# CITY OF JOPLIN
# COUNCIL AGENDA ITEM

**ITEM**
Council Bill 2023-007 – authorizing an MOU between the City of Joplin, RestoreSpiva, LLC, and the Community Foundation of the Ozarks, for the purpose of conducting a capital campaign to restore Spiva Park in the City of Joplin and establishing responsibilities of the parties.

**MEETING DATE**
May 1, 2023

**ORIGINATING DEPARTMENT**
Parks & Recreation – Paul Bloomberg

**ATTACHMENTS**
Council Bill No. 2023-007; Exhibit "A" - Memorandum of Understanding and Agreement.

**REVIEWED BY**
Parks Director Paul Bloomberg; Finance Director Leslie Haase; City Attorney Peter Edwards; Assistant City Manager Tony Robyn; City Manager Nicholas Edwards.

**SUMMARY**
This Council Bill approves an MOU between the City of Joplin, RestoreSpiva, LLC, and the Community Foundation of the Ozarks. The MOU provides that RestoreSpiva will undertake a capital campaign to raise money to restore masonry, plumbing, lighting and other electrical work in the park.

**BACKGROUND**
This Memorandum of Understanding with RestoreSpiva, LLC, and the Community Foundation of the Ozarks is for the purpose of RestoreSpiva LLC, conducting a capital campaign in order to complete certain capital restoration projects in Spiva Park, including renovation of masonry, plumbing, lighting and electrical works, including future upgrades to the Park and establishing responsibilities in maintaining and operating Spiva Park between the City and RestoreSpiva LLC. The MOU sets out certain responsibilities of the City and of RestoreSpiva LLC related to the maintenance and restoration of Spiva Park.

**FUNDING SOURCE**
N/A

**RECOMMENDATION**
Staff recommends adoption of this Council Bill on First Reading.

**MEMORANDUM OF UNDERSTANDING AND AGREEMENT**

This memorandum of understanding and agreement (herein "MOU") is made on this _____ day of _____, 2023, by and between the RestoreSpiva LLC, a Missouri Limited Liability Company (hereinafter referred to as "RestoreSpiva"), the City of Joplin, a Missouri Municipal Corporation (hereinafter referred to as "City"), and the Community Foundation of the Ozarks, a Missouri Nonprofit Corporation (hereinafter referred to as "CFO"), collectively referred to as the "Parties."

WHEREAS, City owns Spiva Park (hereinafter referred to as "Park"), and City desires to enter into an agreement with RestoreSpiva under the terms and conditions described herein; and

WHEREAS, RestoreSpiva was formed by the Cragin Family (Mike Cragin, Christy Cragin, Scott Cragin and Gay Currence) for the purposes of renovating and upgrading the Park; and

WHEREAS, RestoreSpiva's purpose is "To conduct a capital campaign to restore the park to its place as a jewel of the city including renovation of masonry, plumbing, lighting and electrical work and to provide for future upgrades to the Park", and

WHEREAS, CFO will aid in the capital campaign of RestoreSpiva, and shall hold and distribute funds generated in the capital campaign for Park purposes, and

WHEREAS, for the reasons set forth herein, the Parties desire to set forth the material terms of their collaboration to renovate and upgrade the Park in this Memorandum of Understanding and Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, RestoreSpiva, CFO and City agree as follows:

1. Responsibilities of RestoreSpiva.
    a. RestoreSpiva will conduct a capital campaign under the guidance and stewardship of CFO, which shall maintain and distribute funds in accordance with the instructions of RestoreSpiva. The capital campaign will have two separate funds: 1) primary fund for restoration; and 2) endowment fund earmarked for future upgrades.
    b. RestoreSpiva will determine the scope of work for Park restoration and upgrades funded through CFO, with City approval.



**EXHIBIT "A"**

c. RestoreSpiva will select the contractor(s) for the restoration and upgrades, with City approval.

d. RestoreSpiva will earmark all funds from the endowment for specific Park upgrade needs.

2. Responsibilities of City.

a. City will work in good faith with RestoreSpiva to sign off on approval of all restoration and upgrades funded through CFO. All proposed restoration and upgrades shall be consistent with customary building standards and adhere to the current historical aesthetics of the park.

b. City will continue to bear primary responsibility for maintaining and operating the Park including landscaping, fountains, lighting, sculptures and surveillance.

c. City will include RestoreSpiva in any community efforts addressing the issue of homelessness city-wide as well as how the issue impacts the Park in particular.

d. City agrees that the endowment for upgrades of the Park is in addition to the City's budgeted funds for maintenance of the Park. It is not the City's intention to decrease future maintenance funding for the Park because of RestoreSpiva's potential to provide maintenance funds for the Park. All City budget items are subject to annual budget appropriation.

