the event of the termination or partial termination of the Plan, the benefits of all affected Participants determined as of the date of such termination or partial termination, to the extent funded as of such date, shall be non-forfeitable. No such action shall alter the Plan or its operation with respect to Participants who have previously retired under this Plan.

The Trustees shall arrange for the Trust Fund to be transferred to any replacement plan as appropriate, and if necessary, apportioned between Participants.

SECTION X

MISCELLANEOUS

10.1 HEADINGS

The headings and subheadings in this Plan have been inserted for convenience of reference only, and are to be ignored in any construction of its provisions.

10.2 CONSTRUCTION

In the construction of this Plan, the masculine shall include the feminine and the singular the plural, in all cases where such meanings would be appropriate.

10.3 SPENDTHRIFT CLAUSE

No benefits paid to a Participant shall be subject to the claim or to any legal process of any creditor of the Participant or Beneficiary. No Participant or Beneficiary shall have any right to alienate, commute, or assign any of the benefit distributions (except as provided in Section 10.4 below, with respect to payments to a trust on behalf of a minor).

This provision shall not apply to a "qualified domestic relations order", as defined in Code Section 414(p). To the extent provided under a qualified domestic relations order, a former Eligible Spouse of a Participant shall be treated as the Eligible Spouse or surviving Eligible Spouse for all purposes under the Plan. Notwithstanding the foregoing, however, where a person is considered pursuant to a qualified domestic relations order to be a Participant's Eligible Spouse or surviving Eligible Spouse, and the person remarries, such person shall no longer be considered the Participant's Eligible Spouse as of the date the person is remarried.

10.4 LEGALLY INCOMPETENT

Every person receiving or claiming a benefit under the Plan shall be presumed to be mentally competent and of age until the Trustees receive reliable, written notice that such person is incompetent or a minor. Payments otherwise due a minor shall be paid to any custodial parent of such minor, unless the Participant has designated a trust to receive the benefit on behalf of such minor. Payments otherwise due any other incompetent person shall be paid to the guardian, conservator, trustee or other legal representative of such person. In the event that the Trustees are unable to locate a parent, guardian, conservator, trustee or other legal representative of an incompetent person who is otherwise entitled to payment under the Plan, such payment shall be made to the individual determined by the Trustees to have assumed financial responsibility for the care of such person. Any payment of a benefit in accordance with the provisions of this

Section shall be in complete discharge of any further liability to make such payment. In the event the Trustees are faced with competing claims to benefits, they shall be authorized to seek a judicial determination as to the Plan's liability.

10.5 COMPLIANCE WITH APPLICABLE LAWS

The Trustees shall interpret and administer the Plan in such manner that the Plan shall remain in compliance with Sections 401 and 501 of the Code by meeting the requirements of Section 414(d) of the Code.

10.6 NOT A CONTRACT OF EMPLOYMENT

Nothing in this Plan shall be deemed to give any Employee any right to be retained in the employ of the City.

10.7 INDEMNITY

The City hereby agrees to assume liability for, and does hereby indemnify, protect, save, and keep harmless each member of the Board of Trustees, and their respective successors and assigns from and against any and all liabilities, obligations, losses, expenses, damages, penalties, taxes, claims, actions, suits, costs, expenses, or disbursements (including legal fees and expenses) of any kind and nature whatsoever, which may be imposed on, incurred by, or asserted against such member(s) (whether or not such member(s) is also indemnified by any other person), which in any way relate to or arise out of this Plan or the administration of the Plan or Fund, or the action or inaction of such member(s) hereunder, except only in the case of willful misconduct or gross negligence on the part of such member(s) in the performance of his duties.

10.8 FORFEITURE OF BENEFITS

Notwithstanding anything to the contrary, any Participant who is found guilty of any felony described in the next sentence that is committed in direct connection with or directly related to the Participant's duties as an Employee shall not be eligible for any retirement benefits with respect to service performed on or after August 28, 2014, except that a Participant may request a refund of the Participant's contributions, if any, including earnings, as otherwise permitted in accordance with Section 3.11. A felony is described in this sentence if it is any of the following, or a substantially similar offense under federal law:

(A) The offense of felony stealing under RSMo. Section 570.030 when such offense involved money, property, or services valued at five thousand dollars ($5,000.00) or more as determined by the court;

(B) The offense of felony receiving stolen property under RSMo. Section 57.080 when such offense involved money, property, or

services valued at five thousand dollars ($5,000.00) or more as determined by the court;

(C) The offense of forgery under RSMo. Section 570.090;

(D) The offense of felony counterfeiting under RSMo. Section 570.103;

(E) The offense of bribery of a public servant under RSMo. Section 576.010; or

(F) The offense of acceding to corruption under RSMo. Section 576.020.

