CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2023-009 – authorizing the City of Joplin to enter into a Right of Access and Construction Agreement (Memorandum of Understanding), for the purpose of building a park and playground for children ("HOPE PARK") on/at the Joe Becker Stadium Clubhouse Lot and establishing responsibilities of the parties.

MEETING DATE
June 20, 2023

ORIGINATING DEPARTMENT
Parks & Recreation – Paul Bloomberg

ATTACHMENTS
Council Bill No. 2023-009; Exhibit "A" – Right of Access And Construction Agreement (MOU); Exhibit "B" – Map of property; Exhibit "C" – Hope Park architectural design.

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

SUMMARY
This Council Bill approves an MOU between the City of Joplin and the East Town Dreams District for the purpose of building a park and playground for area children on the Joe Becker Stadium Clubhouse Lot.

BACKGROUND
On September 4, 2018, the East Town Dreams District presented the proposed partnership of "Hope Park" to City Council expressing an interest in building a park and playground for area children. The City of Joplin would own and maintain the property, with the East Town Dreams District raising funds to design and construct a park with several amenities that area children would be able to enjoy. City Council approved the East Town Dreams District to continue with designing and come back at a later date with a donation request. During this time, with the COVID pandemic affecting our area, the East Town Dreams District continued with the design, while discussing amenity details with the Joplin Parks and Recreation Department.

In the Spring of 2023, the East Town Dreams District and City of Joplin staff met to discuss design and develop a Memorandum of Understanding to enter into a Right of Access and Construction Agreement.

FUNDING SOURCE
Not applicable to this item.

RECOMMENDATION
Staff recommends this Council Bill be placed on First Reading.

PB/PCE:ab

RIGHT OF ACCESS AND CONSTRUCTION AGREEMENT

This Right of Access and Construction Agreement ("Agreement") entered into by and between City of Joplin, Missouri, a constitutional charter city organized under the laws and statutes of the State of Missouri ("City" or "Property Owner" or "Grantor") and East Town Dreams District ("Grantee"), on this _____ day of _____ , 2023.

WHEREAS, the City of Joplin owns the following real estate in Joplin, Jasper County, Missouri:

Joe Becker Stadium Clubhouse North Lot (the "real estate")

WHEREAS, Grantee endeavors to build, "HOPE PARK", a park and playground for children in the area and would like to construct said improvements on the real estate;

WHEREAS, the City is permitting Grantee the right to construct said improvements on the real estate with the express understanding between the parties that the improvements will become the property of the City of Joplin upon completion of the work, subject to the terms, covenants and conditions outlined in this Agreement.

NOW THEREFORE, in consideration of the mutual agreements herein contained, the parties hereby agree as follows:

1. The City of Joplin hereby authorizes Grantee and its contractors, subcontractors or assigns to enter upon the real estate, as specifically identified on the aerial map attached hereto and incorporated herein by reference as Exhibit A. City and Grantee will coordinate with each other to determine the precise location for the improvements and will mark the boundary lines with flags or other markers in order to designate the exact area for which this Agreement applies.

2. The City of Joplin grants Grantee the right to access the real estate for the purpose of constructing improvements that include playground equipment, a pavilion, and related improvements in accordance with the construction plans and illustrations attached hereto and incorporated herein by reference as Exhibit B.

3. Construction Plans. Grantee will submit building plans to the City for approval before construction begins. All construction shall be in accordance and compliance with the submitted plans. Any deviation from the plans must be approved in writing by the City. All finished construction shall be done in a good and workmanlike manner and completion of the construction shall be completed within one hundred eighty (180) days from the time work begins. All improvements, including all fixtures, shall become the property of the City Upon the completion of the construction of the improvements outlined in Exhibit B.

4. Permits and Licenses. Grantee shall obtain such state, county, and local, permits or licenses as are required for the construction of the improvements.