3. Insurance. All contractors that provide work on behalf of RestoreSpiva shall be licensed in the City of Joplin and shall carry liability insurance, issued by an insurance company authorized to do business in the State of Missouri, covering City, its agents, employees, and invitees, and naming City as an additional insured, in the amount of One Million Dollars ($1,000,000.00) for Combined Single Limit for Personal Injury or Property Damage. Such insurance shall be evidenced by filing with the City an Insurance Certificate, naming City as an additional insured under such policy, and providing that such policy shall not be canceled without thirty (30) days written notice to City. RestoreSpiva and its contractors agree to indemnify and hold and save harmless the City from any and all damages, claims, and assessments of every type and character arising from all construction and related activities at or in any way related to the Park.

4. Nature of Relationship. RestoreSpiva and CFO shall perform as independent contractors and shall not hold themselves out to third parties as agents of City. RestoreSpiva and

CFO shall not be considered agents of City nor shall any of the employees, agents, officers, members, or other personnel of RestoreSpiva or CFO be considered sub-agents of City.

5. Termination. A party may terminate this Agreement by giving 120 days notice to the other party.

6. Notices. All notices, requests, and demands to or upon the parties of the MOU shall be deemed to have been given or made when delivered by hand or via certified mail addressed as follows or to other such addresses as may be hereafter designated in writing:

City: City of Joplin
602 S. Main St.
Joplin, MO 64801

RestoreSpiva LLC
1421 Crestwood Dr.
Joplin, MO 64801

Community Foundation of the Ozarks
P.O. Box 8960
Springfield, MO 65801

7. Amendments. This Agreement contains all of the agreements and conditions made between the parties and may only be modified by written agreement signed by all parties to this Agreement.

8. Assignment. This Agreement shall not be assignable by RestoreSpiva without the express written consent of City being first obtained.

9. Choice of Law. This Agreement has been made, and its validity, performance, and effect shall be determined, in accordance with the laws of the State of Missouri, and venue for litigation between the parties shall be solely and exclusively in the Circuit Court of Jasper County, Missouri, or the United States District Court for the Western District of Missouri.

10. Compliance with the Law. RestoreSpiva agrees to comply with all applicable laws in connection with the performance of this MOU.

11. Severability. The invalidity, illegality, or unenforceability of any provision of this MOU shall not affect the validity, legality, or enforceability of the other provisions of this MOU which shall remain effective.

**<The rest of this page is intentionally left blank. Signature page follows.>**

IN WITNESS WHEREOF, this Memorandum of Understanding has been executed and approved and is effective and operative as to each of the parties as herein provided.

**CITY OF JOPLIN, MISSOURI**

By:_____
Nicholas Edwards, City Manager

ATTEST:

By:_____
**Holly Nagy, City Clerk**

**RESTORESPIVA LLC**

By:_____
Mike Cragin, Managing Member

By:_____
Christy Cragin, Managing Member

By:_____
Scott Cragin, Managing Member

By:_____
Gay Currence, Managing Member

**COMMUNITY FOUNDATION OF THE OZARKS**

By:_____
Brian Fogle, President

COUNCIL BILL NO. 2023-007 ORDINANCE NO

AN ORDINANCE authorizing the City of Joplin to enter into a Memorandum of Understanding (MOU) with RestoreSpiva, LLC, and the Community Foundation of the Ozarks for the purpose of RestoreSpiva, LLC, conducting a capital campaign to restore Spiva Park in the City of Joplin; establishing responsibilities for RestoreSpiva, LLC, and the City in maintaining and operating Spiva Park; and authorizing the City Manager to execute said Memorandum of Understanding by and on behalf of the City of Joplin.

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

Section 1. That the Memorandum of Understanding with RestoreSpiva, LLC, and the Community Foundation of the Ozarks for the purpose of RestoreSpiva, LLC, conducting a capital campaign to in order to complete certain capital restoration projects in Spiva Park, including renovation of masonry, plumbing, lighting and electrical works, including future upgrades to the Park and establishing responsibilities in maintaining and operating Spiva Park between the City and RestoreSpiva, LLC, 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 Manager of the City of Joplin, Missouri, or his designee, is hereby authorized and directed to execute said agreement, or agreements in substantially similar form, by and on behalf of the City of Joplin.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2023, by a vote of _____.

_____
Douglas W. Lawson, Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney