AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2018, by and between the City of Joplin, Missouri, a Missouri municipal corporation, hereinafter referred to as "City", and Missouri Southern State University, a Missouri state university, hereinafter referred to as "MSSU", and collectively referred to as "the parties", hereby agree as follows:

WHEREAS, the City has acquired property to construct a pedestrian and bicycle path as described on Exhibits A and B (the "Path");

WHEREAS, the majority of the Path crosses property otherwise owned by MSSU; and

WHEREAS, the Parties wish to establish the respective responsibilities for each party regarding the Path;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements hereinafter set forth and contained, City and MSSU hereby mutually agree as follows:

1. Purpose. The purpose of this Agreement is to set forth each party's responsibilities regarding the Path.

2. Term. This agreement shall be effective once it is fully executed by each party and shall be for an initial ten (10) year term, then followed by successive one-year terms. After the initial ten (10) year term, either party has the ability to terminate with 12 months' notice to the other party.

3. City's Responsibilities. City shall be responsible for construction and structural maintenance and repair of the Path. Structural maintenance and repair is defined as maintenance and repair of the surface and subsurface of the paved portion of the Path.

4. MSSU's Responsibilities. MSSU shall be responsible for non-structural

maintenance and repair of the Path. Non-structural maintenance and repair includes reasonable ice and snow removal, maintenance and repair of all unpaved areas with grass or other landscape materials compatible with the adjacent property, reasonable mowing, reasonable removal and repair of damage caused by vandalism such as spray paint, and reasonable removal of any debris such as gum, litter, trash, etc. MSSU's responsibilities to maintain and repair un-paved areas of the Path do not extend more than 20' from the center of the paved path.

5. Security Cameras. MSSU plans to install security cameras for the purpose of monitoring the Path. If MSSU installs security cameras, some of the cameras will need to be placed on property owned by City. City hereby grants MSSU authority to place security cameras on the City's property as well as to access the security cameras for maintenance and repair. Maintenance of the security cameras will be at MSSU's sole expense.

6. Hold Harmless and Indemnity. City and MSSU acknowledge that the parties, as governmental entities, are granted various immunities and protections, including sovereign immunity. The parties agree that nothing in this Agreement shall be construed as a waiver of the other parties' governmental immunities and protections.

Subject to, and without waiving any of its immunities and protections, MSSU shall hold City harmless from all claims, damages, assessments, costs, and liabilities, arising from MSSU's responsibilities regarding the Path. MSSU shall indemnify and hold City harmless from any and all claims of injury to person or property suffered or allegedly caused due to MSSU's responsibilities regarding the Path.

Subject to, and without waiving any of its immunities and protections, the City shall hold MSSU harmless from all claims, damages, assessments, costs, and liabilities, arising from City's responsibilities regarding the Path. City shall indemnify and hold MSSU harmless from any and

all claims of injury to person or property suffered or allegedly caused due to City's responsibilities regarding the Path.

7. Insurance. As a State entity, all liability insurance for University property is covered by the State Legal Expense Fund as administered by the State Attorney General.

8. Headings. The headings of paragraphs in this Agreement are for convenience only. The headings form no part of this Agreement and shall not affect its interpretation.

9. Entire Agreement. This Agreement (including any Exhibits) contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by both parties.

10. Waiver or Breach. Waiver of any provision of this Agreement or breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties to this Agreement to assert its rights for any breach of this Agreement shall not be deemed a waiver of such rights.

11. Severability. If any of the provisions of this Agreement shall be construed to be invalid or illegal, the legality or validity of the other provisions of this Agreement shall not be affected thereby. Any illegal or invalid provision of this Agreement shall be severable and any other provisions shall remain in full force and effect.

12. Binding Effect. The provisions herein shall operate as a covenant running with the land and shall bind both parties hereunto and their respective successors and assigns.

13. Representations. The signatories hereto represent and warrant that they have read this Agreement, that they are fully authorized in the capacities shown, that they understand the terms

of this Agreement, and that they are executing the same voluntarily and solely for the consideration described herein.

14. 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 Jasper County, Missouri, or the United States District Court for the Western District of Missouri.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

MISSOURI SOUTHERN STATE UNIVERSITY

By: _____
Rob Yust,
Vice President for Business Affairs

ATTEST:

_____

CITY OF JOPLIN, MISSOURI,

By:_____
Samuel L. Anselm,
City Manager

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

Peter C. Edwards, City Attorney