EXHIBIT "A"

5. Liens. If any mechanics, laborers, materialmen or any other lien shall at any time be filed against the leased premises as a result of Grantee's construction, Grantee shall, within thirty (30) days after such lien is made or filed, cause the same to be discharged of record by payment, order of a court of competent jurisdiction, or otherwise. Notice is hereby given that the City shall not be liable for any labor or materials furnished to Grantee and no mechanics' or other liens shall attach to or affect the reversionary or other estate or interest of City in and to the property leased herein.

6. Prevailing Wage Project. This is a prevailing wage project and prevailing wage shall be paid to all contractors and subcontractors as required by law.

7. Maintenance and Improvements. City shall provide some maintenance on the real estate, including trash removal and mowing and weed eating, and shall perform regular and routine maintenance at the property. City will also add new fence to create a boundary between Hope Park and Joe Becker Stadium Clubhouse. Grantee shall provide flower bed maintenance and assist with litter within park. Future improvements to Hope Park must be agreed mutually by both organizations.

8. Park Rules and Regulations. Grantee must follow the Park Rules and Regulations set forth in the City of Joplin Ordinances. These rules and regulations are the same for all parks that the City of Joplin maintains and operates.

9. Insurance. Grantee's contractor shall procure and maintain a Certificate of Insurance covering Worker's Compensation insurance from a responsible insurance company acceptable to City and said insurance shall provide for the payment of compensation in accordance with the laws of the State of Missouri for all employees of the Grantee, its agents and contractors, and further insuring City against any and all liability for personal injury or death of such employees. Grantee shall, during the entire term of this Agreement, keep in full force and effect policies of public liability and property damage insurance with respect to the construction of improvements by Grantee, its agents and contractors, and Grantee's use of the Property, in which the limits of public liability shall not be less than a single limit of $1,000,000.00 for personal injury and $50,000.00 for damage to property. The policy shall name City, any person, firms or corporations designated by City, and Grantee as insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the City ten (10) days' prior written notice. The insurance shall be in an insurance company acceptable to City and a copy of the policy, or a Certificate of Insurance shall be delivered to City.

10. Indemnification of City. Grantee hereby assumes all risk of, and responsibility for, and agrees to indemnify and save harmless City, from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses therewith made, brought or obtained on account of the loss of life or property or injury or damage to the person or property of any person or persons whomsoever, whether such person or persons be City, its agents or employees, or Grantee, its agents or employees, or any third person in any way connected with the parties hereto, which loss of life or property, or injury or damage to persons or property, shall be due to, or arise out of, result from, or be in any way connected with, this

Agreement or any construction work done hereunder or business or activities performed or conducted by Grantee after construction is complete, except that Grantee shall have no obligation of indemnification to the city or any other person or entity for personal injury, property damage or death caused by the negligence or intentional acts of the city or its agents, employees and assigns. Neither shall Grantee have no obligation of indemnification to the city or any other person or entity for personal injury, property damage or death resulting from incidents which take place when the property is being used by the city or any other person or entity other than Grantee, unless Grantee contributed to the negligence.

11. Damage or Destruction of Leased Premises. The City will maintain insurance on the improvements and in the event that the property is destroyed or damaged so as to be unfit for ordinary use, by fire, storm, explosion, earthquake or other casualty, the City will proceed to restore the premises within a reasonable time.

12. Notices. All notices, requests, and other communications hereunder shall be in writing and shall be deemed to be duly given if delivered or deposited in the U.S. Mail, First Class Postage prepaid, Certified, Return Receipt Requested, (except for rent payments) to the Grantor as follows:

City of Joplin, Missouri
Nicholas Edwards, City Manager
602 S. Main Street
Joplin, Missouri 64801,

and to Grantee as follows:

_____
_____
_____

Each party may, from time-to-time, designate a different address by notice given in conformity with this paragraph. The date of mailing as indicated on the U.S. Postal Return Receipt shall be the commencement date for calculating any time periods associated with the giving of notice hereunder.

13. Amendments. It is acknowledged that the covenants and obligations herein contained are the full and complete terms of this lease Agreement, and no alteration, amendments or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this Agreement. This provision shall not apply to changes of address for forwarding of notice or rental payments.

14. Headings. The headings hereof are intended as guides only and shall not be construed as having any legal effect.

15. Heirs, Successors and Assigns. Each and every obligation contained in this Agreement shall be jointly and severally binding upon the respective parties, their heirs, legal representatives, successors and assigns.

16. Contingent of City Council Approval. This Agreement is contingent on approval from the Joplin City Council.

17. Assignment. This Agreement is not assignable by Grantee, without the express written consent of the City.

18. Term. The term of this agreement shall be for a period of ten (10) full fiscal years, as the City uses, specified above, following the completion of construction. This Agreement shall automatically and continually renew for successive five (5) year terms thereafter unless terminated by Grantee or Grantor upon written notice to the other party, no less than thirty (30) days prior to the start of a new term.

IN WITNESS WHEREOF, the parties have executed these presents as of the day and year first written above.

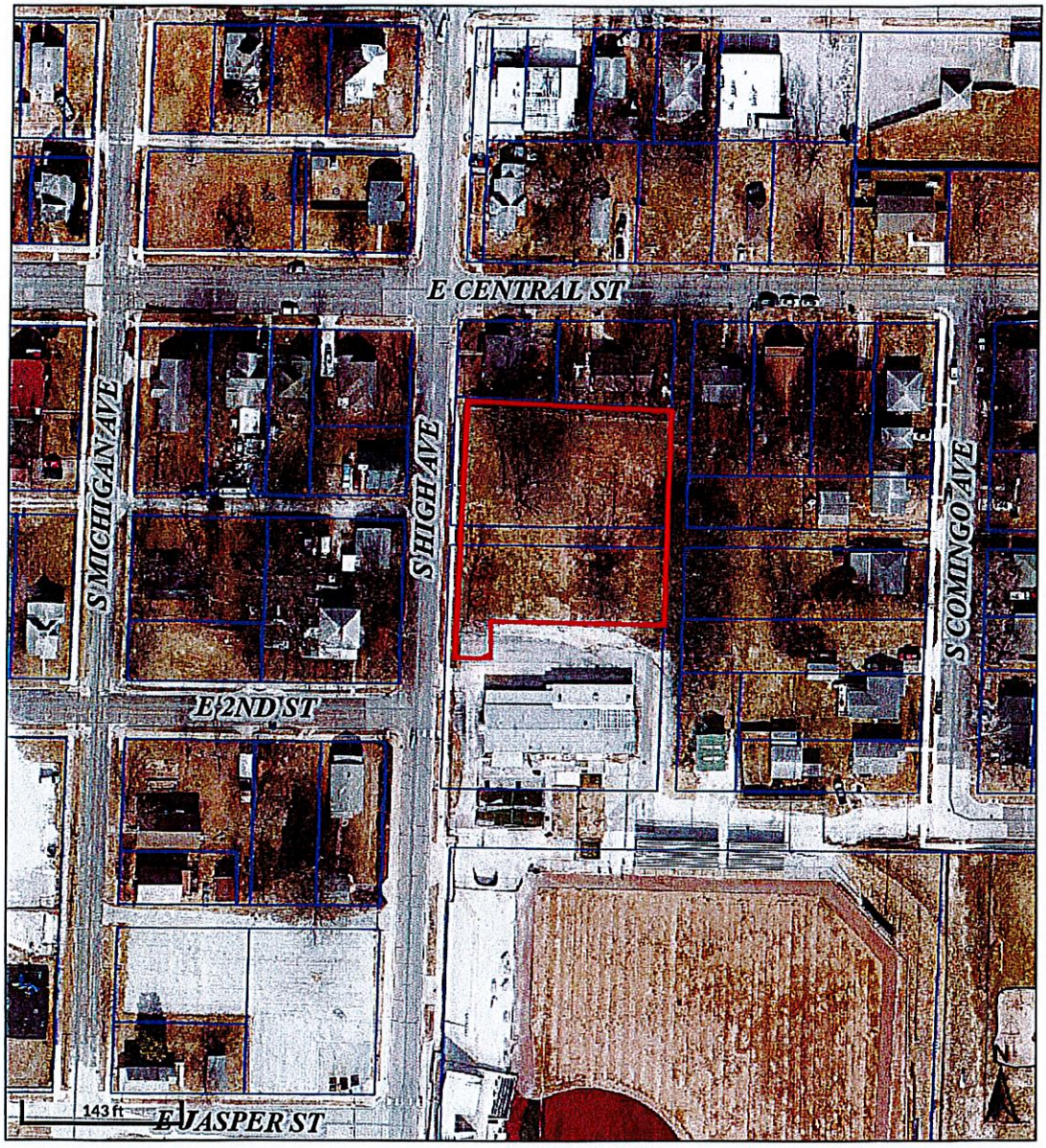
CITY OF JOPLIN

By: _____
Nicholas Edwards
City Manager

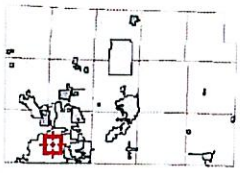
East Town Dreams District ("HOPE PARK")

_____
President

Beacon™ Jasper County, MO



Overview



Legend

- County Boundary
- Parcels
- Local Roads

Any split parcels recorded after the middle of May will not display until the next tax year.

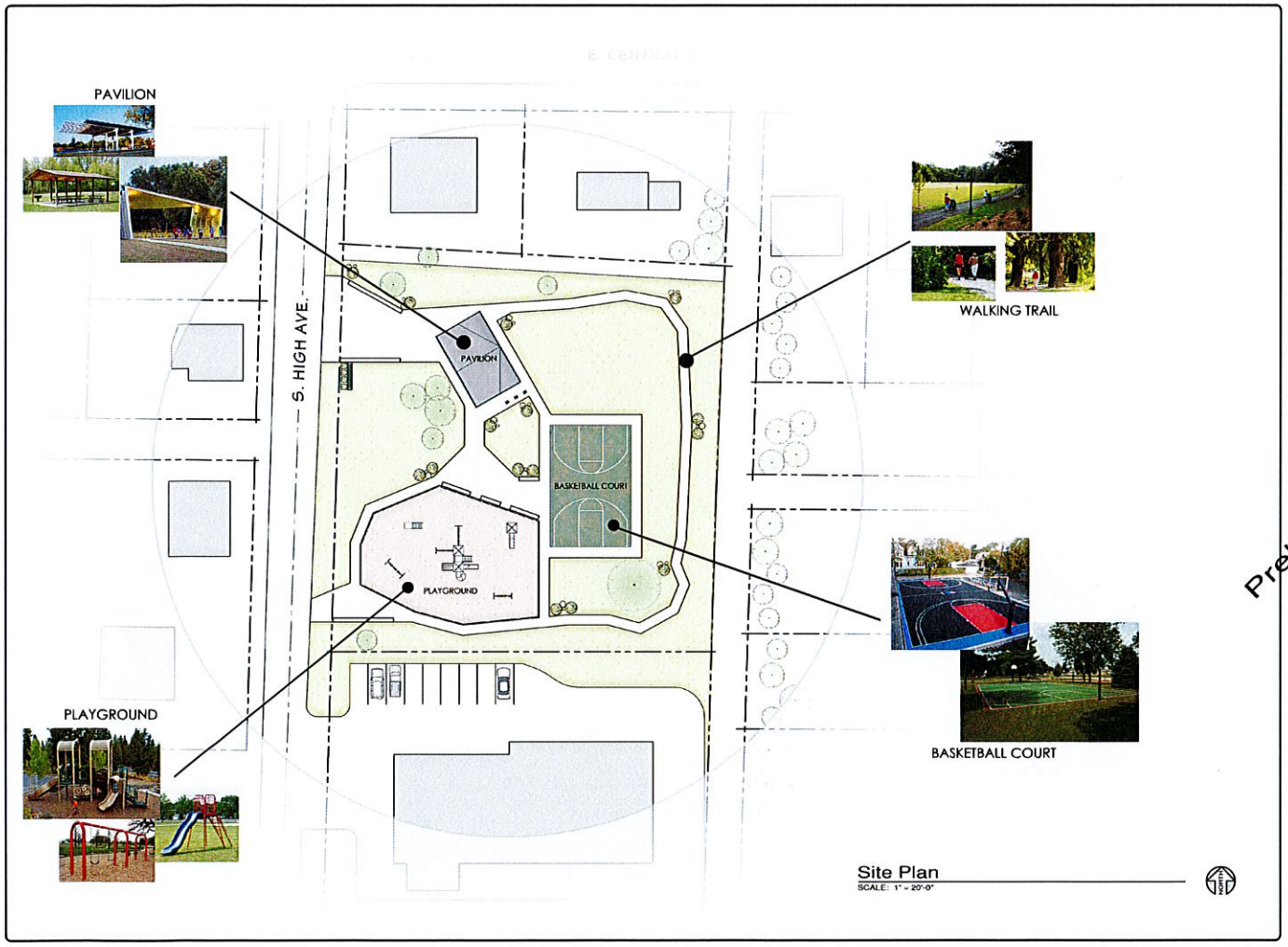
Date created: 5/16/2023
Last Data Uploaded: 5/16/2023 1:17:11 AM

Developed by Schneider GEOSPATIAL

Exhibit "B"



Exhibit "C"



Revisions	By
Last Modification	
DATE	INT'L

Hunter & Millard
ARCHITECTS, INC.
3323 E. 32nd St. Suite 'F'
Joplin, Missouri 64804
(417) 624 8872
jeff@hunterandmillard.com
website:
hunterandmillard.com
check us out on Facebook
Hunter & Millard Architects, Inc.

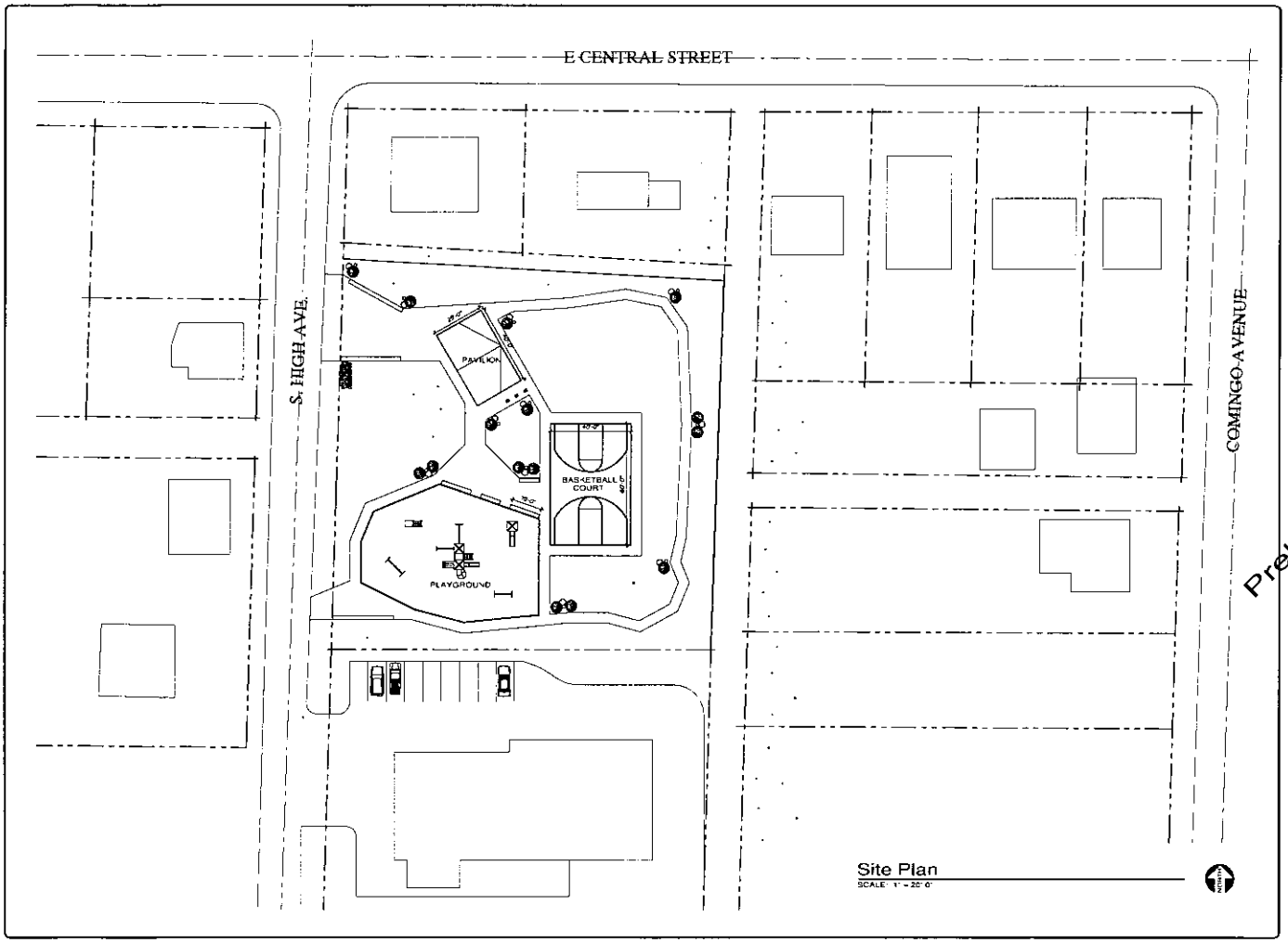
Hunter & Millard
ARCHITECTS, INC.
Missouri Certificate of Authority: A-2008008317

Preliminary

Elliott D. Hunter, Architect
Missouri A-4617

Hope Park
131 S. High Ave. Joplin, MO 64804

Drawn By
Checked By
Date
2010
Scale
1" = 20'-0"
Job Number
Site Plan
C1



Site Plan
SCALE: 1" = 20'-0"

Preliminary

Revisions	By
Last Modification	
DATE	INITIALS

Hunter & Millard
ARCHITECTS, INC.
3323 E. 32nd St., Suite B
Joplin, Missouri 64804
(417) 624-6672
hunterandmillard.com
website:
hunterandmillard.com
check us out on Facebook
Hunter & Millard Architects Inc.

Hunter & Millard
ARCHITECTS, INC.
Missouri Certificate of Authority A-2005006017

Licensed to Hunter Architect
Missouri Area 617

Hope Park
1313 S. High Ave., Joplin, MO 64804

Drawn By
Checked By
Date
2010
Scale
1" = 20'-0"
Job No./Year
Sheet Title
Site Plan
C1

COUNCIL BILL NO. 2023-009 ORDINANCE NO

AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into a Right of Access and Construction Agreement (MOU) with East Town Dreams District for the purpose of building a park and playground for children – "HOPE PARK" – on the City's Joe Becker Stadium Clubhouse North Lot; establishing responsibilities for the East Town Dreams District and the City relating to the construction of improvements and maintenance of HOPE PARK; and, authorizing the City Manager to execute said Agreement (MOU) 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 Right of Access and Construction Agreement (MOU) by and between the City of Joplin and East Town Dreams District, for the purpose of building a park and playground for children – "HOPE PARK", on the City's Joe Becker Stadium Clubhouse North Lot, establishing responsibilities for the East Town Dreams District and the City relating to the construction of improvements, maintenance, and operation of a park and playground for children, 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 agreement 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