MEMORANDUM OF UNDERSTANDING
AND AGREEMENT

THIS MEMORANDUM OF UNDERSTANDING AND AGREEMENT made and entered into this _____ day of _____, 2018, by and between the CITY OF JOPLIN, hereinafter referred to as "City," and ROTARY SCULPTURE GARDEN, hereinafter referred to as "Rotary," and collectively referred to as the "Parties."

W I T N E S S E T H:

WHEREAS, City owns certain real estate commonly known as Mercy Park, hereinafter referred to as "the premises." City desires to enter into an agreement with Rotary Sculpture Garden for placement of sculptures on the premises under the terms and conditions described herein; and,

WHEREAS, the parties agree that Rotary Sculpture Garden may place certain sculptures within the premises under the terms and conditions described herein; and,

WHEREAS, because of the improvement responsibilities of Rotary Sculpture Garden, and the shared use of the premises, the parties desire to set forth the material terms in this Memorandum of Understanding and Agreement.

NOW, THEREFORE, in exchange for valuable consideration each received from the other, the parties do hereby agree as follows:

1. Sculptures. All sculptures are subject to final approval in writing by the City of Joplin's Parks & Recreation Department prior to the placement of any sculpture on the premises. All sculptures shall comply with the Joplin City Code. All sculptures shall comply with deed restrictions, such as covenants.

2. Placement, Relocation, and Removal of Sculptures. The City will approve the location of placement of all sculptures in consultation with Rotary Sculpture Garden. The City may require that any and all sculptures be removed from or relocated on the premises due to safety concerns, vandalism or any other incident that would make a sculpture inappropriate or hazard in Mercy Park. In the case of relocation or removal, the Parks and Recreation Director will work closely with the Rotary Sculpture Garden finding a new placement site within the Mercy Park.

3. Any such removal or relocation will be at the cost of the Rotary Sculpture Garden. Removal or relocation will be accomplished by the City giving notice to Rotary Sculpture Garden, which will have ninety (90) days to remove or relocate the sculpture(s) specified in the notice. If Rotary Sculpture Garden fails to remove or relocate any sculpture within the specified timeframe, excluding extenuating circumstances, the City may remove or relocate said sculpture and assess the cost of removal or relocation against Rotary Sculpture Garden.

4. Maintenance of Sculptures. The City will be responsible for its current maintenance responsibilities. Rotary Sculpture Garden will be responsible for maintenance of the approved placement area and sculptures within the area. Rotary Sculpture Garden agrees that said area will be kept in a neat, orderly, and clean condition. Rotary Sculpture Garden is responsible for restoring the area to its original condition in the event that a sculpture is removed or replaced.

5. Ownership of Sculptures. Rotary Sculpture Garden will own all sculptures.

6. Approval Process. All sculptures or other items of artistic expression proposed to be donated to or installed in Mercy Park are subject to and are required to go through the exclusive screening and approval process of Rotary Sculpture Garden.

7. Intellectual Property Rights. Rotary Sculpture Garden will maintain exclusive ownership of all intellectual property rights in all sculptures and items of artistic expression, subject to limitations of agreements with the artists.

IN WITNESS WHEREOF, the parties have caused these presents to be executed in duplicate as of the day and year first above written.

CITY OF JOPLIN

By: _____
Its: authorized signatory

ATTEST:

_____
Barbara Gollhofer
City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards
City Attorney

ROTARY SCULPTURE GARDEN

By:_____
Its: authorized signatory

ATTEST:

_____
Secretary