SECTION XI

RESTATEMENT EFFECTIVE DATE

This Plan restatement is hereby adopted by the Board of Trustees pursuant to Ordinance Number 2019-____ passed by the Council of the City of Joplin, Missouri, this _____ day of _____, 2019, but effective as of February 1, 2020.

Board of Trustees:

_____	_____
Mayor, Gary Shaw	Date
_____	_____
John Alford, Fire	Date
_____	_____
Adam Grimes, Fire	Date
_____	_____
Jared Delzell, Police	Date
_____	_____
Larry Swinehart, Police	Date
_____	_____
Marshall Hogue	Date
_____	_____
Mike McGavran	Date

Approved as to Form:

_____	_____
City Attorney, Peter C. Edwards	Date

JOPLIN POLICE & FIRE PENSION PLAN

SUMMARY OF PROPOSED PLAN CHANGES

1. Section 1.13-Covered Employee

   Proposed Sentence-shall mean an Employee who is employed in covered employment.

   Current Sentence-shall mean a person employed in covered employment and thereby eligible to participate in this Plan.

2. Section 1.14-Credited Service

   Proposed Sentence-shall mean the total time in complete and fractional years (based on the number of complete months) during which the Employee is a Covered Employee and a Participant and makes the contribution required in Section 6.1.

   Current Sentence- shall mean the total time in complete and fractional years (based on the number of complete months) during which the Employee is a Covered Employee and makes the contribution required in Section 6.1.

3. Section 2.1-Eligibility

   Proposed Sentence-Each Covered Employee whose employment or reemployment began prior to February 1, 2020 was eligible to become a Participant upon satisfaction of the requirements for employment in his or her position as stipulated by the City.

   Current Sentence- Each Covered Employee shall become a Participant in the Plan upon satisfaction of the requirements for employment in his or her position as stipulated by the City.

4. Section 2.2-Participation

   Proposed Sentences-Subject to Section 2.4, all Participants in the Plan on the Restatement Effective Date shall continue to be Participants. No other Employee shall become a Participant in the Plan.

   Current Sentences- All Participants in the Plan on the Restatement Effective Date shall continue to be Participants. Each other Employee shall automatically become a Participant in the Plan in accordance with Section 2.1. Each Participant whose employment has been terminated and later resumes employment, shall participate in the Plan in accordance with Section 2.4.

5. Section 2.4 Subsection A-Reemployment of Former Participant

   Proposed Sentence-In the event a Participant terminated employment and was later reemployed as a Covered Employee prior to February 1, 2020, participation in the Plan resumed immediately upon reemployment. If the Covered Employee

did not have at least 20 years of Credited Service at the time of his termination of employment, but was reemployed prior to February 1, 2020 before incurring a Break-in-Service, then upon his reemployment his Credited Service earned prior to termination of employment shall be taken into account for purposes of Section 3.1, provided that Covered Employee repays to the Plan an amount equal to the amount paid to him by the Plan upon his termination of employment, plus interest at the rate of one-half of one percent (.5%) per month from the date of the Plan's payment to the date of repayment.

Current Sentence- In the event a Participant terminates employment and is later reemployed as a Covered Employee, participation in the Plan shall begin immediately upon reemployment. If the Covered Employee did not have at least 20 years of Credited Service at the time of his termination of employment, but is reemployed before incurring a Break-in-Service, then upon his reemployment his Credited Service earned prior to termination of employment shall be taken into account for purposes of Section 3.1, provided that Covered Employee repays to the Plan an amount equal to the amount paid to him by the Plan upon his termination of employment, plus interest at the rate of one-half of one percent (.5%) per month from the date of the Plan's payment to the date of repayment.

6. Section 2.4 Subsection C-Reemployment of Former Participant

   Proposed Sentence-Notwithstanding anything to the contrary, if a Covered Employee terminated employment and his date of reemployment is on or after February 1, 2020, such Employee shall not be eligible to resume participation in the Plan upon reemployment.

   Current Sentence-Not Applicable

7. Section 6.2-Employer Contributions

   Proposed Section- The City shall make monthly contributions to the Plan equal to the net amount after reduction for the priorities described below from the one-half cent (½ ¢) general sales tax approved by voters in the November 2019 election, which will expire upon the earlier of 12 years after enactment, or the date that the Plan's actuary certifies that the Plan is 120% funded. The priorities referred to in the preceding sentence are the following:

   (A) the amount needed to contribute to the Missouri Local Government Employees Retirement System ("LAGERS") $1,000,000 per Plan Year for two (2) consecutive Plan Years beginning November 1, 2019, for a total of $2,000,000.

   (B) The amount needed for each former Participant hired after January 31, 2009 (a "Tier II Participant"), along with such Tier II Participant's

Accumulated Employee Contributions, to purchase under LAGERS the number of years and months of Credited Service the Tier II Participant forfeited by terminating employment with the City in order to join LAGERS. For example, suppose that a Tier II Participant had 8 years and 3 months of Credited Service when the Tier II Participant terminated employment with the City to join LAGERS. Suppose further that the cost for such Tier II Participant to purchase 8 years and 3 months of service under LAGERS is $75,000, and the Tier II Participant is refunded the amount of $50,000 for his Accumulated Employee Contributions. The amount of the priority under this paragraph (B) would be $25,000.

For example, suppose that the sales tax generates a total of $6.5 million each Plan Year until it expires, for an average of approximately $541,667 per month. Such gross amount would be reduced by approximately $83,333 per month for two years for the payments to LAGERS described in paragraph (A), and by an additional $83,333 per month for five years for the payments described in paragraph (B). Therefore, the average monthly payment for the two Plan Years beginning November 1, 2019 and November 1, 2020 would be approximately $375,000, the average monthly payment for the three Plan Years beginning November 1, 2021, 2022, and 2023 would be approximately $458,333, and the average monthly payment for the remaining during of the sales tax would be approximately $541, 667.

During the period that such general sales tax is in effect, if the Plan is less than 70% funded as determined by the Plan's actuary, and if the aggregate contribution funded by such tax for any Plan Year is less than the actuarial contribution rate for the City set forth in the Actuarial Valuation for the Plan Year, then the City shall make an additional contribution equal to such shortfall.

If during the period after such general sales tax is in effect, the Plan is not fully (100%) funded as determined by the Plan's actuary, then the City shall be responsible for making contributions in the amounts determined by the Plan's actuary to make the Plan fully funded.

If the City becomes more than 30 days delinquent in any of its obligations, the City will be notified in writing by the trustees of the delinquency. The City shall catch-up fully on any delinquent obligations within 60 days after notification in writing by the trustees. If the City fails to catch-up fully within those 60 days, the City shall pay any past due obligation, plus interest at the statutory rate, per §408.020 RSMo., currently nine percent. If the City is delinquent 60 days after written notice of delinquency by the trustees, then the trustees may pursue any course of action deemed necessary and may pursue any and all remedies that the trustees may have, in law or equity, including suit in a court of competent jurisdiction.

Current Section- The City shall make biweekly contributions to the Plan equal to the City's contribution rate as calculated by the Plan's actuary.

For purposes of determining the City's contribution rate as calculated by the Plan actuary in this section, the Plan actuary shall utilize accepted actuarial methods and principles, consistent with actuarial assumptions approved by the Trustees. The Actuarial Valuation should be completed no later than 90 days after the Plan year end. The actuarial contribution rate for the City set forth in the Actuarial Valuation will be effective at the beginning of the following Plan Year immediately following completion of the Actuarial Valuation for the prior Plan Year (e.g. the rate set forth in the Actuarial Valuation for the year ended October 31, 2015 will be effective for the Plan Year beginning November 1, 2016).

If the City becomes more than 30 days delinquent in any of its obligations, the City will be notified in writing by the trustees of the delinquency. The City shall catch-up fully on any delinquent obligations within 60 days after notification in writing by the trustees. If the City fails to catch-up fully within those 60 days, the City shall pay any past due obligation, plus interest at the statutory rate, per §408.020 RSMo., currently nine percent. If the City is delinquent 60 days after written notice of delinquency by the trustees, then the trustees may pursue any course of action deemed necessary and may pursue any and all remedies that the trustees may have, in law or equity, including suit in a court of competent jurisdiction.

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-619 amending Chapter 62, Health and Sanitation, by adding a new Article X, Tobacco 21 Act.

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Health Department

ATTACHMENTS
CB2019-619 Council Bill

REVIEWED BY
Dept. Head: Ryan Talken; Finance Dept. Director: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Daniel Pekarek

SUMMARY
The Health Department requests consideration of Council Bill No. 2019-619 that authorizes an amendment to Chapter 62, Health and Sanitation, by adding a new Article X, Tobacco 21 Act.

BACKGROUND
In the 2016 Community Health Needs Assessment (CHNA) conducted by the local Community Health Collaborative (CHC) Lung Disease and Heart Disease were identified as two of the primary health issues affecting local residents. A companion document, the Community Health Improvement Plan (CHIP) was developed in response to the identified health issues and a Tobacco 21 Ordinance was listed as an initiative that should be implemented to improve the lung and heart disease rates. Shortly after, the Vision Joplin 2022 effort included the Tobacco 21 Ordinance as a recommendation in their final report to the city council for consideration.

Recently, the CHC in its 2019 CHNA report again recommended the enactment of a Tobacco 21 Ordinance. Concurrently, Vision Joplin 2022 in conjunction with One Joplin began promoting the passage of a Tobacco 21 Ordinance. Over the past several months they worked with city staff to develop language for the ordinance presented tonight.

Tobacco 21 Ordinances (T21) are considered by the Centers For Disease Control (CDC) as effective measures that communities or states can enact to reduce the rate at which youth begin tobacco use. Studies have shown that most individuals that begin tobacco use (including vaping) do so when they are teenagers. Once they begin, it is very hard to stop use, due to the addictive nature of nicotine. T21 Ordinances essentially raise the age at which tobacco or vaping products can be purchased from 18 to 21. Studies have also shown that with this delay, young adults are less likely to take up the use of these products.

FUNDING SOURCE
The source of funding is the Health Fund.

RECOMMENDATION
Staff recommends adoption of this Council Bill on First Reading.

COUNCIL BILL NO. 2019-619 ORDINANCE NO.

AN ORDINANCE amending Chapter 62, Health and Sanitation, by enacting a new Article X, Tobacco 21 Act.

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

WHEREAS, the use of tobacco products contributes to lung disease, heart disease, and mental health issues, all of which have been identified by the Joplin Health Department as priority health issues; and

WHEREAS, data demonstrates that 96 percent of current adults who smoke started using tobacco before the age of 21, and 65 percent of youth who use e-cigarettes reported using other tobacco products in the last month; and

WHEREAS, the Institutes of Medicine found that programs like Tobacco 21 reduce smoking rates by 25 percent in those 15 to 17 years of age and 15 percent among those 18 to 20 years of age. This reduction in youth initiation of tobacco products will result in less tobacco-related illness and death within the City of Joplin.

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

Section 1. That a new Chapter 62, Health and Sanitation, Article X, Tobacco 21 Act, is enacted as follows:

“Sec. 62-360. – Definitions.

The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Alternative Nicotine Product means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. The term does not mean any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug and Cosmetic Act or any amendment thereto.

(b) *Department* means the City of Joplin Health Department.

(c) *Proof of age* means a driver's license or other documentary or written evidence that the individual is 21 years of age or older.

(d) *Samples* means a tobacco product, alternative nicotine product or vapor product distributed to members of the general public at no charge for purposes of promoting the product.

(e) *Sampling* means the distribution of samples to members of the general public in a public place.

(f) *Tobacco or Tobacco Products* means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco, and also means smokeless tobacco products, hookah tobacco and cigarette papers. The term does not include alternative nicotine or vapor products.

(g) *Vapor Product* means any non-combustible product with or without nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical means, regardless of shape or size, which can be used to produce vapor with or without nicotine in a solution or other form. The term includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device, and any vapor cartridge or other container of nicotine in a liquid solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe or similar product or device. The term does not include alternative nicotine or tobacco products. Vapor product does not include drugs, devices, or combination products authorized for sale as a cessation device by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(h) *Vending machine* means any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products, alternative nicotine products, or vapor products.

