THIS AGREEMENT made this ___ day of July, 2016 by and between the City of Joplin, MO ("Client") and Gould Evans, P.C., a Missouri Professional Corporation ("Consultant").

WITNESSETH

WHEREAS, the Client desires to engage the Consultant to render certain agreed upon professional planning services for preparation of a Development Code Update, and the Consultant is willing to provide such services, all upon the terms set forth below.

NOW THEREFORE, in consideration of these premises, the parties hereto agree as follows:

1. **Scope of Services:** The Consultant will undertake work assigned by Client relating to *Attachment A: Scope of Services.*

2. **Time and Performance:** The Consultant's services shall commence upon execution of this Agreement by both parties. Once approved by the Client, the Consultant shall complete the tasks described in the Scope of Services within 18 months from the date of execution of this Agreement, unless delayed by circumstances beyond Consultant's control.

   The Consultant will exercise reasonable skill, care and diligence in the performance of its services, and will carry out its responsibilities in accordance with the customarily accepted planning practices in Consultant's community. The Client shall be responsible for the timely delivery of data and support information requested by the Consultant in a manner that will allow the Consultant the ability to perform its services within the time frame noted above.

   Compensation: The Consultant shall be compensated, a fixed fee not-to-exceed **$ 101,800.00**, including reimbursable expenses. Consultant will bill based upon the percentage of work complete by Phase, up to the maximum fees stated above. Consultant will not exceed the maximum fees stated above without written authorization from the Client.

3. **Payment:** The Client shall pay the amount due within 30 days after receipt of Consultant's invoice. If the invoice is not paid within 30 days, the Consultant may suspend services upon written notice to the Client. If a portion of the Consultant's statement is disputed, the Client shall pay the undisputed portion by the due date. Interests on amounts due and unpaid shall accrue at the rate of 1.5% per month from date due until paid. In any action to recover payment due, Consultant shall be entitled to recover its attorney's fees costs. The Client shall advise the Consultant in writing of the basis for any disputed portions of the statement within 7 days of receipt of invoice. Undisputed portions of the invoice shall be timely paid by Client notwithstanding such disputed portions.

4. **Time and Expense Records:** The Consultant shall keep and maintain time and expense records relating to the scope of services described above, together with supporting receipts, vouchers, and appropriate documentation. As necessary, these records and other appropriate documentation may be required to support invoices submitted to the Client. The Client shall have the right to examine such records as it deems necessary upon reasonable notice to the Consultant at Consultant's place of business during normal business hours.

5. **Authorization of Changes:** Any changes or additional tasks required for the performance of this Agreement and any compensation due for the provision of additional services shall only be authorized by the Client in writing, and the Consultant shall first request such changes in writing. The Consultant shall be compensated for any additional tasks so approved and authorized, based upon a fee determined by the Consultant and Client for such additional professional services.

6. **Liability:** The Consultant agrees to indemnify and hold harmless the Client, its employees, officials, agents and representatives, from any and all losses of whatever kind to the extent caused by Consultant's negligent acts of failure to act in performance of this Agreement. The Client agrees to indemnify and hold harmless the Consultant, its staff and employees and affiliates from any and all losses of whatever kind to the extent caused by Client's negligent acts or failure to act in performance of this Agreement.

7. **Disputes/Termination:** Each party may terminate this Agreement with written notice to the other party. In the event of such termination, provided the consultant is not then in default under this Agreement, the Client shall pay the Consultant its compensation and expenses to and through the receipt of termination notice, upon documentation of those costs by written invoice to the Client.

8. **Ownership of Documents:** Upon receipt of final payment by Consultant, all original final documents, studies or graphic materials, drawings, plans and digital files prepared by the Consultant shall be deemed property of the Client except as to confidential matters or trade secrets of the Consultant (if identified as such in writing by the Consultant), but only after the final payment by the Client for the same. The Consultant shall be permitted to retain copies, including reproducible copies, of the Consultant's drawings, specifications and other documents. The Client's right of ownership in all such documents shall not prohibit the Consultant from future utilization of design or planning drawings or concepts in the ordinary course of Consultant's business and the Client hereby grants the unrestricted permission to use all such data contained in the Consultant's drawings, text and other documents.

   The Client shall prohibit any Contractor and its subcontractors or suppliers from utilizing the Consultant's drawings or other documents on other projects not authorized by the Client. In the case of any future reuse of the documents by the Client without Consultant's direct professional involvement, the Consultant's and Consultant's consultants' names shall be removed from all such documents and the Consultant shall not be liable to the Client in any manner whatsoever for their reuse. Due to the potential exposure to liability when reused, the Client agrees to indemnify and hold harmless the Consultant, Consultant's consultants, their agents, and employees, from and against any claims, damages, losses and expenses including, but not limited to, attorney's fees, arising out of or resulting from the Client's reuse of any such drawings or documents other than for use in this Project with Consultant's direct involvement, including any claims brought by any third-parties, and including any claims relating to the Consultant's or its consultants' negligent preparation of any such drawings or other documents. The Client's obligations under this paragraph shall survive any termination of this Agreement and shall be binding upon the Client's successors and assigns.

9. **Confidentiality of Findings:** Any reports, information, date or intellectual property whatsoever given or prepared as assembled by the Consultant under this Agreement shall not be made available to any individual or organization by the Consultant without the prior written approval of the Client, except for those uses specified in Item 10, Public Relations.

10. **Public Relations:** Consultant shall have the right to retain and utilize copies of all work it produces on the Project for citation and dissemination in the Consultant's resume, brochures and other generally recognized forms of professional public relations.

11. **Extent of Agreement:** This Agreement represents the entire and integrated agreement between the Client and Consultant and supersedes all prior negotiations, representations or agreement, either

written or oral. This Agreement may be amended only by written instrument signed by both the Client and Consultant.

12. **Severability:** Should any of the provisions of this Agreement be determined to violate any state law or City ordinance, that shall not affect the validity of the other terms of this Agreement and there shall be added to this Agreement a legal, valid or enforceable term or provision as similar as possible to the stricken provision.

13. **Applicable Law:** Parties agree that Missouri law is controlling in interpreting this Agreement.

14. **Insurance:** Consultant shall maintain, at its own expense, the following insurance with insurance companies reasonably acceptable to Client:

    (a) Professional Liability Insurance in the amount of five hundred thousand Dollars ($500,000.00) (per claim and aggregate, with all coverage retroactive to the earlier of the date of this Agreement and the commencement of Consultant's services under this Agreement) covering personal injury, bodily injury and property damages to the extent caused by consultant's negligent acts, errors or omissions, which coverage shall be maintained for a period of three (3) years after the date of final payment under this Agreement.
    (b) Commercial General Liability Insurance, occurrence form, (including completed operations and broad-form contractual liability) in the amount of five hundred thousand Dollars ($500,000.00) combined single limit per occurrence and aggregate covering personal injury, bodily injury and property damage, which insurance shall name the Client as an additional insured.
    (c) Commercial Automobile Liability Insurance, including owned, hired and non-owned vehicles, if any, in the amount five hundred thousand Dollars ($500,000.00) covering bodily injury and property damage, which insurance shall name the Client as an additional insured.
    (d) Worker's Compensation Insurance, which shall fully comply with applicable law, and employer's liability insurance with limits of not less than one hundred thousand Dollars ($100,000.00) per accident / $1 Million disease policy limit / $1 Million disease each employee. Consultant shall provide a valid waiver executed by its workers compensation and employer's liability insurance carrier of any right of subrogation against Client or its employees for any injury to a covered employee working on Client's premises.

Upon execution of this Agreement, Consultant shall provide to Client Certificates of Insurance reflecting the required coverages at their request. The certificates shall specify the date when such insurance expires. Each policy and each Certificates of Insurance shall provide that Client shall be given not less than thirty (30) days' written notice before cancellation, non-renewal of coverage of such insurance except for non-payment. A renewal certificate shall be furnished to Client prior to the expiration date of any coverage, and Consultant shall give Client written notice of any reduction or other material modification in such insurance no later than thirty (30) days prior to such change.

15. **Assignment:** Consultant shall not assign this Agreement or any part hereof, or the right to any payments to be received hereunder, without prior written consent of Client. However, Consultant may subcontract portions of the services the subconsultants without violating this provision.

16. **Mediation:** In the event that a dispute shall arise between the parties to this Agreement, then as a condition precedent to an arbitration or legal action by either party, the parties agree to participate in

at least four hours of mediation, as needed, in an effort to resolve the dispute. The parties agree to split the mediator's fees equally. The mediation shall be administered by a mutually agreeable mediation service and shall be held in Kansas City, Missouri, unless another location of mutually agreed upon.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first written above,

FOR: **CITY OF JOPLIN, MO**	FOR: **GOULD EVANS.**
Name: _____	Name: Dennis Strait, AIA, ASLA
Signature: _____	Signature: _____
Title: _____	Title: Principal
Date: _____	Date: _____