AGREEMENT FOR WATER FACILITY RELOCATION

THIS AGREEMENT FOR WATER FACILITY RELOCATION (hereinafter referred to as "Agreement") is made and entered into as of the _____ day of_____, 20__, by and between MISSOURI-AMERICAN WATER COMPANY, a corporation existing under and by virtue of the laws of the State of Missouri (hereinafter referred to as "MAWC"), and the CITY OF JOPLIN, MO, (hereinafter referred to as "CITY").

RECITALS:

WHEREAS, CITY contemplates the location, widening, construction, and/or improvement of 32nd Street from approximately S Central City Rd east to Schifferdecker Road, in accordance with certain plans titled 32nd Street Widening Improvements on file in the office of the CITY; and

WHEREAS, in carrying out the opening, widening, establishment, and improvement of 32nd Street, it will be necessary to relocate certain portions of MAWC'S water facilities now located partly within CITY right-of-way and partly on the MAWC'S private easement along 32nd Street, in the CITY, and

WHEREAS, CITY plans to fully fund and construct the relocation through the use of its own contractor/Subcontractor, which shall selected from MAWC's list of Qualified Contractors to construct the main relocation; and

WHEREAS, MAWC shall procure the pipe materials and shall be reimbursed by City for total cost thereof in accordance with this agreement; and

WHEREAS, MAWC is willing to accommodate CITY'S needs upon condition that CITY accepts the provisions hereinafter specified and evidences such acceptance by execution hereof in accordance with Section 432.070 RSMo and City Ordinance No. _____.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Article 1
General

1.1 General Requirements are as described below:

(a) City will furnish all labor, materials other than pipe, fittings, valves and hydrants, and supervision necessary to relocate said water facilities of MAWC as shown on the plans marked Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Relocation")

(b) MAWC will furnish to the City all pipe materials including pipe, fittings, valves and hydrants necessary to relocate said water facilities of MAWC as shown on the plans marked Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Relocation").

(c) MAWC will furnish Inspection Services for installation of the main.

(d) City shall pay the entire actual cost of the Relocation Materials and Inspection (hereinafter referred to as the "Actual Cost"). The estimated cost of the Relocation and Inspection is $232,500 (hereinafter referred to as the "Estimated Cost"). Prior to MWAC's delivery of materials to the City for the Relocation, City shall pay to MAWC the Estimated Cost. After completing the Relocation, MAWC shall provide City an Actual Cost Statement. In the event the Actual Cost is less than the Estimated Cost, MAWC shall reimburse to City the difference of the Estimated Cost less the Actual Cost. In the event that site conditions change (i.e. more or less pipe and fittings are required) or the Relocation scope of work changes at the written request of the City, additional charges may apply. City will be responsible to reimburse MAWC for any additional charges above the Estimated Cost within 30 days of receiving the Actual Cost Statement for the Relocation.

(e) City's bid documents shall include a provision requiring only MAWC approved contractors from a list supplied by MAWC for construction of the relocation work

(f) MAWC shall hire an inspector on a full-time basis during main relocation work. City shall reimburse full costs associated with project inspection.

(g) MAWC shall provide the design for the relocation utilizing the designer of the roadway widening project and shall be responsible for all cost associated with the initial design for bidding the work.

(h) City shall secure and shall be responsible for all costs and expenses incurred in connection with the acquisition of all property rights and easements required by this Agreement.

(i) Upon completion of the Relocation, City shall remove all leftover materials and debris resulting from the main relocation work and leave the right-of-way in a neat, workman-like condition, free of holes, unnecessary mounds of dirt (with exception of leaving the trench slightly mounded with dirt for settlement purposes when relocation work is performed in dirt) or other objectionable material.

(j) MAWC and City covenant and agree that they have complied with all applicable laws, statutes and regulations, and have the proper corporate authorization, necessary to enter into this Agreement.

(k) This Agreement shall be binding upon and inure to the benefit and detriment of the successors and assigns of MAWC and City.

Article 2
Plans, Specifications and Pre-Construction Requirements

2.1 Requirements for plans and specifications, as described below:

(a) City shall accept MAWC's Water Main Layout, and MAWC's Special Conditions and Technical Specifications for Installation of Water Facilities, available from MAWC upon request. MAWC shall provide the design for the relocation based on the City construction plans.

(b) In advance of construction of Main Installation, City shall obtain and furnish to MAWC: (i) all requisite permits, easements and approvals by all regulatory authorities having jurisdiction over Main Installation; and (ii). City shall comply with the current issue of MAWC's Special Conditions and Technical Specifications for Installation of Water Facilities, which are incorporated herein by reference and shall comply with any and all construction, material and performance standards uniformly required by MAWC at that time. City shall provide all surveying, materials, transportation, equipment, power, labor, supervision, testing, insurance, bonds, and all else required to construct and place into satisfactory operation the following: all water mains, services, valves, hydrants and all appurtenances thereto and water facilities required to connect to MAWC's existing facilities, in accordance with plans and specifications provided by MAWC.

Article 3
Construction of Water Facilities

3.1 Inspection and Construction of Water Facilities.

(a) City shall permit MAWC or its representatives to inspect and approve all work during and after construction.

(b) City shall transfer all domestic and fire water services for each customer in a manner that will minimize time water is not available to customer. In certain cases this could mean after hours or night time transfers.

(c) MAWC shall hire INP Inspection Services, LLC to perform inspection of the watermain relocation. Installation shall comply with the inspection and testing requirements of MAWC, which requirements shall be reasonable and shall not cause City any unwarranted material delays in the ordinary course of construction. MAWC specifically reserves the right to withhold approval and to forbid connection of any of the facilities constructed pursuant to this Agreement to any part of MAWC's systems unless such facilities have been constructed in accordance with the plans and specifications approved by MAWC and are satisfactory to MAWC or its representatives upon inspection and testing by MAWC or its representatives.

(d) Furthermore, no connections shall be made to facilities to be installed pursuant to this Agreement or to any other facilities of MAWC that are deemed to be illegal connections by the Environmental Protection Agency, or any other agency having jurisdiction over such connection.

(e) City and or City's contractor/subcontractors shall at all times maintain good discipline and order at the site. Inappropriate behavior is forbidden.

(f) Any modifications to the relocation required as a result of changes in grade, easements or other causes shall be paid for by the City and not subject to MAWC Contribution. All phases of the construction of the Main Installation shall be open at all times to inspection by MAWC or its representatives.

Article 4
Easements and Title

4.1 Grant of Easements. City agrees to prepare, obtain, execute and give to MAWC deeds of easement, which are acceptable to MAWC in MAWC's sole discretion for use and occupancy by MAWC before the Main Installation is accepted. All costs associated with easements for this Development shall be borne by the City. Easements need not be exclusive, but must be private property rights which specifically name MAWC as recipient, and may not be conveyances that are designated "Public," "for public use forever" or that include similar wording that would result in the creation of a public right-of-way in which MAWC could only be a licensee. The Main Installation must be installed in easement(s) unless otherwise approved by MAWC. City must provide an instrument of conveyance to MAWC of all easements needed for the Main Installation that have not already been conveyed to MAWC by deed or recorded plat. The instrument of conveyance must be in a form and substance satisfactory to MAWC in its sole discretion, free of all liens and encumbrances. Where relocation has occurred, City agrees to prepare, and MAWC agrees to execute and deliver to City, a partial release of MAWC's existing private easement along 32nd Street.

4.2 Conveyance of Title.

(a) All City's rights, title and interest to the water pipe, services, fire hydrants, valves and appurtenant facilities thereto within the Development and off-tract water facilities required to connect to MAWC's existing facilities, and constructed within the Development to MAWC's or others existing facilities, in accordance with the plans and specifications approved by MAWC installed under the terms of this Agreement are herewith tendered to MAWC, its successor and assigns. MAWC will accept the Main Installation, release the mains for service connections, and so notify City in writing, if and when City demonstrates to MAWC's satisfaction, that all pipes are chemically and bacteriologically clean, and otherwise conform to all MAWC standards and specifications, and after all other preconditions herein specified have been met and all monies owed MAWC have been received.

(b) All materials installed, facilities constructed and equipment provided by City in connection with construction of facilities under this Agreement and accepted by MAWC shall become the sole property of MAWC as installed, and full legal and equitable title thereto shall be then vested in MAWC, free and clear of any liens, without the requirement of any written document of transfer to MAWC. City agrees to execute and/or deliver promptly such documents

as counsel for MAWC may request to evidence good and merchantable title to said facilities free and clear of all liens.

(c) City shall submit to MAWC (i) copies of paid invoices together with its corresponding lien waiver to MAWC for all engineering and other services, materials installed, construction performed, equipment provided and materials purchased for construction pursuant to this Agreement at the actual cost thereof. If any lien waivers for the work described herein are not available to MAWC at the time of MAWC's acceptance of the Main Installation, an additional Letter of Credit of a form approved by MAWC may be issued to MAWC in an amount equal to the total dollars described on the associated invoices. (See Article 5.3 herein).

(d) Upon completion of work hereunder, City shall remove all equipment belonging to it or used under its direction or by its contractor or its subcontractors, and shall dispose of all unused materials, rubbish, surplus excavated materials and debris in a manner reasonably acceptable to MAWC. City shall repair all roads, sidewalks, parkways and all else affected by its work, which repairs shall be made in accordance with the requirements of MAWC and governmental agencies having proper jurisdiction.

(e) It is specifically provided by and between the parties hereto that it is the express intention and agreement of the parties that the legal effect of this Agreement shall be that no mechanics' lien or claim may be filed or maintained by anyone including, but not limited to, any of the parties hereto, any contractor, subcontractor or materialman performing labor or furnishing materials in any way relative to any of the covenants and agreements of this Agreement. In furtherance of the foregoing provision, the parties agree that no contract or subcontract for either labor or materials performed or furnished in furtherance of this Agreement has been or shall be entered into prior to the expiration of ten (10) days from the date of the execution hereof.

Article 5
Indemnification by City

5.1 To the fullest extent permitted by law, and subject to the limitations of the Missouri Tort Claims Act, and excepting MAWC's own negligence, City shall save and hold MAWC harmless from and against all suits or claims against MAWC that may be based upon any injury or alleged injury to any person or property that may occur, or that may be alleged to have occurred, in the course of the performance of this Agreement by City or by any subcontractor, whether such claims shall be claimed that the alleged injury was caused through any act or omission of City or of any subcontractor, and City shall, at its own cost and expense, pay all charges of attorneys and all cost and other expenses arising therefrom, or incurred in connection therewith, and if any judgment shall be rendered against MAWC in any such action or actions, City shall, at its own cost and expense, satisfy and discharge the same. MAWC shall give City prompt notice of threat or institution of any such suit or claim. MAWC retains the right to approve the attorneys hired by City or to select its own attorneys, the charges for which shall be paid by City.

Article 6
Warranties and Covenants of City

6.1 City shall guarantee all construction, materials and workmanship provided under this Agreement for one year after "Final Acceptance" by MAWC. "Final Acceptance" is defined as the date when City has received written acceptance of the facilities installed per this Agreement from MAWC, completed all construction required by this Agreement and corrected all punch list items requested by MAWC to the satisfaction of MAWC. City warrants that all construction, materials and workmanship provided under this Agreement will be completed substantially in accordance with the plans and specifications for said facilities as approved by MAWC. All areas affected by the Main Installation shall be restored to MAWC's reasonable satisfaction prior to the acceptance of the Main Installation. If weather conditions prohibit restoration of said affected areas, MAWC may require a written statement from the City indicating City's responsibility to complete restorations at the earliest opportunity.

6.2 City covenants and agrees that any repairs that become necessary to correct all defects and deficiencies in construction, materials and workmanship that are associated with the facilities and appurtenances installed per this Agreement during the warranty period shall be performed by MAWC at City's expense. City, for a period of one (1) year after Final Acceptance by MAWC, shall (i) do what is necessary to keep all hydrants at proper elevation, relative to surrounding grade; (ii) promptly pay for the repair of, or any other damages to MAWC's water facilities and appurtenances thereto attributed directly or indirectly to construction by or for City, or any of its subcontractors. Inspection and approval of facilities by MAWC shall not waive any right of MAWC under this Agreement. Repairs other than to water mains, hydrants, or appurtenances during the warranty period or consequential damage shall be the responsibility of City. If repairs, including any site restoration costs, are not made after ten (10) days' notice by MAWC, MAWC or MAWC's agents shall make said repairs at City's expense. All costs incurred by MAWC as a result of repairs to the Main Installation and any consequential damages, including but not limited to site restoration costs, that occur during said one year warranty period will be invoiced to the City by MAWC. The City agrees to pay said invoice within thirty (30) days of receipt of the invoice.

6.3 Modifications to the water system necessitated by changes in the plan of Development by City (grading, alignment, etc.) shall be paid for by City.

Article 7
Miscellaneous

7.1 Waiver. The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

7.2 Cooperation. City and MAWC will cooperate fully with each other in all matters relating to obtaining all approvals of all regulatory agencies required in order for MAWC to provide water service to the Development.

7.3 Modification.

7.4 Recording. MAWC may record this Agreement or a memorandum thereof in accordance with the laws of the State of Missouri.

7.5 Force Majeure. Neither party to this Agreement shall be liable to the other for failure, default or delay in performing any of its obligations hereunder, other than for payment of money obligations specified herein, in case such failure, default or delay in performing any of its obligations specified herein is caused by strikes or other labor problems, by forces of nature, unavoidable accident, fire, acts of the public enemy, interference by civil authorities, passage of laws, orders of the court, adoption of rules, ordinances, acts, failures to act, decisions or orders or regulations of any government or military body or agency, office or commission, delays in receipt of material, or any other cause, whether of similar nature, not within the control of the party affected and which, by the exercise of due diligence, such party is unable to prevent or overcome. Should any of the foregoing occur, the parties hereto agree to proceed with diligence to do what is reasonable and necessary so that each party may perform its obligations under this Agreement. MAWC shall not in any event incur any liability to City for consequential or other damages which may result from delays in initiating service or interruptions or other malfunctions of service. MAWC shall have no obligation to accept the main installation if any action, law suit, proceeding or cause of action is pending or threatened with respect to installation.

7.6 Notices. All notices, consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given, made or delivered: (i) when delivered in person, (ii) three (3) days after deposited in the United States mail, first class postage prepaid, (iii) in the case of telegraph or overnight courier services, one (1) business day after delivery to the telegraph company or overnight courier service with payment provided, or (iv) in the case of telex or telecopy or facsimile, when sent, verification received, in each case addressed as follows:

if to MAWC:

Attn: Engineering
727 Craig Road
St. Louis, MO 63141

with a copy to:

Attn: General Counsel
727 Craig Road
St. Louis, MO 63141

if to City:

_____
_____
_____
_____
_____

or to such other address as any party hereto may designate by notice to the other parties in accordance with the terms of this Article.

7.7 No Agency Relationship. It is understood that in the construction and installation of the Main Installation, City, its contractors and agents are independent contractors and are not acting as the agents or employees of MAWC and therefore shall not incur any costs or expenses on behalf of MAWC and that MAWC is not an agent of the City and shall not incur any costs or expenses on behalf of the City.

7.8 Entire Agreement. Subject to the MAWC's tariffs on file with and approved by the Missouri Public Service Commission as amended from time to time, and rules issued by the Missouri Public Service Commission that regulate MAWC operations, this Agreement sets forth the complete understanding between City and MAWC, and any amendments hereto to be effective must be in writing. All prior negotiations and agreements between the parties hereto are superseded by this Agreement. Nothing in this Agreement, express or implied, is intended, or shall be construed, to confer upon or give to any person, firm or corporation (other than the parties hereto and their permitted assigns) any rights or remedies under or by reason of this Agreement, or any term, provision, condition, undertaking, warranty, representation, indemnity, covenant or agreement contained herein.

7.9 Regulatory Jurisdiction and Approval. This Agreement is intended to be consistent with applicable rules and regulations on file with the Missouri Public Service Commission. This Agreement is subject to such approval of the Missouri Public Service Commission to the extent required by law.

710 Governing Law. This Agreement shall be governed by the laws of the State of Missouri, without regard to conflict of laws rules.

7.11 This Agreement shall become a contract and the Date of Acceptance shall be the date the Agreement is returned to MAWC fully executed.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officials.

ATTEST: MISSOURI-AMERICAN WATER COMPANY

_____ _____

_____, Name and Title

ATTEST: CITY

_____ _____

_____, Name and Title