Sec. 62-361. - Sale of tobacco products to persons under 21 years of age.

It shall be unlawful for any person to give, barter, sell, cause to be sold, buy for, distribute samples of or furnish in the City tobacco products, alternative nicotine products, or vapor products to any person under 21 years of age.

Sec. 62-362. – Proof of age.

A person selling or distributing tobacco products, alternative nicotine products, or vapor products shall require proof of age from any prospective purchaser or recipient unless such person has reasonable and certain knowledge that the prospective purchaser or recipient is 30 years of age or older.

Sec. 62-363. - Sign required for sale of tobacco products, alternative nicotine products, and vapor products.

It shall be unlawful for any person to give, barter, sell, cause to be sold, distribute, furnish or permit the sale or distribution of tobacco products, alternative nicotine products, or vapor products, unless the premises upon which such items are sold or distributed prominently displays a sign which shall contain in red lettering at least one-half inch high on white background:

> "IT IS A VIOLATION OF THE LAW FOR TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE OF 21."

Sec. 62-364. - Sale of tobacco products, alternative nicotine products, or vapor products through vending machines.

(a) Prohibited. Except as otherwise provided under this section, it shall be unlawful for any person to sell tobacco products, alternative nicotine products, or vapor products through a vending machine.

(b) Definition. For purposes of this section, the term "vending machine" means any mechanical, electric or electronic self-service device which, upon the insertion of money, tokens or other form of payment, automatically dispenses tobacco products, alternative nicotine products, or vapor products.

(c) Exceptions. Vending machines are permitted if located in places which persons under the age of 21 years are denied access.

Sec. 62-365. – Enforcement.

(a) The Department shall have the authority to enforce this Article in a manner that can reasonably be expected to reduce the extent to which tobacco products, alternative nicotine products, or vapor products are sold or distributed to persons under the age of 21 years, and shall perform at least one (1) enforcement operation each year at various permitted locations in the city.

(b) Persons under the age of 21 years may be enlisted to test compliance with sections 62-361 and 62-363 through 62-364; provided, however, that persons who are under the age of 18 may be used to test compliance only if written consent of such person's parents or parent or lawful guardian is on file with the Department, and only under the auspices and supervision of the Department.

Sec. 62-366. – Permit required.

(a) Within sixty days of the effective date of this Article, it shall be unlawful for any person to barter, sell, cause to be sold, distribute, furnish or permit the sale or distribution of tobacco products, alternative nicotine products, or vapor products unless

that person has obtained a permit to sell or distribute such products from the City. There is no permit fee associated with the permit. A permit shall be valid for one year or the remaining portion of a calendar year and expire on December 31 of each year. A permit must be renewed annually and shall be required for each location at which tobacco products, alternative nicotine products, or vapor products are sold or distributed. This permit shall be in addition to any other permit or license required by other local, state, or federal government.

(b) It shall be unlawful for any person required by the provisions of this Article to secure a permit to advertise to give, barter, sell, cause to be sold, distribute, furnish or permit the sale or distribution of tobacco products, alternative nicotine products, or vapor products without first securing a permit. The listing in an advertisement of an address which is inside the city or a telephone number for a phone located inside the city shall constitute prima facie evidence that the person is engaged in the activity that is advertised. For purposes of this section, advertising means the use of any handbill, billboard, sign, newspaper, radio, loudspeaker, television, telephone listing, or other message or device whereby the services or products are offered or held out to the public.

(c) Permits may be denied, not renewed, or revoked for failure to comply with the requirements of this Article or any other applicable section of the City Code. A permit shall not be issued when the City has reason to believe the issuance of the permit will result in the operation of a business in violation of this Code.

Sec. 62-367. – Penalties.

(a) Any person, except as described in (b) of this section, including but not limited to, a permit holder or agent of that permit holder, that violates any provision of Section 62-361 or Sections 62-363 through Section 62-364 shall be punished by:

(1) A fine of not less than $250.00 for the first violation within a three-year period;

(2) A fine of not less than $500.00 for the second violation and any additional violation within a three-year period.

(b) Any employee or agent of a permit holder that violates any provision of Section 62-361 or Sections 62-363 through Section 62-364 shall be punished by:

(1) A fine of not less than $50.00 for the first violation within a three-year period;

(2) A fine of not less than $100.00 for the second violation and any additional violation within a three-year period.

(c) If any violation occurs at a permitted location, or are committed by a permit holder, any employee or agent of a permit holder, or any combination thereof, the permit holder shall be subject to:

(1) For a first violation within a three-year period, a fine no less than $250 or by imprisonment in jail for a period not exceeding 180 days, or both such fine and imprisonment;

(2) For a second violation within a three-year period, a fine no less than $500 or by imprisonment in jail for a period not exceeding 180 days, or both such fine and imprisonment. Additionally, the permit holder shall be prohibited from distributing tobacco products for a minimum of seven days;

(3) For a third violation within a three-year period, a fine no less than $500 or by imprisonment in jail for a period not exceeding 180 days, or both such fine and imprisonment. Additionally, the permit holder shall be prohibited from distributing tobacco products for a minimum of thirty days; and

(4) For a fourth and any subsequent violations within a three-year period, a fine no less than $500 or by imprisonment in jail for a period not exceeding 180 days, or both such fine and imprisonment. Additionally, the permit holder shall be prohibited from distributing tobacco products for a period of one year.

(d) If any permittee permitted under this Article operates in violation of this Article such that five or more violations occur within a three-year period, the City Attorney may file a petition to revoke the permittee's permit. The petition shall be served on the permittee at least thirty days before any hearing. The municipal judge shall serve as the hearing officer. If the municipal judge finds that the allegations in the petition have been established by a preponderance of the evidence, the permittee's permit shall be revoked.

(e) For purposes of determining the liability of a person controlling franchises or business operations in multiple locations for a second or subsequent violation under this section, each individual franchise or business location shall be deemed a separate entity."

Section 2. Savings Clause.

Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court or any rights acquired, or liability incurred nor any cause or causes of action accrued or existing, under any act or Ordinance repealed hereby, or shall any right or remedy of any character be lost impaired or affected by this Ordinance.

Section 3. Severability Clause.

If any section, subsection, sentences, clause, or phrase shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 4. This Ordinance shall be in full force and effect from and after passage and approval by City Council.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer,
City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards,
City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2019-620 repealing Chapter 30, Businesses, Article III, Licenses, Section 30-179, Sale of tobacco products or rolling papers to minors.

MEETING DATE
December 2, 2019

ORIGINATING DEPT
Health Department

ATTACHMENTS
CB2019-620 Council Bill

REVIEWED BY
Dept. Head: Ryan Talken; Finance Dept. Director: Leslie Haase; City Attorney: Peter Edwards; Interim City Manager: Daniel Pekarek

SUMMARY
The Health Department requests consideration of Council Bill No. 2019-620 that repeals Chapter 30, Businesses, Article III, Licenses, Section 30-179, Sale of tobacco products or rolling papers to minors.

BACKGROUND
Council Bill 2019-619 amends Chapter 62, Health and Sanitation, by enacting a new Article X, Tobacco 21 Act. Section 30-179 is inconsistent with the Tobacco 21 Act because Section 30-179 prohibits tobaccos sales to persons less than 18 years of age. Section 30-179 should be repealed in order to eliminate this inconsistently with the Tobacco 21 Act.

FUNDING SOURCE
N/A

RECOMMENDATION
Staff recommends adoption of this Council Bill on First Reading.

COUNCIL BILL NO. 2019-620 ORDINANCE NO.

AN ORDINANCE repealing Chapter 30, Businesses, Article III, Licenses, Section 30-179, Sale of tobacco products or rolling papers to minors.

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

WHEREAS, Council Bill 2019-619 amends Chapter 62, Health and Sanitation, by enacting a new Article X, Tobacco 21 Act;

WHEREAS, Section 30-179 is inconsistent with the Tobacco 21 Act because the former prohibits tobacco sales to persons less than 18 years of age;

WHEREAS, Section 30-179 should be repealed in order to eliminate this inconsistency with the Tobacco 21 Act.

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

Section 1. That Chapter 30, Businesses, Article III, Licenses, Section 30-179, Sale of tobacco products or rolling papers to minors, is hereby repealed.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2019, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney