City of Joplin City Council Agenda Item

REQUESTED COUNCIL MEETING DATE: APRIL 2 ND, 2018

ITEM: Council Bill No. 2018-604 approving the Memorandum of Understanding between the City of Joplin and the Rotary Sculpture Garden

ORIGINATING DEPARTMENT: PARKS AND RECREATION DEPARTMENT
ATTACHMENT: Council Bill No. 2018-604; copy of Memorandum of Understanding

Parks Director:	Paul Bloomberg
Finance Director:	Leslie Haase
City Attorney:	Peter Edwards
City Manager:	Sam Anselm

INTRODUCTION:
This Council Bill approves the Memorandum of Understanding between the City of Joplin and the Rotary Sculpture Garden dealing generally with the placement of sculptures in specified locations throughout the City owned Mercy Park.

DISCUSSION:
The Joplin Rotary Club and the Joplin Daybreak Rotary Club have joined together to help plan and establish a sculpture garden within Mercy Park. The purpose and mission of RSG is to enhance the quality of life for citizens and visitors to our community by establishing and maintaining a sculpture garden in an existing city park.

Rotary Sculpture Garden, Inc., a Missouri Not-for-profit Corporation, has been granted 501 ©3 status by the IRS. The Board of Rotary Sculpture Garden, Inc. will serve as the governing body for the garden. Two representatives from the City of Joplin will serve as permanent members of this board. One of these representatives is the Director of Parks and Recreation and the second will be another city employee of his choosing. The remaining members of the board of directors are members of the two Rotary clubs, the arts community, and the city at large.

It is anticipated that additions of sculpture to the park will be by donation of private individuals or corporations. All donations will be subject to approval first by the Board of RSG and final by the City Parks Department and Park Board. Prospective donors must secure written approval before donating or loaning a sculpture. The decisions of the board of RSG, Inc. and the City Parks and Recreation Department are final.

RECOMMENDATION:
City Staff recommends this Council Bill be approved on first reading.

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

COUNCIL BILL NO. 2018-604 ORDINANCE NO.

AN ORDINANCE approving a Memorandum of Understanding (MOU) And Agreement by and between the City of Joplin, Missouri, a Municipal Corporation, and Rotary Sculpture Garden, dealing generally with the placement of sculptures in specified locations throughout the City owned Mercy Park; authorizing the City Manager to execute said Memorandum of Understanding (MOU) And Agreement, and such other documents as may be necessary, by and on behalf of the City of Joplin, Missouri.

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

Section 1. That the Memorandum of Understanding (MOU) And Agreement by and between the City of Joplin, Missouri, a Municipal Corporation, and Rotary Sculpture Garden, dealing generally with the placement of sculptures in specified locations throughout the City owned Mercy Park, a copy of which is attached hereto and incorporated herein as an Exhibit, or copy in substantially similar form to that, be, and the same is, hereby approved.

Section 2. That the City Manager is hereby authorized and directed to execute said Memorandum of Understanding (MOU) And Agreement and such other documents as may be necessary, by and on behalf of the City of Joplin upon the recommendation and approval of the City Attorney.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2018, by a vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney