INFORMAL AGENDA

April 7, 2014

5:15 p.m.

1. Discussion of Joplin Health Nuts programs

2. Any other business

CITY COUNCIL INFORMAL MEETING
APRIL 7, 2014
HEALTHY PROGRAM UPDATE

During 2013, through feedback from the employees, the Joplin Health Nuts identified four programs for employees and members of the health plan to become or remain as healthy as possible. The programs are as follows:

- Lose Some, Win Some Challenge
- Exercise Equipment at city facilities
- Exercise/active classes at city facilities
- Point System-Incentives for Activities

The first program, Lose Some, Win Some Challenge, started on January 6th. It just finished on March 31st. Seventy employees participated in the program. Those employees lost a combined 285.2 pounds or 5.2% overall.

The Health Nuts' goal is to start the next two programs no later than June 1st. There is a current budget of $30,000 to implement the various programs. The next two programs are the exercise equipment at a city facility and exercise classes at a city facility. As a start, the Health Nuts did a survey to gauge the possible usage of exercise classes. The survey is attached for your review. There were 297 responses to the survey. Of those, 227 indicated they would attend a free class on a regular basis at a city facility.

The group has determined the best location for exercise equipment at a city facility is the Athletic Complex. This location will be available from 7:00 a.m. to 8:00 p.m. (9:00 p.m. in the summer). A picture of the size of the room at this facility has been attached for your review. This location also has shower facilities available. The group would like to start out with a few machines to ensure the usage of the equipment. If the usage warrants additional machines in the future, those can be budgeted. The group would like authority to purchase up to $18,500 in commercial type exercise equipment, such as treadmills, a weight unit, cross-trainer, and stationary bicycle. This location allows the ability to track the usage of the machines. Over a period of time, if the machines are not used, the City will transfer the machines to another location for other use.

For the next program, exercise classes at city facilities, the group is recommending the implementation of fitness on demand. Fitness on demand is exercise classes on the big screen. This system brings all different types of fitness classes to the employees with just the touch of a button. The classes can be scheduled or employees can play classes on demand. This system eliminates the need for dedicated staff focused on teaching and scheduling classes. It will also track the usage by employees. The group has determined the best location for fitness on demand is in the basement of City Hall. The basement can be used for exercise, while also accommodating large meetings. This location is available to employees as long as they have a key to access the building. The group would like

authority to purchase fitness on demand for up to $10,500, plus the cost of some needed equipment such as mats, steps, dumbbells, etc. Over a period of time, if the system is not utilized by city employees, the City can transfer the system to another location for another use.

The final program, point system-incentives for activities, will be started later in the year. This is the program that will tie the first three programs together and will ultimately serve as the backbone to wellness for employees and their dependents. It will build upon the first program and utilize the second and third programs, as well as many other components. We will provide more information on this program as it is developed.

At this point, $30,000 is in the current budget for these programs. The Health Nuts are seeking approval of the exercise equipment and exercise classes at these locations.

Exercise Class Survey

Total Responses 297

Would you consider attending a free class on a regular basis?

Yes	**227**
No	**70**

What is the optimal time for you to attend a class held at a city building?

Before work	**57**
During lunch	**58**
After Work	**156**

What days of the week would you prefer to attend a city hosted class?

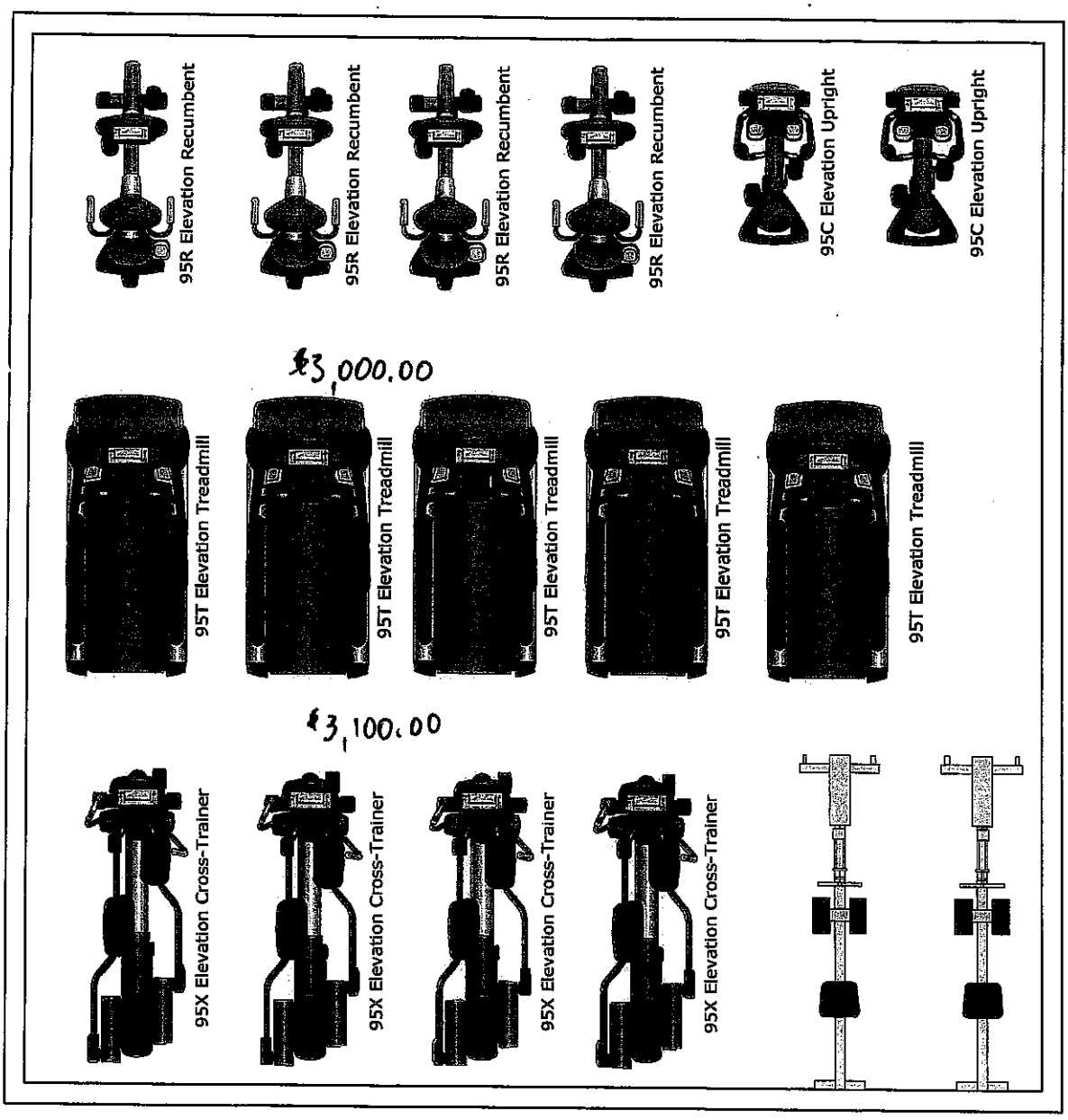
Monday	**159**
Tuesday	**160**
Wednesday	**167**
Thursday	**161**
Friday	**130**

Would you require shower facilities to attend a city hosted class before work or during the noon hour?

Yes	**153***

*There were not enough people who marked "before work" or "during lunch" to equal the number of yes responses. However, it is clear that people would like shower facilities as 67% of yes responses would require shower facilities.

Joplin Recreation Center



advanced EXERCISE EQUIPMENT ADVANCEDEXERCISE.COM

Commercial Consultant: Contact Name | **Phone:** Contact Phone # | **Date:** Drawing Date

Scale: ¼" = 1' | **Version:** Version #

INFORMAL NOTES

March 17, 2014

Allocation of former marathon funding in CVB budget	Patrick Tuttle, CVB Director, presented a request to reallocate $80,000 in the JCVB FY-14 budget that earmarked for the now defunct Mother Road Marathon. His first request included $7,000 for the equipment purchase and start up costs for Cinema in the Park. This would allow Parks &Rec to develop a summer public, movie program in a park and offer a unique feature for special events the JCVB can offer. It would be programmed and maintained by Parks & Rec. The second request included $28,000 for the Route 66 Park Overruns and change order. He discussed some of the items for this project. The last request was for $45,000 to acquire land or period building for Route 66 tourism attractions. Motion by Dr. Rosenberg, Second by Ms. Raney to re-allocate $7,000 for the Cinema in the Park project and $28,000 for the Route 66 Mural Project, and bank the $45,000 for future use. Motion passed 9-0.
Approval to continue JCVB JCVB Community Grant Program	Mr. Tuttle sought Council approval to continue the Joplin Convention & Visitors Bureau Community Grant Program without an end date. The program was established in 2011 and benefited several local organizations and enriched many small events. The JCVB has set aside $120,000 for the marketing of events exhibiting positive tourism potential to the Joplin area. The CVB awards this funding as Special Events Grants each year. The funds are to assist qualified organizations with the promotion of tourism activities striving to directly increase hotel/motel occupancy and create positive image building publicity for Joplin. The grants assist organizations that are planning smaller, regional events. Motion by Mr. Scearce, Second by Mr. Seibert to continue the Community Event Grant Program. Motion passed 9-0.
JASCO Virtual Consolidation Police Chief Lane Roberts	Police Chief Lane Roberts requested Council's approval for a virtual consolidation of the Joplin/Jasper County dispatch centers. The process has taken approximately a year to create a virtual

consolidation – which means using technology to link the two centers so they function almost as one center. This is the first phase and currently the fiber lines are installed, the internet issues have been addressed, and the policies, procedures and dispatch codes are now compatible between the two dispatch centers. The final element, which is in progress, now, is the CAD to CAD (Computer Aided Dispatch) interface, so the two centers function as one. The second phase will be the physical consolidation. Mark Morris, City of Joplin IT Director and April Tarrant, Director of the JASCO Center, expounded on some of the points Chief Roberts relayed. Mark reminded Council that during the budget work session last fall, it was discussed that costs would be shared 50/50 between the City and JASCO. The ---Connects computers together where both dispatch centers can send and receive calls to each other. The fiber line will be used to bring two call stations, two telephone stations that will be tied to the county phone system. Calls will not have to be transferred back and forth, and phones will not have to be replaced, therefore making the project more cost effective and efficient for the citizens. April expanded on the CAD to CAD process. Motion by Mr. Golden, Second by Mr. Shaw, to authorize Chief Roberts to move forward with Phase I of the Virtual Consolidation. Motion passed 9-0.

Boards & Commissions Appointments/Reappointment

The following Reappointment was made: Gregg Wilkerson to the City Tree Board. The following Appointments were made: Don Helms: ADA; Josh DeTar and William Kean: Parks & Recreation.

Any Other Business

Mr. Glaze announced that the council and council staff have been invited to a ribbon cutting at Safeway Bakery-Annie's on Thursday, April 3 at 9am at Maiden Lane and Junge Sts. There is a coffee get together at 9:00 am and ribbon cutting at 9:30. Annie's, an organic cookie maker, from Berkley CA, has bought Safeway Bakery

City Attorney Brian Head distributed copies of Council Bill No. 2014-011, a Performance Agreement between COJ and COTT Corp., which was approved under First Readings on the March 3, 2014 agenda as Council Bill No. 2014-011. The new copy reflects a couple of minor changes that were made by the bond counsel, and pertain to wage and hours. The changes were made to keep in compliance of state statutes.

Interim City Manager Sam Anselm shared with Council the information he had regarding the possibility of a water and sewer line protection-warranty for citizens that was presented to Council at the March 3, 2014 by Oscar Arras. Mr. Anselm stated there is no cost to the City for the program; however the city's logo would be used in advertisement as an endorsement. A motion to send out for an RFQ failed 2-7.

COUNCIL AGENDA

April 7, 2014

6:00 P.M., Council Chambers

General Council Members	MAYOR	Zone Council Members
Mike Woolston	Melodee Colbert-Kean	Gary Shaw
Morris Glaze		Melodee Colbert-Kean
Bill Scearce (Mayor ProTem)		Dr. Benjamin D. Rosenberg
Jack Golden		Michael Seibert
Trisha A. Raney		

1. Call to Order
Invocation
Pledge of Allegiance

2. Roll Call

3. Presentations
1. Recognize April as Fair Housing Month – Matt Moran and Community Housing Resource Board.

4. Finalization of Consent Agenda

5. Reports and Communications

6. Citizen Requests and Petitions
1. Elizabeth Clement, 6118 Maple Drive, requests to address council concerning the crime in Joplin.

2. Mary Breedlove, 1510 Pennsylvania, requests to address Council regarding trash and rubbish.

7. Public Hearings
Public Hearing Procedures
1. COUNCIL BILL NO. 2014-256 - AN ORDINANCE providing for the vacation of a 20-foot wide stormwater easement located at 1202 Bramar Drive in the City of Joplin, Jasper County, Missouri. (Requested by Samuel Carpenter. Planning and Zoning recommended approval).

2. COUNCIL BILL NO. 2014-257 - AN ORDINANCE providing for the vacation of a 50-foot wide railroad spur dedicated to the City of Joplin being located at 3502 Enterprise Avenue in the City of Joplin, Jasper County, Missouri. (Requested by Patrick Sauerland. Planning and Zoning recommend approval).

Anyone wishing to address the Council should step to the Podium and state their name and address. If the matter is not a Public Hearing, a request to speak to the Council should be prepared prior to the meeting. Speaking time will be limited to five minutes.

Sound enhancement units are available for hearing impaired customers. You will be asked to provide a form of identification as security, which will be returned when you return the unit.
If you are in need of disability related auxiliary aids or services, contact the City Clerks Office at (417) 624-0820 ext. 220. Forty-eight hours notice is requested.

8. Consent Agenda

1. Minutes of the March 17, 2014 Council Meeting

2. COUNCIL BILL NO. 2014-258 - AN ORDINANCE Request to Review the Final Plat for DARREN ADDITION located in the 2600 block of South Byers Avenue in the City of Joplin, Jasper County, Missouri.

9. Resolutions

1. RESOLUTION NO. 2014-007 - A RESOLUTION authorizing the filing of a Second Amendment to the Action Plan with the U.S Department of Housing and Urban Development as required for use of the City of Joplin's Community Development Block Grant Disaster Recovery (CDBG-DR) Program; and authorizing the City Manager to execute said Plan for and on behalf of the City of Joplin.

2. RESOLUTION NO.2014-008 - A RESOLUTION recognizing Lane Roberts upon his retirement from active service as the Chief of Police within the City of Joplin Police Department.

10. Ordinances – Emergency

1. COUNCIL BILL NO. 2014- 116 - AN ORDINANCE approving a agreement for HDR Engineering Inc. Six Hundred Fifty Four Thousand Eight Hundred Thirty and no/100 Dollars ($654,830.00) for Consultant Services for the Sanitary Sewer Damage Assessment & Repair – Green Zone project and containing an emergency clause.

2. COUNCIL BILL NO. 2014- 120 - AN ORDINANCE approving the purchase of right of way and easements from property at 1010 E. 20th Street, consisting of Part of Lots Numbered One Hundred Sixty-Eight (168), One Hundred Sixty-Nine (169), and One Hundred Seventy (170) in Southmorland Acres Addition to the City of Joplin, Jasper County, Missouri; and authorizing the payment of Twenty Thousand and 00/100 dollars ($20,000.00) and containing an emergency clause.

3. COUNCIL BILL NO. 2014-121 - AN ORDINANCE approving the purchase of right of way from property at 20th and Texas Avenue, consisting of part of Misc.Tract M-12, part of Lot Numbered Sixteen (16) in Lenger's Addition, and part of Lots Numbered Twenty-Eight (28), Twenty-Nine (29), and Thirty (30) in Dowell's First Addition to the City of Joplin, Jasper County, Missouri; and authorizing the payment of Fifteen Thousand and 00/100 dollars ($15,000.00) and containing an emergency clause.

4. COUNCIL BILL NO. 2014- 123 - AN ORDINANCE approving a agreement for Allgeier, Martin & Associates for Sixty Thousand and no/100 Dollars ($60,000.00) for Consultant Services for design services for the 15th & Highview Area Drainage System Repairs Project and containing an emergency clause.

5. COUNCIL BILL NO. 2014- 124 - AN ORDINANCE approving a agreement for Anderson Engineering for Twenty One Thousand Nine Hundred and no/100 Dollars ($21,900.00) for Consultant Services for the 24th & Patterson Area Drainage System Repairs project and containing an emergency clause.

6. COUNCIL BILL NO. 2014- 125 - AN ORDINANCE approving a agreement for Allgeier, Martin & Associates for One Hundred Thousand and no/100 Dollars ($100,000.00) for Consultant Services for the Storm Sewer System Repairs in the Green Area project and containing an emergency clause.

7. COUNCIL BILL NO. 2014- 126 - AN ORDINANCE approving a agreement for Anderson Engineering for Fifty Six Thousand Two Hundred Fifty and no/100 Dollars ($56,250.00) for Consultant Services for the Even Ave to County Club Drainage System Repairs project and containing an emergency clause.

8. COUNCIL BILL NO. 2014- 127 - AN ORDINANCE approving a agreement for Anderson Engineering for Eighty Four Thousand Seven Hundred and no/100 Dollars ($84,700.00) for Consultant Services for the Pennsylvania & Virginia – 31st to 28th Stormwater Repairs project and containing an emergency clause.

9. COUNCIL BILL NO. 2014- 128 - AN ORDINANCE approving a agreement for Bartlett & West Inc. not to exceed Six Hundred Eight Thousand Two Hundred Sixty and no/100 Dollars ($608,260.00) for Consultant Services for the Storm Sewer Damage Assessment & Repair & GIS Mapping of the Tornado Zone project and containing an emergency clause.

10. COUNCIL BILLNO.2014-129 - ANORDINANCE approving a agreement for TranSystems for Two Hundred Ninety Two Thousand and no/100 Dollars ($292,000.00) for Consultant Services for the Surface Street, Sidewalk, and Curb Assessment & GIS Mapping of the Tornado Zone project and containing an emergency clause.

11. COUNCIL BILL NO. 2014-402 - AN ORDINANCE authorizing the City of Joplin to enter into an Agreement with Economic Security Corporation of Southwest Area (ESC) in the amount not to exceed Two Hundred Seventy-five Thousand Dollars ($275,000.00) to provide administrative services related to Joplin Homeowner Rehabilitation Program through the 2012 Community Development Block Grant- Disaster Recovery fund, authorizing the City Manager to execute said Agreement for the City, and containing an emergency clause.

12. COUNCIL BILL NO. 2014-403 - AN ORDINANCE authorizing the City of Joplin to enter into an Agreement with Catholic Charities of Southern Missouri (Catholic Charities) in the amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00) to provide administrative services related to Joplin Homeowner Rehabilitation Program through the 2012 Community Development Block Grant- Disaster Recovery fund, authorizing the City Manager to execute said Agreement for the City, and containing an emergency clause.

13. COUNCIL BILL NO. 2014-404 - AN ORDINANCE authorizing the City of Joplin to enter into an Agreement with St. Bernard Project dba Rebuild Joplin (Rebuild Joplin) in the amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00) to provide administrative services related to Joplin Homeowner Rehabilitation Program through the 2012 Community Development Block Grant- Disaster Recovery fund, authorizing the City Manager to execute said Agreement for the City, and containing an emergency clause.

14. COUNCIL BILL NO. 2014-504 - AN ORDINANCE approving an Agreement by and between the City of Joplin and Missouri Highways and Transportation on behalf of Federal Highway Administration to provide reimbursement for tornado destroyed and damaged signs; authorizing the City Manager to execute said Agreement by and on behalf of the City of Joplin; and containing an emergency clause.

15. COUNCIL BILL NO. 2014-505 - AN ORDINANCE approving an Agreement by and between the City of Joplin and Missouri Highways and Transportation on behalf of Federal Highway Administration to provide reimbursement for tornado destroyed and damaged signals; authorizing the City Manager to execute said Agreement by and on behalf of the City of Joplin; and containing an emergency clause.

11. Ordinances – First Reading

12. Ordinances – Second Reading and Third Reading

1. COUNCIL BILL NO. 2014-250 -AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1-PD property as described below and located at 2318 East 20th Street in the City of Joplin, Jasper County, Missouri.

13. Unfinished Business

14. New Business

Notice posted at 4:30p.m. on this the 3rd day of April, 2014. (RSMo 610.020)

PRESENTATIONS

PROCLAMATION

Proclaiming April as Fair Housing Month

WHEREAS, the passage of the U.S. Fair Housing Law, Title VIII of the Civil Rights Acts of 1968, as amended, established the right to equal housing opportunities for all citizens; and

WHEREAS, this law guarantees that housing throughout the United States should be made available to all citizens without regard to race, color, religion, sex, family status, disabilities or national origin; and

WHEREAS, citizens in our community should continue to work together to uphold the Fair Housing Law and the principle of equal opportunity on which it is based; and

WHEREAS, barriers which diminish the rights and limit the options of any citizen will ultimately diminish the rights and limit the options of all.

NOW THEREFORE I, Melodee Colbert-Kean, Mayor of the City of Joplin, Missouri, and on behalf of the Joplin City Council, do hereby proclaim April 2014, as **FAIR HOUSING MONTH** and urge all citizens to support the principles of fair housing opportunities for all.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Joplin to be affixed this date of April 7, 2014

_____

Melodee Colbert-Kean, Mayor
City of Joplin

CITIZENS REQUESTS

CITY OF JOPLIN MISSOURI

REQUEST TO ADDRESS COUNCIL

Persons wishing to address Council should complete this form and give it to the City Clerk prior to the start of the meeting, which is 6:00 pm.

When your name is called, approach the podium and state your name and address clearly for the record. You will have five (5) minutes to state the purpose of your request.

Date: 3-5-2014

I would like to address the Joplin City Council at the 4-7 (date) meeting on the following subject:

Crime in Joplin- Surveillance in parking lots over 100 spaces. Challenge council to consider putting some wording to businesses seeking licenses to operate or Renewal. A starting point to detour ~~crime~~ to assist in arrests, etc.

crime

Name: Elizabeth Clement (Please print)

Address: 6118 Maple Dr.

Daytime Phone: 624-2447

Phone No.: 417-658-5544

manager of Great American Cookies N Park Mall

Printed in the office of the City Clerk

RECEIVED MAR 7 2014 03-07-14 P01:08 IN

CITY OF JOPLIN MISSOURI

REQUEST TO ADDRESS COUNCIL

Persons wishing to address Council should complete this form and give it to the City Clerk prior to the start of the meeting, which is 6:00 pm.

When your name is called, approach the podium and state your name and address clearly for the record. You will have five (5) minutes to state the purpose of your request.

Date: 3-28-14

I would like to address the Joplin City Council at the April 7th (date) meeting on the following subject:

Neighbors Trash & Rubbish which is a constant problem - haul in things to recycle - pile Around & Expect Trash Co. to haul off!
this is At least A "10" years issue!

Name: Mary Breedlove (Please print)

Address: 2510 Pennsylvania

Daytime Phone: 417-781-0399

Phone No.: _____

03-28-14 A11-399

Printed in the office of the City Clerk

PUBLIC HEARINGS

PUBLIC HEARING PROCEDURES

Persons wishing to testify before the City Council are requested to follow these rules:

1. Proponents of the issue will be asked to present their information, then the opponents will be asked to testify and then rebuttal testimony may be allowed by the Council.

2. Approach the podium and state your name and address clearly for the record.

3. Please give your testimony as briefly and completely as possible. By the rules of the City Council you have five (5) minutes within which to give your testimony. Please follow the clock on the dais in front of you. You must complete your testimony within the 5 minute time limit.

4. Please do not repeat testimony that has been given previously. We want you to state your facts, but limit your information to only new information.

5. Everyone is invited to speak, however, if you have a spokesperson please allow them to speak without interrupting for applause or other demonstrations.

6. When the Public Hearing is closed by the Mayor, no additional testimony is allowed except when invited by the Mayor or other members of the Council.

7. Remember that this is a Public Hearing and all sides have a right to give testimony. Please respect their right to do so.

8. The City Council of the City of Joplin through this introduction, accepts into evidence the 2012 Comprehensive Plan, the Zoning Code of the City of Joplin, the Subdivision Regulations of the City of Joplin, the Telecommunications Ordinance, and the Stormwater Management Regulations of the City of Joplin being Appendices 29-A, 29-B, 29-D, 29-E and 29-F of the Joplin Municipal Code. Report of the Planning and Zoning Commission, recommendations of the City's staff, and other written documentation presented as that information applies to each public hearing.

Thank you for your consideration and understanding.

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014

Item: COUNCIL BILL NO. 2014-256
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Planning Report
2) Commission Minutes
3) Copy of Council Bill

Public Works Director: Nicholas A. Heatherly — Date: 3/28/2014
City Attorney: Brian Head — Date: 3/27/14
Interim City Manager: Samuel L. Anselm — Date: 3/26/14
Board or Commission: Planning and Zoning Commission — Date: 3/10/2014

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "7 in favor, 0 absent"

SUMMARY/REQUEST:
Case 010-14: 1202 Bramar Drive – A request for the vacation of a 20 foot wide stormwater easement – Samuel Carpenter.

STAFF SUMMARY:
The stormwater easement, platted in 1976, runs from the southwest corner of the rear yard to the northeast corner of the rear yard, leaving little area for any accessory structure to be constructed. The City's Stormwater Engineer has reviewed the survey and the application and does not have any installations currently in the easement. The City Engineer may require that a new easement be dedicated along the north property line for future use.

Staff recommends approval of Case 010-14.

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Samuel Carpenter appeared to request the vacation of a 20-foot wide stormwater easement where he plans to construct a workshop. The easement runs through the center of his property, with his north property line having been changed by the previous owner.

Mr. Duncan doesn't see a problem with this case but stated that the planning report indicates the City Engineer may request a new stormwater easement along the north property line. He thought what is being vacated is on the north side of the property.

Mr. Bolander stated that the easement to be vacated is shown in red on the City's map so it vacates the majority of that easement. Then if there is one that needs to be vacated, most likely it will follow that north property line. It is just easier to vacate the whole thing and then dedicate a new one if needed.

Mr. Duncan didn't have an issue with this request and understood that part of that north side is already being vacated. Mr. Bolander stated this is correct.

PUBLIC COMMENT:
None.

Z&P Meeting: March 10, 2014
City Council Meeting: April 7, 2014

STAFF PLANNING REPORT
Vacation

CASE 010-14:

A request for the vacation of a 20 foot wide stormwater easement at 1202 Bramar Drive.

APPLICANT: Samuel Carpenter

REPRESENTATIVE: N/A

LOCATION: 1202 Bramar Drive

EXISTING CONDITIONS:

Easement Type(s)	Easement Size
Stormwater Easement	20' x 146' (approx.)

REASON FOR VACATION:

The property owner has requested this vacation to allow for the construction of an accessory building in his rear yard. The stormwater easement, platted in 1976, runs from the southwest corner of the rear yard to the northeast corner of the rear yard, leaving little area for any accessory structure to be constructed.

UTILITIES CURRENTLY LOCATED IN THE EASEMENT?: No

UTILITIES PLANNED TO LOCATE IN THE EASEMENT?: No

DISCUSSION:

The stormwater easement, platted in 1976, runs from the southwest corner of the rear yard to the northeast corner of the rear yard, leaving little area for any accessory structure to be constructed. The City's Stormwater Engineer has reviewed the survey and the application and does not have any installations currently in the easement. The City Engineer may require that a new easement be dedicated along the north property line for future use.
Staff recommends approval of Case 010-14.

ENCLOSURES: Survey

RECEIVED
1-22-14

CITY OF JOPLIN

APPLICATION FOR VACATION OF STREET OR RESERVATION

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 010-14
Filing Fee: $ 350.00
Date Advertised: 2-23-14
Date Notices Sent: N/A
Public Hearing Date: 3-10-14

I. Applicant Name: Samuel Carpenter Phone: 417-529-8278

If more than one property applicant, please submit additional names, address and phone numbers on attached sheet(s)

Address: 1202 Braman Dr. Zip: 64801

Email: samc728@yahoo.com

II. Type of vacation requested (check all that apply):

Street Vacation____

Alley Vacation____

Utility vacation____

Other (Please specify) Storm water easement

III. Legal Description of area requested to be vacated: Survey and plat plan attached

IV. Please indicate below the extent to which the following standards are met, in the applicant's opinion.

1. Private rights will not be injured or endangered by the vacation. agreed

2. The vacation will not cause the public to suffer a loss or inconvenience. agreed

3. In justice to the applicant(s) the vacation should be granted. agreed

V. Required Attachments:

1. Affidavit(s) from each owner of land adjoining said area that is proposed to be vacated, whom are not listed as an applicant, indicating their consent to the vacation.

2. Survey or such other drawing acceptable to the Planning / Community Development Manager depicting the street, alley or public reservation sought to be vacated and the properties and property ownerships surrounding said street, alley or public reservation.

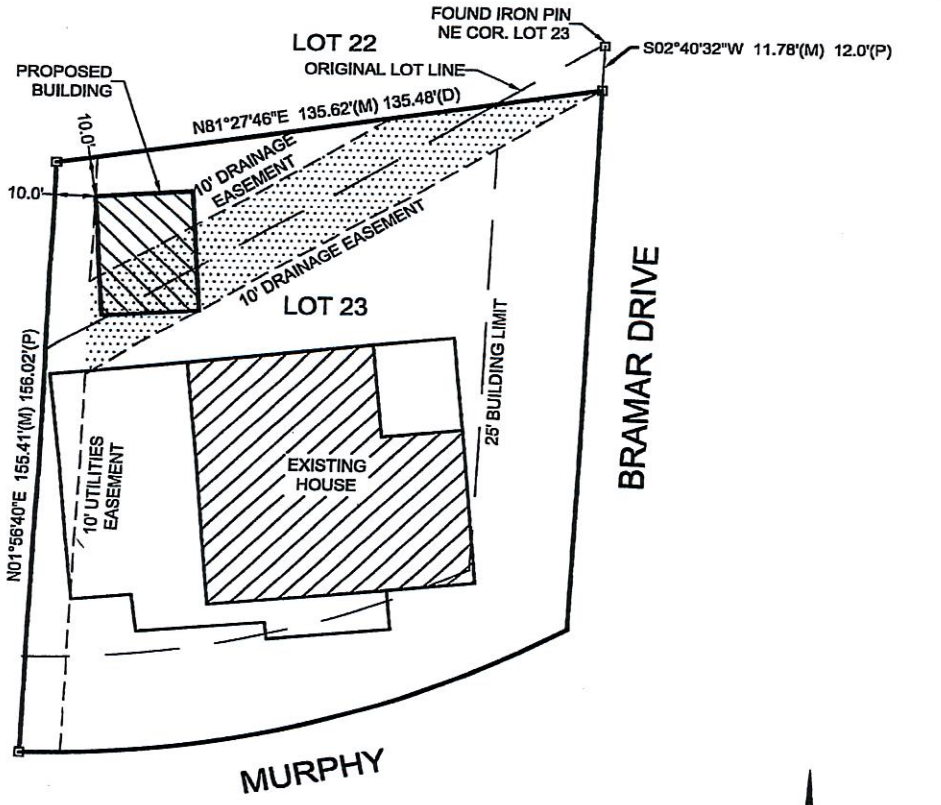
3. Affidavit(s) from the following private utility companies indicating their consent to vacate the easement(s). The following private companies must be contacted and consent to the vacation before the request can be advertised for public hearing.

a.) MGE Missouri Gas Energy	(800) 582-1234
b.) Empire District Electric Company	(417) 624-0300
c.) Cable One	(417) 624-6340
d.) MO American Water Company	(800) 256-6426
e.) AT&T	(800) 464-7928
f.) Republic Services (Trash)	(800) 431-1507

SIGNATURE: _____ DATE: 1/21/14

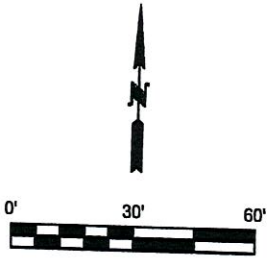
BY: _____

TITLE: _____



LEGEND

- ⊡ FOUND IRON PIN
- (M) MEASURED
- (D) DEED
- (P) PLAT



DESCRIPTION

ALL OF LOT NUMBERED TWENTY-THREE (23) IN BRAMAR ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, AND A PART OF LOTS NUMBERED WTENTY-TWO AND TWENTY-THREE (23) IN BRAMAR ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, DESCRIBED AS BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 22 IN BRAMAR ADDITION, THENCE NORTH ALONG THE WEST LINE OF LOT 22, A DISTANCE OF 50.0 FEET, THENCE NORTH 79 DEGREES 27 MINUTES 46 SECONDS EAST 109.34 FEET, THENCE SOUTH 56 DEGREES 55 MINUTES 50 SECONDS WEST 128.28 FEET TO THE POINT OF BEGINNING, EXCEPT A PART OF LOTS NUMBERED TWENTY-TWO (22) AND TWENTY-THREE (23) IN BRAMAR ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF LOT 22 IN BRAMAR ADDITION, THENCE NORTH ALONG THE WEST LINE OF LOT 22, A DISTANCE OF 50.0 FEET, THENCE NORTH 79 DEGREES 27 MINUTES 46 SECONDS EAST 109.34 FEET TO THE POINT OF BEGINNING, THENCE NORTH 79 DEGREES 27 MINUTES 46 SECONDS EAST TO THE EAST LINE OF LOT 23, THENCE NORTH 0 DEGRESS 21 MINUTES EAST 12.0 FEET TO THE NORTHEAST CORNER OF LOT 23 AND THE SOUTHEAST CORNER OF LOT 22, THENCE SOUTH 56 DEGREES 55 MINUTES 50 SECONDS WEST 30.75 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARINGS

BEARINGS ARE BASED ON GRID NORTH OF THE MISSOURI COORDINATE SYSTEM OF 1983 MISSOURI WEST ZONE.

CLASS OF PROPERTY

URBAN

NOTES

NO UTILITIES SHOWN AS A PART OF THIS SURVEY.

SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.

** THIS IS NOT A BOUNDARY SURVEY. THIS IS A PLOT PLAN TO OBTAIN A BUILDING PERMIT ONLY.

CERTIFICATE OF AUTHORITY LICENSE NUMBER LS-2012028512 EXPIRATION 12/31/2014

MJ SURVEY, LLC.
www.MJSurveyLLC.com
214 SOUTH MAIN ST.
JOPLIN, MO 64801
PH 417.623.2525
FAX 417.623.1745

DRAWN JPM	DATE 1/7/14	KMC HOMES
APPROVED BA	DATE 1/7/14	PART OF LOT 22 & 23 BRAMAR ADDITION CITY OF JOPLIN JASPER COUNTY, MO.
SCALE 1"=30'	SHEET	PROJECT # MJ14001



Case 010-14: A request to vacate a 20 foot wide sewer easement at 1202 Bramar Drive. - Samuel Carpenter

Case 010-14: 1202 Bramar Drive – A request for the vacation of a 20 foot wide stormwater easement – Samuel Carpenter.

Mr. Harrington opened the public hearing for Case 010-14.

Mr. Samuel Carpenter, 1202 Bramar Drive, Joplin, appeared to request the vacation of a 20-foot wide stormwater easement where he plans to construct a workshop. The easement runs through the center of his property, with his north property line having been changed by the previous owner.

Mr. Harrington asked for comments from the audience, and none were received. He then closed the public hearing for Case 010-14.

Mr. Duncan doesn't see a problem with this case but stated that the planning report indicates the City Engineer may request a new stormwater easement along the north property line. He thought what is being vacated is on the north side of the property.

Mr. Bolander stated that the easement to be vacated is shown in red on the City's map so it vacates the majority of that easement. Then if there is one that needs to be vacated, most likely it will follow that north property line. It is just easier to vacate the whole thing and then dedicate a new one if needed.

Mr. Duncan didn't have an issue with this request and understood that part of that north side is already being vacated. Mr. Bolander stated this is correct.

MR. CORTEZ MOVED, SECONDED BY MR. BROWN, THAT CASE 010-14 BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL, BASED UPON THE COMMENTS RECEIVED IN THE PLANNING REPORT AND DURING THE PUBLIC HEARING. THE MOTION CARRIED, WITH MR. BROWN, MR. CORTEZ, MR. DUNCAN, MR. EASTMAN, MR. HARRINGTON, MR. RAMSOUR, AND MR. SMITH VOTING "AYE" (7 IN FAVOR, 0 ABSENT).

P & Z Case 010-14
Samuel Carpenter
(P & Z Recommended Approval)

COUNCIL BILL NO. 2014-256 **ORDINANCE NO.**

AN ORDINANCE providing for the vacation of a 20-foot wide stormwater easement located at 1202 Bramar Drive in the City of Joplin, Jasper County, Missouri.

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

Section 1. That all that part of a 20-foot wide stormwater easement located at 1202 Bramar Drive in the City of Joplin, Jasper County, Missouri, described as follows are hereby vacated, conveyed, relinquished, and reverted to the owners of the abutting lots and land:

Commencing at a found iron pin at the Northeast corner of Lot Numbered Twenty-Three (23) in Bramar Addition to the City of Joplin, Jasper County, Missouri, according to the recorded plat thereof; thence South 02 degrees 40 minutes 32 seconds West along the East line of said Lot 23 a distance of 11.78 feet to a found iron pin; thence South 81 degrees 27 minutes 46 seconds West a distance of 0.50 feet to the point of beginning; thence South 58 degrees 52 minutes 28 seconds West a distance of 146.62 feet; thence North 01 degrees 56 minutes 40 seconds East a distance of 23.87 feet; thence North 58 degrees 52 minutes 28 seconds East a distance of 85.52 feet; thence North 81 degrees 27 minutes 46 seconds East a distance of 52.07 feet to the point of beginning.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2014.

ATTEST: Melodee Colbert-Kean, Mayor

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014

Item: COUNCIL BILL NO. 2014-257
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Planning Report
2) Commission Minutes
3) Copy of Council Bill

Public Works Director: Nicholas A. Heatherly — Date: 3/28/2014
City Attorney: Brian Head — Date: 3/27/14
Interim City Manager: Samuel L. Anselm — Date: 3/26/14
Board or Commission: Planning and Zoning Commission — Date: 3/10/2014

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "7 in favor, 0 absent"

SUMMARY/REQUEST:
Case 013-14: 3502 Enterprise Avenue – A request for the vacation of a 50 foot wide railroad spur dedicated to the City of Joplin – Patrick Sauerland.

STAFF SUMMARY:
The railroad spur was dedicated as a railroad easement to the City of Joplin in 1993. The City assisted in the construction of the spur to support the development of the property. The owner, Cott Beverages, is planning an expansion of the current building into the existing railroad easement. Staff has reviewed the easement and finds no need for the easement. It is in both the City's and the property owner's best interest to vacate the easement and have the property owner privately maintain and control the railroad spur.

Staff recommends approval of Case 013-14.

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Patrick Sauerland, with Insight Real Estate, Oak Brook, Illinois, appeared representing Cott Beverages for the vacation of a 50-foot wide railroad spur.

PUBLIC COMMENT:
None.

Z&P Meeting: March 10, 2014
City Council Meeting: April 7, 2014

STAFF PLANNING REPORT
Vacation

CASE 013-14:

A request for the vacation of a 50 foot wide railroad spur dedicated to the City of Joplin.

APPLICANT: Patrick Sauerland

PROPERTY OWNER: Cliffstar LLC (Cott Beverages)

LOCATION: 3502 Enterprise Avenue

EXISTING CONDITIONS:

Easement Type(s)	Easement Size
Railroad spur	50' wide

REASON FOR VACATION:

The property owner has requested this vacation to allow for the expansion of the existing facility at 3502 Enterprise Avenue in the Joplin-Webb City Industrial Park.

UTILITIES CURRENTLY LOCATED IN THE EASEMENT?: No

UTILITIES PLANNED TO LOCATE IN THE EASEMENT?: No

DISCUSSION:

The railroad spur was dedicated as a railroad easement to the City of Joplin in 1993. The City assisted in the construction of the spur to support the development of the property. The owner, Cott Beverages, is planning an expansion of the current building into the existing railroad easement. Staff has reviewed the easement and finds no need for the easement. It is in both the City's and the property owner's best interest to vacate the easement and have the property owner privately maintain and control the railroad spur.

Staff recommends approval of Case 013-14.

ENCLOSURES: Survey

RECEIVED
2-6-14

CITY OF JOPLIN

APPLICATION FOR VACATION OF STREET OR RESERVATION

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 013-14
Filing Fee: $ 350.00
Date Advertised: 2-23-14
Date Notices Sent: 2/19
Public Hearing Date: 3-10-14

I. Applicant Name: Patrick Sauerland Phone: 630.617.9115

If more than one property applicant, please submit additional names, address and phone numbers on attached sheet(s)

Address: 1400 16th Street, Suite 300, Oak Brook, IL Zip: 60523

Email: psauelrand@insiterealestate.com

II. Type of vacation requested (check all that apply):

Street Vacation X → Railroad R.O.W. vacation

Alley Vacation_____

Utility vacation_____

Other (Please specify) Vacation of railroad right-of-way dedicated to the City of Joplin

III. Legal Description of area requested to be vacated: See Attached Legal Description

IV. Please indicate below the extent to which the following standards are met, in the applicant's opinion.

1. Private rights will not be injured or endangered by the vacation. Private rights will not be injured or endangered by the proposed vacation. The vacation constitutes less than 500 sf of land area and is needed to allow for a building to be constructed in the vicinity of the ROW

2. The vacation will not cause the public to suffer a loss or inconvenience. The vacation will not cause the public to suffer a loss or inconvenience. The remainder of the existing railroad is sufficient to allow operation of the rail lines. The proposed vacation is a very small area and surrounded wholly by private property.

3. In justice to the applicant(s) the vacation should be granted. The proposed vacation should be granted to to allow for a building expansion to be completed for the existing facility located at 3502 Enterprise avenue. The small area of vacation will not affect the existing rail line operation or maintenance.

V. Required Attachments:

1. Affidavit(s) from each owner of land adjoining said area that is proposed to be vacated, whom are not listed as an applicant, indicating their consent to the vacation.

2. Survey or such other drawing acceptable to the Planning / Community Development Manager depicting the street, alley or public reservation sought to be vacated and the properties and property ownerships surrounding said street, alley or public reservation.

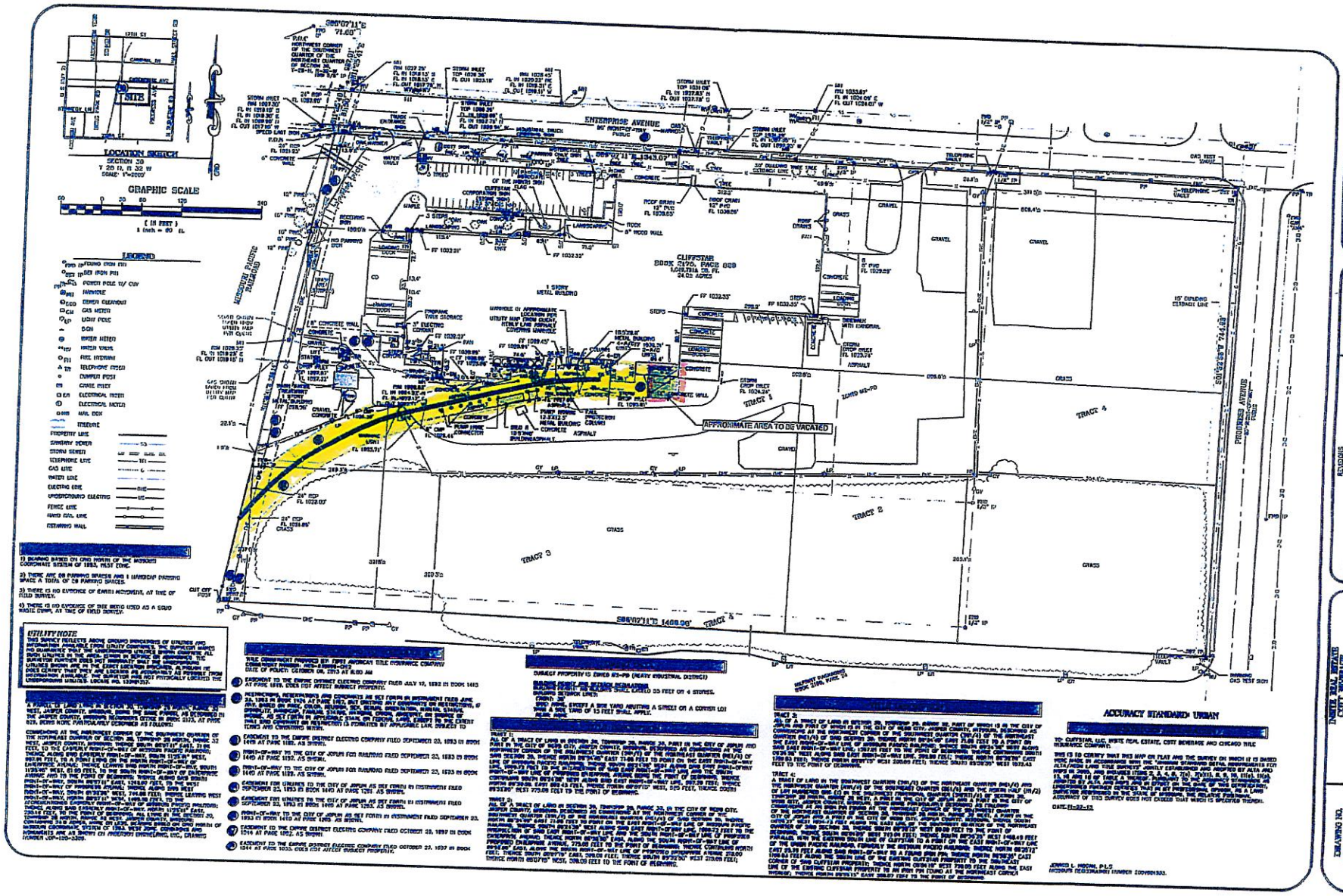
3. Affidavit(s) from the following private utility companies indicating their consent to vacate the easement(s). The following private companies must be contacted and consent to the vacation before the request can be advertised for public hearing.

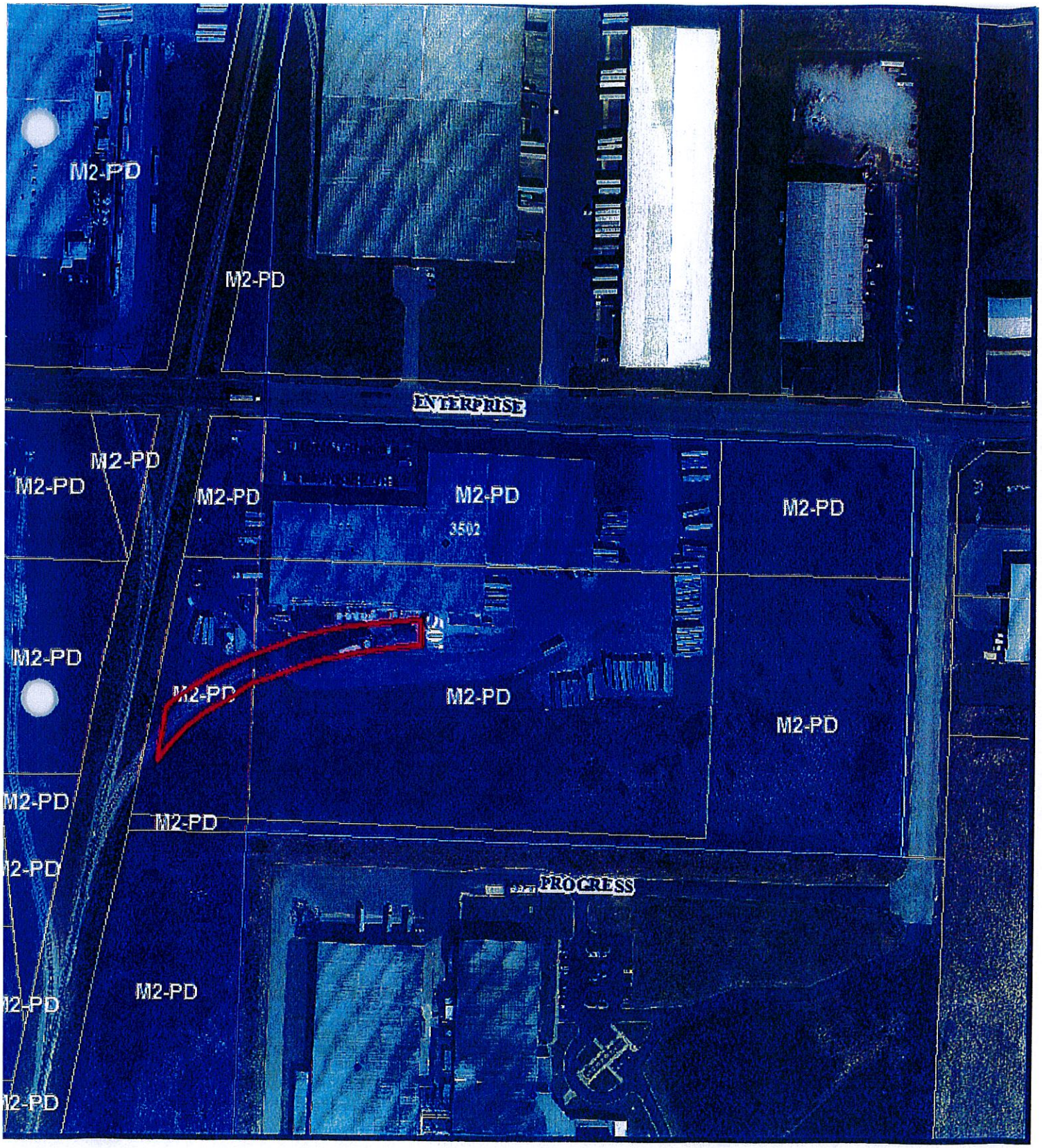
a.) MGE Missouri Gas Energy	(800) 582-1234
b.) Empire District Electric Company	(417) 624-0300
c.) Cable One	(417) 624-6340
d.) MO American Water Company	(800) 256-6426
e.) AT&T	(800) 464-7928
f.) Republic Services (Trash)	(800) 431-1507

SIGNATURE: Patrick Sauerland DATE: 2/5/2014

BY: Patrick Sauerland

TITLE: Project Manager


LOCATION SKETCH
SECTION 30
T 28 N, R 32 W
SCALE: 1"=2000'
SITE
GRAPHIC SCALE
(IN FEET)
1 inch = 60 ft.
LEGEND
ENTERPRISE AVENUE
CLIFFSTAR
BOOK 2470, PAGE 629
1,016,781± SQ. FT.
24.02± ACRES
1 STORY METAL BUILDING
APPROXIMATE AREA TO BE VACATED
PROGRESS AVENUE
TRACT 1
TRACT 2
TRACT 3
TRACT 4
TRACT 5
GRASS
GRAVEL
CONCRETE
ASPHALT
S89°07'11"E 1468.96'
S89°07'11"E 71.60'
S89°07'11"E 1343.37'
UTILITY NOTE
ACCURACY STANDARD: URBAN
ANDERSON ENGINEERING, INC.
TOPOGRAPHIC SURVEY
DRAWING NO. JOP-100-2366
SHEET NUMBER 1 OF 1
NW¼ SW¼ SEC. 30, T. 28 N., R. 32 W., JASPER COUNTY, MISSOURI



Case 013-14: A request for the vacation of a 50 foot wide railroad right-of-way dedicated to the City of Joplin at 3502 Enterprise Avenue. - Patrick Sauerland

N

Case 013-14: 3502 Enterprise Avenue – A request for the vacation of a 50 foot wide railroad spur dedicated to the City of Joplin – Patrick Sauerland.

Mr. Harrington opened the public hearing for Case 013-14.

Mr. Patrick Sauerland, with Insight Real Estate, 1400 16th Street, Suite 300, Oak Brook, Illinois, appeared representing Cott Beverages for the vacation of a 50-foot wide railroad spur.

Mr. Harrington asked for comments from the commissioners and the audience, and none were received. He then closed the public hearing for Case 013-14.

MR. RAMSOUR MOVED, SECONDED BY MR. CORTEZ, THAT CASE 013-14 BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL, BASED UPON THE COMMENTS RECEIVED IN THE PLANNING REPORT AND DURING THE PUBLIC HEARING. THE MOTION CARRIED, WITH MR. BROWN, MR. CORTEZ, MR. DUNCAN, MR. EASTMAN, MR. HARRINGTON, MR. RAMSOUR, AND MR. SMITH VOTING "AYE" (7 IN FAVOR, 0 ABSENT).

P & Z Case 013-14
Patrick Sauerland
(P & Z Recommended Approval)

COUNCIL BILL NO. 2014-257 **ORDINANCE NO.**

AN ORDINANCE providing for the vacation of a 50-foot wide railroad spur dedicated to the City of Joplin being located at 3502 Enterprise Avenue in the City of Joplin, Jasper County, Missouri.

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

Section 1. That all that part of a 50-foot wide railroad spur dedicated to the City of Joplin being located at 3502 Enterprise Avenue in the City of Joplin, Jasper County, Missouri, described as follows are hereby vacated, conveyed, relinquished, and reverted to the owners of the abutting lots and land:

A 50.00 foot wide railroad right-of-way, the centerline of which is described as follows: Commencing at the Northwest corner of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section 30, Township 28, Range 32, in Jasper County, Missouri, thence North 89 degrees 54 minutes 40 seconds East 71.66 feet to the East right-of-way of the Missouri-Pacific Railroad, thence South 09 degrees 24 minutes 58 seconds West on said East right-of-way, 1688.61 feet to the point of beginning, thence on a non-tangent curve to the right, with a radius of 459.28 feet, and with a chord bearing of North 42 degrees 10 minutes 49 seconds East, an arc distance of 122.49 feet to the terminus. Containing 0.13 acres, more or less; AND A 50.00 foot wide railroad right-of-way, the centerline of which is described as follows: Commencing at the Northwest corner of the Southwest Quarter (SW 1/4) of the Northeast Quarter (NE 1/4) of Section 30, Township 28, Range 32, in Jasper County, Missouri, thence North 89 degrees 54 minutes 40 seconds East 71.66 feet to the East right-of-way of the Missouri-Pacific Railroad, thence South 09 degrees 24 minutes 58 seconds West on said East right-of-way, 1597.01 feet, thence North 89 degrees 52 minutes 50 seconds East 67.02 feet to the point of beginning, thence on a non-tangent curve to the right, with a radius of 459.28 feet, and with a chord bearing of North 61 degrees 14 minutes 23 seconds East, an arc distance of 183.07 feet, thence North 72 degrees 39 minutes 32 seconds East, 154.64 feet, thence on a curve to the right, with a radius of 591.08 feet, and a chord bearing of North 81 degrees 16 minutes 11 seconds East an arc distance of 177.66 feet, thence North 89 degrees 52 minutes 50 seconds East, 75.00 feet to the terminus. Containing 0.68 acres, more or less.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2014.

ATTEST:

_____
Melodee Colbert-Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

CONSENT AGENDA

CITY OF JOPLIN

CITY COUNCIL MEETING

MINUTES March 17, 2014

CALL TO ORDER

The regular meeting for the Joplin City Council was called to order at 6:00 p.m. by Mayor Melodee Colbert-Kean.

ROLL CALL – all were present

INVOCATION - read by Assistant City Clerk, Barbara Gollhofer

FLAG SALUTE – led by Mayor Colbert-Kean

PRESENTATIONS

The Joplin First Response Tornado Fund Committee Chairman Phil Stinnett presented the City Council with a report of how almost one million dollars in donations to the City after the May 22, 2011 tornado were dispersed. He recognized and thanked members of the board who were in the audience and thanked other city employees for their assistance. He thanked Councilman Jack Golden for his assistance as council liaison. The board awarded 41 grants to 28 organizations. The largest grant was $100,000 for weather radio for citizens. Mr. Stinnett announced there would be a press conference at City Hall at 1:30 on Tuesday, March 18, 2014. All the receiving organizations have been invited and the public will hear from representatives of 3 of the organizations. The executive vice president of the Community Foundation of the Ozarks, which is the holding company of the funds, will also be in attendance. The press conference is to get the word out through the media, that the 900 individuals and companies who donated money to the fund with the intent of assisting with the rebuilding and redeveloping of the city of Joplin, was effectively accomplished through this committee.

Shelly Goerz, RSVP Director at The Independent Living Center accepted a proclamation recognizing the second annual Mayors Day of Recognition for National Service. VISTA Director Dale Peterson, with Bright Futures USA and current Joplin VISTA members were also present.

FINALIZATION OF CONSENT AGENDA - There being no further business to come before the Council, the Consent Agenda was finalized.

REPORTS AND COMMUNICATIONS

CITIZEN REQUESTS AND PETITIONS

Allen Hall, 1108 S. Willard, Joplin,, addressed the Council regarding the Sewer /Trash billing. He asked if there was anything the City could do to notify property management owners of unpaid balances left by tenants before the balance got too high. Sam Anselm, City Manager, replied that the City would look into his request.

Charles McGrew, 2912 S. Minnesota, addressed Council concerning the bill from Mr. Loraine. Mr. McGrew stated he is still waiting for answers he posed the last time he appeared before meetings. He also stated he was angry

Stephen Walker of Deffenbaugh Industries, 848 Hwy 264 E., Bethel Heights, AR addressed the City Council regarding the April 8, 2014 Curbside Recycling vote. He reminded Council that Deffenbaugh was here in June of last year to offer an alternative to our current supplier's program. He stated that since then, he attended several meetings and business activities and has a better understanding of what the city want to accomplish with the program. He would like the council to reconsider using Deffenbaugh as a service provider for trash and recycling services.

Mr. Glaze asked for clarification on the ballot language for the recycling issue. Mr. Head stated it was the intent of the council for the vote to be an advisory vote. It will come back to council for final action. We are under contract with the current provider until 2016.

Motion by Mr. Glaze, Second by Mr. Seibert to allow addition requests to be heard. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

Kim Seavy, 1607 Byers Ave, Joplin, addressed council regarding civic duty, government responsibility and fiduciary obligation of government.

Motion by Mr. Woolston, Second by Mr. Glaze to allow two additional speakers to address council. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

Katrina Richards, 153 Valleyview Dr. Joplin, appeared on behalf of YPN to address the council on the advantages of curbside recycling.

Mike McGrew, 1617 N. Patterson, Joplin, addressed council regarding his opposition to the recycling issue.

PUBLIC HEARINGS

CONSENT AGENDA - Motion by Mr. Woolston, Second by Mr. Glaze to approve the Consent Agenda. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

Minutes of the March 3, 2014 Council Meeting

Minutes of the March 10, 2014 Special Council Meeting

COUNCIL BILL NO. 2014-113-AN ORDINANCE approving a Memorandum of Understanding (MOU) by the U.S. Fish & Wildlife Service (USFWS), Missouri Department of Natural Resources (MDNR) (jointly called "Trustees"), Missouri Prairie Foundation ("MPF"), and the

City Of Joplin ("Joplin"). The Trustees enter into this MOU in recognition of their common interests in a parcel of land within the City of Joplin, Missouri. It is the intent of all parties to restore this area for the benefit of the public and wildlife, and to do so by working efficiently among the partners. Ordinance No. 2014-030

COUNCIL BILL NO. 2014-252 - AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-3 and including in District R-4 property as described below and located in the 2800 block of South Adele Avenue in the City of Joplin, Jasper County, Missouri. 2014-032

COUNCIL BILL NO. 2014-253 - AN ORDINANCE providing for the vacation of the remaining portion of a 20-foot wide public alley between South Main Street and South Joplin Avenue beginning at the south right-of-way line of 30th Street south 150 feet in the City of Joplin, Jasper County, Missouri. 2014-033

COUNCIL BILL NO. 2014-254 - AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District C-1 and including in District C-3 property as described below and located at 2927 East 11th Street in the City of Joplin, Jasper County, Missouri. Ordinance No. 2014-034

COUNCIL BILL NO. 2014-255 - AN ORDINANCE requesting to Review the Final Plat for TWIN HILLS SUBDIVISION PLAT 1 located at the northeast corner of 26th Street and Country Club Drive in the City of Joplin, Jasper County, Missouri. Ordinance No. 2014-035

RESOLUTIONS

Mr. Scearce introduced Resolution No. 2014-006. Motion by Mr. Scearce, Second by Mr. Seibert to approve Resolution No. 2014-006. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

The Resolution was read as being Resolution No. 2014-006.

A RESOLUTION affirming the support of the City of Joplin to receive the designation of a Purple Heart City.

ORDINANCES-EMERGENCIES

Mr. Scearce introduced Council Bill No. 2014-009. Motion by Mr. Scearce, Second by Mr. Seibert to Adopt Council Bill No. 2014-009. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

The Council Bill was Adopted and entitled Ordinance No. 2014-036

AN ORDINANCE approving the Second Amendment to Senior Transitional Housing Site Development Agreement by and between the City of Joplin and SWJOMO Seniors, LLC, and the Joplin Redevelopment Corporation, for the redevelopment of property located at near the

intersection of 26th Street and McClelland Blvd.; authorizing the Interim City Manager to execute said Agreement Amendment by and on behalf of the City of Joplin; and containing an emergency clause.

Mr. Seibert introduced Council Bill No. 2014-010. Motion by Mr. Seibert, Second by Mr. Golden to Adopt Council Bill No. 2014-010. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

The Council Bill was Adopted and entitled Ordinance No. 2014-037

AN ORDINANCE approving the Villas Site Development Agreement by and between the City of Joplin and Joplin Villas, LLC., and the Joplin Redevelopment Corporation, for the redevelopment of property located at near the intersection of 26th Street and McCoy Ave.; authorizing the Interim City Manager to execute said Predevelopment Agreement by and on behalf of the City of Joplin; and containing an emergency clause.

Mr. Shaw introduced Council Bill No. 2014-111.Motion by Mr. Shaw, Second by Mr. Golden to Adopt Council Bill No. 2014-111. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

The Council Bill was Adopted and entitled Ordinance No. 2014-038

AN ORDINANCE approving reimbursement to Dr. William D. Cook in the amount of Twenty Thousand Fifteen and no/100 Dollars ($20,015.00) for relocation of waterline vault and backflow preventer at 1627 W. 26th in the City of Joplin, Missouri, providing how the cost shall be made and levied, and containing an emergency clause.

Mr. Glaze introduced Council Bill No. 2014-117. Motion by Mr. Glaze, Second by Mr. Golden to Adopt Council Bill No. 2014-117 Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

The Council Bill was Adopted and entitled Ordinance No. 2014-039

AN ORDINANCE approving an agreement by the Missouri Department of Economic Development, the Missouri Office of Administration agencies organized and existing under the laws of the State of Missouri and the City of Joplin, a Missouri City for the reconstruction, replacement renovation or repair to damaged infrastructure caused by the May 22, 2011 EF-5 tornado, and containing an emergency clause.

Mr. Shaw introduced Council Bill No. 2014-118. Motion by Mr. Shaw, Second by Ms. Raney to Adopt Council Bill No. 2014-118. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

The Council Bill was Adopted and entitled Ordinance No. 2014-040

AN ORDINANCE approving by and between the City of Joplin and Olsson Associates an Agreement to provide project management, construction inspection, and material testing, not to exceed Two Hundred Ninety Four Thousand Nine Hundred Fifty Nine and 20/100 Dollars ($294,959.20) and authorizing the Director of Public Works to execute said Agreement; and containing an emergency clause.

Mr. Shaw introduced Council Bill No. 2014-119. Motion by Mr. Shaw, Second by Mr. Golden to Adopt Council Bill No. 2014-119. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

The Council Bill was Adopted and entitled Ordinance No. 2014-041

AN ORDINANCE approving by and between the City of Joplin and Olsson Associates an Agreement to provide TIGER grant reporting not to exceed Twenty Four Thousand and no/100 Dollars ($24,000.00) and authorizing the Director of Public Works to execute said Agreement; and containing an emergency clause.

Mr. Scearce introduced Council Bill No. 2014-605. Motion by Mr. Scearce, Second by Ms. Raney to Adopt Council Bill No. 2014-605. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 9. Nays: 0.

The Council Bill was Adopted and entitled Ordinance No. 2014-041.

AN ORDINANCE authorizing and approving the City of Joplin Fire Department to purchase Outdoor gas burn props from Fireblast, in Corona CA for the amount of One Hundred Fifty Seven Thousand, Three hundred sixty-three dollars and no cents ($157,363.00); authorizing the Fire Chief to execute a Purchase Order by and on behalf of the City of Joplin; and containing an emergency clause.

ORDINANCES – FIRST READING

ORDINANCES – SECOND READING AND THIRD READING

Mr. Shaw introduced Council Bill No. 2014-011.Motion by Mr. Shaw, Second Mr. Scearce to Approve Council Bill No. 2014-011 on Second and Third Reading and Passed. Voting in favor were Council Members: Colbert-Kean, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 8. Nays: 0. Abstention: 1, Glaze. Ordinance No. 2014-042.

AN ORDINANCE approving a Plan for an industrial development project in the City; authorizing the City to enter into a Performance Agreement in connection with the project; and authorizing the City to take certain other action in connection with the project and the execution of the Performance Agreement.

UNFINISHED BUSINESS

NEW BUSINESS

Mr. Woolston stated an issue was brought to his attention regarding the definition of an emergency ordinance as defined in the City Charter. He asked council to direct city attorney Brian Head to review the charter and ensure the council is in conformance of Section 2.12 of the Charter, specifically subsection (1).Brian Head replied that each emergency ordinance has a section at the bottom of it that specifies the clause at which it's preceding and then gives a statement as to the emergency.

Mr. Golden asked Finance Director Leslie Haase to discuss the balance of the general fund.

Mr. Golden stated he thinks we should do as much business with local vendors as possible to boost our own economy.

Mayor Colbert-Kean discussed her recent trip to National League of Cities. She was able to meet with the Secretary of HUD to discuss issues Joplin is having with meeting strict timelines for using CDBG funds. She also met with Transportation Secretary Anthony Foxx to discuss a new transportation bill; Senators McCaskill and Blunt to discuss bills they're supporting that will benefit Joplin on the Marketplace Fairness Tax; and our lobbyist, Sam, who will begin providing a monthly report.

Appointments to Boards/Commissions: Motion by Mr. Scearce, Second by Mr. Glaze to make the following reappointment and appointments: Gregg Wilkerson: City Tree Board (reappointed)

Appointments: Don Helm: ADA Board; Josh DeTar and William Kean: Parks & Recreation. Voting in favor were Council Members: Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston, 8. Nays: 0. Abstention, Colbert-Kean, 1.

There being no further business the meeting adjourned at 7:22pm

Respectfully submitted,

Barbara Gollhofer

Barbara Gollhofer,

Assistant City Clerk

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014

Item: COUNCIL BILL NO. 2014-258
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Planning Report
2) Commission Minutes
3) Copy of Council Bill
4) Copy of Final Plat

Public Works Director: Nicholas A. Heatherly NAH Date: 3/28/2014
City Attorney: Brian Head BJH Date: 3-28-2014
Interim City Manager: Samuel L. Anselm Date: 3/27/14
Board or Commission: Planning and Zoning Commission MAW Date: 3/10/2014

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "7 in favor, 0 absent"

SUMMARY/REQUEST:
Case 015-14: 2600 Block of South Byers Avenue - A request for the review of the Final Plat of "Darren Addition" – Darren Collins.

STAFF SUMMARY:
The final plat is for Darren Addition, a proposed 3 lot subdivision in the 2600 block of South Byers Avenue. This plat is a re-plat of Lot 5 of Mohaska Subdivision which was originally platted in 1916. The Mohaska Subdivision was originally platted as a large lot subdivision with most lot sizes ranging from 3/4 of an acre to over an acre. Most of the original lots were subdivided over the years into smaller lots. Lot 5 is one of the few remaining lots that have never been split into smaller lots. The applicant is requesting to split the lot into 3 lots to be consistent with development trends to the north and east. The Planning and Zoning Commission has the authority to grant a variance on the minimum lot width if they deem it appropriate at this location.

Staff recommends approval of Case 015-14.

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Darren Collins appeared to request the review of the final plat for Darren Addition to be located in the 2600 block of South Byers Avenue. He plans to make three (3) 60-foot lots out of the existing 180-foot plat, with two homes having been constructed on the 60-foot lots. He wishes to divide the property into 60-foot lots instead of the 65-foot lots that are normally required, but again, it will fit the neighborhood with what is already there.

Mr. Duncan stated that this property drops off fairly quickly, and he asked if this plat technically meets the square footage for zoning. Mr. Bolander replied that the square footage requirements will be met. The only standard the plat doesn't meet is the width, but the City Council has the ability to approve lots that are smaller. The staff has determined that the proposed lots fit the character of the neighborhood.

Mr. Ramsour asked about the required side-yard setback, and Mr. Bolander replied a minimum of six feet on each side.

Mr. Brown asked Mr. Collins if he already constructed some homes on 60-foot lots, and he replied that he has built homes on 60-foot lots adjoining this property. The home closest to the plat in this request is a home he has constructed on a 55-foot lot.

Mr. Cortez asked Mr. Collins about the square footage of the homes he has constructed in this area. He replied 1,500 square feet, with three bedrooms and two-car garages. He has several designs that can be placed on those smaller lots. The lots allow for 48-foot homes, with the homes he is building not quite that size.

Mr. Duncan stated that the commissioners have two different plat maps and asked what changes were made.

Mr. Wright replied that the first plat from March 4th was the preliminary plat, with the second plat being the final plat. The final plat contains just a few changes that are not required for the recorder. Mr. Collins stated that no changes were made.

Mr. Eastman asked if safe rooms can be constructed with the slope. Mr. Collins stated that the last house he constructed slopes off enough that the foundation is deep enough where a safe room was added at the end of the house. It has a fabricated steel door and access about four feet deep. It is solid concrete with a door on top.

PUBLIC COMMENT:
None.

Z&P Meeting: March 10, 2014
City Council Meeting: April 7, 2014

STAFF PLANNING REPORT
Final Plat

CASE 015-14:

Final Plat review for "Darren Addition."

NAME OF SUBDIVISION: Darren Addition

LOCATION: 2600 block of S. Byers Avenue

APPLICANT: Darren Collins

PRESENT ZONING: R-1 (Single-Family)

PRESENT LAND USE: Single-Family Residential

SITE CONTEXT:

	North	East	South	West
Existing Zoning	R-1	R-1	R-1	R-1
Land Use	Single-Family	Single-Family	Single-Family	Single-Family

SUBDIVISION:

Number of lots	Smallest lot	Largest lot	Average lot size
3	13,200 ft²	13,200 ft²	13,200 ft²

TRANSPORTATION:

Streets with access	Classification	Right-of-way width
S. Byers Avenue	Local	40'

WILL TURNING MOVEMENTS OF THE PROPOSED USE CREATE AN UNDUE TRAFFIC HAZARD?

No.

UTILITIES: The property has utility connections.

FLOOD PLAIN: Zone X – Area of minimal flooding.

STAFF ANALYSIS:

DOES THE PROPOSED SUBDIVISION COMPLY WITH THE CITY'S SUBDIVISION REGULATIONS?

The proposed subdivision complies with the City's Subdivision Regulations with the exception of the minimum lot width (65'). The proposed subdivision will have three 60' wide lots. The re-plat is located in a neighborhood with a variety of lot widths, including adjacent lots that are also 60' wide. With the 220' lot depth, the overall square footage of the lot (13,200 square feet) exceeds the minimum lot size of 7,800 square foot for single-family residential.

From Subdivision Regulations: *Whenever the Planning and Zoning Commission deems full conformance to provisions of these [subdivision] regulations is impractical or impossible due to the size, shape, topographic location or condition, or such usage of land included in a subdivision plat being presented for approval, the Planning and Zoning Commission may authorize variances of these regulations. In authorizing such variances or exceptions, the Planning and Zoning Commission shall find the following:*

A. *That there are special circumstances or conditions affecting the property;*
B. *That the variances of exceptions are necessary for the reasonable and acceptable development of the property in question; and*
C. *That the granting of the variances or exceptions will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated.*

DISCUSSION

The final plat is for Darren Addition, a proposed 3 lot subdivision in the 2600 block of S. Byers Avenue. This plat is a re-plat of Lot 5 of Mohaska Subdivision which was originally platted in 1916. The Mohaska Subdivision was originally platted as a large lot subdivision with most lot sizes ranging from 3/4 of an acre to over an acre. Most of the original lots were subdivided over the years into smaller lots. Lot 5 is one of the few remaining lots that have never been split into smaller lots. The applicant is requesting to split the lot into 3 lots to be consistent with development trends to the north and east. The Planning and Zoning Commission has the authority to grant a variance on the minimum lot width if they deem it appropriate at this location.

Staff recommends approval of Case 015-14.

ENCLOSURES:
Final Plat

Submit by Email | Print Form

RECEIVED 3-10-14

CITY OF JOPLIN, MISSOURI

FINAL PLAT CHECKLIST

Case ~~Subdivision~~ No.: 015-14
Date Filed: 3-10-14
P+Z Date of Meeting: 3-10-14
Fee: Preliminary plat

Return Form To:
Municipal Planner
321 East 4th Street
P.O. Box 1355
Joplin, Missouri 64802
417-624-0820 Ext. 511
FAX 417-625-4738

I. Name of Subdivision: Darren Addition

II. Name of Owner: Darren Collins, Larry & Judith Hartman

III. Name of Subdivider: Darren Collins

IV. Name of Person who prepared the Plat: Chris Stewart

V. Date of Hearing: 3-10-14

VI. Location of Property by Streets: 26th & Byers Ave.

VII. Present Zoning of Property R-1

VIII. Present Uses of Property Single-Family, partially undeveloped

IX. No. of Acres in Total Tract .61 No. of Lots 3

Instructions:

The following checklist is to be completed by the Municipal Planner and may accompany the Final Plat when it is submitted to the Planning and Zoning Commission. If the answer to any of the questions is "No", a written explanation may accompany this checklist.

X. Does the Final Plat show the following information?	Yes	No
A. Name of the subdivision.	☒	☐
B. Location of section, township, range, county and state, including the descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions which must be mathematically correct.	☒	☐

C. Location of monuments or bench marks. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street, lines, including the true angles and distances to such reference points or monuments. ☒ ☐

D. The location of lots, blocks, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet with the length of radii on all curves, and other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all curbs to lot lines. ☒ ☐

E. Lots numbered clearly. Blocks numbered or lettered clearly in the center of the block. ☒ ☐

F. Exact locations, widths and names of all streets and alleys to be dedicated. ☒ ☐

G. Boundary lines and descriptions of the boundary lines of any area other than streets and alleys, which are to be dedicated or reserved for public use. ☒ ☐

H. Minimum area and associated minimum elevation for the building on each lot planned as a building site when requested by the Planning and Zoning Commission. ☐ ☐ N/A

I. Building setback lines on the front and side streets with dimensions. ☒ ☐

J. Name and address of the registered land surveyor preparing the plat. ☒ ☐

K. Scale of plat, 1" = 100' or larger, date or preparation and north point. ☒ ☐

L. Statement dedicating all easements, streets, alleys, and all other areas not previously dedicated. ☐ ☐ N/A

XI. Was the original on mylar, tracing cloth, or similar material, and were 10 copies submitted? ☒ ☐

XII. Have all acknowledgments been signed?

A. Owner or owners and all mortgager. ☒ ☐

B. Dedications or reservations. ☐ ☐ N/A

C. Surveyor preparing plat. ☒ ☐

XII. Has certification been submitted stating that all taxes and special assessments due and payable have been paid? ☐ ☐ N/A

XIII. Deed Restrictions:

A. Are any deed restrictions planned for subdivision? ☐ ☒

B. If so, has a copy been submitted? ☐ ☐ N/A

XIV. How has installation of the following improvement been guaranteed?

	Construction	Bond	Petition(%)
Streets			
Water			
Sewer			
Sidewalks			
Other, as required			
1.			
2.			
3.			

N/A

XV. Are additional comments attached? ☐ ☒



Case 015-14: A request for the review of a Final Plat for Darren Addition, a 3 lot subdivision in the 2600 block of S. Byers Avenue. - Darren Collins

N

Case 015-14: 2600 Block of South Byers Avenue – A request for the review of the Final Plat of "Darren Addition" – Darren Collins.

Mr. Harrington opened the public comment period for Case 015-14.

Mr. Darren Collins, 3600 Southeast 11th Street, Galena, Kansas, appeared to request the review of the final plat for Darren Addition to be located in the 2600 block of South Byers Avenue. He plans to make three (3) 60-foot lots out of the existing 180-foot plat.

Mr. Harrington asked for questions from the commissioners.

Mr. Duncan stated that the commissioners have two different plat maps, one from March 4th and one from March 10th. He asked what changes were made.

Mr. Wright replied that the plat from March 4th was the preliminary plat, with the plat from March 10th being the final plat. The final plat contains just a few changes that are not required for the recorder. Mr. Collins stated that no changes were made.

Mr. Eastman asked if safe rooms can be constructed with the slope. Mr. Collins stated that the last house he constructed slopes off enough that the foundation is deep enough where a safe room was added at the end of the house. It has a fabricated steel door and access about four feet deep. It is solid concrete with a door on top.

Mr. Harrington asked for comments from the commissioners and the audience, and none were received. He then closed the public comment period for Case 015-14.

MR. CORTEZ MOVED, SECONDED BY MR. RAMSOUR, THAT THE FINAL PLAT AS PRESENTED IN CASE 015-14 BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL, BASED UPON THE COMMENTS RECEIVED IN THE PLANNING REPORT AND DURING THE PUBLIC COMMENT PERIOD. THE MOTION CARRIED, WITH MR. BROWN, MR. CORTEZ, MR. DUNCAN, MR. EASTMAN, MR. HARRINGTON, MR. RAMSOUR, AND MR. SMITH VOTING "AYE" (7 IN FAVOR, 0 ABSENT).

P & Z Case 015-14
Darren Collins
(P & Z Recommended Approval)

COUNCIL BILL NO. 2014-258 **ORDINANCE NO.**

AN ORDINANCE Request to Review the Final Plat for DARREN ADDITION located in the 2600 block of South Byers Avenue in the City of Joplin, Jasper County, Missouri.

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

Section 1. That the grades in the Plat of Final Plat for DARREN ADDITION in the City of Joplin, Jasper County, Missouri, be and the same are herby fixed and established as follows:

Using the bench mark located at the Northeast Corner of Second and Main Streets, in the City of Joplin, Missouri, as adopted as the standard form which grades and elevations are to be measured in said City of Joplin, and by Ordinance No. 77-67 which readopted Section 49.33 of the 1957 CODE OF JOPLIN, MISSOURI, as a datum, and assuming the elevation of said point to be represented by the figure "100", the grades and elevations of the streets and alleys in the Plat of DARREN ADDITION, described as follows:

All of Lot Numbered Five (5) Plat of Mohaska Subdivision in the City of Joplin, Jasper County, Missouri, according to the recorded plat thereof. Being a part of Section 15, Township 27, Range 33, in the City of Joplin, Jasper County, Missouri.

Section 2. That said plat, have been filed, showing that the lots have been staked out and platted and the street and alleys have been dedicated to the public for public use, and that the proper levels have been run and the grades established for said addition, is hereby accepted by the City of Joplin, Jasper County, Missouri, according to the Statutes of the State of Missouri.

Section 3. That the City Clerk hereby authorized and directed to endorse upon such plat the approval of the Council under her hand and the Seal of the City of Joplin, Missouri

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2014.

ATTEST: _____ Melodee Colbert-Kean, Mayor

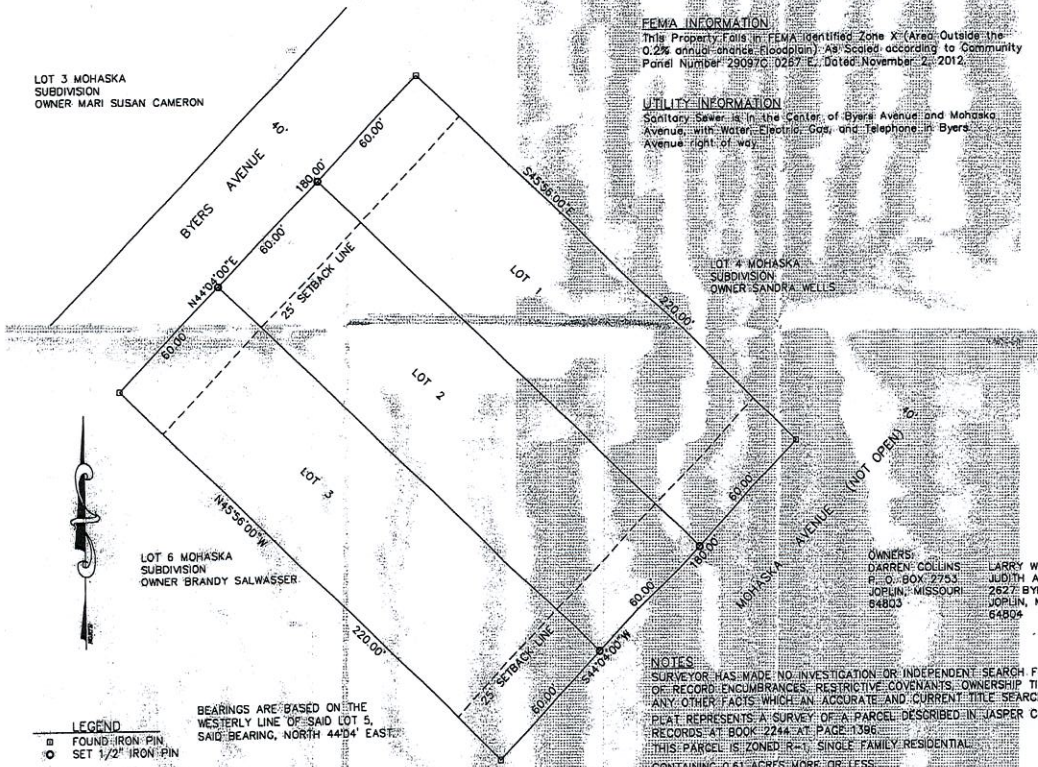
_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

FINAL PLAT
DARREN ADDITION

A REPLAT OF LOT 5 MOHASKA SUBDIVISION IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI.



LEGEND
- ⊠ FOUND IRON PIN
- ○ SET 1/2" IRON PIN

BEARINGS ARE BASED ON THE WESTERLY LINE OF SAID LOT 5, SAID BEARING, NORTH 44°04' EAST.

30 0 15 30
(IN FEET)
1 INCH = 30 FT.

DESCRIPTION
ALL OF LOT NUMBERED FIVE (5) PLAT OF MOHASKA SUBDIVISION IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.
BEING A PART OF SECTION 15, TOWNSHIP 27, RANGE 33, IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI.

CERTIFICATE OF APPROVAL
THIS PLAT OF DARREN ADDITION HAS BEEN SUBMITTED TO AND APPROVED BY THE JOPLIN PLANNING AND ZONING COMMISSION THIS ___ DAY OF _____, 20__.

CHAIRMAN _____

FEMA INFORMATION
This Property Falls in FEMA Identified Zone X (Area Outside the 0.2% annual chance floodplain) As Scaled according to Community Panel Number 29097C 0267 E, Dated November 2, 2012.

UTILITY INFORMATION
Sanitary Sewer is in the Center of Byers Avenue and Mohaska Avenue, with Water, Electric, Gas, and Telephone in Byers Avenue right of way.

OWNERS:
DARREN COLLINS
P. O. BOX 2753
JOPLIN, MISSOURI
64803

LARRY W. HARTMAN
JUDITH A. HARTMAN
2627 BYERS AVENUE
JOPLIN, MISSOURI
64804

NOTES:
SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
PLAT REPRESENTS A SURVEY OF A PARCEL DESCRIBED IN JASPER COUNTY DEED RECORDS AT BOOK 2244 AT PAGE 1396.
THIS PARCEL IS ZONED R-1, SINGLE FAMILY RESIDENTIAL.
CONTAINING 0.61 ACRES MORE OR LESS.

SURVEYOR'S CERTIFICATE
I, CHRIS E. STEWART, A REGISTERED LAND SURVEYOR OF JOPLIN, MISSOURI DO HEREBY CERTIFY THAT THE ANNEXED PLAT IS REPRESENTATIVE OF THE WORK DONE IN THE FIELD FOR PLATTING AND STAKING.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND SEAL THIS ___ DAY OF _____, 2014.

CHRIS E. STEWART RLS NO. 1960

STATE OF MISSOURI
REGISTERED LAND SURVEYOR
CHRIS E. STEWART
NUMBER LS-1960

03-10-2014
CHRIS E. STEWART RLS 1960

DEDICATION
KNOW ALL MEN BY THSES PRESENTS THAT DARREN COLLINS AND LARRY W. AND JUDITH A HARTMAN, THE OWNERS OF DARREN ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, DOES HEREBY, PUBLISH, DECLARE AND ACKNOWLEDGE, THE ANNEXED PLAT THEREON WITH THE LOTS AND EASEMENTS AS SHOWN THEREON AND DO HEREBY DEDICATE ALL EASEMENTS AS SHOWN THEREON TO THE PUBLIC FOREVER, AND DO HEREBY CERTIFY THAT THE TAXES FOR 20___, AND ALL PREVIOUS YEARS ARE PAID.

_____ _____ _____

STATE OF MISSOURI
COUNTY OF JASPER

ON THIS ___ DAY OF _____, 20___, BEFORE ME A NOTARY PUBLIC IN AFORESAID COUNTY AND STATE, PERSONALLY APPEARED DARREN COLLINS AND LARRY W. HARTMAN AND JUDITH A. HARTMAN KNOWN TO ME TO BE THE IDENTICAL PERSON WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME AS HIS FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES THEREIN EXPRESSED.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL IN SAID COUNTY AND STATE THE DAY AND YEAR ABOVE WRITTEN.

_____ _____
NOTARY PUBLIC MY COMMISSION EXPIRES

STATE OF MISSOURI
COUNTY OF JASPER

THIS PLAT OF DARREN ADDITION, INCLUDING EASEMENTS AND RIGHTS-OF-WAY ACCEPTED BY THE CITY COUNCIL HAS BEEN SUBMITTED TO AND APPROVED BY THE JOPLIN CITY COUNCIL BY ORDINACE NO. _____. DULY PASSED AND APPROVED BY THE MAYOR ON THE _____, 20___, OF JOPLIN, MISSOURI.

MAYOR _____ CITY CLERK _____ CITY ENGINEER _____

STATE OF MISSOURI } SS
COUNTY OF JASPER }

I, _____, Recorder of Deeds of Jasper County, do hereby certify that the within instrument of writing was, on the ___ day of _____, 20___ at ___ o'clock ___ mins ___ m duly filed for record in this office and is recorded in the records of this office, in Book ___ at page _____, in witness whereof I have hereunto set my hand and affixed my seal at Carthage, Missouri, this _____ day of _____, 20__.

_____ _____
RECORDER DEPUTY

NOTE
THIS SURVEY HAS BEEN PERFORMED BASED ON KNOWLEDGE AND INFORMATION IN ACCORDANCE WITH THE CURRENT MISSOURI MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS, AND IS NOT A GUARANTEE OR WARRANTY EITHER EXPRESSED OR IMPLIED.

CHRIS STEWART SURVEYING
1217 E. 24th Street PHN 417-782-1595
Joplin, Missouri FAX 417-625-2166
64804

CUSTOMER: DARREN COLLINS			
SURVEY OF DARREN ADDITION			
DATE 02/11/14	BY CES	REVISED 3-10-14	BOOK
SCALE 1"=30'	ACC Urban		PAGE
			FILE mohasdca

RESOLUTIONS

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014

Item: CDBG – Disaster Recovery Action Plan
Originating Department: Planning & Community Development

Attachments: 1) CDBG-DR Action Plan Amendment 2
2) Resolution No. 2014-007

Department Head: Nick Heatherly Date: 3/31/14
Planning & Community Development Director: Troy Bolander: T.B. Date: 3-31-14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3-31-14
Interim City Manager: Sam Anselm Date: 3/31/14

Recommended Action: Approval of Resolution No. 2014-007

DISCUSSION:

The following is a resolution that authorizes the filing of a second amendment to the Action Plan of the initial allocation ($45 Million) of Community Development Block Grant Disaster Recovery (CDBG-DR) Assistance provided by the U.S. Department of Housing and Urban Development (HUD). The Action Plan describes the activities and how funds will be spent as proposed in the attached document.

Activity Changes to the Action Plan:
The amendment includes the addition of activities to the City's existing Action Plan. The following activities will be added and funded by moving $500,000 from the existing Land Acquisition activity in the Action Plan.

Joplin Housing Authority (JHA) Tenant Based Rental Assistance - $290,000
The JHA provides financial assistance to low income households for replacement housing to residents through tenant-based rental assistance through the Section 8 Voucher Program. Eight-five rental units in the program were destroyed in the tornado, plus, rents increased due to the shortage of affordable rental units after the tornado. This has resulted in an extreme financial burden to JHA. The CDBG-DR assistance will help provide affordable rents at pre-tornado levels.

Joplin Housing Authority (JHA) Site Improvements Repair $210,000

The JHA received extensive damage to the parking lots and yards of their existing housing facilities. The remaining repairs were not covered by FEMA or insurance. The CDBG-DR assistance will help repair the damaged parking lots and yards.

RECOMMENDATION:

The staff recommends adoption of this Resolution so the JHA can proceed with their recovery efforts.

AMENDMENT #2 – April 7, 2014

The amended text is found in the following pages to highlight the information that has changed. The information is also integrated into the entire Action Plan that follows.

The City of Joplin is amending the Community Development Block Grant Disaster Recovery (CDBG-DR) Program's action plan. A submission of this amendment will be made to the U.S. Department of Housing and Urban Development (HUD) following the 7 day comment period.

The amendment includes the addition of two activities to the City's existing Action Plan. The following activities will be added and funded with funds from the pre-existing Single Family Homeownership Direct Assistance and the Mixed-Income Multi-Family Residential activities.

1) Joplin Housing Authority (JHA) Tenant Based Rental Assistance

   The JHA provides financial assistance to low income households for replacement housing to displaced residents through tenant-based rental assistance through the Section 8 Voucher Program. Eight-five rental units in the program were destroyed in the tornado. The build back of units for eligible families has been slow, reducing the funding received by JHA for Section 8 vouchers. This has caused an extreme financial burden.

2) Joplin Housing Authority (JHA) Site Improvements Repair

   The JHA received extensive damage to the parking lots and yards of their assisted units. The remaining repairs needed were not covered by FEMA or insurance and include repairing parking lots and yards.

Activity	Original Funding	New Funding
Land Acquisition/Assemblage	$ 7,940,000.00	$ 7,440,000.00
Joplin Housing Authority Tenant Based Rental Assistance	$ 0.00	$ 290,000.00
Joplin Housing Authority Site Improvement Repair	$ 0.00	$ 210,000.00

Joplin Housing Authority Tenant Based Rental Assistance

How the assessment informed allocation

As a result of the May, 2011 tornado, Joplin's housing stock including its Section 8 voucher program, was severely impacted. In regards to the Section 8 program, 85 voucher-holders were displaced. Since the tornado, new housing units have gradually been added to Joplin's inventor; however many of these are more costly as Joplin's rental market evolves. Compounding the issue, during its recovery, the Joplin Housing Authority experienced a decrease in its "fundable" voucher population due to the lack of available units. As a result of this decrease, the voucher budge provided to the City also decrease, despite the needs of additional households that were

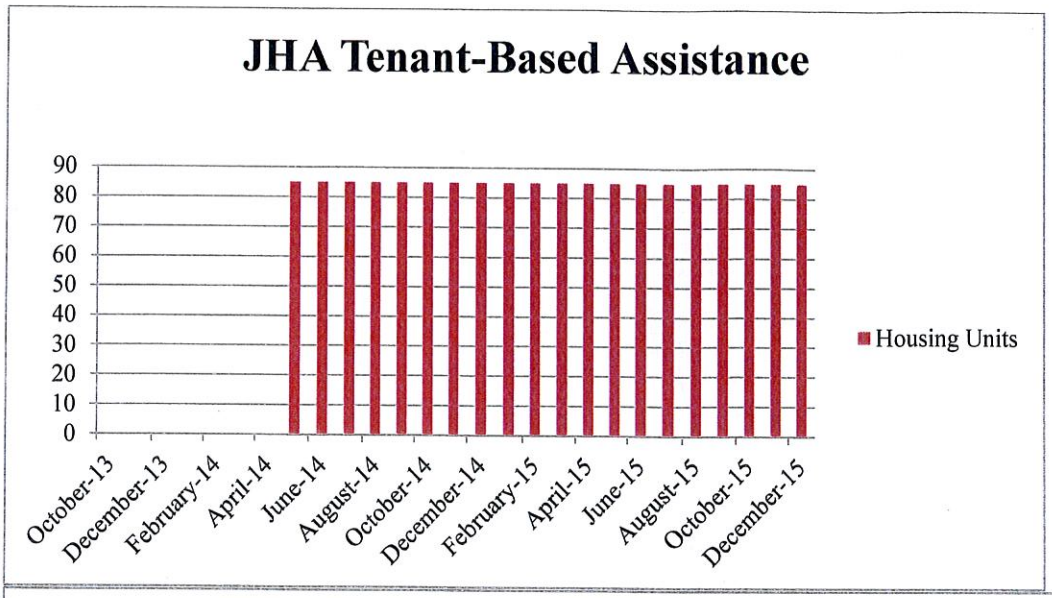
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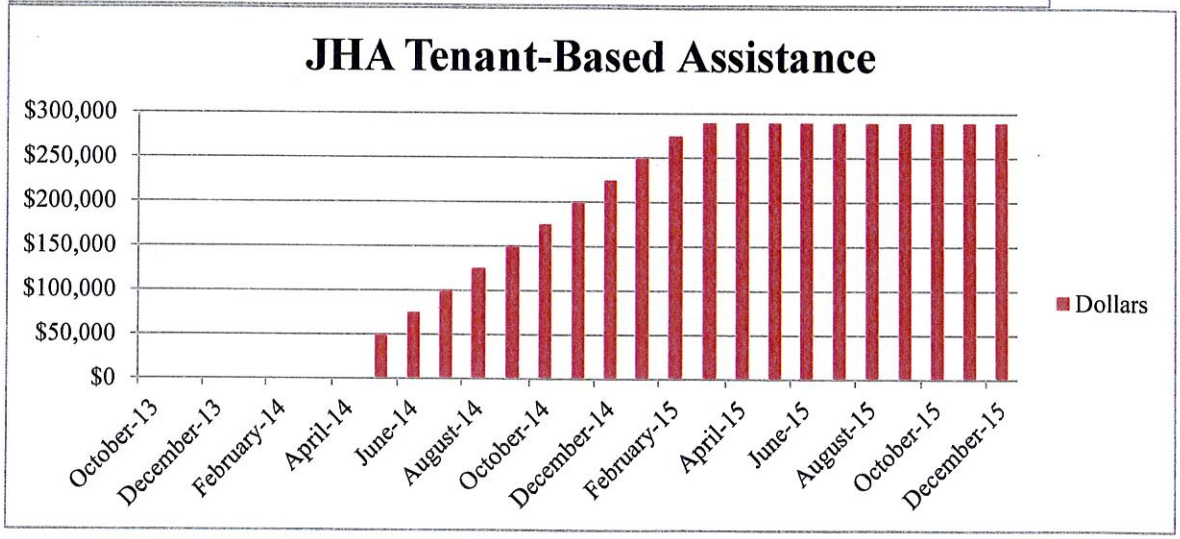
Therefore, HUD through the Community Development Block Grant Program – Disaster Recovery and through the Public and Indian Housing Program have granted waivers to allow CDBG-DR funds to assist Joplin's Housing Authority restore its program to reach pre-disaster voucher levels. Tenant-based rental assistance will be assisted with a maximum of $290,000.00 in CDBG-DR funds within a two year period.

CDBG Eligibility and National Objective
This Activity is eligible under 570.207(4) as waived (Income Payments), and will utilize the National Objectives of Low and Moderate Income Clientele.

Long-term Recovery from Specific Disaster
The long-term benefit gained from this project will result in the restoration of Section 8 voucher-holders at pre-tornado levels.

Criteria used to select applications
The Joplin Housing Authority will determine eligibility of low-income households that would benefit from the Section 8 Voucher Program, assuring rental affordability.





Joplin Housing Authority Site Improvements Repair

How the assessment informed allocation

Due to tornado damage and subsequent damage and wear and tear from heavy trucks and equipment used in the clean-up effort which included demolition, construction and repair of utilities, several Joplin Housing Authority parking lots were damaged as well as damage to the parking lot of their temporary office location at 424 S Turk Street. Costs to repair and/or overlay were not covered by FEMA, insurance or other funding sources. Additionally, yards and trees at Joplin Housing Authority's housing sites were damaged. These repairs are central to the viability and livable of the affordable rental housing units as well as access to the Housing Authority's temporary office where they accept applicants.

Therefore, up to $210,000 will be available in Community Development Block Grant Program – Disaster Recovery funds to make the necessary repairs.

CDBG Eligibility and National Objective
This Activity is eligible under 570.202(a)(2) as Rehabilitation and Preservation, and will utilize the National Objectives of Low and Moderate Income Clientele.

Long-term Recovery from Specific Disaster
The long-term benefit gained from this project will result in the continued viability of existing public housing units by improving parking and landscaping associated with the units.

Criteria used to select applications
The City and the Joplin Housing Authority will select locations and improvements needed to the public housing sites and office site.

I. BUDGET (REVISED 4/07/14)

COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY
Budget

Infrastructure Activities	
Sidewalk Reconstruction/Construction	$ 2,500,000.00
Trail Construction	$ 2,000,000.00
Tree Planting	$ 2,000,000.00
Sub Total	**$ 6,500,000.00**
Economic Development	
SPARK – Performing Arts/Depot Renovation	$ 5,390,000.00
Sub Total	**$ 5,390,000.00**
Housing Activities	
Single Family Homeownership Direct Assistance	$12,750,000.00
(Safe Rooms Included in New Construction Activities)	
Mixed-Income Multi-family Residential	$ 9,000,000.00
Single Family Rehabilitation	$ 1,500,000.00
Land Acquisition/Assemblage	$ 7,440,000.00
FEMA THU Relocation	$ 60,000.00
Housing Authority Tenant Based Rental Assistance	$ 290,000.00
Housing Authority Site Improvements Repair	$ 210,000.00
Sub Total	**$ 31,250,000.00**
Program Administration Activities	
City of Joplin Administrative Costs	$ 452,667.09
Description: Pro-rata share of salary and benefits of Planning/ Community Development staff plus overhead including supplies, rent, etc	
Consultant Administrative Costs	$ 1,674,041.91
Description: Negotiated Administrative cost to allow for the hiring of a consulting firm to manage the majority of the grant admin and activities. **(5% maximum = $2,263,335.45)**	
Program Planning Activities	
Planning Activities (15% max. = $6,790,006.35)	$ 0.00
Sub Total (20% maximum)	**$ 2,126,709.00**
TOTAL CDBG-DR AWARD	**$ 45,266,709.00**

COMMUNITY DEVELOPMENT BLOCK GRANT

DISASTER RECOVERY



ACTION PLAN FOR THE CITY OF JOPLIN

Supplemental CDBG Disaster Recovery
Authorized by the Supplemental Appropriations Act, 2011
(Public Law 112-55)
U.S. Department of Housing and Urban Development
Docket No. FR-5628-N-01
[Federal Register: April 16, 2012 (Volume 77, Number 73)]

Initial Approval – September 14, 2013
Amendment #1 – Finalized on April 11, 2013

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II. UNMET NEEDS

HOUSING IMPACT AND UNMET NEEDS

The majority of the property in Joplin that was affected by the May 20, 2011 tornado was residential property that contained a variety of single and multi-family as well as owner and renter-occupied dwellings. Because the tornado touched down on the west-side of the City, and indiscriminately tore through neighborhoods, residents of all demographic and income statuses were affected.

The estimates of affected residential dwellings, which would include everything from 1 apartment unit to a single family residence, showed that a total of 7,500 units received some level of damage from this disaster. Approximately 4,000 dwellings were destroyed with an additional 3,500 damaged affecting an estimated 17,000 residents. The dwellings that were deemed uninhabitable were estimated to displace approximately 9,200 residents from the City of Joplin.

A large portion of those 7,500 households that were affected were able to find housing resources either through existing available housing stock or through temporarily staying with friends and family. The immediate housing needs that were identified by the City and FEMA resulted in the placement of 586 Temporary Housing Units (THUs) throughout the community. It became clear very quickly that the regional housing market could not provide for the affected households. The temporary solution of FEMAs THUs was crucial in housing families after the storm; however, these are families that will need permanent housing solutions.

Shortly after the tornado, the City of Joplin commissioned a comprehensive Housing Study to assess the situation. The following are selected recommendations from that study that confirm the need for housing in Joplin[1]:

Objective #3: Introduce alternative housing options into the market including condominiums and townhomes to target young professionals and empty nesters.

Analysis:
According to demographics provided by ESRI, the age cohorts that include ages 20 to 24 and 30 to 34 are the largest age cohorts in the Joplin area. Many of the people in these age cohorts are young professionals, and some of them are young professionals with children. This segment of the population is an important and growing segment, and housing options should be targeted to meet their growing needs. In addition, the City of Joplin Planning Department stated that it has received several inquiries regarding the availability of condominiums or townhomes in the area by persons looking for lower-maintenance housing options while still maintaining ownership.

[1] Source: Updated Comprehensive Housing Market Analysis; Joplin, Jasper County, Missouri. Novogradac & Company, LLP. 2011

Action:

- Promote the development of upscale townhomes and condominiums with ample amenities for young professionals and empty nesters that are seeking high quality housing without maintenance responsibilities.
- Construct condominiums in urban areas like the CBD and just outside of the CBD so that young professionals can take advantage of being close to transportation while having entertainment options.

Objective #5: Replace demolished/destroyed Section 8 housing in a timely manner.

Analysis:
The May 2011 tornado destroyed or heavily damaged all of the family Section 8 properties in Joplin as well as two senior Section 8 properties leaving just one Senior Section 8 property in service in Joplin. Oak Meadows, Cedar Hill Apartments, Magnolia Heights and Mercy Village at St. John's have stated that they will rebuild their properties. However, Hampshire Terrace and JMA II Apartments were completely demolished and plans to rebuild at this time are unknown. Springview Gardens has not yet reported what will happen in the future.

Action:

- For Section 8 properties that are unsure whether they will rebuild or not, provide incentives to encourage rebuilding.
- Encourage Section 8 properties to apply for LIHTC funds for rehabilitation.
- Expedite the rehabilitation of these properties to place these developments back in service as soon as possible.

Objective #6: Encourage the development of affordable housing including LIHTC properties.

Analysis:
Only two LIHTC developments were affected by the tornado, Redwood Gardens and Redwood Towers; however, Redwood Gardens sustained major damage and Redwood Towers was completely demolished. The destruction of these two developments as well as the low vacancy rates and lengthy waiting lists at existing LIHTC developments indicate the need for additional LIHTC properties. Further, the demographics of the census tracts were tornados completely destroyed the housing stock illustrate a high percentage of renters and a high percentage of low to moderate income households. In order to provide appropriate replacement housing for these households, LIHTC properties would meet these needs by offering affordable rental housing.

Action:

- Entice developers through low-interest loans to increase the amount of LIHTC properties.

- Increase awareness and knowledge of the LIHTC and other state and federally assisted housing programs.
- Construct LIHTC properties near where many of the low to moderate income households previously lived.
- Encourage the development of all unit types from one to four-bedroom units in both multifamily and single-family units to create housing for both persons that were previously renters in traditional multifamily housing, as well as renters that were renting out larger single-family homes.
- Build approximately 560 new units of affordable housing including a combination of single-family rental homes and traditional multifamily apartments.

Objective #7: Educate low to moderate income households on how they can purchase homes and increase the supply of owner-occupied homes that are moderately priced.

Analysis:
Much of the single-family home housing stock that was destroyed by the tornado was older, lower priced homes. There is now a shortage of lower to moderately priced homes in the Joplin area and many of the available homes are new construction with high price tags. As a result, the city needs to encourage the construction of moderately priced homes so that the residents that are now housed in the FEMA trailers can afford to move back into single-family homes.

Action:
- Educate future and prior homebuyers on financing options, access to capital and how to improve their credit worthiness.-Inform future and prior homebuyers on how they can maximum their insurance claims and use this money to rebuild and/or purchase a new home.
- Reach out to local developers to encourage the construction of moderately priced homes to replace the destroyed housing stock.

Objective #8: Replace at least 3,100 housing units including 1,400 rental units and 1,700 owner-occupied units. For the rental units, approximately 560 units should be affordable.

Analysis:
In the May 2011 tornado, 602 housing units suffered partial or semi-major damage while 3,422 units were completely damaged or destroyed. In addition over 3,000 homes suffered some form of damage, thus a total of over 7,000 homes were damaged by the May 2011 tornado. Residents of some of these destroyed units were able to find replacement housing among Joplin's existing housing stock or repair their homes. In order to determine the number and type of units that need to be replaced, we utilize the 3,422 units that were completely damaged or destroyed as a starting point. First, we determine the number of rental units and the number of owner-occupied units that need to be replaced. Based upon the renter percentage in the most densely populated areas that were damaged by the tornado, as

illustrated on page 57, we assume that approximately 45 percent of the units destroyed were rental units.

Number of units that were completely destroyed or damaged 3,422
*
Percentage of units that were rental units 45.0%
=Total Number of Replacement Rental Units Proposed 1,540

Number of units that were completely destroyed or damaged 3,422
*
Percentage of units that were owner-occupied units 55.0%
=Total Number of Replacement Owner-Occupied Units Proposed 1,882

We assume that residents in approximately ten percent of the 3,422 units found other replacement housing among Joplin's existing housing stock or chose to repair/rebuild their homes. As a result, we recommend the replacement of 1,400 rental units and 1,700 owner-occupied units for a total of 3,100 units. The 1,700 owner-occupied units should contain a small percentage of condominium units through newly developed mixed-use developments and mostly single-family homes. These homes need to be priced at a variety of price points including homes for low to moderate income households that are priced at $95,000 or less.

Given that approximately 40 percent of households overall (both renter and home-owner) whose homes were damaged by the tornado were low to moderate income households, it is expected that a slightly lower percentage of home-owners were low to moderate income since it is often difficult for low to moderate income families to come up with down payment money for a home. As such, around 30 to 35 percent of owners have low to moderate incomes, which results in the need for 525 to 550 affordable homes. If 525 to 550 homes are built and priced at $95,000 or below, there should be an adequate amount of affordable owner-occupied homes to replace the destroyed units.

For the 1,400 rental units, we recommend a combination of market rate single-family homes, market rate traditional multifamily developments and affordable developments. To determine the number of affordable units that should be built, we have relied upon the percentage of low to moderate income households in the most densely populated areas that were damaged by the tornado, illustrated on page 41, and we assume that approximately 40 percent of households would qualify to live in affordable rental housing.

Number of proposed replacement rental units 1,400
*
Percentage of households that are low to moderate income 40.0%
= Total Number of Replacement Affordable Rental Units Proposed 560

As the above table illustrates, approximately 560 out of the 1,400 rental units should be affordable units that target low to moderate income households. The remaining 840 unit should be traditional market rate units. Of the 560 affordable units, we recommend that

approximately 70 percent of these units should be traditional multifamily housing and 30 percent should be single-family rental homes. For the 840 market rate units, we recommend that the majority of these units should be traditional multifamily housing since single-family homes are not typically built to be permanent rentals.

Action:

- Replace market rate multifamily apartments that were destroyed by building approximately 840 new market rate units, most of which are traditional multifamily apartments.
- Build approximately 1,700 new single-family homes in the areas that were heavily damaged by the tornado including single-family homes priced at $95,000 or below to attract low to moderate income households.
- Build approximately 560 new units of affordable housing including a combination of single-family rental homes and traditional multifamily apartments.

INFRASTRUCTURE IMPACT AND UNMET NEEDS

An assessment of public infrastructure and infrastructure systems that were damaged due to the May 22nd tornado was performed by the City's Public Works Department with the initial FEMA assistance was considered. The three main infrastructure elements that need additional assistance at this point are Sidewalks, Trails, and Trees.

The assessment for damaged sidewalks resulted in a conservative estimate need of $2,500,000. The City did receive $117, 897 from FEMA for Sidewalk repair; however, the budget for this item remains at $2,500,000 to include a small amount for contingencies.

An important goal that was a result of the CART process was to incorporate more trails for the purpose of alternative forms of transportation. The City will use the construction of sidewalks along with the construction of trails to provide a safe means of transportation. The aim of this project will be to ensure that people of all income levels have access to the resources of the community through linking the damaged neighborhoods to each other and to the commercial and cultural resources of the City. The initial estimates for restoring trails in Parr Hill and Campbell Parks as well as adding connections from these parks to other resources totaled approximately $2,200,000.

Joplin lost between 15,000 and 20,000 trees according to the Missouri Department of Conservation sponsored task force which evaluated the loss soon after the disaster. Those trees were a hodgepodge variety of species which more or less acted effectively as shade trees and wind-blocks, acted as traffic calming measures and reduced street maintenance.

Expected costs can be about $15/tree/month for a minimum of 5 months/year, or $150/tree. Such companies expect to be hired to plant the tree to ensure accordance with planting standards, about $100/tree. So each tree costs, with all tallied, about $350. The proposed CDBG funds would provide funds for approximately 6,333 ROW trees. This amount is estimated to be the excess need after all current funds and donations are considered. These numbers do not include

trees that people go out and buy themselves.

ECONOMIC IMPACT AND UNMET NEEDS

The path of the May 22, 2011 tornado also crossed a few of the commercial corridors in the City of Joplin which had a large effect on the local economy. There were 553 businesses destroyed or severely damaged, but approximately 85 percent, or 446 businesses, percent are back in operation. Thirty-nine businesses have indicated that they will not rebuild/reopen, and 21 new businesses have opened in the area.

Between 4,500 and 5,000 employees were affected by the tornado but over 90 percent of jobs have been regained, which is partially attributable to the fact that many jobs were at major employers such as the hospitals and Wal-Mart, which have decided to rebuild. Overall, the local economy is fairly strong although smaller businesses are still struggling. The large number of volunteers, resources, and support has helped increase spending in the area and sales tax revenue is up 14 percent compared to a year ago. Future revenue will depend on how long the rebuilding will take and continued development of Joplin. Although the short-term sales tax revenue has prospered due to rebuilding activity, it will be important to introduce more diverse revenue sources back into the community that will ensure that revenues will remain after the rebuilding activities subside.

Certain areas, such as those along Range Line Road and near Mercy Hospital, have experienced more rapid development for retail and businesses whereas other areas, such as that along 20th Street, have been slower to rebuild. It will be important to try to provide resources to ensure that the rest of the economic recovery is attained. Because of the slow development of smaller business and all businesses along certain corridors, it seems evident that stimulus will be needed to help recover economically. This will help bring the employment level back to the pre-tornado levels as well as provide important resources for the residents.

ASSISTANCE EXPECTED/RECEIVED

The Federal Emergency Management Agency (FEMA) has been present in Joplin since the beginning of the rescue operations and continues into the recovery process. The Housing Assistance that FEMA has provided to residents of Joplin to this point has reached $7,995,703 for Rental Assistance, Home Repair, and/or Replacements funds. These funds have assisted 2,979 households.

FEMA Assistance (as of May 7, 2012):

Individuals and Businesses:

- Nearly **$21 million** in grants has been approved in Jasper and Newton counties for home repairs, temporary housing and other critical disaster-related needs through the Individuals and Households Program.

- FEMA also is providing temporary housing units for individuals and families who have not yet been able to move into a more permanent housing option. These units are disbursed among 12 pre-existing commercial sites and three community sites that were built specifically to temporarily house tornado survivors. At the peak of this housing effort, 586 individuals and families were provided a temporary home among one of these sites.
- FEMA approved an Immediate Services Program grant for more than $1.5 million to the Missouri Department of Mental Health for crisis counseling services for survivors of the severe storms, flooding and tornadoes. Of that, more than $1.4 million was provided to Ozark Access Crisis Intervention (ACI) hotline for Jasper and Newton counties.
- The U.S. Small Business Administration (SBA) provides low-interest disaster loans to individuals and businesses of all sizes to help with eligible, disaster-related needs. To date, SBA has approved more than $40.8 million for 516 tornado-impacted individuals, businesses and non-profits.
    - 416 low-interest disaster loans to homeowners for $26.7 million
    - 96 low-interest disaster loans to businesses for $13.9 million
    - 4 low-interest disaster loans to non-profits for $256,400

FEMA provides grants to local, state and federal governmental entities, Tribal nations and certain not-for-profit organizations to help reimburse eligible costs to remove debris, provide emergency protective measures and to repair or replace damaged public infrastructure and facilities. In Jasper and Newton counties, nearly **$150 million*** in federal money has been obligated on behalf of **25 applicants** such as local governments, school districts and critical facilities for **351 projects** to remove debris, provide emergency protective measures and to repair or replace damaged public infrastructure and facilities.

** Funding subject to change based on eligibility review process and potential insurance proceeds.*

Insurance Statistics

Losses as of April 30, 2012:
Provided by Missouri Department of Insurance, Financial Institutions, and Professional Registration

Losses as of April 30th, 2012

Line of Business	Claims Received	Claims Expected	Losses Paid	Losses Incurred	Percent
Commercial Property	2,063	2,087	$850,049,017	$1,228,746,672	69%
Residential Property	8,564	8,736	$520,281,192	$552,073,887	94%
Commercial Auto	313	315	$4,412,659	$4,765,428	93%
Private Auto	6,806	6,949	$47,596,261	$51,153,034	93%
Other Commercial	300	304	$13,883,055	$19,301,460	72%
Total (Excluding County Mutuals)	**18,046**	**18,391**	**$1,436,222,184**	**$1,856,040,480**	**77%**
County Mutuals	1,477	1,516	$61,789,887	$67,876,781	91.0%
Total	**19,523**	**19,907**	**1,498,012,071**	**1,923,917,261**	**77.9%**

UNMET NEED SUMMARY

The initial single family housing need estimate of 1,700 units when compared to the approximate 700 single family units that have been permitted leaves an unmet need to assist the construction of approximately 1,000 single family homes. This will be addressed by the planned Direct Homeownership Assistance and Land Assemblage programs.

While the permit data indicated the majority of construction activity occurred with rehabilitation activities, there are still cases that are in process through non-profit agencies that approximate the need for a minimum of 100 houses with remaining need. The assessment for this need will be ongoing. This is addressed in The Single Family Rehabilitation activity.

The infrastructure activities revealed an unmet need that is estimated at $2,500,000 for sidewalks after reimbursement from FEMA. The need for additional trail access as a means of transportation for those residents living in the tornado-affected is estimated at this point to be $2,000,000 to effectively connect this returning population with the unaffected portions of the City which will help provide resources for these residents.

Thirty-nine businesses have indicated that they will not rebuild/reopen, and 21 new businesses have opened in the area. This leaves a remaining need to replace the economic effects of 18 businesses. Although the exact number of jobs and tax revenue is not noted at this time, the effort to replace a portion of this will be made through the proposed SPARK plan.

III. PLANNING EFFORTS

LAND USE PLANS FOR MITIGATION

Land use plans and decisions cannot be made to mitigate risk of future tornado damage due to their lack of causation based on geographic location. Where a flood can generally be tied to a floodplain or at least proximity to a water source, tornadoes may strike any location. Joplin, however, does realize the need to use this opportunity provided by the May 22nd tornado to re-evaluate land uses that occur in other hazard prone areas such as flood plains. Joplin has taken steps in the form of educating the public, working with other public entities, and has even begun the processes for application of Hazard Mitigation Grant Program funds to purchase property and ensure a more suitable land use is achieved.

During the Citizens Advisory Recovery Team process, a large outcome of these public participation forums was the desire for trails and green-spaces. These forums became a great tool to educate the public with the ideas that placement of green-spaces and potential trails were ideal for floodplain areas. The placement of floodplains in Joplin has been utilized to co-locate parks in the past and the idea of extending the system along these areas was heavily promoted both by the citizens and to the citizens during this process.

The other tangible example is the relocation of the Joplin High School and Franklin Technology Center. Although these educational institutions will occupy the same general location, property acquisition along the perimeter allowed for better site planning ensuring that the structures are not located in the floodplain that is located on the property. The previous high school placement was directly in the floodplain.

COORDINATED PLANNING

Joplin had the advantage of being offered assistance through FEMA's Emergency Support Function 14, Long Term Community Recovery. In Joplin, this process culminated in the form of the Citizens Advisory Recovery Team (CART). This was a volunteer advisory board composed of local leaders from all sectors of the community. The importance of the CART was that it was a citizen driven process that resulted in a list of recovery projects that was presented to the appropriate governmental/elected boards.

All of the projects that are included in this Action Plan are either taken directly from the CART Next Steps plan or are a derivation of projects suggested in that plan. These recommended projects were the result of numerous Town Hall meetings, public-comment booths at community events, a CART website using virtual town-hall technology, and the numerous sub-committee meetings of citizen volunteers with passion in the areas of: Economic Development, Schools and Public Facilities, Housing and Neighborhoods, and Infrastructure and Environment.

The CART Next Steps plan has been and is continuously being implemented through many different avenues. One of the most important local and regional planning efforts that built on the success of the CART plan is Joplin's Comprehensive Plan. The City of Joplin was due for a

Comprehensive Plan update shortly after the May 22nd tornado and used the CART process as a springboard to ensure that it's new comprehensive plan effectively used the opportunities presented by the tragedy as well as respecting the efforts of the citizens that were put forth in the CART plan.

City staff attempted to incorporate as many goals of the CART plan into the Comprehensive Plan as possible. The two documents, although separate, are completely complimentary and coordinated. The projects presented in this Action Plan were born in the CART process and further refined in the Comprehensive Planning process. This process included more citizen participation with general public meetings, sessions with the Planning & Zoning Commission, and sessions with the Joplin City Council.

LEVERAGING OF FUNDS

The City has hired Wallace Bajjali as a Master Developer to help coordinate the City's recovery. The City's CDBG-DR funds will be just one small funding stream that Wallace Bajjali will be incorporating into the recovery projects for the community. It is still the intention of the City of Joplin to procure a separate firm to administer and ensure compliance specifically for the CDBG-DR funds. The following table illustrates the potential for funds being leveraged in the proposed activities for this Action Plan.

Project	Total	CDBG
	$ in millions	
Joplin Redevelopment Corporation—Land Banking	30.00	8.00
Housing Reconstruction:		
Principal Reduction Program / Affordable Housing	40.00	4.50
Market-rate Single Family	162.50	8.25
Affordable Multi-Family	18.78	4.50
Market-rate Multi-Family	36.60	4.50
Single Family Rehabilitation		1.50
Neighborhood Revitalization—Walk/Bike Trails, etc.		6.50
SPARK—Performing / Visual Arts center, Depot renovation	68.00	5.39
Salvation Army Transitional-living Program	1.50	
Downtown education complex [current library site]	72.50	
Allocation for Administration		2.12
Totals	429.88	45.26

USE OF QUALITY CONSTRUCTION METHODS

The City of Joplin currently operates under the International Building Code (IBC) of 2006 and is in the process of evaluating the update for IBC 2012. It is the normal practice of the City to update its standards every 6 years. In addition to evaluating the update for IBC 2012, the City of Joplin made a few additions to its effective code as a result of the May 22nd Tornado. These measures include the mandatory use of "Hurricane Straps" used to make a stronger connection between all elements of the residential building from the foundation to the roof. The second addition was the mandatory filling of cells in the concrete block foundations at a higher frequency than previously allowed under the City's code.

ADEQUATE (& FLOOD RESISTANT) HOUSING FOR ALL INCOMES

A majority of the CDBG-DR funds in this Action Plan are proposed to promote housing to fulfill the need created by the May 22nd Tornado. All of these programs will follow environmental regulations and current city building codes in relation to issues of the flood plain. This Action Plan has dedicated funds to assist affordable housing units as well as market rate housing units. This assistance will also be distributed to home ownership units as well as rental units. These activities will promote affordable housing dispersed throughout the community which will include areas that are low poverty and non-minority areas. Some of the proposed Multi-family activities will also allow for and promote the development of mixed-income developments.

With the investment in affordable rental units, the aim is to provide assistance to those at the lowest end of the income scale to provide housing opportunity. For those individuals that do not have income sources that allow them to find housing and are homeless, the City of Joplin has and will continue to participate in the local Continuum of Care process. The City of Joplin provides annual funds to allow the management of a Homeless Management Information System (HMIS). This system will help indicate if more resources are needed for the homeless population in the community.

The City of Joplin has made attempts through a local Housing Task Force as well as the CART's Housing and Neighborhood Sector to constantly evaluate the housing needs of the community. This includes the Special Needs population that can require more resources and attention when recovering from a disaster. These committees have included local agencies and will continue to gain input from agencies such as The Independent Living Center and Community Support Services.

PLANS TO MINIMIZE DISPLACEMENT

It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 FRF 24; and it has in effect and is following a residential anti-displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG program.

IV. PROGRAMATIC PROCEDURES

HOW WILL PROGRAM INCOME BE USED

The City of Joplin reserves the right to utilize up to 5% of Program Income received from these CDBG-DR activities as additional Administrative funds. Program Income will roll back into the project from which it is originated unless otherwise amended. Program Income is expected from the Land Assemblage activity. The Program Income generated from this activity will be used to create a Revolving Loan Fund to contribute to a variety of projects that would need additional land purchasing.

MONITORING STANDARDS AND PROCEDURES

Non-duplication of benefits

Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5155), as amended, prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which that person has received financial assistance under any other program or from insurance or from any other source. CDBG disaster recovery funds will not be used for activities for which funds have been received (or will be received) from FEMA; the SBA; other local, state, or federal programs; insurance; or recovery support from private charity organizations. However, CDBG funds may be used to provide assistance to the extent that a disaster recovery need has not been met by other sources. Applicants for assistance will be required to disclose all sources of assistance received or to be received.

FEMA, SBA, and other federal agencies will be asked to provide verification of benefits supplied to all applicants that are involved in the programs funded by CDBG-DR funds.

Continual Quality Assurance

All recipients of CDBG-DR funding will be subject to monitoring conducted by both the City of Joplin Staff and any administering agents hired by the City of Joplin. The City of Joplin plans to hire a consulting firm with extensive experience in administering CDBG-DR funds which will include a proven monitoring process bases on all applicable regulations. In the case that monitoring is needed before an external firm can be hired, the internal audit function outlined below will be applicable to any and all programs included in this Action Plan as deemed necessary by City of Joplin staff.

Internal Audit Function w/ responsible Audit staff

The CDBG Program staff will be in contact with subrecipients of the program, according to the terms of their Subrecipient Agreements, to track progress of compliance issues and ensure timeliness. On-site monitoring visits will be conducted according to the nature and scope of the

project. Forms to verify LMI participation and/or benefit are collected based on the scope of each project.

SCHEDULE OF EVENTS – The usual schedule of events for CDBG monitoring visits will be as follows:

1. The CDBG Program Specialist schedules the monitoring visit by phone or e-mail contact with the subrecipient.
2. The on-site monitoring visit is conducted, and consists of the following:
   a. Conference
   b. Documentation, data gathering and analysis

A letter is sent to the subrecipient regarding the monitoring visit. The letter includes information about any problems discovered or discussed during the monitoring visit, as well as information that recognize the successes of the subrecipient. If the CDBG Program staff deems necessary, requests may be made of the subrecipient to ensure compliance with all applicable rules and regulations of the program.

STEPS TO PREVENT FRAUD

All activities must be conducted in compliance with applicable CDBG rules and regulations, as well as other applicable federal regulations such as OMB Circulars A-87, A-133, and 24 CFR Part 85 (Uniform Administrative Requirements). Subrecipients who have received $500,000 or more in federal funding during the preceding year will be required to submit an audit in accordance with OMB Circular A-133.

Efforts to mitigate fraud, abuse, and mismanagement include regular monitoring of activities, as described. The City of Joplin, or other entity as assigned by the City of Joplin, will review expenditures, while independent auditors will audit activities for program and financial compliance. The City of Joplin reserves the right to take appropriate action in instances of non-compliance, fraud, and mismanagement including, but not limited to, disallowing ineligible costs, terminating contracts/agreements, and requiring repayment of funds.

As required under the Notice, the City of Joplin, or its assigned agent, will submit quarterly reports to HUD through the Disaster Recovery Grant Reporting (DRGR) system no later than 30 days following each calendar quarter.

INCREASING CAPACITY OF THOSE ADMINISTERING ACTIVITIES

The vast majority of Administration funds available under the CDBG-DR program will be made available to the firm that is hired to administer the entire CDBG-DR program for the City of Joplin. This organization that is chosen to administer grants will be encouraged to use funds to attend trainings that will increase the efficiency with which projects are completed.

Private funds will be provided as they become available through the Master Developer partnership to help further the capacity of administering organizations. The Master Developer

team will also be encouraged by the City of Joplin to collaborate and assist programs administration to ensure that the recovery effort is a coordinated effort.

The City of Joplin has also received funds from the Economic Development Administration to hire a staff planner. The Disaster Planner (EDA position) will also be dedicated to providing assistance to recovery efforts which will include the projects that are funded by the CDBG-DR funds. This additional assistance to administering groups will increase the capacity of all groups involved.

SUBSTANTIAL AMMENDMENT

The following events will be considered substantial amendments to the Action Plan for Disaster Recovery:

- The addition or deletion of any activity described in the Plan;
- A change in the planned beneficiaries of an activity, and
- A change to the scope of the project that would either:
    a) Increase/Decrease funding by $100,000 for a single activity; or
    b) Increase/Decrease the physical size of a project by 10% or greater.

Substantial amendments must be approved by the Joplin City Council. For substantial amendments, Joplin will post the amendment on its web-page and receive comments for 7 days. Following the public notice period, proposed amendments will then be submitted to the HUD Kansas City Field Office for review. For minor amendments, the City of Joplin will simply notify the Kansas City Field Office and finalized minor amendments will be posted on the City's website.

CONNECTION BETWEEN UNMET NEEDS AND ALLOCATION

The three categories of Housing, Infrastructure, and Economic Need were individually discussed at the beginning of this document. The City evaluated the needs in these three categories and determined the greatest amount of need to be in Housing followed by Infrastructure then Economic Need. The City does strongly believe, however, that if the recovery of one of these sectors occurred in an isolated way, the community would not have a healthy recovery.

The current proposed budget includes an emphasis on housing activities as that is the largest unmet need at the time of this initial plan. The numbers of single and multi-family units needed were closely considered when making the allocation to these activities.

The City's Public Works Department has created an update as of July 1, 2012 as to the unmet need for infrastructure repairs as a result of the tornado. The amount allocated to these activities will ensure that the residents have a quality level of service when they return to the damaged area.

The City, through the Joplin Area Chamber of Commerce, has closely monitored the economic recovery of the community. The small amount of funds allocated to these types of activity do

not reflect the overall unmet need, but rather reflect the stronger need for housing recovery. The need to ensure that adequate and appropriate employment is available to residents will continue to be evaluated for future amendments to this plan.

V. PROGRAM DESCRIPTIONS

SIDEWALK CONSTRUCTION AND RECONSTRUCTION

How the Assessment informed allocation

An existing conditions report was completed by the City of Joplin's Engineering Department to assess the infrastructure that has been damaged as a result of the May 22, 2011 tornado. These items have been prioritized based on importance and cost. The amount of FEMA funds designated to repairing infrastructure was compared to the comprehensive needs established in this survey. The shortfall that was a result of that comparison informed the allocation for the need for sidewalk

CDBG Eligibility and National Objective

This Activity is eligible under 03L, Sidewalk Improvements, and will utilize the National Objectives of both Low-Moderate Income Area and Urgent Need. In neighborhoods where the census data indicates the Census Block Groups are eligible to receive LMA assistance, this will be used. For those areas that will not qualify under that National Objective, Urgent Need will be used based on the impediment to public health and safety that inadequate and dangerous sidewalk infrastructure can cause and/or the Slum and Blight Area national objective.

Long-term Recovery from Specific Disaster

This program will greatly improve the recovery of neighborhoods throughout the City through providing amenities and pedestrian safety. This project will look at both reconstructing sidewalks in neighborhoods that had them prior to the storm as well as adding them in neighborhoods that did not originally have them. This additional need was brought about in the CART process as residents have requested the ability to have sidewalks available as modes of transportation and as measures of safety as the community desires to use alternative modes of transportation such as walking.

Criteria used to select applications

Applications will not be needed for this program. The priorities of projects will all be decided administratively by the Public Works Department.

TRAIL CONSTRUCTION/RECONSTRUCTION

How the Assessment informed allocation

In another attempt to create suitable and attractive neighborhoods for residents to return, the community through the CART process has asked for an expansion of the current trail opportunities throughout the community and especially throughout the tornado damaged area. The need that surfaced was that there should be a connection of the existing trails along Campbell Parkway southwest through the damaged area to connect ultimately to the trails system near Wildcat Glades Nature Center.

CDBG Eligibility and National Objective

This Activity is eligible under 03, Other Public Facilities and Improvements, and will utilize the National Objective of Urgent Need. Urgent Need will be used based on the impediment to public health and safety that inadequate and dangerous pedestrian infrastructure can cause. If

necessary, the National Objective of Slum and Blight Area may also be used if the City decides to declare the area one of Slum and Blight. Both of these objectives will result in contributing to the recovery of housing through improving the neighborhoods in which people will return.

Long-term Recovery from Specific Disaster
The allocation to this activity will not fund all of the combined on and off-road trail necessities to make this happen, but will make an important stride in providing the alternative transportation method for residents. This is especially necessary for the City's recovery as it will provide a transportation alternative to low-income residents and other residents that need affordable transportation for work and services.

This program will greatly improve the recovery of neighborhoods throughout the City through providing amenities and pedestrian safety. Similar to the Sidewalk demand, the need for trails was brought about in the CART process as residents have requested the ability to have trails available as modes of transportation and as measures of safety as the community desires to use alternative modes of transportation such as walking.

Criteria used to select applications
Applications will not be needed for this program. The priorities of projects will all be decided administratively by the Public Works Department.

TREE PLANTING

How the Assessment informed allocation
After the tornado, the damage to the built environment was evident and publicized. The community quickly realized that it also lost a large part of its natural environment in the urbanized setting, its trees. The City has been provided a Community Forestry Recovery Coordinator by the Missouri Department of Conservation. The following assessment was completed by that individual.

Joplin lost between 15,000 and 20,000 trees according to the Missouri Department of Conservation sponsored task force which evaluated the loss soon after the disaster. Those trees were a variety of species which more or less acted effectively as shade trees and wind-blocks, acted as traffic calming measures and reduced street maintenance.

Cost of an initial tree planting can be regulated by the size of the initial planting, the size of the new saplings, and the availability of the species listed in the plantings. According to our present ordinance, we can plant 1 shade tree on each side of the street/block due to the need to leave the sight triangle of each intersection free from obstruction. If we make changes to the code and allow tree planting to start at 40 ft. from the corner, as many cities do, we can plant 8 shade trees each side/block, amounting to $6,400 initially effectively making it a tree-lined cityscape. This is a simple example, a fleshed out plan will show some variety, perhaps suggested by present utilities.

This projection assumes concordance with changes that can allow us to follow the CART recommendation that we develop sustainability of the urban forest and address the loss of trees

after the tornado event of 2011. 7,144 variable sized trees have been donated and planted in City parks and neighborhoods to date and an additional 2,414 this spring. Our projected outcome is to replace approximately 15,000 trees lost to the storm. We can expect about 1,523 more donated trees; therefore, we project planting 6,333 ROW trees. These numbers do not include trees that people go out and buy themselves.

Expected cost of a wholesale tree	$ 82
Cost of planting a tree	$116
Cost of 2 year establishment	$124
Establishing each tree	$322
Establishing 6,333 ROW trees	$2,039,226

CDBG Eligibility and National Objective

This Activity is eligible under 03N, Tree Planting, and will utilize the National Objective of Low and Moderate Income Area and Urgent Need. In neighborhoods where the census data indicates the Census Block Groups are eligible to receive LMA assistance, this will be used. For those areas that will not qualify under that National Objective, Urgent Need will be used based on the impediment to public health and safety citing the numerous benefits to public health that will be gained through this activity. The City may also choose to use the Slum and Blight national objective, if the tornado area is designated a Slum and Blight area.

Long-term Recovery from Specific Disaster

This program will greatly improve the recovery of neighborhoods throughout the City through providing a healthier living environment for residents. Similar to the Sidewalk demand, the need for trees was brought about in the CART process as residents have requested the ability to recover the natural environment that infiltrated the urban landscape prior to the tornado.

Criteria used to select applications

Applications will not be needed for this program. The priorities of projects will all be decided administratively by the Public Works Department.

SINGLE-FAMILY DIRECT HOMEOWNERSHIP ASSISTANCE

How the Assessment informed allocation

The City of Joplin has commissioned a Housing Study that was discussed in the Housing Impact section of this plan. This is the main means by which the City has been able to gauge the need for housing throughout the community. The study along with constant monitoring of building activity through building permits has allowed the City to develop both the single and multi-family programs described in this Action Plan. This project specifically aims to provide direct home-ownership assistance to approximately 1,700 households.

CDBG Eligibility and National Objective

This Activity is eligible under 13, Direct Homeownership Assistance, and will utilize the National Objectives of both Low-Moderate Income Housing and Urgent Need. For households that will not qualify under the Low-Moderate Income National Objective, Urgent Need will be used based on the clear need for housing and all income levels established in the City's studies.

Long-term Recovery from Specific Disaster
The objective of this project is to provide attractive housing with a monthly payment that is affordable for low and middle income families, either for those displaced from the area or new residents bringing a new vitality and population diversity to the neighborhood. The residential rebuilding program will represent a "showcase" project for recovering from the devastating tornado of May 22, 2011.

This project will be used in conjunction with the Land Assemblage activity to ensure that the bottom-line mortgage of households is brought to an affordable level. As a major part of the overall rebuilding effort, the City of Joplin, and Wallace Bajjali as the Master Redeveloper, will bring to bear a variety of financing sources for this project and for overall neighborhood redevelopment [see below], including takeout financing commitments from lenders active in the local market and down payment assistance for moderate-income buyers. All of these, taken together, will enhance the marketability of the project and support the goal of creating a high-quality, affordable neighborhood. The down payment assistance will be the portion funded by this CDBG grant. The following is an example of what the structure of financing may look like:

Example for the home buyer at an average construction price of $100,000

1) Equity Capital/Down Payment from Buyer:	$	5,000
2) Forgivable Debt to Equity Capital (MHTC):	$	10,000
3) Community Development Block Grant Money:	$	11,250
4) TSA Gran Funding:	$	8,750
5) Conventional Senior debt with takeout:	$	65,000
	$	100,000

Criteria used to select applications
Applications will be accepted from individuals for this program based on their ability to qualify for the necessary financing. Application to administer this program will not be accepted at this time. The City will properly procure any services that may be needed to help administer the program.

MIXED INCOME MULTI-FAMIY RESIDENTIAL

How the Assessment informed allocation
The Housing Study along with constant monitoring of building activity through building permits has allowed the City to develop both the single and multi-family programs described in this Action Plan. The need for rental resources was apparent through the Census data that was analyzed in the housing study. The City also realizes that there is a high potential for previous homeowners that were either under-insured or uninsured will be faced with the need to convert to becoming renters.

CDBG Eligibility and National Objective
This Activity is eligible under 13, Direct Homeownership Assistance, and will utilize the National Objectives of both Low-Moderate Income Housing and Urgent Need. For households that will not qualify under the Low-Moderate Income National Objective, Urgent Need will be used based on the clear need for housing and all income levels established in the City's studies.

Long-term Recovery from Specific Disaster
This project specifically aims to provide housing opportunities that integrate households of various income levels into multi-family developments. This funding is specifically proposed to fund infrastructure costs associated with and estimated total of 500 units. Of these 500 units, at least 255 units will be rented to households that meet the criteria for a low-moderate income household. Providing these rental resources will allow a subset of the population that may not have the resources to achieve home-ownership, even with the proposed Direct Homeownership Assistance program, the ability to return to Joplin and specifically to the tornado affected area. The rental market in Joplin has been a large part of the housing sector and to have a healthy recovery, it will be essential to include assistance for this type of development.

Criteria used to select applications
Application to administer this program will not be accepted at this time. The City will properly procure any services that may be needed to help administer the program.

SINGLE-FAMILY REHABILITATION

How the Assessment informed allocation
The City of Joplin has commissioned a Housing Study that was discussed in the Housing Impact section of this plan. This is the main means by which the City has been able to gauge the need for housing throughout the community. The study along with constant monitoring of building activity through building permits has allowed the City to observe that a large portion of needed rehabilitation has been occurring. The City believes that, based on permit information, there is still a need to support ongoing Single Family rehabilitation. This project specifically has potential to provide assistance to 100 homes at an average rehabilitation of $25,000.

CDBG Eligibility and National Objective
This Activity is eligible under 13, Direct Homeownership Assistance, and will utilize the National Objectives of both Low-Moderate Income Housing and Urgent Need. For households that will not qualify under the Low-Moderate Income National Objective, Urgent Need will be used based on the clear need for housing and all income levels established in the City's studies.

Long-term Recovery from Specific Disaster
The long-term benefit gained from this project will result in the creation of more habitable residential properties to meet the housing needs that have been discussed previously in this document.

Criteria used to select applications
The City will release the means for individual home-owners to apply for this assistance at a later time. A managing organization has not been identified for this activity at this point and proper procurement procedures will be followed in the selection of a management organization.

LAND ACQUISITION/ASSEMBLAGE

How the Assessment informed allocation
Land assemblage will help further the redevelopment goals for both residential and commercial projects. The need to redevelop the vacant properties is apparent from the fact that 3,500 residential properties will need to be completely redeveloped due to the tornado.

Threshold factors and grant size limits
The estimated cost for lost is $15,000 which is based on market data that averages residential and commercial properties for a total of approximately 500 lots to acquire.

CDBG Eligibility and National Objective
The eligibility of this activity is under 01, Acquisition of Real Property, and the primary national objective for this project will be Urgent Need. This will serve the purpose of securing lots that could otherwise become vacant and endanger the public and will also help provide incentive to address the urgent needs of residential redevelopment to serve the citizens of Joplin.

How will programs help long-term recovery from specific disaster
The Joplin Redevelopment Corporation (a Missouri 353 Corporation) will be used to acquire various parcels of land in the EDR. Properties acquired by the Joplin Redevelopment Corporation would then be sold to prospective homeowners to rebuild in the community. All net proceeds resulting from the sale of land will be used to create a Revolving Loan Fund for the purchasing of additional land within the city limits for the same purpose.

By serving as a ready cash buyer, the Land Bank can acquire larger blocs of land at attractive prices, which can then be resold to returning or relocating homeowners or businesses at prices enabling them to rebuild cost-effectively. With a larger inventory of land and a support team of service providers (such as homeowner financial assistance programs, appraisers, title companies and mortgage lenders), the process of buying land from the Land Bank can be expedited, allowing the rebuilding process to proceed more quickly and efficiently. This supports the city's goal to "build back better", fosters the sense of community which has developed after the disaster, and increases the chances for local business to locate successfully in the neighborhood.

Criteria used to select applications
The City will release the means for individual home-owners to apply for this assistance at a later time. A managing organization has not been identified for this activity at this point and proper procurement procedures will be followed in the selection of a management organization.

FEMA Temporary Housing Unit Relocation

How the Assessment informed allocation
The City of Joplin has continually worked with a group of local, state, and national housing partners since the May 22, 2011 tornado called the Housing Task Force. One major component of this group was tracking and assisting the transition of households out of the FEMA Temporary Housing Units into more permanent housing situations. FEMA will no longer be offering its Temporary Housing Unit (THU) program after the first week of June 2013. With this deadline in sight, the Housing Task Force has identified approximately 11 potential households that are currently housed in the THUs and would be assisted by being provided more time in the THUs at a better location.

The group has identified a local non-profit that will receive the donated THUs and operate them as temporary housing for these homeless individuals. The non-profit, Catholic Charities, will

also provide social services to these households and assist them in finding more permanent housing. The THUs will be operated as temporary transitional housing with affordable rents capped according to the household's income.

CDBG Eligibility and National Objective
This Activity is eligible under 570.201(d) as Clearance and Remediation, and will utilize the National Objectives of Low and Moderate Income Clientele with a Presumed Benefit to Homeless Households.

Long-term Recovery from Specific Disaster
The long-term benefit gained from this project will result in the placing of homeless households into more permanent housing with assistance to locate permanent housing.

Criteria used to select applications
The City will work with FEMA and Catholic Charities to identify those households that are still eligible to remain in the housing units and are a good fit for the program.

Joplin Housing Authority Tenant Based Rental Assistance

How the assessment informed allocation
As a result of the May, 2011 tornado, Joplin's housing stock including its Section 8 voucher program, was severely impacted. In regards to the Section 8 program, 85 voucher-holders were displaced. Since the tornado, new housing units have gradually been added to Joplin's inventor; however many of these are more costly as Joplin's rental market evolves. Compounding the issue, during its recovery, the Joplin Housing Authority experienced a decrease in its "fundable" voucher population due to the lack of available units. As a result of this decrease, the voucher budge provided to the City also decrease, despite the needs of additional households that were displaced.

Therefore, HUD through the Community Development Block Grant Program – Disaster Recovery and through the Public and Indian Housing Program have granted waivers to allow CDBG-DR funds to assist Joplin's Housing Authority restore its program to reach pre-disaster voucher levels. Tenant-based rental assistance will be assisted with a maximum of $290,000.00 in CDBG-DR funds within a two year period.

CDBG Eligibility and National Objective
This Activity is eligible under 570.207(4) as waived (Income Payments), and will utilize the National Objectives of Low and Moderate Income Clientele.

Long-term Recovery from Specific Disaster
The long-term benefit gained from this project will result in the restoration of Section 8 voucher-holders at pre-tornado levels.

Criteria used to select applications
The Joplin Housing Authority will determine eligibility of low-income households that would benefit from the Section 8 Voucher Program, assuring rental affordability.

Joplin Housing Authority Site Improvements Repair

How the assessment informed allocation
Due to tornado damage and subsequent damage and wear and tear from heavy trucks and equipment used in the clean-up effort which included demolition, construction and repair of utilities, several Joplin Housing Authority parking lots were damaged as well as damage to the parking lot of their temporary office location at 424 S Turk Street. Costs to repair and/or overlay were not covered by FEMA, insurance or other funding sources. Additionally, yards and trees at Joplin Housing Authority's housing sites were damaged. These repairs are central to the viability and livable of the affordable rental housing units as well as access to the Housing Authority's temporary office where they accept applicants.

Therefore, up to $210,000 will be available in Community Development Block Grant Program – Disaster Recovery funds to make the necessary repairs.

CDBG Eligibility and National Objective
This Activity is eligible under 570.202(a)(2) as Rehabilitation and Preservation, and will utilize the National Objectives of Low and Moderate Income Clientele.

Long-term Recovery from Specific Disaster
The long-term benefit gained from this project will result in the continued viability of existing public housing units by improving parking and landscaping associated with the units.

Criteria used to select applications
The City and the Joplin Housing Authority will select locations and improvements needed to the public housing sites and office site.

SPARK – PERFORMING AND VISUAL ARTS CENTER

How the Assessment informed allocation
The need that is addressed by this project is the need for economic recovery in the community. Through job creation and the introduction of increased economic activity in a Slum and Blight Area, the choice to include the SPARK plan was informed by the need to fill the need to recover those businesses that have decided to not return to Joplin.

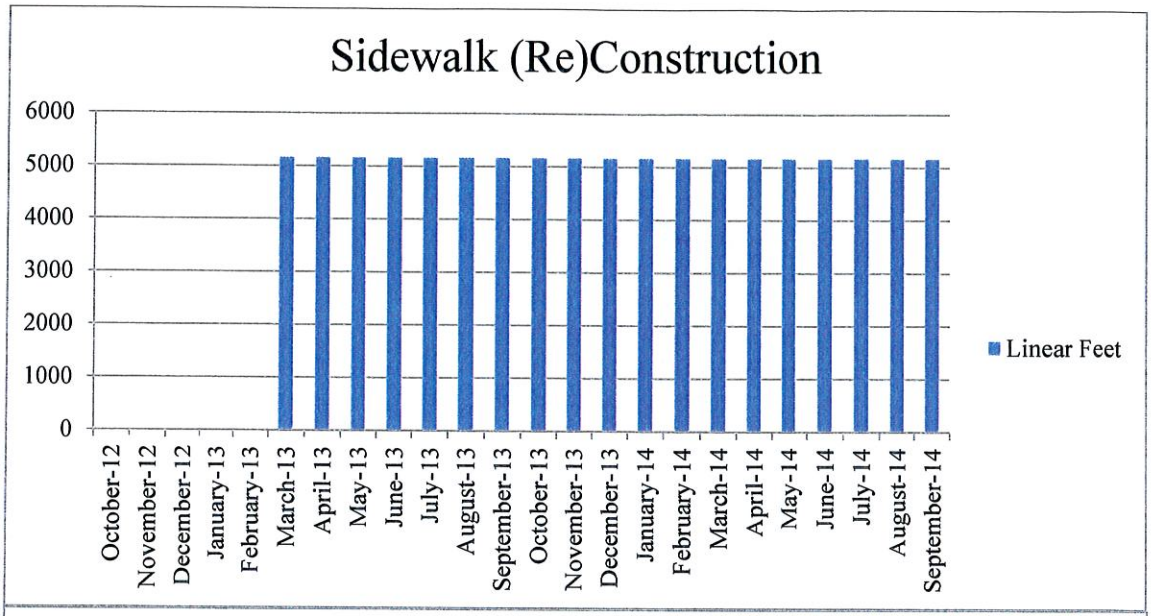
CDBG Eligibility and National Objective
The eligibility of this project is under 03, Other Public Facilities/Improvements, and the primary national objective for this project will be the elimination of a Slum and Blight Area.

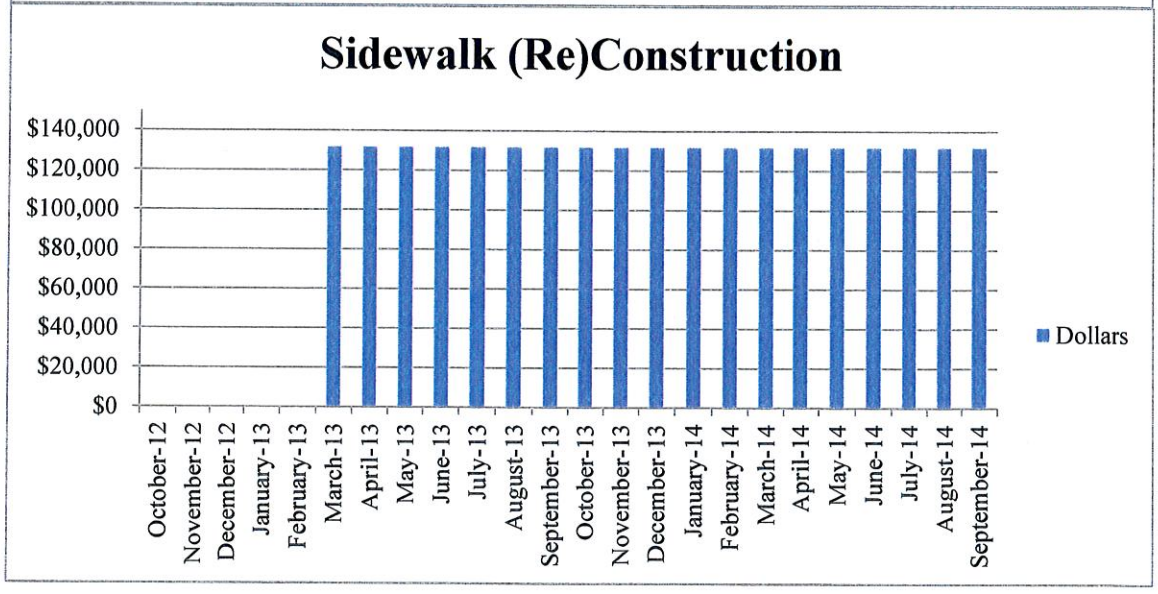
Long-term recovery from specific disaster
This activity will include the rehabilitation of the Historic Joplin Union Depot and converting it into a performing and visual arts center. This new center will be a driving force in the community to attract economic activity through tourism. Employment will also be a benefit gained from adding this resource to the downtown area. Plans for the Union Depot have continuously arisen in recent years and interest was once again renewed as the CART looked at ways to accelerate the Economic Recovery of the community through enhanced community facilities.

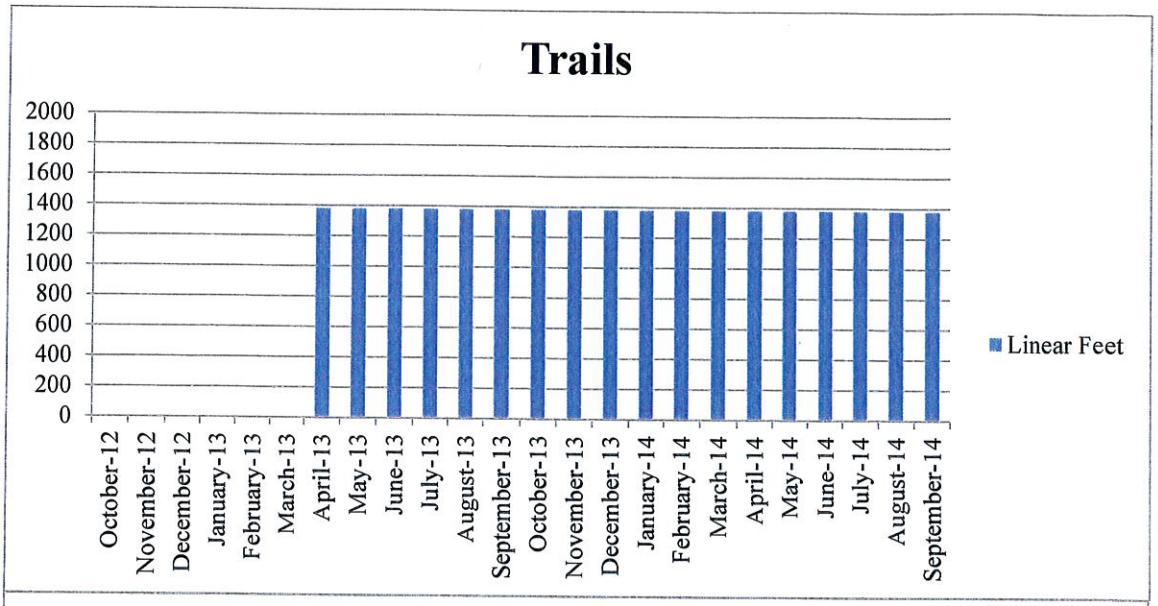
Criteria used to select applications
Applications will not be needed for this program. The priorities of projects will all be decided administratively by the Public Works Department.

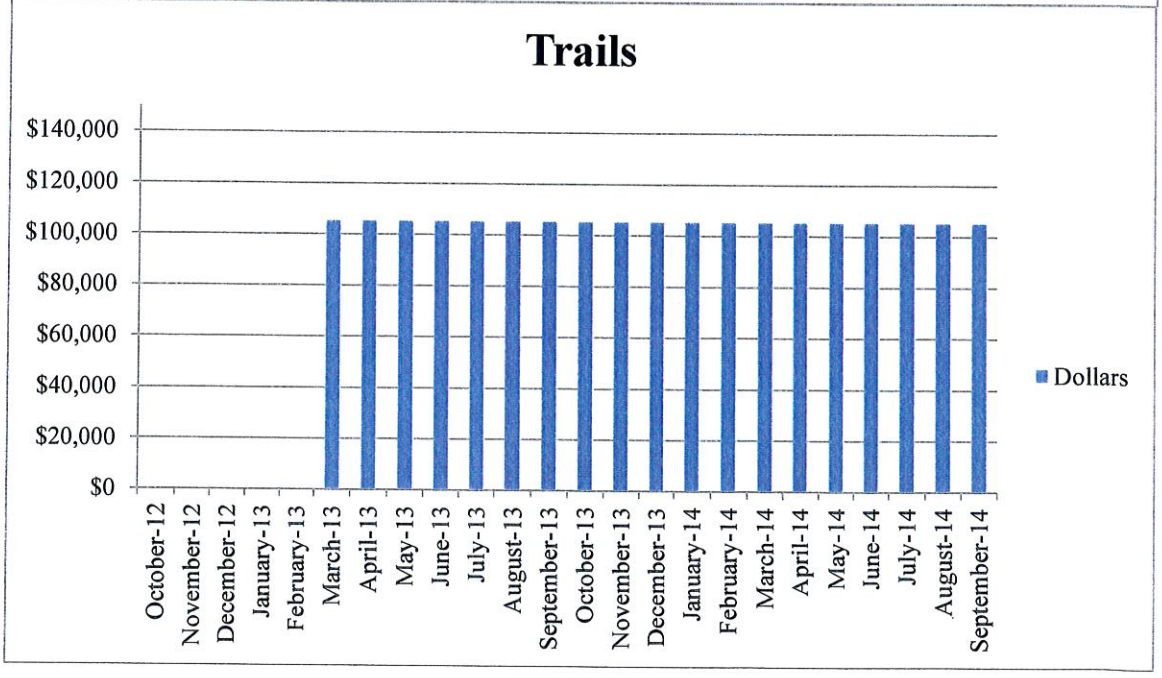
VI. PERFORMANCE SCHEDULES

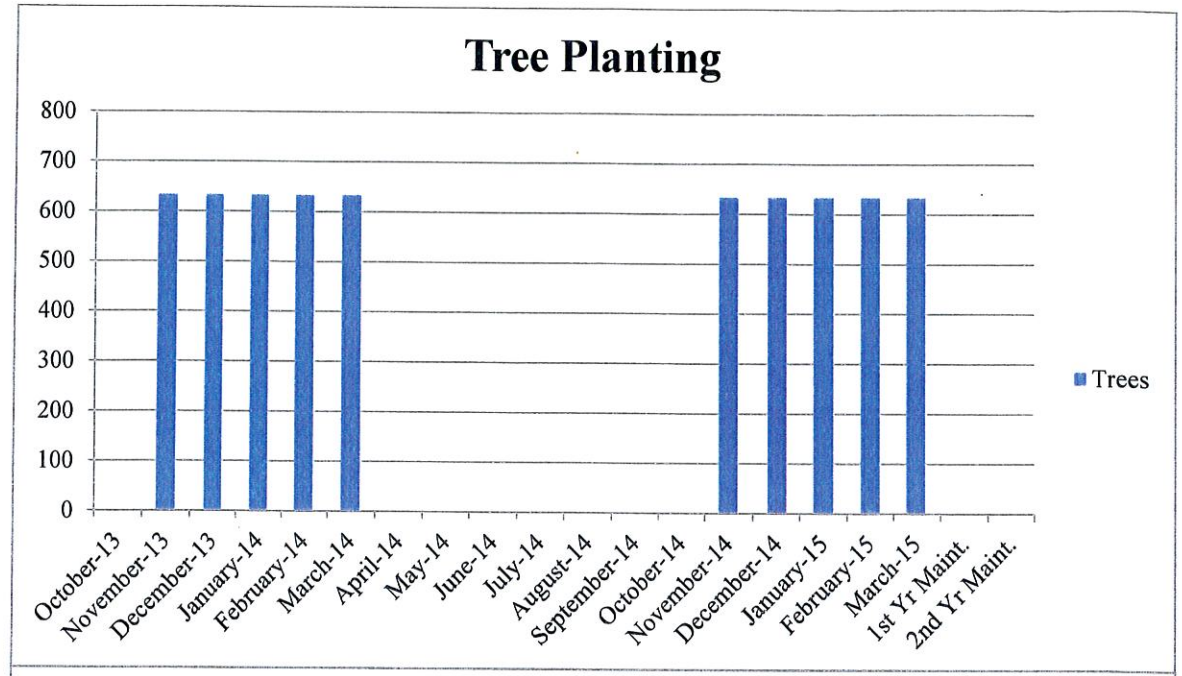
The following tables illustrate the approximate projected expenditures and outcome measures for each activity as applicable.

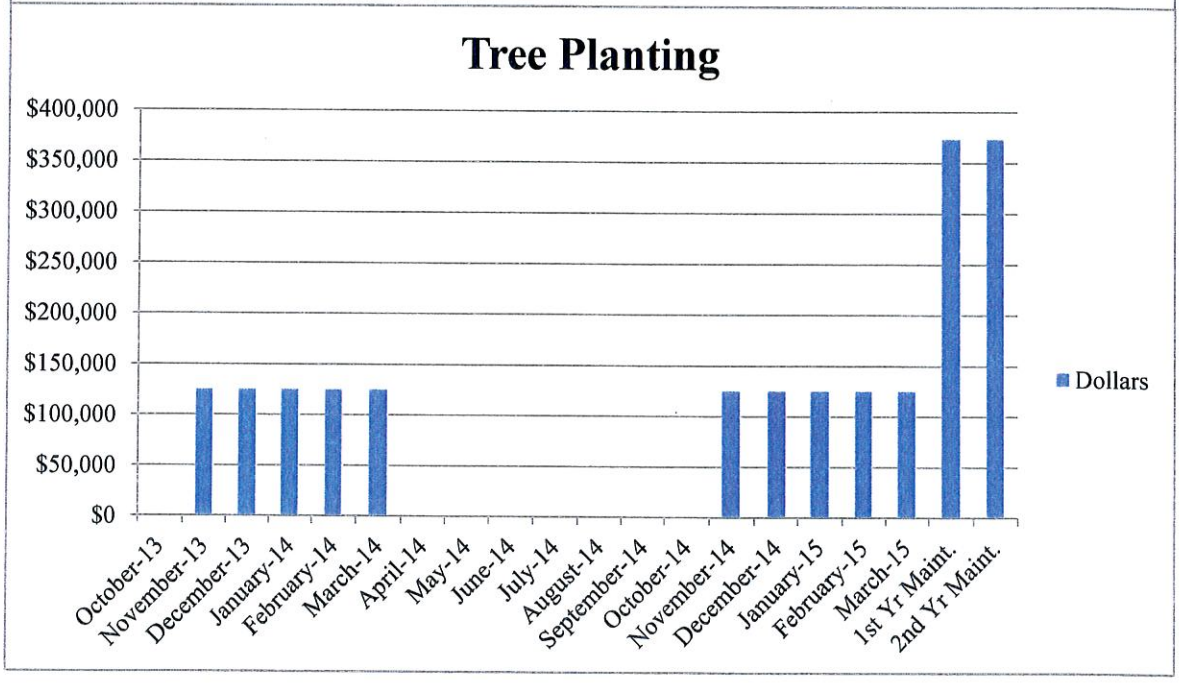


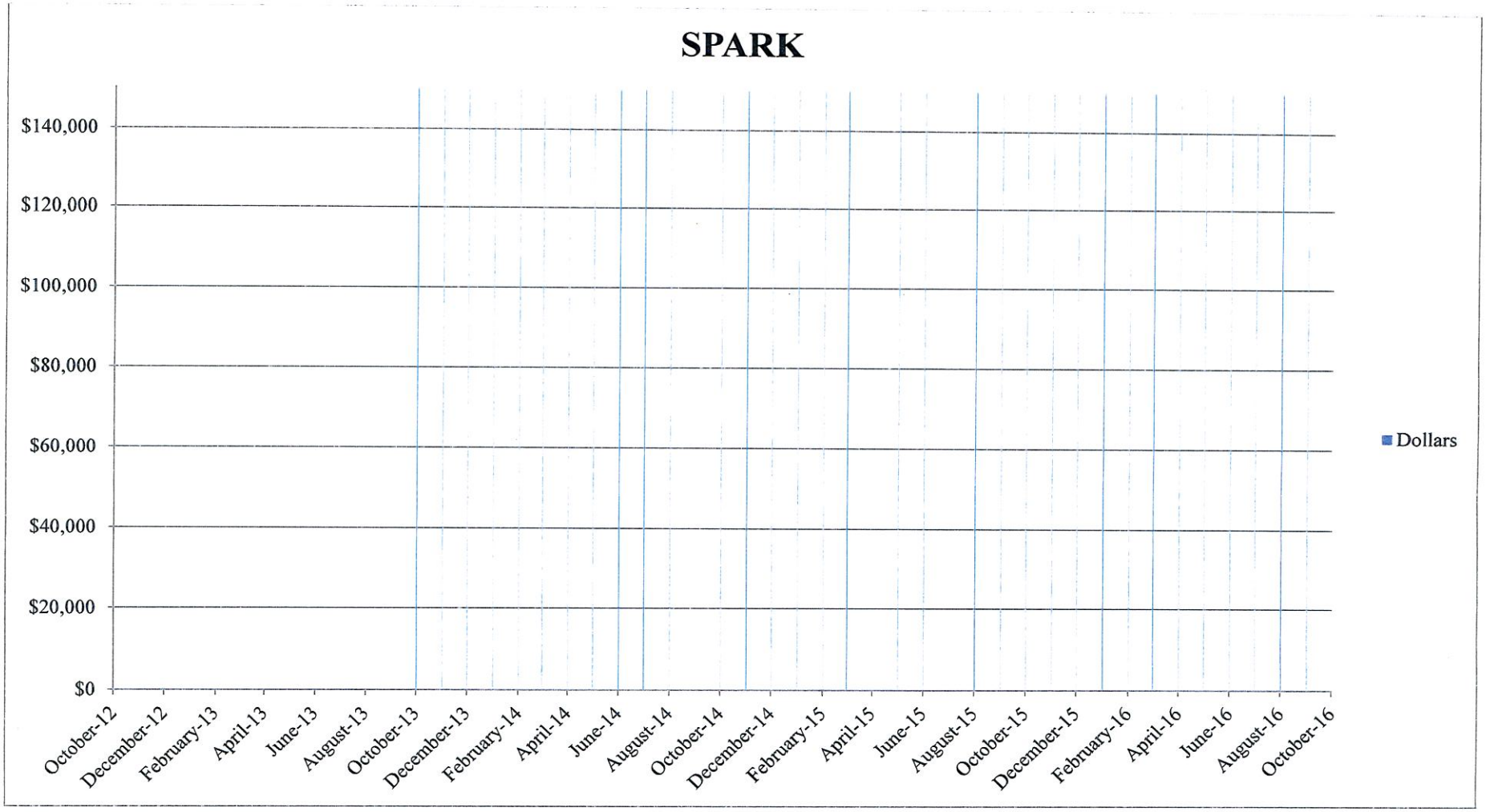


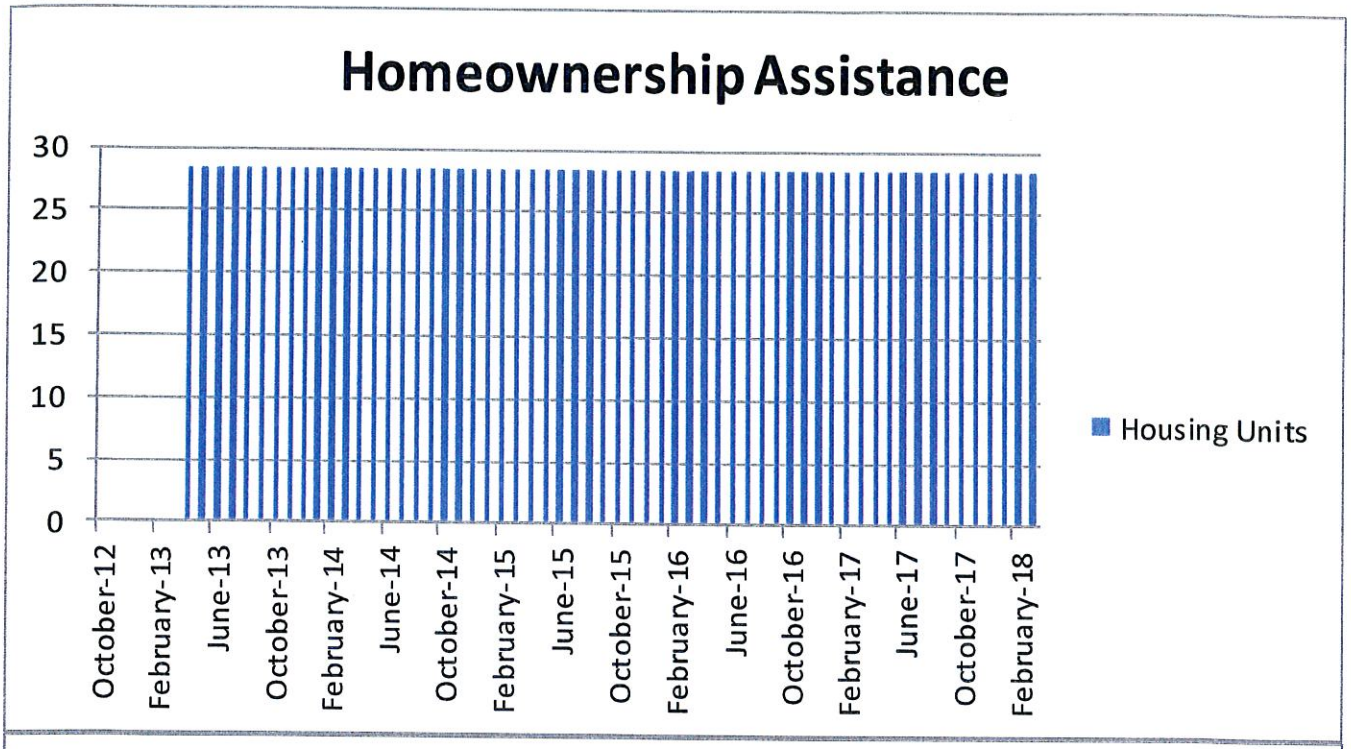

Trails
2000
1800
1600
1400
1200
1000
800
600
400
200
0
October-12
November-12
December-12
January-13
February-13
March-13
April-13
May-13
June-13
July-13
August-13
September-13
October-13
November-13
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June-14
July-14
August-14
September-14
Linear Feet

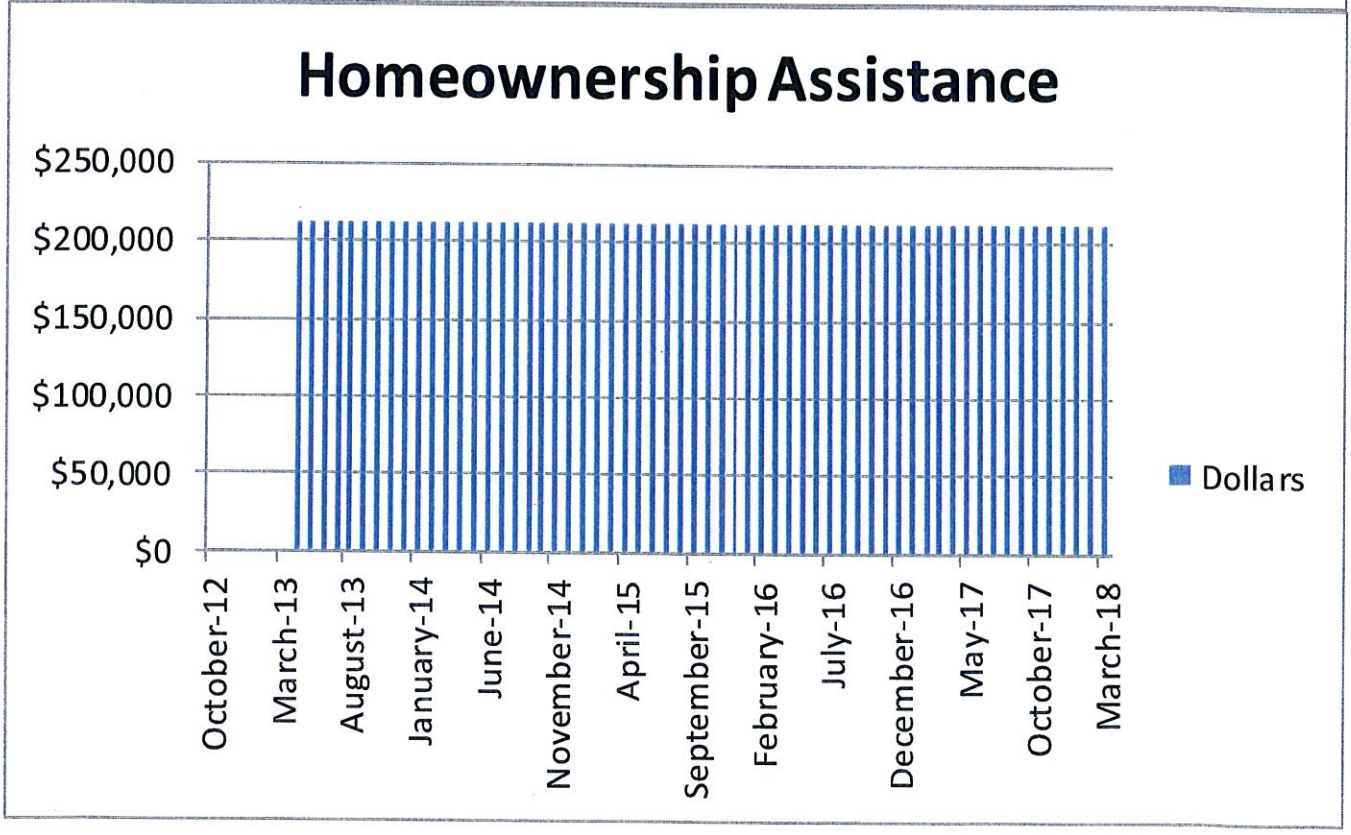

Trails
$140,000
$120,000
$100,000
$80,000
$60,000
$40,000
$20,000
$0
October-12
November-12
December-12
January-13
February-13
March-13
April-13
May-13
June-13
July-13
August-13
September-13
October-13
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July-14
August-14
September-14
Dollars

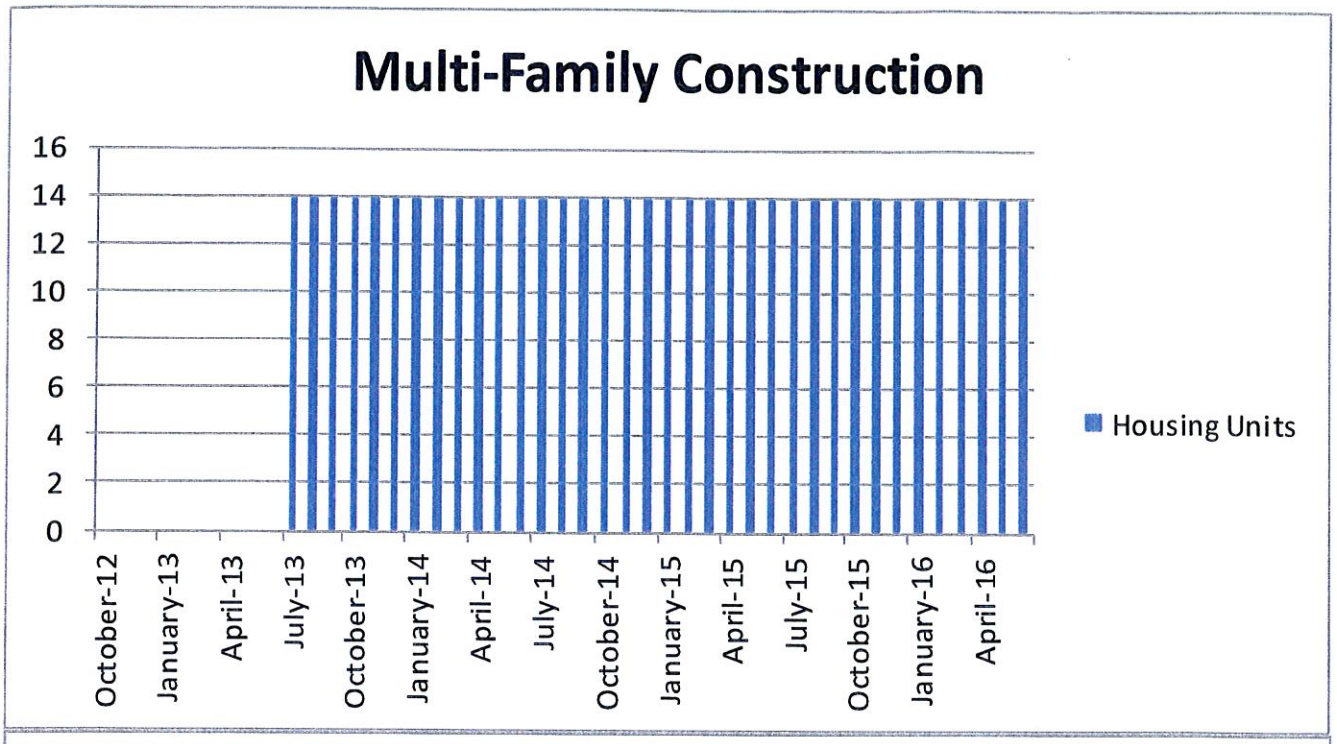

Tree Planting
800
700
600
500
400
300
200
100
0
October-13
November-13
December-13
January-14
February-14
March-14
April-14
May-14
June-14
July-14
August-14
September-14
October-14
November-14
December-14
January-15
February-15
March-15
1st Yr Maint.
2nd Yr Maint.
Trees

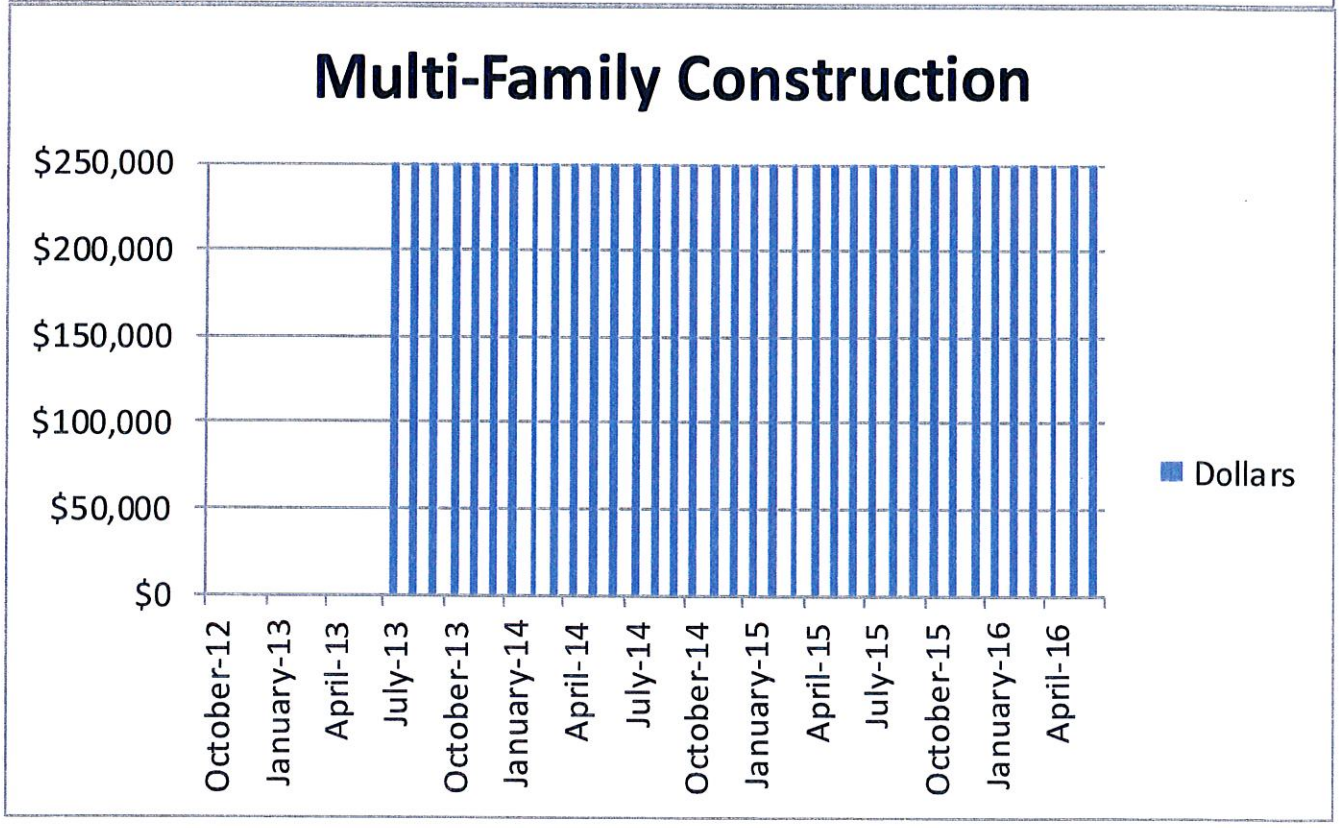

Tree Planting
$400,000
$350,000
$300,000
$250,000
$200,000
$150,000
$100,000
$50,000
$0
October-13
November-13
December-13
January-14
February-14
March-14
April-14
May-14
June-14
July-14
August-14
September-14
October-14
November-14
December-14
January-15
February-15
March-15
1st Yr Maint.
2nd Yr Maint.
Dollars

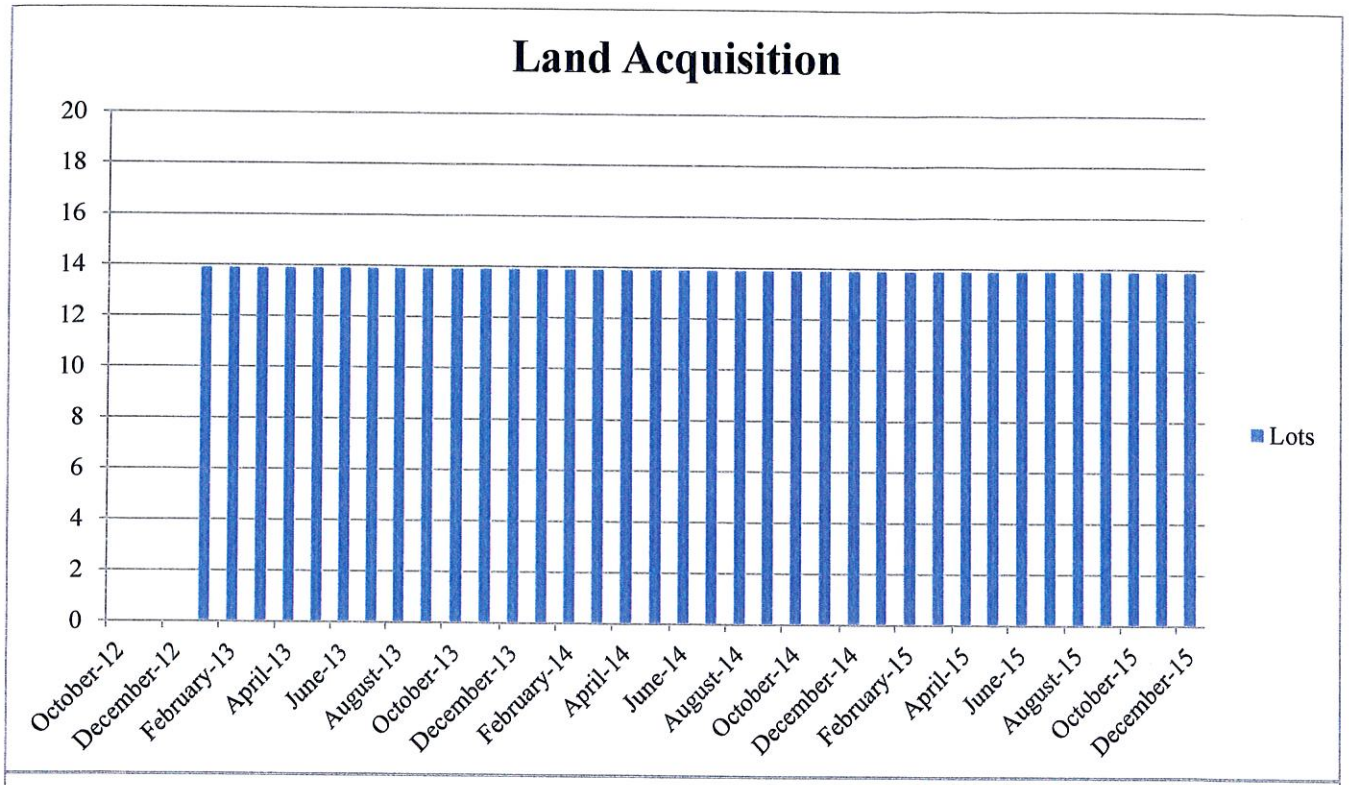

SPARK
$140,000
$120,000
$100,000
$80,000
$60,000
$40,000
$20,000
$0
October-12
December-12
February-13
April-13
June-13
August-13
October-13
December-13
February-14
April-14
June-14
August-14
October-14
December-14
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August-16
October-16
Dollars

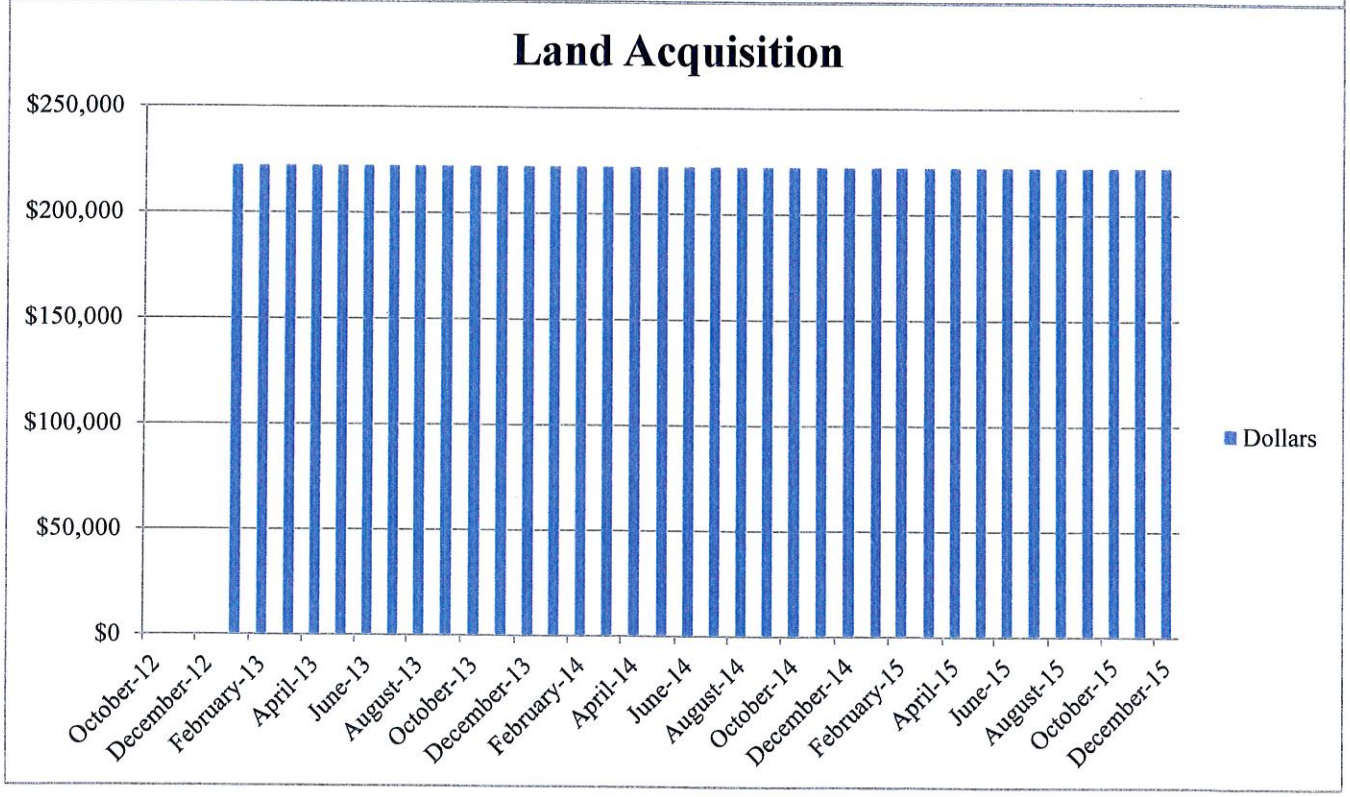

Homeownership Assistance
30
25
20
15
10
5
0
October-12
February-13
June-13
October-13
February-14
June-14
October-14
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February-16
June-16
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February-17
June-17
October-17
February-18
Housing Units

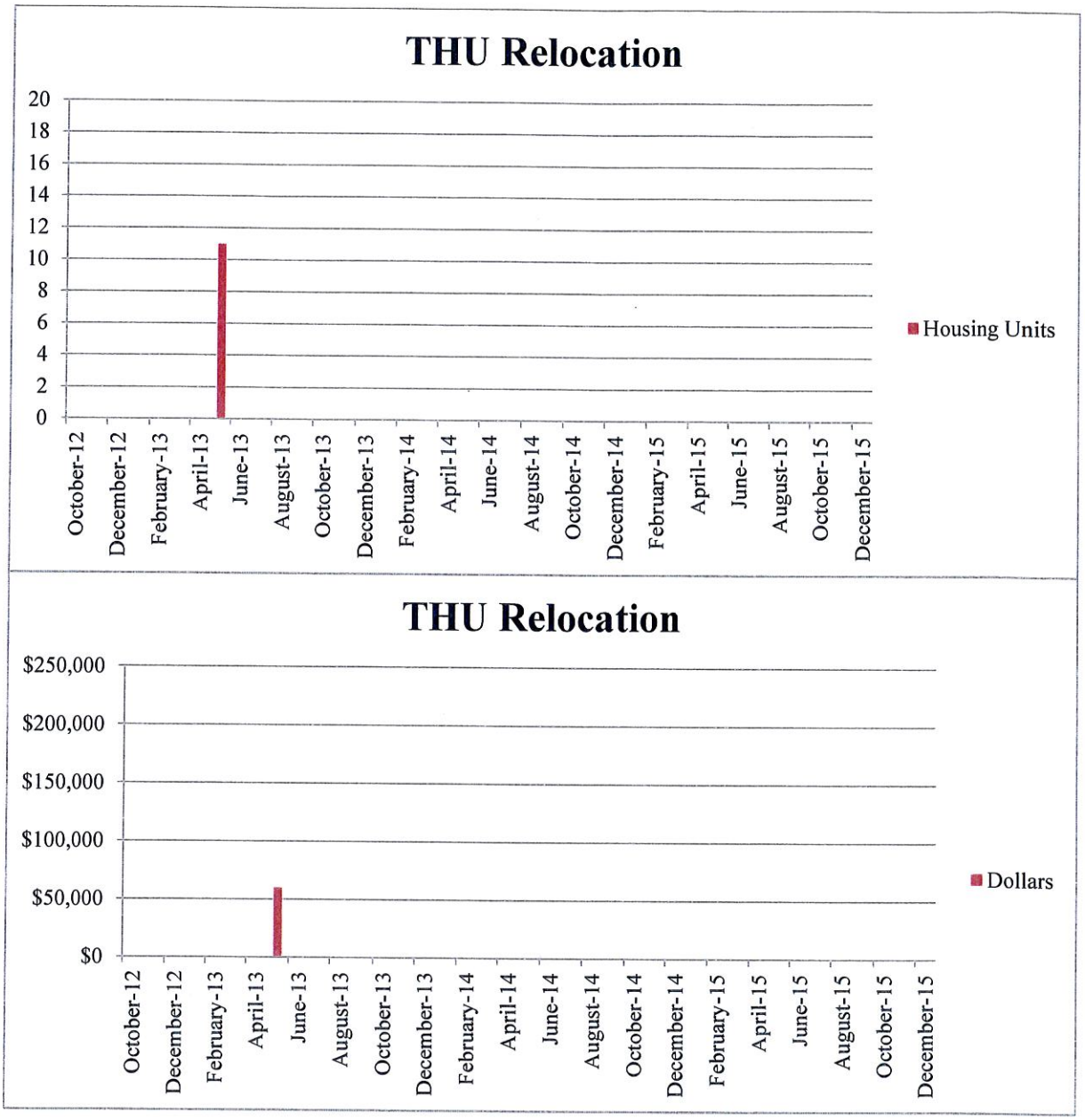

Homeownership Assistance
$250,000
$200,000
$150,000
$100,000
$50,000
$0
October-12
March-13
August-13
January-14
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May-17
October-17
March-18
Dollars

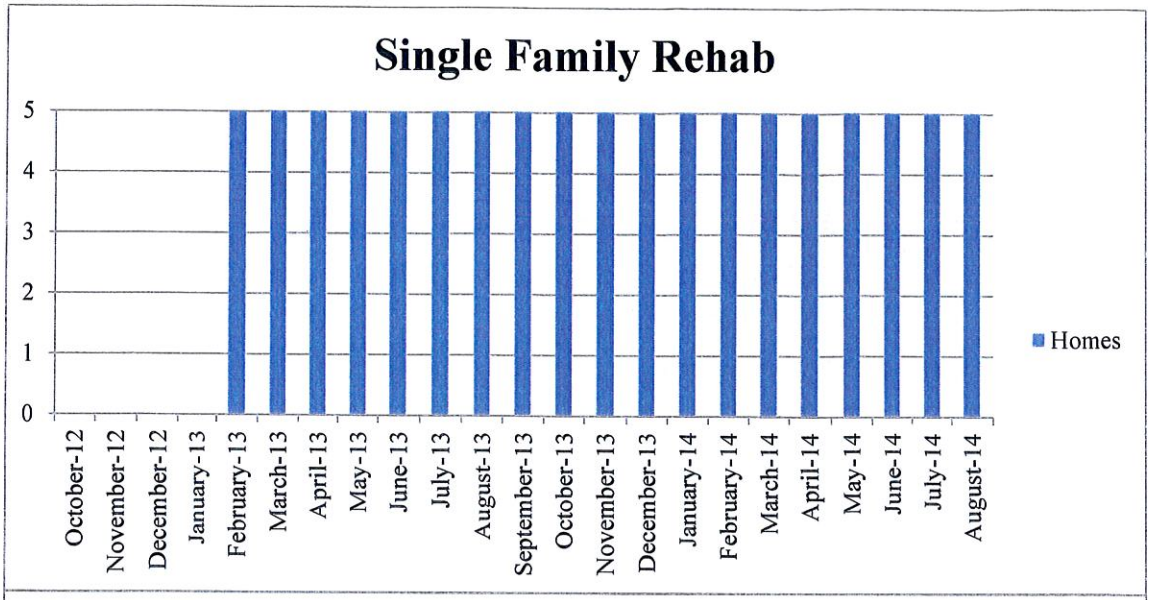

Multi-Family Construction
16
14
12
10
8
6
4
2
0
October-12
January-13
April-13
July-13
October-13
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January-16
April-16
Housing Units

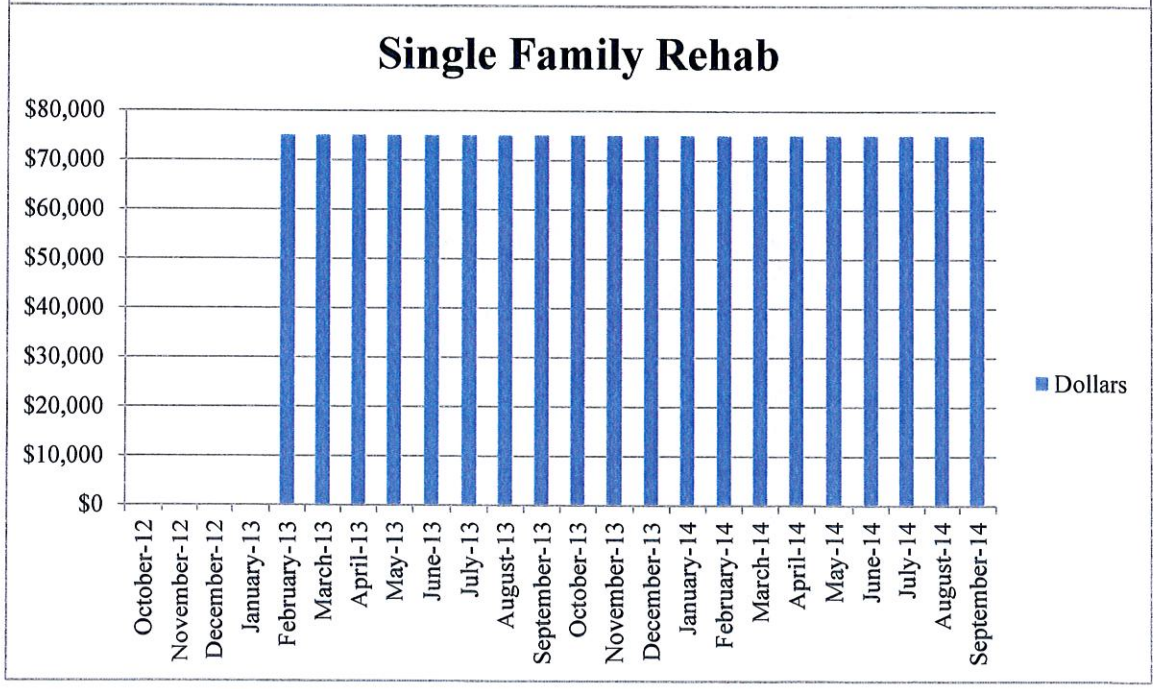

Multi-Family Construction
$250,000
$200,000
$150,000
$100,000
$50,000
$0
October-12
January-13
April-13
July-13
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January-16
April-16
Dollars

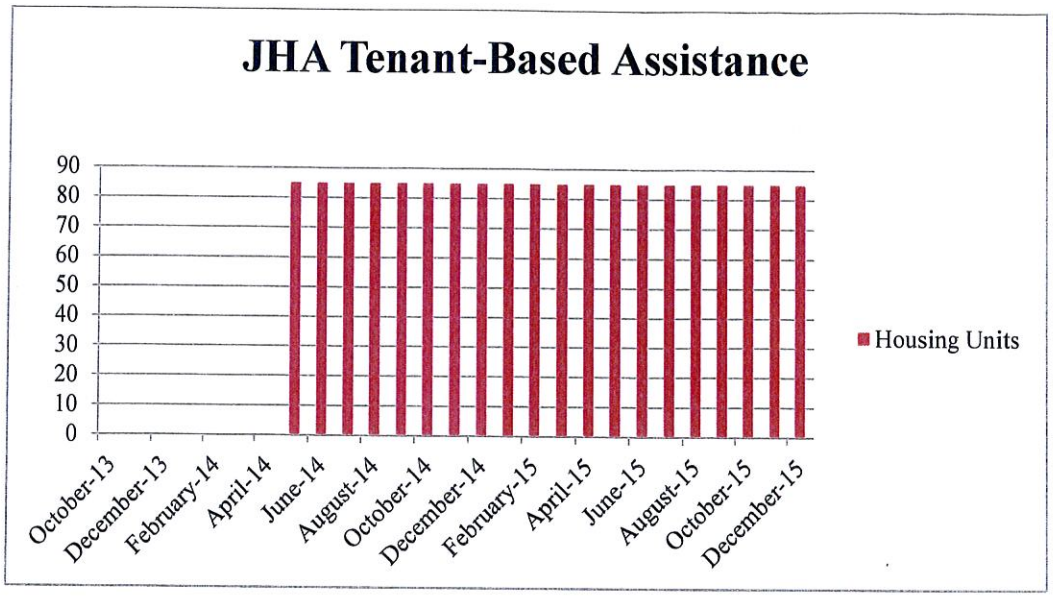

Land Acquisition
20
18
16
14
12
10
8
6
4
2
0
October-12
December-12
February-13
April-13
June-13
August-13
October-13
December-13
February-14
April-14
June-14
August-14
October-14
December-14
February-15
April-15
June-15
August-15
October-15
December-15
Lots

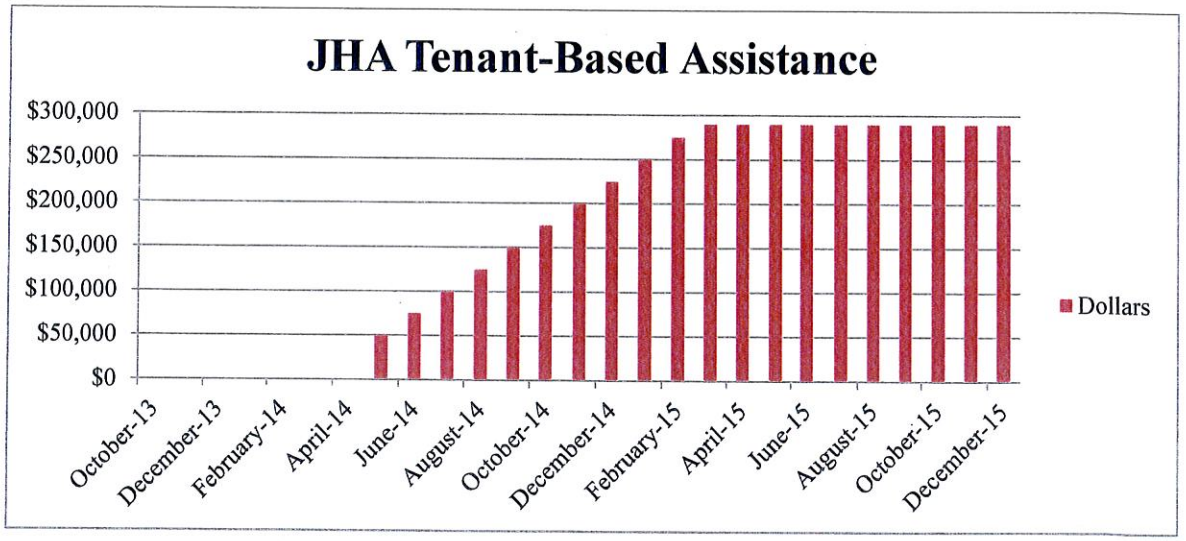

Land Acquisition
$250,000
$200,000
$150,000
$100,000
$50,000
$0
October-12
December-12
February-13
April-13
June-13
August-13
October-13
December-13
February-14
April-14
June-14
August-14
October-14
December-14
February-15
April-15
June-15
August-15
October-15
December-15
Dollars

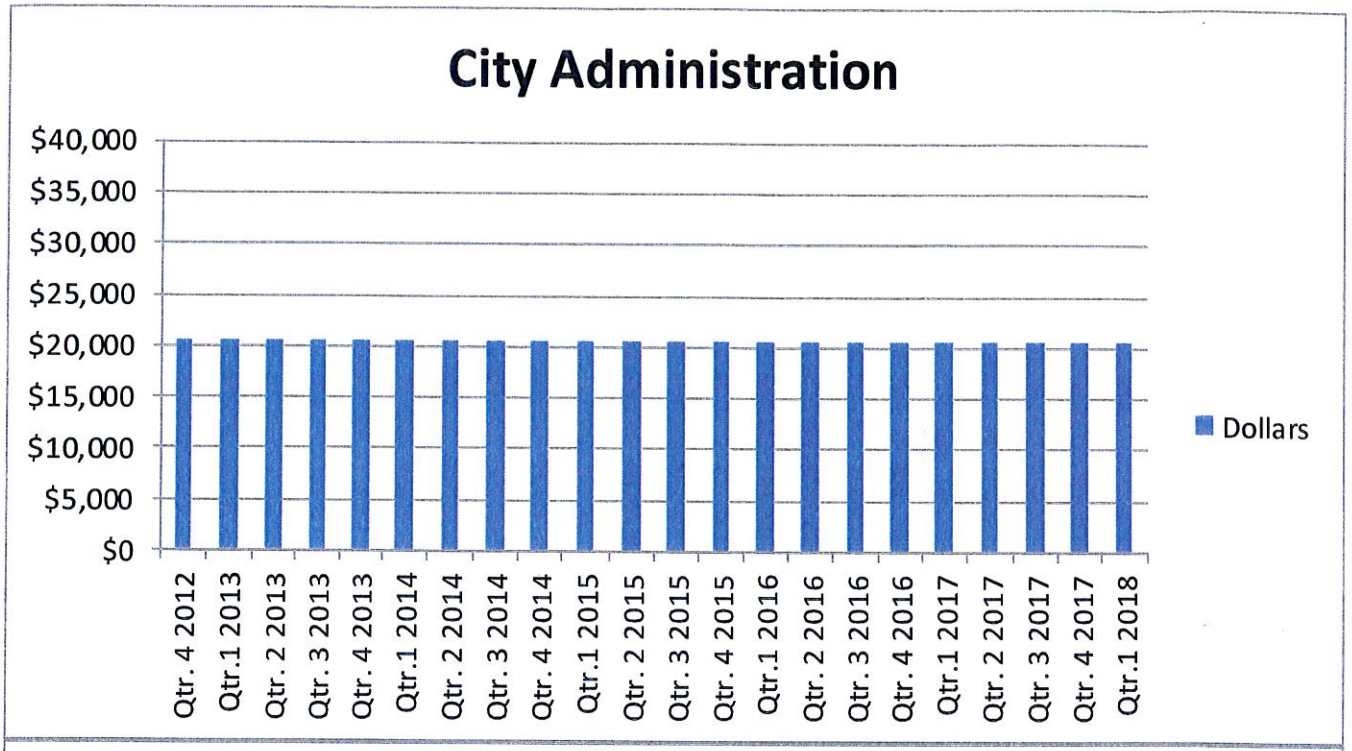

THU Relocation
20
18
16
14
12
10
8
6
4
2
0
October-12
December-12
February-13
April-13
June-13
August-13
October-13
December-13
February-14
April-14
June-14
August-14
October-14
December-14
February-15
April-15
June-15
August-15
October-15
December-15
Housing Units
THU Relocation
$250,000
$200,000
$150,000
$100,000
$50,000
$0
October-12
December-12
February-13
April-13
June-13
August-13
October-13
December-13
February-14
April-14
June-14
August-14
October-14
December-14
February-15
April-15
June-15
August-15
October-15
December-15
Dollars

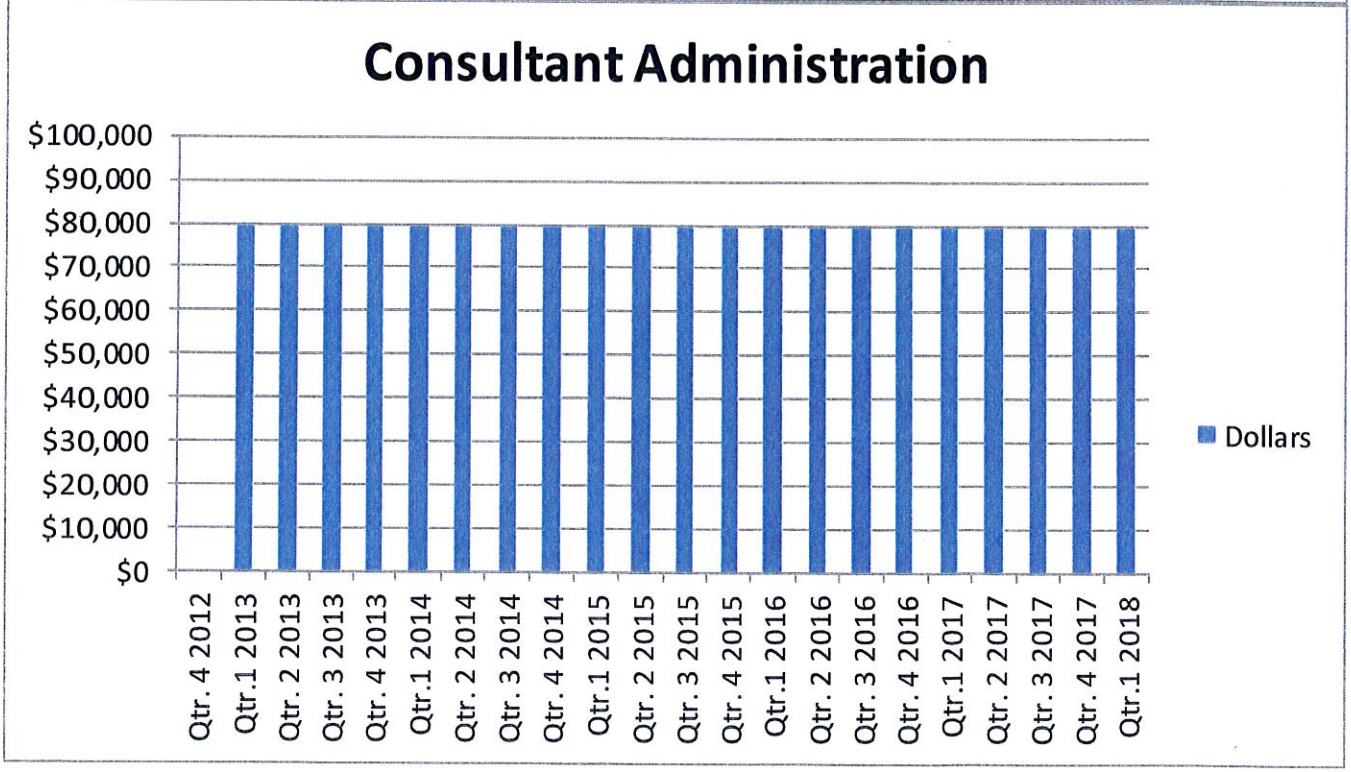

Single Family Rehab
5
4
3
2
1
0
October-12
November-12
December-12
January-13
February-13
March-13
April-13
May-13
June-13
July-13
August-13
September-13
October-13
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March-14
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May-14
June-14
July-14
August-14
Homes

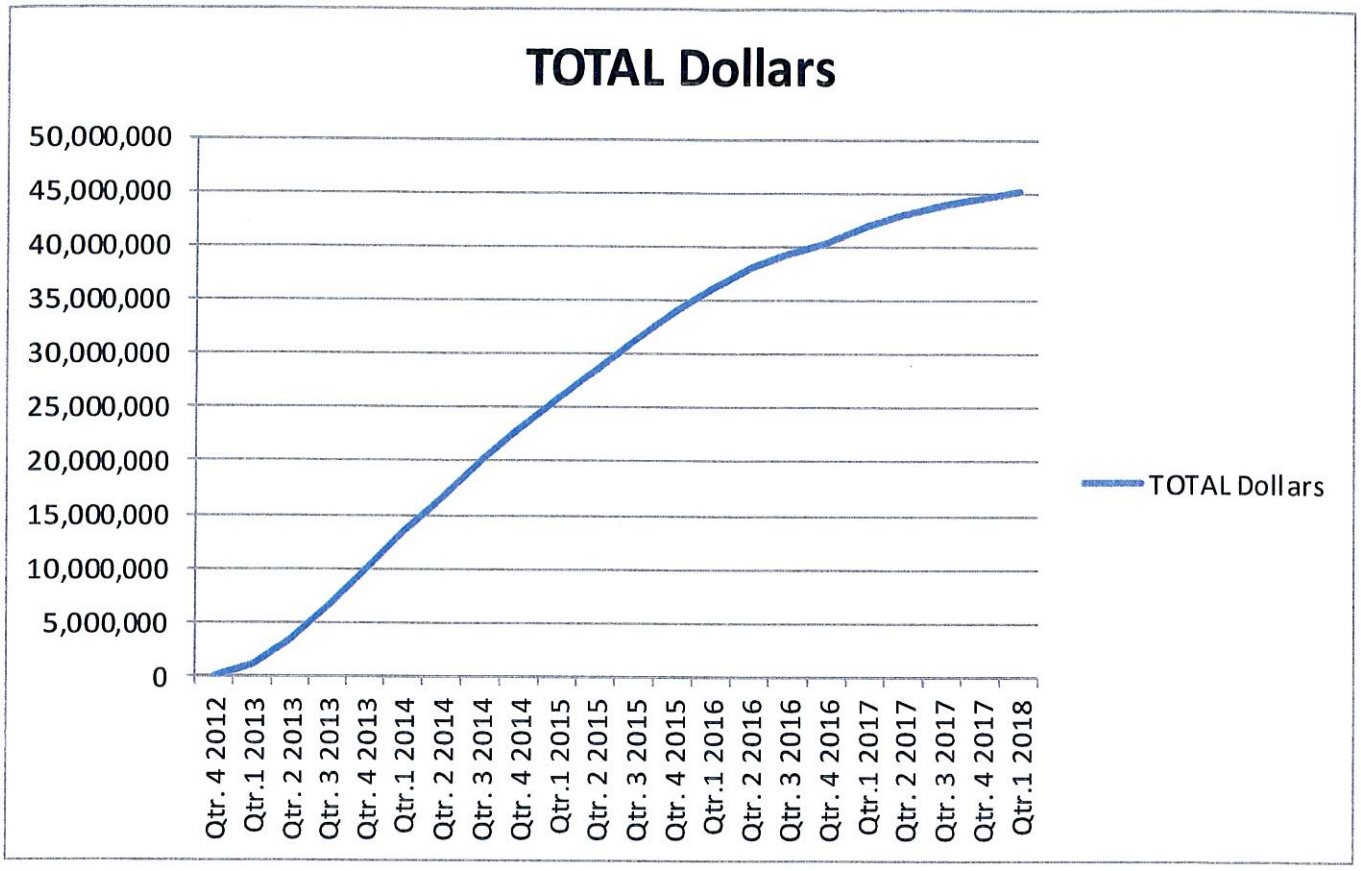

Single Family Rehab
$80,000
$70,000
$60,000
$50,000
$40,000
$30,000
$20,000
$10,000
$0
October-12
November-12
December-12
January-13
February-13
March-13
April-13
May-13
June-13
July-13
August-13
September-13
October-13
November-13
December-13
January-14
February-14
March-14
April-14
May-14
June-14
July-14
August-14
September-14
Dollars


JHA Tenant-Based Assistance
90
80
70
60
50
40
30
20
10
0
October-13
December-13
February-14
April-14
June-14
August-14
October-14
December-14
February-15
April-15
June-15
August-15
October-15
December-15
Housing Units


JHA Tenant-Based Assistance
$300,000
$250,000
$200,000
$150,000
$100,000
$50,000
$0
October-13
December-13
February-14
April-14
June-14
August-14
October-14
December-14
February-15
April-15
June-15
August-15
October-15
December-15
Dollars


City Administration
$40,000
$35,000
$30,000
$25,000
$20,000
$15,000
$10,000
$5,000
$0
Qtr. 4 2012
Qtr.1 2013
Qtr. 2 2013
Qtr. 3 2013
Qtr. 4 2013
Qtr.1 2014
Qtr. 2 2014
Qtr. 3 2014
Qtr. 4 2014
Qtr.1 2015
Qtr. 2 2015
Qtr. 3 2015
Qtr. 4 2015
Qtr.1 2016
Qtr. 2 2016
Qtr. 3 2016
Qtr. 4 2016
Qtr.1 2017
Qtr. 2 2017
Qtr. 3 2017
Qtr. 4 2017
Qtr.1 2018
Dollars


Consultant Administration
$100,000
$90,000
$80,000
$70,000
$60,000
$50,000
$40,000
$30,000
$20,000
$10,000
$0
Qtr. 4 2012
Qtr.1 2013
Qtr. 2 2013
Qtr. 3 2013
Qtr. 4 2013
Qtr.1 2014
Qtr. 2 2014
Qtr. 3 2014
Qtr. 4 2014
Qtr.1 2015
Qtr. 2 2015
Qtr. 3 2015
Qtr. 4 2015
Qtr.1 2016
Qtr. 2 2016
Qtr. 3 2016
Qtr. 4 2016
Qtr.1 2017
Qtr. 2 2017
Qtr. 3 2017
Qtr. 4 2017
Qtr.1 2018
Dollars


TOTAL Dollars
50,000,000
45,000,000
40,000,000
35,000,000
30,000,000
25,000,000
20,000,000
15,000,000
10,000,000
5,000,000
0
Qtr. 4 2012
Qtr.1 2013
Qtr. 2 2013
Qtr. 3 2013
Qtr. 4 2013
Qtr.1 2014
Qtr. 2 2014
Qtr. 3 2014
Qtr. 4 2014
Qtr.1 2015
Qtr. 2 2015
Qtr. 3 2015
Qtr. 4 2015
Qtr.1 2016
Qtr. 2 2016
Qtr. 3 2016
Qtr. 4 2016
Qtr.1 2017
Qtr. 2 2017
Qtr. 3 2017
Qtr. 4 2017
Qtr.1 2018
TOTAL Dollars

VII. BUDGET (REVISED 4/07/14)

COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RECOVERY
Budget

Infrastructure Activities	
Sidewalk Reconstruction/Construction	$ 2,500,000.00
Trail Construction	$ 2,000,000.00
Tree Planting	$ 2,000,000.00
Sub Total	**$ 6,500,000.00**
Economic Development	
SPARK – Performing Arts/Depot Renovation	$ 5,390,000.00
Sub Total	**$ 5,390,000.00**
Housing Activities	
Single Family Homeownership Direct Assistance	$12,750,000.00
(Safe Rooms Included in New Construction Activities)	
Mixed-Income Multi-family Residential	$ 9,000,000.00
Single Family Rehabilitation	$ 1,500,000.00
Land Acquisition/Assemblage	$ 7,440,000.00
FEMA THU Relocation	$ 60,000.00
Housing Authority Tenant Based Rental Assistance	$ 290,000.00
Housing Authority Site Improvements Repair	$ 210,000.00
Sub Total	**$ 31,250,000.00**
Program Administration Activities	
City of Joplin Administrative Costs	$ 452,667.09
Description: Pro-rata share of salary and benefits of Planning/ Community Development staff plus overhead including supplies, rent, etc	
Consultant Administrative Costs	$ 1,674,041.91
Description: Negotiated Administrative cost to allow for the hiring of a consulting firm to manage the majority of the grant admin and activities. **(5% maximum = $2,263,335.45)**	
Program Planning Activities	
Planning Activities (15% max. = $6,790,006.35)	$ 0.00
Sub Total (20% maximum)	**$ 2,126,709.00**
TOTAL CDBG-DR AWARD	**$ 45,266,709.00**

VIII. PUBLIC COMMENT

The City of Joplin provided an informal public meeting on July 3rd with a prominent posting on the City's official website indicating written comments would be accepted through July 12th at 5pm. The public meeting was advertised in the Joplin Globe and information was disseminated through local groups that have been active in Joplin's recovery efforts. Although conversations were held with the attendees of the public meeting, no written public comments were received during the mandatory 7-day comment period nor have any written comments been received before or after the official comment period.

IX. CERTIFICATIONS AND SF-424

The necessary SF-424 and Certifications required for these CDBG-DR funds are attached to this document and can be found in Appendix A.

Appendix A - CERTIFICATIONS

In accordance with the applicable statutes and the regulations governing the Disaster Recovery Action Plan, the jurisdiction certifies that:

A. Affirmatively Further Fair Housing -- The jurisdiction will affirmatively further fair housing, which means it will conduct an analysis of impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting that analysis and actions in this regard.

B. Anti-displacement and Relocation Plan -- It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR 24; and it has in effect and is following a residential anti-displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under the CDBG or HOME programs.

C. Lobbying Certification – The Grantee certifies that its compliance with restriction on lobbying required by 24 CFR party 87, together with disclosure forms, if required by part 87.

D. State and Local Laws – The grantee certifies that the Action Plan for Disaster Recovery is authorized under State and local law (as applicable) and that the grantee, and any entity or entities designated by the grantee possess(es) the legal authority to carry out the program for which it is seeking funding, in accordance with applicable HUD regulations and this Notice.

E. Consistency with Action Plan – The grantee certifies that activities to be undertaken with funds under Federal Register Volume 77, Number 73 are consistent with its Action Plan.

F. Acquisition and Relocation – The grantee certifies that it will comply with the acquisition and relocation requirements of the URA, as amended, and implementing regulations at 49 CFR part 24, except where waivers or alternative requirements are provided for in this Notice.

G. Section 3 – The grantee certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U. S. C. 1701u), and implementing regulations at 24 CFR part 135.

H. Public Participation – The grantee certifies that it is following a detailed citizen participation plan that satisfies the requirements o f24 CFR 91.105 or 91.115, as applicable (except as provided for in notices providing waivers and alternative requirements for this grant).

I. Use of Funds – The grantee certifies that it is complying with each of the following criteria:

(1) Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas for which the President declared a major disaster in 2011, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*).

(2) With respect to activities expected to be assisted with CDBG disaster recovery funds, the Action Plan has been developed so as to give the maximum feasible priority to activities that will benefit low- and moderate income families.

(3) The aggregate use of CDBG disaster recovery funds shall principally benefit low- and moderate-income families in a manner that ensures that at least 50 percent of the grant amount is expended for activities that benefit such persons.

(4) The grantee will not attempt to recover any capital costs of public improvements assisted with CDBG disaster recovery grant funds, by assessing any amount against properties owned and occupied by persons of low and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless: (A) Disaster recovery grant funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient CDBG funds (in any form) to comply with the requirements of clause (A).

J. Civil Rights -- The grantee certifies that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the Fair Housing Act (42 U.S.C. 3601–3619) and implementing regulations.

K. Excessive Force -- The grantee certifies that it has adopted and is enforcing the following policies: (1) A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and (2) A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

L. Capacity -- Each State or unit of local government receiving a direct award under this Notice certifies that it (and any subrecipient or administering entity) has the capacity to carry out disaster recovery activities in a timely manner; or the State or unit of local government will develop a plan to increase capacity where such capacity is lacking.

M. Special Flood Hazard Area -- The grantee certifies that it will not use CDBG disaster recovery funds for any activity in an area delineated as a special flood hazard area in FEMA's most current flood advisory maps, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 CFR part 55.

N. Lead-based Paint -- The grantee certifies that its activities concerning lead-based paint will comply with the requirements of 24 CFR part 35, subparts A, B, J, K, and R.

O. Applicable Laws -- The grantee certifies that it will comply with applicable laws.

_____ _____

Signature/Authorized Official Date

_____

Title

RESOLUTION NO. 2014-007

A RESOLUTION authorizing the filing of a Second Amendment to the Action Plan with the U.S Department of Housing and Urban Development as required for use of the City of Joplin's Community Development Block Grant Disaster Recovery (CDBG-DR) Program; and authorizing the City Manager to execute said Plan for and on behalf of the City of Joplin.

WHEREAS, on May 22nd, 2011, an EF-5 tornado caused catastrophic damage to a significant portion of the City of Joplin; and

WHEREAS, there were thousands of households affected by the tornado; and

WHEREAS, the U. S. Department of Housing and Urban Development (HUD) provides assistance to communities that experience extreme disaster recovery circumstances; and

WHEREAS, the City of Joplin has been allocated CDBG-DR grant assistance in response to the negative housing, infrastructure, and economic impacts caused by the tornado on May 22nd, 2011; and

WHEREAS, the City of Joplin amends the Action Plan to include assistance to the Joplin Housing Authority to recover tenant-based rental assistance funding and repair site improvements to their housing units and temporary office.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the City of Joplin file a Second Amendment to the Action Plan for the City of Joplin's Community Development Block Grant Disaster Recovery Program.

Section 2. That the City Manager of the City of Joplin is hereby authorized and directed to execute and allow submission of the Second Amendment to the Action Plan, for and on behalf of the City of Joplin.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ Day of _____, 2014, by a _____vote.

_____

Melodee Colbert-Kean, Mayor

ATTEST:

_____

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____

Brian W. Head, City Attorney

RESOLUTION NO. 2014-008

A RESOLUTION recognizing Lane Roberts upon his retirement from active service as the Chief of Police within the City of Joplin Police Department.

WHEREAS, on Friday, March 28, 2014, Lane Roberts retired from active service with the City of Joplin Police Department.

WHEREAS, Lane Roberts served residents of Joplin in an outstanding manner during Seven years of service over his career; and

WHEREAS, upon his departure the people of Joplin wish to extend recognition and appreciation to Lane Roberts for his many contributions through the years.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, AS FOLLOWS:

Section 1. The City of Joplin does hereby recognize and extend appreciation to Lane Roberts for his service of Seven Years to the City of Joplin in the Police Department and residents of this great city.

Section 2. That the people of Joplin, Missouri do hereby extend best wishes to Lane for many enjoyable and successful years.

Section 3. That this Resolution shall be in full force and effect from and after the date of its passage and approval.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this 7th day of April, 2014.

_____

Melodee Colbert-Kean, Mayor

ATTEST:

_____

Barbara L. Hogelin, City Clerk

ORDINANCES

EMERGENCY

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-116

Item: Consultant Agreement with HDR Engineering Inc. for the Sanitary Sewer Damage Assessment & Repair – Green Zone Project

Originating Department: Public Works – Engineering

Attachments: 1) Contract Agreement
2) Council Bill No. 2014-116

Department Head: Nicholas A. Heatherly Date: 3/31/14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3/31/14
Interim City Manager: Samuel L Anselm Date: 3/31/14

Recommended Action: Approval of a Consultant Agreement with HDR Engineering Inc. in the amount of $654,830.00 for Sanitary Sewer Damage Assessment & Repair Design and project management services.

Background: The May 2011 tornado caused damage to the City's sanitary sewer system. City staff has divided the entire storm zone into six areas including a "green area" in which State of Missouri DED funding can be used to rebuild damaged infrastructure. There are 113,600 feet of sewer and approximately 500 manholes in the green area that need to be damage assessed and repaired. City staff determined that one consultant can assess the damage, prepare a repair plan, create bid documents, and manage the construction project for the repairs to be made in the green area. The breakdown of services included in this agreement are $185,000.00 for clean & TV inspection by ACE Pipe Cleaning, and $213,200.00 for resident project representative (field engineering & construction inspection) which will be done by Tri-State Engineering as a sub consultant and $255,830.00 to HDR for design.

Discussion: City staff advertised in the Joplin Globe for one day and received 16 sets of qualifications from consulting firms for this project. Six firms were given interviews for this project and HDR was selected. The consulting fees are within industry standards and the engineer's estimate.

Recommendation: It is recommended that an award of the consultant agreement with HDR Engineering Inc. not to exceed the amount of $654,830.00.

EXHIBIT A
FOR PROFESSIONAL ENGINEERING AND TECHNICAL SERVICES

The services will be for: The City has grant funding available through the Missouri Department of Economic Development (DED) for the purpose of repairing damage to the sanitary sewer system associated with the May 22, 2011 tornado. The project area is depicted as the area shaded green in the attached map. The project area includes approximately 113,600 LF of sanitary sewers and 500 manholes. These DED grant funds must be expended by June 30, 2015.

Engineer will provide project management and coordination, field evaluation, analysis and reporting, design, bidding, and construction administration services for this project as described herein.

I. SCOPE OF SERVICES

In connection with the above, Engineer will perform the following services:

A. Project Management and Coordination

1. Prepare and submit for City approval, a project schedule that includes its duration, target dates for deliverables, submittals, and meetings.
2. Engineer shall provide invoices to the City which will be prepared and submitted each month. The monthly invoice will also include a brief update on progress and any schedule adjustments.
3. Participate in up to thirty-two coordination meetings with the City and its consultants that are working on other portions of the infrastructure damage repair program. These meetings will typically be held every two weeks from April 2014 through June 2015. The actual frequency of the meetings may vary during the course of the project.
4. Engineer shall regularly correspond with City's representative as required by the Work.

B. Field Evaluation

1. Engineer shall provide the services of Ace Pipe Cleaning, Inc. (Ace) to perform cleaning and CCTV inspection of sanitary sewers in the project area. Ace will provide the labor, equipment, material, and supplies for the field evaluation.
2. The CCTV inspection will be performed using a robotic camera capable of recording the condition of the pipe. Data will be generated in DVD and physical report format and will provide logged information of pipe condition, calling out defects (such as root intrusions, pipe separations, cracks, decay and crumbling) as necessary. All Ace data technicians are NASSCO PACP certified. Defects in the pipelines will be documented in accordance with PACP standards.
3. Compensation to Engineer is based on the following maximum quantities:

Item	Description	Quantity	Units
1	6" Diameter Clean and CCTV	200	LF
2	8" Diameter Clean and CCTV	99,300	LF
3	10" Diameter Clean and CCTV	6,700	LF
4	12" Diameter Clean and CCTV	2,000	LF

5	15" Diameter Clean and CCTV	4,300	LF
6	16" Diameter Clean and CCTV	200	LF
7	18" Diameter Clean and CCTV	900	LF
8	6" Diameter Heavy Clean	100	LF
9	8" Diameter Heavy Clean	9,930	LF
10	10" Diameter Heavy Clean	670	LF
11	12" Diameter Heavy Clean	200	LF
12	15" Diameter Heavy Clean	430	LF
13	16" Diameter Heavy Clean	100	LF
14	18" Diameter Heavy Clean	100	LF

Clean and CCTV activities include standard cleaning. Heavy Clean is the additional cost to the Clean and CCTV cost where heavy cleaning of the pipeline is necessary. Normal cleaning is consider cleaning requiring three passes or less using high-velocity hydraulic equipment capable of pumping 80 gpm at 2,000 psi. Heavy cleaning shall be considered all cleaning other than normal cleaning, but does not include mechanical cleaning with bucket machines and winches.

4. Engineer may adjust quantities among line items above as long as the total approved compensation for Field Evaluation is not exceeded without the City's approval.
5. Engineer will respond to questions in the field that may arise during the course of CCTV inspection.
6. Assumptions for Field Evaluation Compensation:
   a. Ace is not be required to carry professional liability insurance.
   b. Compensation excludes any sales or use or other similar taxes.
   c. Compensation does not include payment of prevailing wages or certified payroll reporting.
   d. Compensation does not include by-pass pumping, any corrections, repairs, or extractions required due to existing structural defects or failures.
   e. Ace will provide traffic control (cones) if necessary.
   f. In the case of collapsed lines requiring reverse setup, CCTV inspection footage shall be based on the manhole-to-manhole length of the pipe segment.
   g. City will provide free access to the work site which will be adequate for Ace's equipment and will be at least 150 feet of manhole. Ace reserves the right to charge City if additional mobilizations are required if access is not available.
   h. City will coordinate the Work with any private property owners.
   i. City will provide disposal site.
   j. City will provide water for cleaning and access to hydrant and hydrant meter.
   k. There are no hazardous materials present in the project area.

l. Any cleaning required under reduced or no-flow conditions will be charged at a negotiated hourly rate.

C. Analysis and Reporting

1. HDR will apply the Business Risk Exposure (BRE) Model to analyze the pipes and manholes within the tornado zone. The model will generate data to create a list of pipes and manholes for rehabilitation. The analysis will focus on the following:
   a. Analysis for sewer pipes and manholes based on the BRE Model.
   b. Identifying sewer pipes and manholes for rehabilitation
2. The following items are key elements to be included in the analysis:
   a. Develop a detailed map of inspected sewer pipes and manholes along with a priority ranking for repair
   b. Develop projections for repair including costs for planning purposes.
   c. Provide methodology for assessing and prioritizing sewer pipes and manholes.
   d. Provide updates back to the City of Joplin GIS database
3. Prepare a Report which will, , contain schematic layouts, sketches, and conceptual design criteria with exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to Owner which Engineer recommends. For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a summary of allowances for other items and services included within the definition of Total Project Costs.
4. Furnish three review copies of the Report and any other deliverables to Owner and review it with Owner. Within 14 calendar days of receipt, Owner shall submit to Engineer any comments regarding the Report.
5. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and furnish three copies of the revised Report and any other deliverables to the Owner

D. Design

1. Engineer will prepare drawings for the proposed improvements as recommended in the Report. The drawings will include the following types of improvements: CIPP of sewer lines, lining of manholes, trenchless service line repairs, and point repairs. The drawings will indicate the types and quantities of improvements on maps utilizing the City's GIS. Topographic and boundary surveys, utility locates, and detailed design of individual improvements will not be provided. Engineer may rely upon the accuracy and completeness of the City's GIS.
2. Engineer will assist the City in obtaining the approval the Missouri Department of Economic Development and Missouri Department of Natural Resources.
3. Engineer will prepare set of front end documents and technical specifications for the construction package limited to the types of improvements outlined in Section I.D.1.
4. Prepare and furnish three copies of bidding documents for review by Owner, its legal counsel, and other advisors. Within fourteen days of receipt, Owner shall submit to Engineer any comments and instructions for revisions.

5. Revise the bidding documents in accordance with comments and instructions from the Owner, as appropriate, and submit five final copies of the bidding documents and a revised opinion of probable Construction Cost.

E. Bidding

1. Engineer will prepare the notice to contractors for bidding purposes, notify Dodge Reports of the progress of the project, send written notices to a number of contractors qualified to bid on the work, and send written notices to various minority organizations and minority contractors.
2. Engineer will assist the City in advertising for bids, attend the bid opening, prepare bid tabulations, and assist in analyzing bids and making recommendation with respect to the selection of a qualified contractor for the construction of the work.
3. Engineer will prepare and forward five signature sets of Contract Documents to the contractor selected by City.

F. Construction Services

1. General Administration of Construction Contract: Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer as assigned in the Construction Contract shall not be modified, except as Engineer may otherwise agree in writing. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
2. Pre-Construction Conference: Participate in a Pre-Construction Conference prior to commencement of Work at the Site.
3. Schedules: Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
4. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:
    a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
    b. The purpose of Engineer's visits to, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that

the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Engineer shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish or perform the Work in accordance with the Contract Documents.

c. Engineer's compensation is based a maximum of fourteen (14) site visits.

5. Defective Work: Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. However, neither Engineer's authority to reject Work nor Engineer's decision to exercise or not exercise such authority shall give rise to a duty or responsibility of the Engineer to Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other person(s) or entities performing any of the Work, including but not limited to any duty or responsibility for Contractors' or Subcontractors' safety precautions and programs incident to the Work.

6. Clarifications and Interpretations; Field Orders: Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents.

7. Change Proposal Requests, Change Orders and Work Change Directives: Recommend change proposal requests, change orders and work change directives to Owner, as appropriate, and prepare change proposal requests, change orders and work change directives as required.

8. Shop Drawings and Samples: Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

9. Inspections and Tests: Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the

requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.

10. Disagreements between Owner and Contractor: Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by Owner or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Engineer shall be fair and not show partiality to Owner or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

11. Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

    a. Determine the amounts that Engineer recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe Contractor's Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).

    b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

12. Contractor's Completion Documents: Receive, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, and Samples, and transmit the annotated record documents which are to be

assembled by Contractor in accordance with the Contract Documents to obtain final payment.

13. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Project to determine if the Work is substantially complete. If after considering any objections of Owner, Engineer considers the Work substantially complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.

14. Final Notice of Acceptability of the Work: Conduct a final visit to the Project to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice that the Work is acceptable to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.

15. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. Engineer shall be entitled to an equitable increase in compensation if Construction Phase services, including Resident Project Representative services, are required beyond a seven month construction period for completion and readiness for final payment of Contractor as set forth in the Construction Contract or if the Project involves more than one prime contract.

16. *Limitation of Responsibilities:* Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Contractor's Work, during the Construction Phase or otherwise. Engineer shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

G. Resident Project Representative

1. Engineer shall provide the services of one or more Resident Project Representatives (RPR) during the course of construction of recommended improvements. It is anticipated that one and one half fulltime RPRs will be needed during the course of a seven month construction period. Engineer's compensation is based upon providing up to 1,860 hours of RPR services.

2. Through RPR's observations of Contractor's work in progress and field checks of materials and equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such RPR field checks or as a result of such RPR observations of Contractor's work in progress, supervise, direct, or have control over Contractor's Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for security or safety at the Site, for safety precautions and programs incident to any contractor's work in progress, or for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's performing and furnishing of its work. The Engineer (including RPR) neither guarantee the performances of any contractor nor assumes responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific terms set forth in Paragraph A1.05 of Exhibit A of the Agreement are applicable.

    a. The duties and responsibilities of the RPR are as follows:

b. *General:* RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.

c. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.

d. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

e. *Liaison:*

1. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the intent of the Contract Documents.

2. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

3. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

f. *Interpretation of Contract Documents:* Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.

g. *Shop Drawings and Samples:*

1. Record date of receipt of Samples and approved Shop Drawings.

2. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.

3. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.

h. M*odifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.

i. *Review of Work and Rejection of Defective Work:*

1. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.

2. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval.

j. *Inspections, Tests, and System Start-ups:*

1. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.

2. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.

3. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.

4. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.

k. *Records:*

1. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all change proposal requests, change orders, field orders, work change directives, addenda, additional Drawings issued subsequent to the execution of the Construction Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents.

2. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of change proposal requests, change orders, field orders, work change directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

3. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.

4. Maintain records for use in preparing Project documentation.

5. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

l. *Reports:*

1. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

2. Draft and recommend to Engineer change proposal requests, change orders, work change directives, and field orders. Obtain backup material from Contractor.

3. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.

4. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern.

m. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

n. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

o. *Completion*:

1. Participate in visits to the Project to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected.

2. Participate in a final visit to the Project in the company of Engineer, Owner, and Contractor, and prepare a final list of items to be completed and deficiencies to be remedied.

3. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

3. Resident Project Representative shall not:

a Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).

b. Exceed limitations of Engineer's authority as set forth in this Agreement.

c. Undertake any of the responsibilities of Contractor, Subcontractors or Suppliers.

d. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.

e. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.

f. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.

g. Accept shop drawing or sample submittals from anyone other than Contractor.

h. Authorize Owner to occupy the Project in whole or in part.

H. Supplemental Services

1. Upon written authorization, Engineer shall provide additional services not included in other tasks as requested by City. An allowance of 10% of the total compensation for Items A through G is provided for such Supplemental Services. If in the opinion of the Engineer the estimated cost of supplemental services requested by City will exceed the available allowance, Engineer shall notify City in writing, and City shall either reduce the scope of requested services or authorize an amendment to this Agreement.

II. TO BE PROVIDED BY THE CITY

A. All available pertinent information that it may have in its possession or to which it may have access, including manhole location and inspection data and GIS data.

B. Services outlined under the field evaluation services in Section I.B.6.

C. A representative to whom Engineer will report and from whom Engineer shall receive instruction and authorization.

D. Right of access to all properties as required during the execution of the work.

E. All necessary resident engineering services.

F. Services of an independent testing laboratory to perform all materials testing necessary for control of the project during the construction phase.

G. Title work necessary for easement or property acquisition.

III. TO BE PROVIDED BY ENGINEER

A. The services of all professional and technical personnel required for the performance of the services described under Scope of Work.

B. Up to five copies of the construction plans and specifications for the project for use by the City.

IV. TIME OF PERFORMANCE

A. The services of Engineer are to commence upon the signing of the contract, and the final contract plans and documents will be available, ready for advertising for bids by September 1, 2014 based upon a notice to proceed by April 1, 2014.

B. Construction services shall be provided for up to seven months.

V. COMPENSATION

A. The City will compensate Engineer for the work specified above as follows:

1. For all work and services described in the Scope of Services the lump sum fee for each of the phases of Work shall be as follows:

Project Management and Coordination	$45,200.00
Field Evaluation	$185,800.00
Analysis and Reporting	$33,000.00
Design	$52,600.00
Bidding	$8,000.00
Construction Services	$57,500.00
Resident Project Representative	$213,200.00
Basic Services Total	$595,300.00
Supplemental Services (if authorized)	$59,530.00
Total	$654,830.00

2. This cost shall constitute complete compensation for all direct labor, payroll burden, general and administrative overhead, profit, travel, equipment, and materials necessary to complete the tasks as set forth in the Scope of Work.

VI. METHOD OF PAYMENT

Payment to Engineer for services under Scope of Work will be made monthly based on the percentage of work completed by phase during the preceding month and will, in every case, be supported by a suitable invoice.

VII. SPECIAL CONDITIONS

This contract is subject to and incorporates the provisions attached hereto as Exhibit B, the Regulations of the Department of Housing and Urban Development relative to Contracts for Community Development, Part II, General Terms and Conditions.

VIII. ACCEPTANCE

If this contract meets with your approval, please indicate your acceptance by signing this proposal and returning one signed copy.

Submitted by:

Engineer Name

Attest:

_____ _____

Name and title

Name and Title

City

Attest:

_____ _____

Name and title

Name and Title

STATE OF MISSOURI)
)ss
COUNTY OF JASPER

AFFIDAVIT

(as required by Section 285.530, Revised Statues of Missouri) As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE: Any person performing work or service of any kind for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM: Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY: A person acts knowingly or with knowledge,

(a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or
(b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN: An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared _____, who, being duly sworn, states on his oath or affirmation as follows:

1. My name is_____and I am currently the President of_____ (hereinafter "Contractor"), whose business address is: _____ and I am authorized to make this Affidavit.

2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and City of Joplin, Missouri.

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

Further, Affiant sayeth not.

_____

Affiant

Subscribed and sworn to before me this_____day of_____, 2014.

Commission #

EXHIBIT B

PART II – TERMS AND CONDITIONS

1. Reports and Information. The Engineer, at such times and in such forms as the City may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
2. Records and Audits. The Engineer shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract unless permission to destroy them is granted by the City.
3. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Engineer.
4. Equal Employment Opportunity. During the performance of this Contract, the Engineer agrees as follows:
    a. The Engineer will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. The Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.
    b. The Engineer will, in all solicitation or advertisements for employees placed by or on behalf of the Engineer, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
    c. The Engineer will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
    d. The Engineer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
    e. The Engineer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the City and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
    f. In the event of the Engineer's noncompliance with the non-discrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Engineer may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed

and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Engineer will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Engineer will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Engineer becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the City, the Engineer may request the United States Government to enter into such litigation to protect the interests of the United States.

5. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

6. Section 109(a) of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.

7. Affirmative Action for Handicapped Workers

   a. The Engineer will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Engineer agrees to take affirmative action to employ, advance in employment, and to otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices, such as employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

   b. The Engineer agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

   c. In the event of the Engineer's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

   d. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of the applicants and employees.

e. The Engineer will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

f. The Engineer will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Engineer will take such action with respect to any subcontractor or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

8. Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his handicap in benefiting from any program or activity receiving Federal financial assistance. All recipients must certify to compliance with all provisions of this Section.

9. Age Discrimination Act of 1975. No person in the United States, on the basis of age, be excluded from participation in, be denied benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

10. Authorized Employees. Consultant acknowledges that Section285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Consultant therefore covenants that is not knowingly in violation of subsection 1 or Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully to work in the United States.

11. Interest of Engineer and Employees. The Engineer covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Engineer further covenants that in the performance of this Contract, no person having any such interest shall be employed.

COUNCIL BILL NO. 2014- 116

ORDINANCE NO.

AN ORDINANCE approving a agreement for HDR Engineering Inc. Six Hundred Fifty Four Thousand Eight Hundred Thirty and no/100 Dollars ($654,830.00) for Consultant Services for the Sanitary Sewer Damage Assessment & Repair – Green Zone project and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. Approval of an agreement for HDR Engineering Inc. for Six Hundred Fifty Four Thousand Eight Hundred Thirty and no/100 Dollars ($654,830.00) for Consultant Services for the Sanitary Sewer Damage Assessment & Repair – Green Zone project in the City of Joplin, Jasper County.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. That the Director of Public Works is hereby authorized to enter into an agreement on behalf of the City of Joplin with HDR Engineering Inc.

Section 4. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a _____ vote.

ATTEST:

_____
Melodee Colbert Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: September April 7, 2014
Council Bill No. 2014-120

Item: Purchase of Property for the 20th Street Grade Separation Project
Originating Department: Public Works – Engineering

Attachments: 1) Location Map
3) Council Bill No. 2014-120

Engineering Department: David Hunt DWH	Date: 3-31-14
Department Head: Nicholas A. Heatherly	Date: 3/31/14
City Attorney: Brian Head	Date: 3-31-14
Interim City Manager: Samuel L. Anselm	Date: 3/31/14
Finance Department: Leslie Haase	Date: 3-31-14

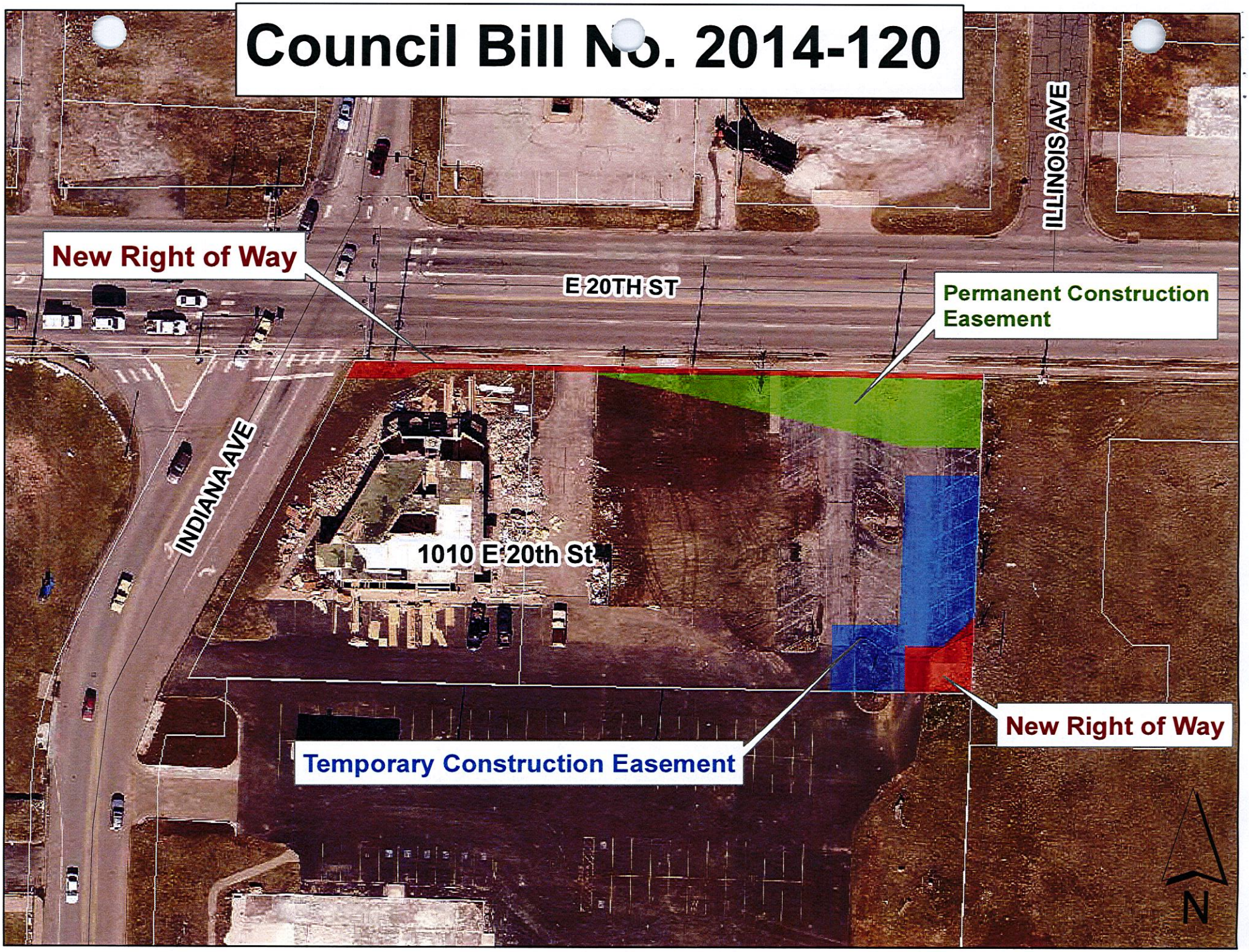
Recommended Action: Purchase of Right of Way from Charles Burt Inc. at 1010 E. 20th Street.

Background: On February 19, 2013, City Council approved the construction of a viaduct for the grade separation at 20th Street maintained by Kansas City Southern Railway. The crossing is currently controlled by two gates and several mast-mounted and cantilevered flashing lights. In order to reduce delay and enhance safety for train operators and highway users, separating the crossing grade is necessary. The design will take into consideration pedestrian and bicycle amenities. The purchase of right of way and easements is necessary for the construction of this project.

Funding for the construction of this project is part of a Twelve Million Dollars ($12,000,000) TIGER Grant award through the U.S. Department of Transportation Federal Highway Administration and the City of Joplin's 2004 Capital Improvement Sales Tax.

Discussion: Staff has reached an agreement with the property owner for Twenty Thousand Dollars ($20,000.00). This is within the appraisal range for this acquisition.

Recommendation: Staff recommends approval for payment of Twenty Thousand Dollars ($20,000.00), for the purchase of the described right of way and easements at 1010 E. 20th Street.


Council Bill No. 2014-120
New Right of Way
E 20TH ST
ILLINOIS AVE
Permanent Construction Easement
INDIANA AVE
1010 E 20th St
New Right of Way
Temporary Construction Easement
N

COUNCIL BILL NO. 2014-120 **ORDINANCE NO.**

AN ORDINANCE approving the purchase of right of way and easements from property at 1010 E. 20th Street, consisting of Part of Lots Numbered One Hundred Sixty-Eight (168), One Hundred Sixty-Nine (169), and One Hundred Seventy (170) in Southmorland Acres Addition to the City of Joplin, Jasper County, Missouri; and authorizing the payment of Twenty Thousand and 00/100 dollars ($20,000.00) and containing an emergency clause.

WHEREAS, Charles Burt Inc. is the legal owner of property at 1010 E. 20th Street, consisting of Part of Lots Numbered One Hundred Sixty-Eight (168), One Hundred Sixty-Nine (169), and One Hundred Seventy (170) in Southmorland Acres to the City of Joplin, Jasper County, Missouri, according to the recorded Plat thereof and;

WHEREAS, the Council of the City of Joplin approved in the 2013-2014 budget funds for the purchase of right of way for 20th Street Grade Separation Project.

WHEREAS, in order to make said improvements, it is necessary for the City of Joplin to acquire right of way and easements, described herein.

RIGHT-OF-WAY

THAT PART OF LOTS NUMBERED ONE HUNDRED SIXTY-NINE (169), LOT NUMBERED ONE HUNDRED SEVENTY (170) , AND THE WEST 30 FEET OF LOT NUMBERED ONE HUNDRED SIXTY-EIGHT (168) IN SOUTHMORLAND ACRES ADDITION TO THE CITY OF JOPLIN, IN THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID NW1/4 OF THE NE1/4; THENCE S88°55'35"E, 416.02 FEET ALONG THE NORTH LINE OF SAID NW1/4 OF THE NE1/4; THENCE DEPARTING SAID NORTH LINE, S02°07'52"W, 49.98 FEET TO A POINT ON THE CURRENT SOUTH RIGHT-OF-WAY LINE OF 20TH STREET BEING THE POINT OF BEGINNING;
THENCE CONTINUING S02°07'52"W, 3.00 FEET ALONG A LINE PARALLEL WITH AND 30.00 FEET EAST OF THE WEST LINE OF SAID LOT 168; THENCE N88°53'27"W, 260.73 FEET;
THENCE S71°27'19"W, 14.87 FEET; THENCE N88°53'27"W, 26.50 FEET; THENCE N29°28'56"E, 9.09 FEET ALONG THE CURRENT EAST RIGHT-OF-WAY LINE OF INDIANA AVENUE; THENCE S88°53'27"E, 296.96 FEET ALONG THE CURRENT SOUTH RIGHT-OF-WAY LINE OF 20TH STREET TO THE POINT OF BEGINNING. -ALSO- THAT PART OF LOTS NUMBERED ONE HUNDRED SIXTY-EIGHT (168) AND ONE HUNDRED SIXTY-NINE (169) IN SOUTHMORLAND ACRES ADDITION TO THE CITY OF JOPLIN, IN THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 169; THENCE N89°02'21"W, 2.00 FEET ALONG THE SOUTH LINE OF SAID LOT 169; THENCE N02°07'52"E, 22.18 FEET PARALLEL WITH AND 2.00 FEET WEST OF THE EAST LINE OF SAID LOT 169; THENCE S88°20'46"E, 17.00 FEET; THENCE N46°53'33"E, 21.30 FEET; THENCE S02°07'52"W, 36.79 FEET PARALLEL WITH AND 30.00 FEET EAST OF THE WEST LINE OF SAID LOT 168 TO THE SOUTH LINE OF SAID LOT 168; THENCE

N89°02'21"W, 30.00 FEET TO THE POINT OF BEGINNING. SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD.
CONTAINING 1870 SQUARE FEET MORE OR LESS.

PERMANENT EASEMENT

ALL THAT PART OF LOTS NUMBERED ONE HUNDRED SIXTY-EIGHT (168), ONE HUNDRED SIXTY-NINE (169) AND ONE HUNDRED SEVENTY (170) IN SOUTHMORLAND ACRES ADDITION TO THE CITY OF JOPLIN, IN THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID NW1/4 OF THE NE1/4;
THENCE S88°55'35"E, 416.02 FEET ALONG THE NORTH LINE OF SAID NW1/4 OF THE NE1/4;
THENCE DEPARTING SAID NORTH LINE, S02°07'52"W, 52.98 FEET TO A POINT 30.00 FEET EAST OF THE WEST LINE OF SAID LOT 168, BEING THE POINT OF BEGINNING;
THENCE N88°53'27"W, 186.25 FEET;
THENCE S76°47'10"E, 154.10 FEET;
THENCE S88°11'04"E, 35.00 FEET;
THENCE N02°07'52"E, 32.75 FEET, PARALLEL WITH AND 30.00 FEET EAST OF THE WEST LINE OF SAID LOT 168 TO THE POINT OF BEGINNING;SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD.CONTAINING 3600 SQUARE FEET MORE OR LESS.

TEMPORARY CONSTRUCTION EASEMENT

THAT PART OF LOT NUMBERED ONE HUNDRED SIXTY-NINE (169) AND THAT PART OF THE WEST 30.0 FEET OF LOT NUMBERED ONE HUNDRED SIXTY-EIGHT (168) IN SOUTHMORLAND ACRES ADDITION TO THE CITY OF JOPLIN, IN THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 169; THENCE N89°02'21"W, 2.00 FEET ALONG THE SOUTH LINE OF SAID LOT 169 TO THE POINT OF BEGINNING;
THENCE CONTINUING N89°02'21"W, 35.00 FEET ALONG SAID SOUTH LINE;
THENCE N02°07'52"E, 32.60 FEET PARALLEL WITH THE EAST LINE OF SAID LOT 169;
THENCE S88°20'46"E, 32.00 FEET; THENCE N02°07'52"E, 72.53 FEET; THENCE S88°53'32"E, 35.00 FEET; THENCE S02°07'52"W, 67.87 FEET PARALLEL WITH AND 30.00 FEET EAST OF THE WEST LINE OF SAID LOT 168; THENCE S46°53'33"W, 21.30 FEET; THENCE N88°20'46"W, 17.00 FEET; THENCE S02°07'52"W, 22.18 FEET TO THE POINT OF BEGINNING. -ALSO- THAT PART OF LOT NUMBERED ONE HUNDRED SIXTY-NINE (169) AND ONE HUNDRED SEVENTY (170) IN SOUTHMORLAND ACRES ADDITION TO THE CITY OF JOPLIN, IN THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 14, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID NW1/4 OF THE NE1/4; THENCE S88°55'35"E, 416.02 FEET ALONG THE NORTH LINE OF SAID NW1/4 OF THE NE1/4; THENCE DEPARTING SAID NORTH LINE, S02°07'52"W, 52.98 FEET; THENCE N88°53'27"W, 206.81 FEET TO THE POINT OF BEGINNING; THENCE S75°05'42"E, 62.90 FEET;THENCE N88°53'27"W, 160.91 FEET; THENCE N29°28'56"E, 11.37 FEET ALONG THE CURRENT EAST RIGHT-OF-WAY LINE OF INDIANA AVENUE; THENCE S88°53'27"E, 26.50 FEET; THENCE N71°27'19"E, 14.87 FEET; THENCE S88°53'27"E, 53.92 FEET TO THE POINT OF BEGINNING.

SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD. CONTAINING 5620 SQUARE FEET MORE OR LESS. AFTER COMPLETION OF CONSTRUCTION THE EASEMENT RIGHTS IN SAID LAST ABOVE DESCRIBED TRACT WILL CEASE AND NO LONGER BE IN EFFECT.

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

Section 1. That the City of Joplin approve the purchase of right of way at 1415 E. 20th Street, consisting of:

Section 2. That the City of Joplin authorize placing $20,000.00, in escrow for the purchase of right of way and easements at 1010 E. 20th Street. Payment will be made from account #145-4565-520-8105 Project TG0522.

Section 3. That the Director of Public Works is hereby authorized to accept this right of way on behalf of the City of Joplin.

Section 4. That the City of Joplin declares that this ordinance relating to a public improvement is an emergency within the meaning of Section 2.12 (6) of the HOME RULE CHARTER of the City of Joplin, Missouri and the Council hereby declares that this ordinance shall be in full force and effect from and after its passage.

COUNCIL BILL NO. 2014-120 **ORDINANCE NO.**

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2013 by a vote of _____.

_____
Melodee Colbert-Kean, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-121

Item: Purchase of Property for the 20th Street Transit Project
Originating Department: Public Works – Engineering

Attachments: 1) Location Map
3) Council Bill No. 2014-121

Engineering Department: Dave Hunt DH	Date: 3-31-14
Department Head: Nicholas A. Heatherly	Date: 3/31/14
City Attorney: Brian Head	Date: 3-31-14
Interim City Manager: Samuel L. Anselmo	Date: 3/31/14
Finance Department: Leslie Haase LH	Date: 3-31-14

Recommended Action: Purchase of Right of Way from C. Allyn Burt at 20th and Texas Avenue.

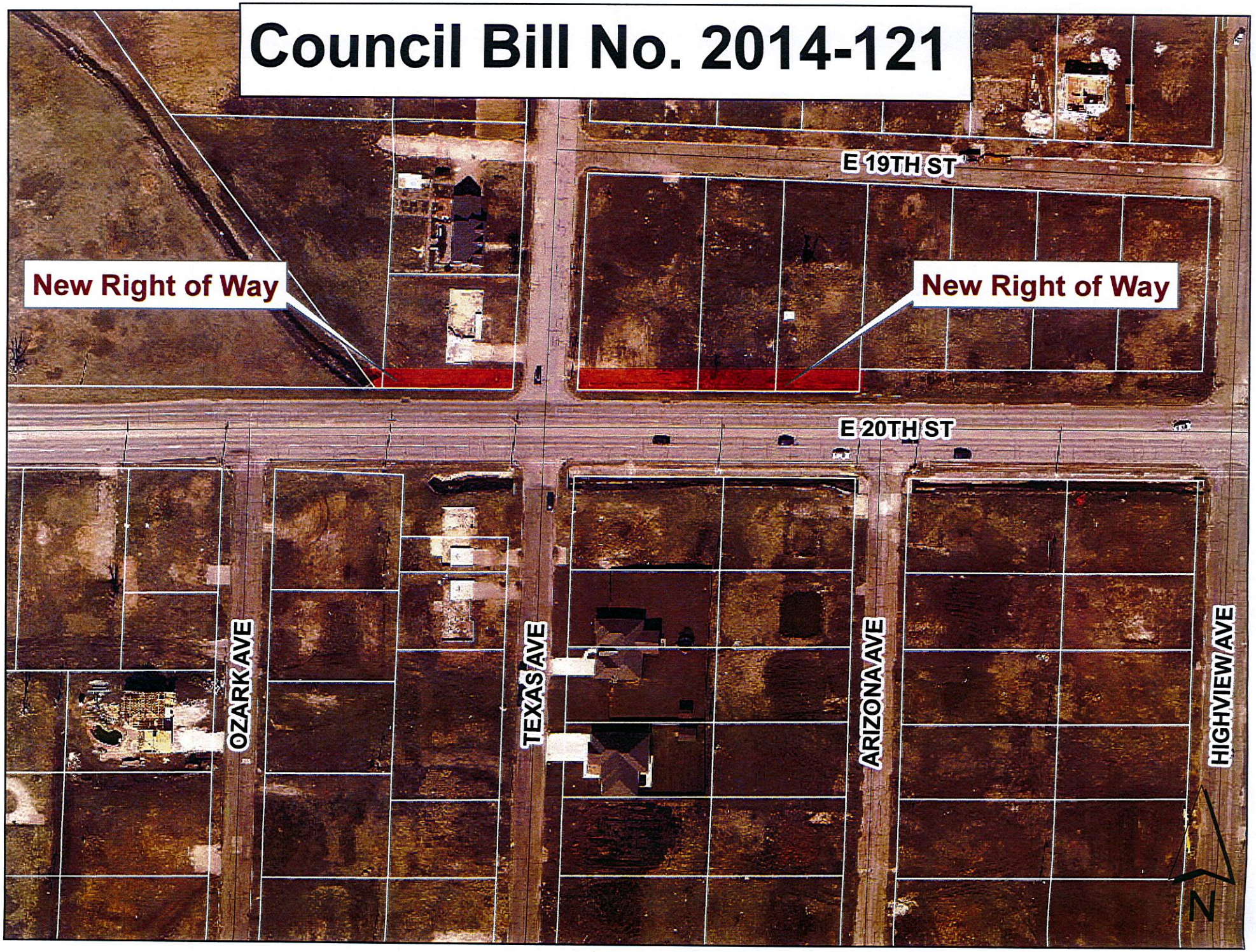
Background: The 20th Street Transit Project, including Pedestrian and Bicycle upgrades, is part of the TIGER Grant TDG-3200(718) project 5. It consists of a total of 3,000 feet (1,500 feet each side of the road) of concrete walkway and 10 foot wide trolley pull out. The location is on 20th Street from Range Line to Murphy Boulevard. The purchase of right of way is necessary for the construction of this project.

Funding for the construction of this project is part of the Twelve Million Dollars ($12,000,000) TIGER Grant award through the U.S. Department of Transportation Federal Highway Administration and the City of Joplin's 2004 Capital Improvement Sales Tax.

Discussion: Staff has reached an agreement with the property owner for $15,000 and other valuable considerations. This is within the appraisal range for this acquisition.

Recommendation: Staff recommends approval for payment of, Fifteen Thousand Dollars ($15,000.00) for the purchase of the described right of way at 20th Texas Avenue.

Council Bill No. 2014-121



COUNCIL BILL NO. 2014-121 **ORDINANCE NO.**

AN ORDINANCE approving the purchase of right of way from property at 20th and Texas Avenue, consisting of part of Misc.Tract M-12, part of Lot Numbered Sixteen (16) in Lenger's Addition, and part of Lots Numbered Twenty-Eight (28), Twenty-Nine (29), and Thirty (30) in Dowell's First Addition to the City of Joplin, Jasper County, Missouri; and authorizing the payment of Fifteen Thousand and 00/100 dollars ($15,000.00) and containing an emergency clause.

WHEREAS, C. Allyn Burt is the legal owner of property at 20th and Texas Avenue, consisting of part of Misc.Tract M-12, part of Lot Numbered Sixteen (16) in Lenger's Addition, and part of Lots Numbered Twenty-Eight (28), Twenty-Nine (29), and Thirty (30) in Dowell's First Addition to the City of Joplin, Jasper County, Missouri, and;

WHEREAS, the Council of the City of Joplin approved in the 2013-2014 budget funds for the purchase of right of way for the 20th Street Transit Project.

WHEREAS, in order to make said improvements, it is necessary for the City of Joplin to acquire right of way, described herein.

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

Section 1. That the City of Joplin approve the purchase of right of way at 20th and Texas Avenue, consisting of:

New Right of Way Parcel 15:

A TRACT OF LAND LYING IN MISCELLANEOUS TRACT M-12, PARCELL 44, BEING A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 12, TOWNSHIP 27 NORTH, RANGE 33 WEST, IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 16 OF LENGER ADDITION TO THE CITY OF JOPLIN; THENCE N01°45'35"E 10.00 FEET ALONG THE WEST LINE OF SAID LENGER ADDITION TO THE POINT OF BEGINNING; THENCE CONTINUING N01°45'35"E 20.00 FEET; THENCE DEPARTING SAID WEST LINE, N89°54'23"W 22.92 FEET ALONG A LINE PARALLEL WITH AND 60.00 FEET NORTH OF THE CENTER LINE OF 20TH STREET; THENCE S36°13'11"E 24.82 FEET; THENCE S89°54'23"E 7.64 FEET, ALONG A LINE PARALLEL WITH AND 40.00 FEET NORTH OF SAID CENTER LINE, TO THE POINT OF BEGINNING. SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD. CONTAINING 300 SQUARE FEET MORE OR LESS.

New Right of Way Parcel 16:

ALL OF THE NORTH 20.00 FEET OF THE SOUTH 30.00 FEET OF LOT NUMBERED SIXTEEN (16) IN LENGER'S ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF. SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD. CONTAINING 2400 SQUARE FEET MORE OR LESS.

New Right of Way: Parcel 17

ALL OF THE NORTH 22.00 FEET OF THE SOUTH 32.00 FEET OF LOT NUMBERED THIRTY (30) IN DOWELL'S FIRST ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF. SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD. CONTAINING 2500 SQUARE FEET MORE OR LESS.

New Right of Way: Parcel 18

ALL OF THE SOUTH 22.00 FEET OF THE FOLLOWING DESCRIBED TRACT: ALL OF THE WEST 73 FEET OF LOT NUMBERED TWENTY-NINE (29) IN DOWELL'S FIRST ADDITION IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, EXCEPT THE SOUTH 10 FEET THEREOF FOR STREET RIGHT-OF-WAY. SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD. CONTAINING 1600 SQUARE FEET MORE OR LESS.

New Right of Way: Parcel 19

ALL OF THE SOUTH 22.00 FEET OF THE FOLLOWING DESCRIBED TRACT: ALL OF THE EAST 22 FEET OF LOT NUMBERED TWENTY-NINE (29) AND THE WEST 58 FEET OF LOT NUMBERED TWENTY-EIGHT (28) IN DOWELL'S FIRST ADDITION IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, EXCEPT THE SOUTH 10 FEET THEREOF FOR STREET RIGHT-OF-WAY. SUBJECT TO ANY EASEMENTS OR RESTRICTIONS OF RECORD. CONTAINING 1800 SQUARE FEET MORE OR LESS.

Section 2. That the City of Joplin authorize placing $15,000.00, in escrow for the purchase of right of way at 20th and Texas Avenue. Payment will be made from account #145-4565-520-8105 Project TG0524.

Section 3. That the Director of Public Works is hereby authorized to accept this right of way on behalf of the City of Joplin.

Section 4. That the City of Joplin declares that this ordinance relating to a public improvement is an emergency within the meaning of Section 2.12 (6) of the HOME RULE CHARTER of the City of Joplin, Missouri and the Council hereby declares that this ordinance shall be in full force and effect from and after its passage.

COUNCIL BILL NO. 2014-121 ORDINANCE NO.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a vote of _____.

_____
Melodee Colbert-Kean, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____

Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-123

Item: Consultant Agreement with Allgeier, Martin and Associates, Inc. for the 15th & Highview Area Drainage System Repairs Project

Originating Department: Public Works – Engineering

Attachments: 1) Contract Agreement
2) Council Bill No. 2014-123

Department Head: Nicholas A. Heatherly Date: 3/31/14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3-31-14
Interim City Manager: Samuel L Anselm Date: 3/31/14

Recommended Action: Approval of a Consultant Agreement with Allgeier, Martin and Associates, Inc. in the amount of $60,000.00 for design services on the 15th & Highview Area Drainage System Repairs Project.

Background: The May 2011 tornado caused damage to the City's storm sewer system. City staff has identified individual projects inside the tornado zone for repair projects. The drainage system around 15th & Highland was damaged by the tornado and is in need of repairs. Allgeier Martin and Associates engineers will prepare a repair plan, create bid documents, Construction inspection and manage the construction project for the repairs to be made in the green area.

Discussion: City staff advertised in the Joplin Globe for one day and received 16 sets of qualifications from consulting firms for this project. City staff ranked the firms and has selected Allgeier, Martin and Associates, Inc. for this project. The consulting fees are within industry standards and the engineer's estimate.

Recommendation: It is recommended that an award of the consultant agreement with Allgeier, Martin and Associates, Inc. not to exceed the amount of $60,000.00.

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Allgeier, Martin and Associates, Inc. Address: P.O. Box 2627 Joplin, MO 64803	
Attention:		Attention: Dean A. Willis, P.E.	
Department:		Phone: 417-680-7200	Fax: 417-680-7300
Phone:	Fax:		

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

THIS AGREEMENT, made and entered into this 24th day of February, 2014, by the parties identified above.

WITNESSETH:

THAT, WHEREAS, the City of Joplin desires to engage the Engineer to render certain technical and professional services in connection with a projects identified on future Work Authorizations to this Agreement;

WHEREAS, the Engineer made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal; and

WHEREAS, the Engineer represents Engineer is licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors to perform the services designated under this contract, and further represents that all survey services shall be done under the direction of a Land Surveyor licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Engineer as follows:

1. **Services.** The City agrees to engage the services of the Engineer and the Engineer agrees, upon receipt of each duly executed Work Authorization, to perform the services described in the Work Authorization. The services of the Engineer shall commence as soon as practicable after the execution of a Work Authorization, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract. The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this Agreement. Approval by the City and other agencies of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of his responsibility for the technical adequacy of his work except as to matters involving peculiar conditions or uses of the property known to the City or other agencies but not to the Engineer.

2. **Term.** The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A*** of any executed Work Authorization.

3. **Payment.** The City, pursuant to each fully executed Work Authorization, shall pay Engineer the consideration set forth in the Work Authorization, which shall constitute complete payment for the services furnished in connection with the work required to be performed under the Work Authorization.

4. **Exchange of Data**. All information, data, and reports as are in the City's possession and necessary for the carrying out of the work, shall be furnished to the Engineer without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.

5. **Personnel**. The Engineer represents that Engineer will secure at Engineer's own expense, all personnel required to perform the services called for under this contract by Engineer. Such personnel shall not be employees of or have any contractual

relationship with the City except as employees of the Engineer. All of the services required hereunder will be performed by the Engineer or under Engineer's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

6. **Termination of Contract.**

a. Termination for breach. Failure of the Engineer to fulfill Engineer's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services set forth in Exhibit A shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Engineer by one of three different means: Facsimile Transmission ("FAX") if Engineer has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Engineer; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Engineer or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Engineer.

b. Right to terminate in the absence of breach. Either party may terminate this contract for any reason, by serving notice of intent to terminate upon the other party by the means specified in paragraph A of this section. Such notice shall specify the date of termination, but in no event shall either party terminate the contract under this provision upon less than thirty (30) days' notice to the other party; provided, that the parties may mutually agree to waive the thirty (30) day requirement and to shorten the time for notice of termination. In the event of termination in the absence of breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

7. **Conflicts**. No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Engineer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Engineer further covenants that in the performance of this contract no person having such interest shall be employed.

8. **Assignment**. The Engineer shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Engineer from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

9. **Confidentiality of Documents**. Any reports, data, design or similar information given to or prepared or assembled by the Engineer under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Engineer without prior written approval of the City.

10. **Discrimination.** The Engineer agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Engineer or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

11. **Occupational License**: The Engineer shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Engineer. No contract will be executed by the City until this occupational license has been obtained and that the Engineer is current on any City taxes is verified.

12. **Compliance with Laws**. Engineer agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Engineer affirmatively states that payment of all local, state, and federal taxes and assessments owed by Engineer is current.

13. **Affidavit for Contracts Over $5,000.00**. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Engineer is associated with a business entity, Engineer shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Engineer must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

14. **Nonresident/Foreign Contractors**. The Engineer shall procure and maintain during the life of this contract:

a. If the Engineer is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

15. **General Independent Contractor Clause**. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Engineer will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Engineer will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Engineer's activities and responsibilities hereunder. The Engineer agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Engineer and the City, and the City will not be liable for any obligation incurred by the Engineer, including but not limited to unpaid minimum wages and/or overtime premiums.

16. **City Benefits**. The Engineer shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

17. **Liability and Indemnity**. The parties mutually agree to the following:

a. The Engineer shall defend, indemnify, and hold the City harmless from and against all damages, losses, liabilities, expenses, and costs with respect to all claims, including, but not limited to, claims for personal injuries, wrongful death, and damages to property, which may be asserted against the City by any person or entity as the result of Engineer's (or any of Engineer's subcontractors) negligent acts, errors, or omissions in the course of the performance of this contract, provided that the Engineer is not obligated to indemnify or hold harmless the City from the City's own negligence or wrong doing.

b. The Engineer shall indemnify and hold the City harmless from all wages or overtime compensation due its employees in rendering services pursuant to this agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

c. In no event shall the City be liable to the Engineer for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

18. **Ownership of Documents**. All files and information will be submitted before or upon final approval and acceptance of the contract documents. All documents, including original drawings, calculations, computer runs, field notes, drawings, estimates, specifications, written design criteria and written reports are and remain the property of the Engineer until such time as this Agreement is, for any reason, terminated, at which time they become the property of the City. The Engineer shall furnish to the City, one set of reproducible record mylars of drawings, AutoCAD files and copies of estimates, specifications, written reports, and written design criteria, in consideration of which the City will use them fully in connection with the project and will not sell them.

19. **Notices**. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Engineer at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

20. **Jurisdiction**. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

21. **Entire Agreement**. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer:

Allgeier, Martin and Associates, Inc.

By: Dean A. Willis

Printed Name: Dean A. Willis

Title: President

Date: 2-18-2014

CITY OF JOPLIN, MISSOURI

By:
Nicholas A. Heatherly, P.E.
Public Works Director

Date: 2/24/14

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Allgeier, Martin and Associates, Inc. Address: 7231 East 24th Street Joplin, MO 64804	
Attention: Mr. Dan Johnson, PE		Attention: Mr. Michael Atkinson, PE	
Department: Public Works, Engineering		Phone: 417.680.7200	Fax: 417.680.7300
Phone: 417.624.0820	Fax: 417.625.4738		

WORK AUTHORIZATION NUMBER 2
TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

City and Engineer agree to amend their Agreement for Professional Engineering Consulting Services to include a scope of work and fees for engineering services, by adding the following terms to their Agreement.

1. **Services**. The City agrees to engage the services of the Engineer and the Engineer agrees to perform the services hereinafter set forth in connection with projects described in ***Exhibit A***.

2. **Addition to Services**. The City may add to the Engineer services or delete therefrom activities of a similar nature to those set forth in ***Exhibit A***, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 5 hereof. The Engineer shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the City and shall be accepted and countersigned by the Engineer.

3. **Term**. The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A***.

4. **Costs not to Exceed**. The City of Joplin is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract, which cannot be exceeded unless this contract is amended. The Engineer providing services hereunder shall be required to keep track of the amount of hours billable under this contract at all times; and any work in excess of the fixed sum shall not be eligible for payment. The Engineer shall notify the City if Engineer anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Engineer shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment**.

a. **Conditioned upon acceptable performance**. The City agrees to pay the Engineer in accordance with the terms set forth in ***Exhibit A***, which shall constitute complete compensation for all services to be rendered under this contract; provided, that where payments are to be made periodically to Engineer for services rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of services set forth in ***Exhibit A***.

b. **Total compensation not to exceed**. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Engineer under the terms of this work Authorization Number 2 exceed the sum of Sixty Thousand and No/100 Dollars ($ 60,000.00).

6. **Insurance**. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin

against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City at the time that this contract is signed by the Engineer. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to cancellation or non-renewal of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main, Joplin, MO 64801; and

All policies except for the professional liability policy shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.
(See, http://insurance.mo.gov/industry/sovimmunity.php).

As of January 1, 2014, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation....Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Engineer agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Engineer, its employees, officers or agents. Engineer agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of $1,000,000.00 on both a per-claim and an aggregate basis. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all of this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such

additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

_____

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

_____

Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____

Brian Head, City Attorney

Engineer: Allgeier, Martin and Associates, Inc.

By: Michael Atkinson

Printed Name: Michael Atkinson, PE

Title: Vice-President

Date: March 28, 2014

CITY OF JOPLIN, MISSOURI

By: _____

Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

EXHIBIT A TO WORK AUTHORIZATION NUMBER 2 TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES (15th & Highview Area Drainage System)

1. SERVICES

Engineer shall provide the City of Joplin with the following services:

1.1 Verify the proposed recommendations in the Assessment Report provided by the City of Joplin, and report any additional areas that may require repairs.

1.2 Conduct research and investigation into existing utilities located within the project boundaries.

1.3 Perform hydrologic and hydraulic calculations to verify the adequacy and capacity of the existing stormwater facilities identified in the Assessment, and if needed, provide any recommendations to improve such capacities.

1.4 Meet with OWNER to discuss recommendations, project expectations, and costs.

1.5 Prepare construction plans, specifications and estimate for repair and rehabilitation of stormwater facilities identified in the Assessment Report, and according to additional recommendations that may be necessary.

1.6 Assist the City with solicitation of bids, evaluating bids, assembling and issuing construction contract documents to successful bidder. This also includes providing clarifications and amendments during the bid process; and if required, the attendance of a pre-bid meeting.

1.7 Assist the City with a preconstruction conference.

1.8 Review and approve, or take other appropriate action in respect of shop drawings, but only for conformance with the design concept of the Project and compliance with the information given in the contract documents (but such review and approval or other action shall not extend to means, methods, sequences, techniques, or procedures of construction or to safety precautions proposed by contractors).

1.9 Prepare change orders as required to resolve unanticipated job-site conditions, resolve final quantities, etc.

1.10 Conduct site visits as necessary to answer questions that may arise as to design concepts.

1.11 Reject work that is not in conformance with plans and specifications.

1.12 Inspect materials, review material certifications furnished by Contractor, sample concrete and other materials as required.

1.13 Participate in final inspection and provide the City with copies of project documentation diaries, test results, certifications, etc.

2. TERMS

2.1 The services of the Engineer shall begin as soon as the Assessment Report is provided, and shall extend beyond that time for the preparation of design plans, contract documents, and specifications to bid project in December 2014.

3. PAYMENT

3.1 Payment to Engineer shall be at the hourly labor Rates and Non-Labor Rates set forth in the attached RATE SCHEDULE 2014; with a total compensation ceiling of $60,000, as set forth in Work Authorization Number 2, Section 5.b.

ALLGEIER, MARTIN and ASSOCIATES, INC.

Consulting Engineers and Surveyors

RATE SCHEDULE
2014

LABOR RATES

Position	Hourly Billing Rate 01/01/2014 thru 12/31/2014
Principal/Engineer IV	175
Principal/Engineer III	160
Project Manager/Engineer II	140
Project Manager/Engineer I	125
Designer/Technician III	96
Designer/Technician II	84
Designer/Technician I	78
Two-Man GPS Survey Crew	165
One-Man GPS Survey Crew	125
Three-Man Survey Crew	180
Two-Man Survey Crew	140
Registered Land Surveyor II	150
Registered Land Surveyor I	130
Survey Party Chief	78
Survey Crew Member	63
Right of Way Specialist	100
Construction Inspector III	96
Construction Inspector II	84
Construction Inspector I	78
Secretary/Assistant	63
Print Specialist	63

Note: All pre-approved overtime hours shall be invoiced at 1½ times the hourly billing rate shown above.

NON-LABOR RATES

Item	Rate
Travel	$0.56 per mile (or IRS rate)
Subsistence	Actual cost
Lodging	Actual cost
Special Postage or Shipping	Actual cost
Printing	Actual cost
Surveying Materials	Actual cost
Subcontract Specialty Services	Cost + 10%

COUNCIL BILL NO. 2014- 123

ORDINANCE NO.

AN ORDINANCE approving a agreement for Allgeier, Martin & Associates for Sixty Thousand and no/100 Dollars ($60,000.00) for Consultant Services for design services for the 15th & Highview Area Drainage System Repairs Project and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. Approval of an agreement for Allgeier, Martin & Associates for Sixty Thousand and no/100 Dollars ($60,000.00) for Consultant Services for design services for the 15th & Highview Area Drainage System Repairs Project in the City of Joplin, Jasper County.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. That the Director of Public Works is hereby authorized to enter into an agreement on behalf of the City of Joplin with Allgeier, Martin and Associates Inc.

Section 4. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a _____ vote.

ATTEST:

_____
Melodee Colbert Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-124

Item: Consultant Agreement with Anderson Engineering, Inc. for the 24th & Patterson Area Drainage System Repairs Project

Originating Department: Public Works – Engineering

Attachments: 1) Contract Agreement
2) Council Bill No. 2014-124

Department Head: Nicholas A. Heatherly Date: 3/31/14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3-31-14
Interim City Manager: Samuel L Anselm Date: 3/31/14

Recommended Action: Approval of a Consultant Agreement with Anderson Engineering, Inc. in the amount of $21,900.00 for design services on the 24th & Patterson Area Drainage System Repairs Project.

Background: The May 2011 tornado caused damage to the City's storm sewer system. City staff has identified individual projects inside the tornado zone for repair projects. The drainage system around 24th & Patterson was damaged by the tornado and is in need of repairs. Anderson Engineering will prepare a repair plan, create bid documents, and manage the construction project.

Discussion: City staff advertised in the Joplin Globe for one day and received 16 sets of qualifications from consulting firms for this project. City staff ranked the firms and has selected Anderson Engineering, Inc. for this project. The consulting fees are within industry standards and the engineer's estimate.

Recommendation: It is recommended that an award of the consultant agreement with Anderson Engineering, Inc. not to exceed the amount of $21,900.00.

24th + Patterson Storm

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Anderson Engineering Address: 811 E. 3rd, Joplin, Mo 64801	
Attention: Dan Johnson		Attention: John Snider	
Department: Public Works		Phone: 417-782-7399	Fax: 417-782-7399
Phone: 624-0820	Fax: 625-4738		

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 20 14, by the parties identified above.

WITNESSETH:

THAT, WHEREAS, the City of Joplin desires to engage the Engineer to render certain technical and professional services in connection with a projects identified on future Work Authorizations to this Agreement;

WHEREAS, the Engineer made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal; and

WHEREAS, the Engineer represents Engineer is licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors to perform the services designated under this contract, and further represents that all survey services shall be done under the direction of a Land Surveyor licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Engineer as follows:

1. **Services.** The City agrees to engage the services of the Engineer and the Engineer agrees, upon receipt of each duly executed Work Authorization, to perform the services described in the Work Authorization. The services of the Engineer shall commence as soon as practicable after the execution of a Work Authorization, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract. The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this Agreement. Approval by the City and other agencies of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of his responsibility for the technical adequacy of his work except as to matters involving peculiar conditions or uses of the property known to the City or other agencies but not to the Engineer.

2. **Term.** The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A*** of any executed Work Authorization.

3. **Payment.** The City, pursuant to each fully executed Work Authorization, shall pay Engineer the consideration set forth in the Work Authorization, which shall constitute complete payment for the services furnished in connection with the work required to be performed under the Work Authorization.

4. **Exchange of Data.** All information, data, and reports as are in the City's possession and necessary for the carrying out of the work, shall be furnished to the Engineer without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.

5. **Personnel.** The Engineer represents that Engineer will secure at Engineer's own expense, all personnel required to perform the services called for under this contract by Engineer. Such personnel shall not be employees of or have any contractual

relationship with the City except as employees of the Engineer. All of the services required hereunder will be performed by the Engineer or under Engineer's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

6. **Termination of Contract.**

a. Termination for breach. Failure of the Engineer to fulfill Engineer's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services set forth in Exhibit A shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Engineer by one of three different means: Facsimile Transmission ("FAX") if Engineer has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Engineer; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Engineer or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Engineer.

b. Right to terminate in the absence of breach. Either party may terminate this contract for any reason, by serving notice of intent to terminate upon the other party by the means specified in paragraph A of this section. Such notice shall specify the date of termination, but in no event shall either party terminate the contract under this provision upon less than thirty (30) days' notice to the other party; provided, that the parties may mutually agree to waive the thirty (30) day requirement and to shorten the time for notice of termination. In the event of termination in the absence of breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

7. **Conflicts.** No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Engineer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Engineer further covenants that in the performance of this contract no person having such interest shall be employed.

8. **Assignment.** The Engineer shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Engineer from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

9. **Confidentiality of Documents.** Any reports, data, design or similar information given to or prepared or assembled by the Engineer under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Engineer without prior written approval of the City.

10. **Discrimination.** The Engineer agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Engineer or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

11. **Occupational License**: The Engineer shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Engineer. No contract will be executed by the City until this occupational license has been obtained and that the Engineer is current on any City taxes is verified.

12. **Compliance with Laws**. Engineer agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Engineer affirmatively states that payment of all local, state, and federal taxes and assessments owed by Engineer is current.

13. **Affidavit for Contracts Over $5,000.00**. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Engineer is associated with a business entity, Engineer shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Engineer must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

14. **Nonresident/Foreign Contractors**. The Engineer shall procure and maintain during the life of this contract:

a. If the Engineer is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

15. **General Independent Contractor Clause**. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Engineer will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Engineer will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Engineer's activities and responsibilities hereunder. The Engineer agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Engineer and the City, and the City will not be liable for any obligation incurred by the Engineer, including but not limited to unpaid minimum wages and/or overtime premiums.

16. **City Benefits**. The Engineer shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

17. **Liability and Indemnity**. The parties mutually agree to the following:

a. The Engineer shall defend, indemnify, and hold the City harmless from and against all damages, losses, liabilities, expenses, and costs with respect to all claims, including, but not limited to, claims for personal injuries, wrongful death, and damages to property, which may be asserted against the City by any person or entity as the result of Engineer's (or any of Engineer's subcontractors) negligent acts, errors, or omissions in the course of the performance of this contract, provided that the Engineer is not obligated to indemnify or hold harmless the City from the City's own negligence or wrong doing.

b. The Engineer shall indemnify and hold the City harmless from all wages or overtime compensation due its employees in rendering services pursuant to this agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

c. In no event shall the City be liable to the Engineer for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

18. **Ownership of Documents**. All files and information will be submitted before or upon final approval and acceptance of the contract documents. All documents, including original drawings, calculations, computer runs, field notes, drawings, estimates, specifications, written design criteria and written reports are and remain the property of the Engineer until such time as this Agreement is, for any reason, terminated, at which time they become the property of the City. The Engineer shall furnish to the City, one set of reproducible record Mylars of drawings, AutoCAD files and copies of estimates, specifications, written reports, and written design criteria, in consideration of which the City will use them fully in connection with the project and will not sell them.

19. **Notices**. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Engineer at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

20. **Jurisdiction**. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

21. **Entire Agreement**. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer:

Anderson Engineering

By: John T. Snider

Printed Name: John Snider

Title: Vice President

Date: _____

CITY OF JOPLIN, MISSOURI

By: _____

Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Anderson Engineering Address: 811 E. 3rd, Joplin, Mo 64801	
Attention: Dan Johnson		Attention: John Snider	
Department: Public Works		Phone: 417-782-7399	Fax: 417-782-7398
Phone: 624-0820	Fax: 625-4738		

WORK AUTHORIZATION NUMBER ___
TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

City and Engineer agree to amend their Agreement for Professional Engineering Consulting Services to include a scope of work and fees for engineering services, by adding the following terms to their Agreement.

1. **Services**. The City agrees to engage the services of the Engineer and the Engineer agrees to perform the services hereinafter set forth in connection with projects described in ***Exhibit A***.

2. **Addition to Services**. The City may add to the Engineer services or delete therefrom activities of a similar nature to those set forth in ***Exhibit A***, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 5 hereof. The Engineer shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the City and shall be accepted and countersigned by the Engineer.

3. **Term**. The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A***.

4. **Costs not to Exceed**. The City of Joplin is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract, which cannot be exceeded unless this contract is amended. The Engineer providing services hereunder shall be required to keep track of the amount of hours billable under this contract at all times; and any work in excess of the fixed sum shall not be eligible for payment. The Engineer shall notify the City if Engineer anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Engineer shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment**.

a. **Conditioned upon acceptable performance.** The City agrees to pay the Engineer in accordance with the terms set forth in ***Exhibit A***, which shall constitute complete compensation for all services to be rendered under this contract; provided, that where payments are to be made periodically to Engineer for services rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of services set forth in ***Exhibit A***.

b. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Engineer under the terms of this work Authorization Number ___ exceed the sum of Fifteen Thousand Three hundred dollars Dollars ($15,300.00).

6. **Insurance**. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin

against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City at the time that this contract is signed by the Engineer. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to cancellation or non-renewal of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main, Joplin, MO 64801; and

All policies except for the professional liability policy shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.
(See, http://insurance.mo.gov/industry/sovimmunity.php).

As of January 1, 2014, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation....Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Engineer agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Engineer, its employees, officers or agents. Engineer agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of $1,000,000.00 on both a per-claim and an aggregate basis. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all of this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such

additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer: Anderson Engineering

By: John Snider

Printed Name: John Snider

Title: Vice President

Date: _____

CITY OF JOPLIN, MISSOURI

By: _____
Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

ANDERSON ENGINEERING, INC
EMPLOYEE OWNED

EXHIBIT A

March 27, 2014

City of Joplin
Attn: Dan Johnson
602 S. Main Street
Joplin, Missouri 64801

Re: PJ-1537 Proposal for Surveying and Civil Engineering Services
24th and Patterson Storm System
Joplin, Missouri

Dear Mr. Johnson,

We understand this project consists of providing design services and easement documents for to alleviate flooding conditions near 24th and Patterson, at the entrance to the Rosedale Swimming Pool.

This proposal is based on our meeting with you and David Hunt on March 17, 2014. This proposal is also based on our visit to the site on March 18, 2014.

As requested by you our proposed scope of services is as follows. Our proposed schedule is attached.

CIVIL ENGINEERING – SITE GEOMETRY & UTILITY PLAN
Provide a site geometry and site utility plan for the proposed project. Site layout includes stormwater channel, stormwater piping, and street crossings. The utility plan will show the existing utilities and identify any conflicts with the proposed improvements. The City of Joplin's standard technical specifications will be used.

CIVIL ENGINEERING – STORMWATER MANAGEMENT AND DESIGN
Provide stormwater analysis and drainage calculations per City of Joplin standards for stormwater. This proposal assumes U.S. Army Corps of Engineers Section 404 permitting will not be necessary. Based on a review of topographic maps and brief site observation, we do not believe permitting will be required. However, it is up to the City to determine if the project involves a jurisdictional waterway. If the City would like us to do more than a cursory review, we can modify our scope to include this service.

CIVIL ENGINEERING – GRADING & EROSION CONTROL PLAN
Provide a grading and erosion control plan. Finish grades will include spot elevations, as applicable, for top of pavement, drainage inlets, and grading at one foot contour intervals for the proposed project. As part of the Erosion Control Plan we will also prepare a Stormwater Pollution Prevention Plan (SWPPP). The cost of the permit application fee is not included in the proposal and shall be paid directly to the appropriate state agency by the owner. The City of Joplin's standard technical specifications will be used.

811 EAST 3RD STREET • JOPLIN, MO 64801 • PH: 417.782.7399 • FX: 417.782.7398 • E-MAIL: AEINC@AEINCMO.COM • WWW.AEINCMO.COM

SURVEYING – SITE TOPOGRAPHIC SURVEY

Provide a topographic engineering survey on the red line areas on the attached Exhibit "A" for engineering design of proposed storm water improvements. Survey will include spot elevations, location of all utilities, corners of buildings/structures and any other improvements located within the street right of way shown on the attached Exhibit "A". The survey will show basic planimetrics as well as above ground and underground utilities (as located by Missouri One Call) within survey area. The survey will be based on the Missouri State Plane Coordinate system of 1983, West Zone and NAVD 88. Control points and temporary benchmarks will be set along the survey route to be used during construction phase of the project. We understand that the City will Hydrovac any structures located during the survey that require being cleared out.

SURVEYING – RIGHT-OF-WAY SURVEY

We will provide right-of-way surveys as listed below, as illustrated by the yellow lines on the attached Exhibit "B". The right of way surveys will show the
right of way line on both sides of the street to be used in the design phase of this project.
At this time, we will only show the right of way lines and will not show each parcel line. Also, no easements will be shown as a part of this survey. Below is a list of the right of way lines to be established as a part of this agreement:

1. 24th Street from Patterson to McConnell

The survey will be based on the Missouri State Plane Coordinate system of 1983, West Zone.

SURVEYING – EASEMENT PREPARATION

We anticipate needing an easement across the Rosedale Pool property. We will assist the City and prepare the easement description and sketch to be used to acquire the easement from the pool. The City will be responsible for the acquisition of the easement.

CONDUCTING BIDDING ON BEHALF OF THE CITY

We will hold one pre-bid meeting, one bid opening, and one preconstruction meeting for a total of 3 meetings. We will coordinate these meetings with the City of Joplin and will review the results with City staff. (Bidders shall be charged a separate fee to purchase plan copies from Anderson Engineering.)
We anticipate that the City of Joplin will advertise the project out to bid.

CONSTRUCTION INSPECITON ON BEHALF OF THE CITY

We will perform site inspection during construction on behalf of the City of Joplin. We will provide documentation to the City after each inspection. We anticipate daily site visits over a six week period.

OPTION #1 SURVEYING – TEMPORARY CONSTRUCTION EASEMENT PREPARATION

<u>At this time, we do not anticipate needing any permanent easements to construct these improvements.</u>
However, temporary construction easements may be necessary. We can assist the City and prepare the easement description and sketch to be used to acquire the temporary easement.

OPTION #2 - EASEMENT NEGOTIATION

If needed, we will negotiate the acquisition of the each needed temporary construction easement. We anticipation it will take up to 4 hours to acquire each temporary construction easement.

OPTION #3 - MINE SHAFT CAP DESIGN

Our preliminary analysis of this project has revealed several suspect mine features near the proposed channel location. This scope of work includes design of a structural concrete cap. This will also include field time from an Associate Engineer during excavation of mine feature area to assist in determining the mine feature extents, survey of the mine feature extents, construction observation and testing during construction of the structural caps, and survey of final, constructed cap locations. A construction detail will be provided for each of the suspected mine features.

Base Scope/Fee:

Civil Engineering – Design, Plans and Specifications	$ 6,850.00
Surveying – Site Topographic Survey	$ 2,900.00
Surveying – Right-of-way Survey[1]	$ 1,950.00
Surveying – Easement Preparation[1]	$500.00
Bidding on Behalf of the City	$ 2,100.00
Construction Inspection on Behalf of the City	$ 1,000.00
MAXIMUM NOT TO EXCEED FEE:	**$15,300.00**

Optional Scope/Fee:

Surveying – Temporary Easement Preparation (Each)	$ 500.00 each
Easement Negotiation (Each)	$ 500.00 each
Mine Shaft Cap Design (Each)	$ 2,300.00 each

[1] We propose to complete these services on an hourly basis with a not to exceed limit.

OTHER

This proposal includes providing two sets of sealed plans to the City.

This proposal includes reviews with the City for conceptual, preliminary, and final plans. If additional reviews are required not as a result of errors by Anderson Engineering, then that additional work will be billed at our standard hourly charge rates in addition to the fees listed above.

ASSUMPTIONS

We have also assumed that all right of ways, easements, property ownership issues, and private utilities affecting the project will be provided by you to us. We will make a Utility Locate call to identify public utilities. We have assumed that all public utilities will be located accurately and completely by the Utility Locator.

GENERAL INFORMATION

Please note that any changes in the scope of work to be performed, or changes in the information provided to us, such as changes in the location of buildings or parking areas, which results in additional work will be billed at our standard hourly charge rates in addition to the fees listed above.

There are many additional, related services that we could perform, but since this proposal is limited in nature, this proposal does not include any geotechnical exploration, additional utility main extensions, any design service not expressly listed above, and submittal of permits to various agencies. Also this proposal also does not include any construction staking, observations, or testing. This proposal also does not include any plan or review compliance with local governmental agency for items not identified above. Anderson Engineering would be happy provide a proposal for these services upon request.

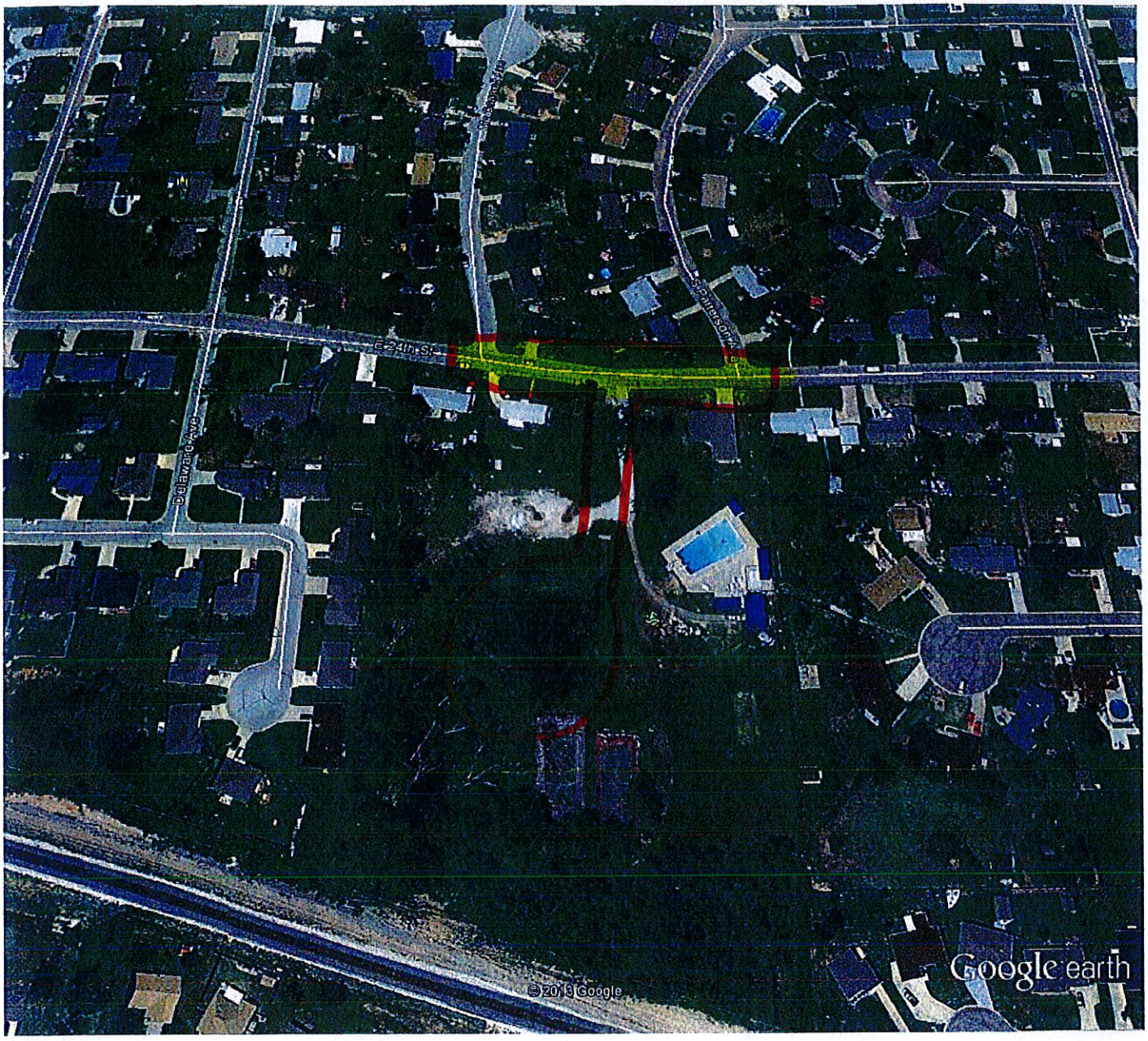
Invoices are due upon receipt regardless of whether the client has been, or is to be, reimbursed by any other party. A service charge of one and one-half percent per month is assessed on accounts 45 days past due. A WORK AUTHORIZATION AGREEMENT form and GENERAL CONDITIONS statement is provided for your signature. Should you have any questions regarding these proposals, please give us a call. Again, we want to thank you for the opportunity to be of service and we look forward to working with you on this project.

Sincerely,

John Snider, PE
Vice President

Jerrod Hogan, PLS
Vice President

Jim Michel, PLS



Google earth feet 600 meters 100

Survey Area For 24th + Patterson

COUNCIL BILL NO. 2014- 124

ORDINANCE NO.

AN ORDINANCE approving a agreement for Anderson Engineering for Twenty One Thousand Nine Hundred and no/100 Dollars ($21,900.00) for Consultant Services for the 24th & Patterson Area Drainage System Repairs project and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. Approval of an agreement for Anderson Engineering for Twenty One Thousand Nine Hundred and no/100 Dollars ($21,900.00) for Consultant Services for the 24th & Patterson Area Drainage System Repairs in the City of Joplin, Jasper County.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 2. That the Director of Public Works is hereby authorized to enter into an agreement on behalf of the City of Joplin with Anderson Engineering.

Section 3. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a _____ vote.

ATTEST:

_____
Melodee Colbert Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-125

Item: Consultant Agreement with Allgeier, Martin and Associates, Inc. for the Storm Sewer System Repairs in Green Area Project

Originating Department: Public Works – Engineering

Attachments: 1) Contract Agreement
2) Council Bill No. 2014-

Department Head: Nicholas A. Heatherly Date: 3/31/14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3/31/14
Interim City Manager: Samuel L Anselm Date: 3/31/14

Recommended Action: Approval of a Consultant Agreement with Allgeier, Martin and Associates, Inc. in the amount of $100,000.00 for design services on the Storm Sewer System Repairs in Green Area Project.

Background: The May 2011 tornado caused damage to the City's storm sewer system. City staff has divided the entire storm zone into six areas including a "green area" in which State of Missouri DED funding can be used to rebuild damaged infrastructure. There are many pipes, culverts, curb inlets and open ditches in the green area that are being damage assessed. When the damage assessment is complete Allgeier Martin and Associates engineers will prepare a repair plan, create bid documents, and manage the construction project for the repairs to be made in the green area.

Discussion: City staff advertised in the Joplin Globe for one day and received 16 sets of qualifications from consulting firms for this project. City staff ranked the firms and has selected Allgeier, Martin and Associates, Inc. for this project. The consulting fees are within industry standards and the engineer's estimate.

Recommendation: It is recommended that an award of the consultant agreement with Allgeier, Martin and Associates, Inc. not to exceed the amount of $100,000.00.

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Allgeier, Martin and Associates, Inc. Address: P.O. Box 2627 Joplin, MO 64803	
Attention:		Attention: Dean A. Willis, P.E.	
Department:		Phone: 417-680-7200	Fax: 417-680-7300
Phone:	Fax:		

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

THIS AGREEMENT, made and entered into this 24th day of February, 2014, by the parties identified above.

WITNESSETH:

THAT, WHEREAS, the City of Joplin desires to engage the Engineer to render certain technical and professional services in connection with a projects identified on future Work Authorizations to this Agreement;

WHEREAS, the Engineer made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal; and

WHEREAS, the Engineer represents Engineer is licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors to perform the services designated under this contract, and further represents that all survey services shall be done under the direction of a Land Surveyor licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Engineer as follows:

1. **Services.** The City agrees to engage the services of the Engineer and the Engineer agrees, upon receipt of each duly executed Work Authorization, to perform the services described in the Work Authorization. The services of the Engineer shall commence as soon as practicable after the execution of a Work Authorization, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract. The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this Agreement. Approval by the City and other agencies of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of his responsibility for the technical adequacy of his work except as to matters involving peculiar conditions or uses of the property known to the City or other agencies but not to the Engineer.

2. **Term.** The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A*** of any executed Work Authorization.

3. **Payment.** The City, pursuant to each fully executed Work Authorization, shall pay Engineer the consideration set forth in the Work Authorization, which shall constitute complete payment for the services furnished in connection with the work required to be performed under the Work Authorization.

4. **Exchange of Data**. All information, data, and reports as are in the City's possession and necessary for the carrying out of the work, shall be furnished to the Engineer without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.

5. **Personnel**. The Engineer represents that Engineer will secure at Engineer's own expense, all personnel required to perform the services called for under this contract by Engineer. Such personnel shall not be employees of or have any contractual

relationship with the City except as employees of the Engineer. All of the services required hereunder will be performed by the Engineer or under Engineer's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

6. **Termination of Contract.**

a. Termination for breach. Failure of the Engineer to fulfill Engineer's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services set forth in Exhibit A shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Engineer by one of three different means: Facsimile Transmission ("FAX") if Engineer has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Engineer; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Engineer or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Engineer.

b. Right to terminate in the absence of breach. Either party may terminate this contract for any reason, by serving notice of intent to terminate upon the other party by the means specified in paragraph A of this section. Such notice shall specify the date of termination, but in no event shall either party terminate the contract under this provision upon less than thirty (30) days' notice to the other party; provided, that the parties may mutually agree to waive the thirty (30) day requirement and to shorten the time for notice of termination. In the event of termination in the absence of breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

7. **Conflicts**. No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Engineer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Engineer further covenants that in the performance of this contract no person having such interest shall be employed.

8. **Assignment**. The Engineer shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Engineer from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

9. **Confidentiality of Documents**. Any reports, data, design or similar information given to or prepared or assembled by the Engineer under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Engineer without prior written approval of the City.

10. **Discrimination.** The Engineer agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Engineer or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

11. **Occupational License**: The Engineer shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Engineer. No contract will be executed by the City until this occupational license has been obtained and that the Engineer is current on any City taxes is verified.

12. **Compliance with Laws**. Engineer agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Engineer affirmatively states that payment of all local, state, and federal taxes and assessments owed by Engineer is current.

13. **Affidavit for Contracts Over $5,000.00**. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Engineer is associated with a business entity, Engineer shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Engineer must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

14. **Nonresident/Foreign Contractors**. The Engineer shall procure and maintain during the life of this contract:

a. If the Engineer is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

15. **General Independent Contractor Clause**. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Engineer will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Engineer will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Engineer's activities and responsibilities hereunder. The Engineer agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Engineer and the City, and the City will not be liable for any obligation incurred by the Engineer, including but not limited to unpaid minimum wages and/or overtime premiums.

16. **City Benefits**. The Engineer shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

17. **Liability and Indemnity**. The parties mutually agree to the following:

a. The Engineer shall defend, indemnify, and hold the City harmless from and against all damages, losses, liabilities, expenses, and costs with respect to all claims, including, but not limited to, claims for personal injuries, wrongful death, and damages to property, which may be asserted against the City by any person or entity as the result of Engineer's (or any of Engineer's subcontractors) negligent acts, errors, or omissions in the course of the performance of this contract, provided that the Engineer is not obligated to indemnify or hold harmless the City from the City's own negligence or wrong doing.

b. The Engineer shall indemnify and hold the City harmless from all wages or overtime compensation due its employees in rendering services pursuant to this agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

c. In no event shall the City be liable to the Engineer for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

18. **Ownership of Documents.** All files and information will be submitted before or upon final approval and acceptance of the contract documents. All documents, including original drawings, calculations, computer runs, field notes, drawings, estimates, specifications, written design criteria and written reports are and remain the property of the Engineer until such time as this Agreement is, for any reason, terminated, at which time they become the property of the City. The Engineer shall furnish to the City, one set of reproducible record mylars of drawings, AutoCAD files and copies of estimates, specifications, written reports, and written design criteria, in consideration of which the City will use them fully in connection with the project and will not sell them.

19. **Notices**. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Engineer at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

20. **Jurisdiction**. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

21. **Entire Agreement**. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer:

Allgeier, Martin and Associates, Inc.

By: Dean A. Willis

Printed Name: Dean A. Willis

Title: President

Date: 2-18-2014

CITY OF JOPLIN, MISSOURI

By:
Nicholas A. Heatherly, P.E.
Public Works Director

Date: 2/24/14

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Allgeier, Martin and Associates, Inc. Address: 7231 East 24th Street Joplin, MO 64804	
Attention: Mr. Dan Johnson, PE		Attention: Mr. Michael Atkinson, PE	
Department: Public Works, Engineering		Phone: 417.680.7200	Fax: 417.680.7300
Phone: 417.624.0820	Fax: 417.625.4738		

WORK AUTHORIZATION NUMBER 3
TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

City and Engineer agree to amend their Agreement for Professional Engineering Consulting Services to include a scope of work and fees for engineering services, by adding the following terms to their Agreement.

1. **Services**. The City agrees to engage the services of the Engineer and the Engineer agrees to perform the services hereinafter set forth in connection with projects described in ***Exhibit A***.

2. **Addition to Services**. The City may add to the Engineer services or delete therefrom activities of a similar nature to those set forth in ***Exhibit A***, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 5 hereof. The Engineer shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the City and shall be accepted and countersigned by the Engineer.

3. **Term**. The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A***.

4. **Costs not to Exceed**. The City of Joplin is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract, which cannot be exceeded unless this contract is amended. The Engineer providing services hereunder shall be required to keep track of the amount of hours billable under this contract at all times; and any work in excess of the fixed sum shall not be eligible for payment. The Engineer shall notify the City if Engineer anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Engineer shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment**.

a. **Conditioned upon acceptable performance**. The City agrees to pay the Engineer in accordance with the terms set forth in ***Exhibit A***, which shall constitute complete compensation for all services to be rendered under this contract; provided, that where payments are to be made periodically to Engineer for services rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of services set forth in ***Exhibit A***.

b. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Engineer under the terms of this work Authorization Number 3 exceed the sum of One Hundred Thousand and No/100 Dollars ($ 100,000.00).

6. **Insurance**. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin

against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City at the time that this contract is signed by the Engineer. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to cancellation or non-renewal of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main, Joplin, MO 64801; and

All policies except for the professional liability policy shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.
(See, http://insurance.mo.gov/industry/sovimmunity.php).

As of January 1, 2014, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation....Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Engineer agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Engineer, its employees, officers or agents. Engineer agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of $1,000,000.00 on both a per-claim and an aggregate basis. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all of this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such

additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

_____

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

_____

Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____

Brian Head, City Attorney

Engineer: Allgeier, Martin and Associates, Inc.

By: Michael Atkinson

Printed Name: Michael Atkinson, PE

Title: Vice-President

Date: March 28, 2014

CITY OF JOPLIN, MISSOURI

By: _____

Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

EXHIBIT A TO WORK AUTHORIZATION NUMBER 3 TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES (Storm Sewer System Repairs)

1. SERVICES

Engineer shall provide the City of Joplin with the following services:

1.1 Verify the proposed recommendations in the Assessment Report provided by the City of Joplin, and report any additional areas that may require repairs.

1.2 Conduct research and investigation into existing utilities located within the project boundaries.

1.3 Perform hydrologic and hydraulic calculations to verify the adequacy and capacity of the existing stormwater facilities identified in the Assessment, and if needed, provide any recommendations to improve such capacities.

1.4 Meet with OWNER to discuss recommendations, project expectations, and costs.

1.5 Prepare construction plans, specifications and estimate for repair and rehabilitation of stormwater facilities identified in the Assessment Report, and according to additional recommendations that may be necessary.

1.6 Assist the City with solicitation of bids, evaluating bids, assembling and issuing construction contract documents to successful bidder. This also includes providing clarifications and amendments during the bid process; and if required, the attendance of a pre-bid meeting.

1.7 Assist the City with a preconstruction conference.

1.8 Review and approve, or take other appropriate action in respect of shop drawings, but only for conformance with the design concept of the Project and compliance with the information given in the contract documents (but such review and approval or other action shall not extend to means, methods, sequences, techniques, or procedures of construction or to safety precautions proposed by contractors).

1.9 Prepare change orders as required to resolve unanticipated job-site conditions, resolve final quantities, etc.

1.10 Conduct site visits as necessary to answer questions that may arise as to design concepts.

1.11 Reject work that is not in conformance with plans and specifications.

1.12 Inspect materials, review material certifications furnished by Contractor, sample concrete and other materials as required.

1.13 Participate in final inspection and provide the City with copies of project documentation diaries, test results, certifications, etc.

2. TERMS

2.1 The services of the Engineer shall begin as soon as the Assessment Report is provided, and shall extend beyond that time for the preparation of design plans, contract documents, and specifications to bid project in December 2014.

3. PAYMENT

3.1 Payment to Engineer shall be at the hourly labor Rates and Non-Labor Rates set forth in the attached RATE SCHEDULE 2014; with a total compensation ceiling of $100,000, as set forth in Work Authorization Number 3, Section 5.b.

ALLGEIER, MARTIN and ASSOCIATES, INC.

Consulting Engineers and Surveyors

RATE SCHEDULE
2014

LABOR RATES

Position	Hourly Billing Rate 01/01/2014 thru 12/31/2014
Principal/Engineer IV	175
Principal/Engineer III	160
Project Manager/Engineer II	140
Project Manager/Engineer I	125
Designer/Technician III	96
Designer/Technician II	84
Designer/Technician I	78
Two-Man GPS Survey Crew	165
One-Man GPS Survey Crew	125
Three-Man Survey Crew	180
Two-Man Survey Crew	140
Registered Land Surveyor II	150
Registered Land Surveyor I	130
Survey Party Chief	78
Survey Crew Member	63
Right of Way Specialist	100
Construction Inspector III	96
Construction Inspector II	84
Construction Inspector I	78
Secretary/Assistant	63
Print Specialist	63

Note: All pre-approved overtime hours shall be invoiced at 1½ times the hourly billing rate shown above.

NON-LABOR RATES

Item	Rate
Travel	$0.56 per mile (or IRS rate)
Subsistence	Actual cost
Lodging	Actual cost
Special Postage or Shipping	Actual cost
Printing	Actual cost
Surveying Materials	Actual cost
Subcontract Specialty Services	Cost + 10%

COUNCIL BILL NO. 2014- 125

ORDINANCE NO.

AN ORDINANCE approving a agreement for Allgeier, Martin & Associates for One Hundred Thousand and no/100 Dollars ($100,000.00) for Consultant Services for the Storm Sewer System Repairs in the Green Area project and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. Approval of an agreement for Allgeier, Martin & Associates for One Hundred Thousand and no/100 Dollars ($100,000.00) for Consultant Services for the Storm Sewer System Repairs in the Green Area project in the City of Joplin, Jasper County.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. That the Director of Public Works is hereby authorized to enter into an agreement on behalf of the City of Joplin with Allgeier, Martin & Associates.

Section 4. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a _____ vote.

ATTEST:

_____
Melodee Colbert Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-126

Item: Consultant Agreement with Anderson Engineering, Inc. for the Even Ave to Country Club Stormwater Repairs Project

Originating Department: Public Works – Engineering

Attachments: 1) Contract Agreement
2) Council Bill No. 2014-126

Department Head: Nicholas A. Heatherly Date: 3/31/14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3/31/14
Interim City Manager: Samuel L Anselm Date: 3/31/14

Recommended Action: Approval of a Consultant Agreement with Anderson Engineering, Inc. in the amount of $56,250.00 for design services on the Even Ave to Country Club Stormwater Repairs Project.

Background: The May 2011 tornado caused damage to the City's storm sewer system. City staff has identified individual projects inside the tornado zone for repair projects. The drainage system south of 28th Street from Even Avenue to Country Club was damaged by the tornado and is in need of repairs. Anderson Engineering will prepare a repair plan, create bid documents, and manage the construction project.

Discussion: City staff advertised in the Joplin Globe for one day and received 16 sets of qualifications from consulting firms for this project. City staff ranked the firms and has selected Anderson Engineering, Inc. for this project. The consulting fees are within industry standards and the engineer's estimate.

Recommendation: It is recommended that an award of the consultant agreement with Anderson Engineering, Inc. not to exceed the amount of $56,250.00

Exclusive to Country Club Storm

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Anderson Engineering Address: 811 E. 3rd, Joplin, Mo 64801	
Attention: Dan Johnson		Attention: John Snider	
Department: Public Works		Phone: 417-782-7399	Fax: 417-782-7399
Phone: 624-0820	Fax: 625-4738		

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 2014, by the parties identified above.

WITNESSETH:

THAT, WHEREAS, the City of Joplin desires to engage the Engineer to render certain technical and professional services in connection with a projects identified on future Work Authorizations to this Agreement;

WHEREAS, the Engineer made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal; and

WHEREAS, the Engineer represents Engineer is licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors to perform the services designated under this contract, and further represents that all survey services shall be done under the direction of a Land Surveyor licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Engineer as follows:

1. **Services.** The City agrees to engage the services of the Engineer and the Engineer agrees, upon receipt of each duly executed Work Authorization, to perform the services described in the Work Authorization. The services of the Engineer shall commence as soon as practicable after the execution of a Work Authorization, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract. The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this Agreement. Approval by the City and other agencies of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of his responsibility for the technical adequacy of his work except as to matters involving peculiar conditions or uses of the property known to the City or other agencies but not to the Engineer.

2. **Term.** The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A*** of any executed Work Authorization.

3. **Payment.** The City, pursuant to each fully executed Work Authorization, shall pay Engineer the consideration set forth in the Work Authorization, which shall constitute complete payment for the services furnished in connection with the work required to be performed under the Work Authorization.

4. **Exchange of Data**. All information, data, and reports as are in the City's possession and necessary for the carrying out of the work, shall be furnished to the Engineer without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.

5. **Personnel**. The Engineer represents that Engineer will secure at Engineer's own expense, all personnel required to perform the services called for under this contract by Engineer. Such personnel shall not be employees of or have any contractual

relationship with the City except as employees of the Engineer. All of the services required hereunder will be performed by the Engineer or under Engineer's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

6. **Termination of Contract.**

a. Termination for breach. Failure of the Engineer to fulfill Engineer's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services set forth in Exhibit A shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Engineer by one of three different means: Facsimile Transmission ("FAX") if Engineer has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Engineer; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Engineer or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Engineer.

b. Right to terminate in the absence of breach. Either party may terminate this contract for any reason, by serving notice of intent to terminate upon the other party by the means specified in paragraph A of this section. Such notice shall specify the date of termination, but in no event shall either party terminate the contract under this provision upon less than thirty (30) days' notice to the other party; provided, that the parties may mutually agree to waive the thirty (30) day requirement and to shorten the time for notice of termination. In the event of termination in the absence of breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

7. **Conflicts**. No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Engineer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Engineer further covenants that in the performance of this contract no person having such interest shall be employed.

8. **Assignment**. The Engineer shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Engineer from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

9. **Confidentiality of Documents**. Any reports, data, design or similar information given to or prepared or assembled by the Engineer under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Engineer without prior written approval of the City.

10. **Discrimination.** The Engineer agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Engineer or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

11. **Occupational License**: The Engineer shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Engineer. No contract will be executed by the City until this occupational license has been obtained and that the Engineer is current on any City taxes is verified.

12. **Compliance with Laws**. Engineer agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Engineer affirmatively states that payment of all local, state, and federal taxes and assessments owed by Engineer is current.

13. **Affidavit for Contracts Over $5,000.00**. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Engineer is associated with a business entity, Engineer shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Engineer must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

14. **Nonresident/Foreign Contractors**. The Engineer shall procure and maintain during the life of this contract:

a. If the Engineer is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

15. **General Independent Contractor Clause**. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Engineer will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Engineer will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Engineer's activities and responsibilities hereunder. The Engineer agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Engineer and the City, and the City will not be liable for any obligation incurred by the Engineer, including but not limited to unpaid minimum wages and/or overtime premiums.

16. **City Benefits**. The Engineer shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

17. **Liability and Indemnity**. The parties mutually agree to the following:

a. The Engineer shall defend, indemnify, and hold the City harmless from and against all damages, losses, liabilities, expenses, and costs with respect to all claims, including, but not limited to, claims for personal injuries, wrongful death, and damages to property, which may be asserted against the City by any person or entity as the result of Engineer's (or any of Engineer's subcontractors) negligent acts, errors, or omissions in the course of the performance of this contract, provided that the Engineer is not obligated to indemnify or hold harmless the City from the City's own negligence or wrong doing.

b. The Engineer shall indemnify and hold the City harmless from all wages or overtime compensation due its employees in rendering services pursuant to this agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

c. In no event shall the City be liable to the Engineer for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

18. **Ownership of Documents**. All files and information will be submitted before or upon final approval and acceptance of the contract documents. All documents, including original drawings, calculations, computer runs, field notes, drawings, estimates, specifications, written design criteria and written reports are and remain the property of the Engineer until such time as this Agreement is, for any reason, terminated, at which time they become the property of the City. The Engineer shall furnish to the City, one set of reproducible record Mylars of drawings, AutoCAD files and copies of estimates, specifications, written reports, and written design criteria, in consideration of which the City will use them fully in connection with the project and will not sell them.

19. **Notices**. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Engineer at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

20. **Jurisdiction**. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

21. **Entire Agreement**. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer:

Anderson Engineering

By: John Snider

Printed Name: John Snider

Title: Vice President

Date: _____

CITY OF JOPLIN, MISSOURI

By: _____

Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Anderson Engineering Address: 811 E. 3rd, Joplin, Mo 64801	
Attention: Dan Johnson		Attention: John Snider	
Department: Public Works		Phone: 417-782-7399	Fax: 417-782-7398
Phone: 624-0820	Fax: 625-4738		

WORK AUTHORIZATION NUMBER ___
TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

City and Engineer agree to amend their Agreement for Professional Engineering Consulting Services to include a scope of work and fees for engineering services, by adding the following terms to their Agreement.

1. **Services**. The City agrees to engage the services of the Engineer and the Engineer agrees to perform the services hereinafter set forth in connection with projects described in ***Exhibit A***.

2. **Addition to Services**. The City may add to the Engineer services or delete therefrom activities of a similar nature to those set forth in ***Exhibit A***, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 5 hereof. The Engineer shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the City and shall be accepted and countersigned by the Engineer.

3. **Term**. The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A***.

4. **Costs not to Exceed**. The City of Joplin is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract, which cannot be exceeded unless this contract is amended. The Engineer providing services hereunder shall be required to keep track of the amount of hours billable under this contract at all times; and any work in excess of the fixed sum shall not be eligible for payment. The Engineer shall notify the City if Engineer anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Engineer shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment**.

a. **Conditioned upon acceptable performance.** The City agrees to pay the Engineer in accordance with the terms set forth in ***Exhibit A***, which shall constitute complete compensation for all services to be rendered under this contract; provided, that where payments are to be made periodically to Engineer for services rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of services set forth in ***Exhibit A***.

b. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Engineer under the terms of this work Authorization Number ___ exceed the sum of Fifty thousand Nine hundred Fifty dollars Dollars ($50,950.00).

6. **Insurance**. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin

against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City at the time that this contract is signed by the Engineer. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to cancellation or non-renewal of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main, Joplin, MO 64801; and

All policies except for the professional liability policy shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.
(See, http://insurance.mo.gov/industry/sovimmunity.php).

As of January 1, 2014, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation....Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Engineer agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Engineer, its employees, officers or agents. Engineer agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of $1,000,000.00 on both a per-claim and an aggregate basis. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all of this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such

additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer: Anderson Engineering

By: John Snider

Printed Name: John Snider

Title: Vice President

Date: _____

CITY OF JOPLIN, MISSOURI

By: _____
Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

ANDERSON ENGINEERING, INC

EMPLOYEE OWNED

EXHIBIT A

March 27, 2014

City of Joplin
Attn: Dan Johnson
602 S. Main Street
Joplin, Missouri 64801

Re: PJ-1536, Proposal for Stormwater Improvements
Even Ave to Country Club Dr. South of 29th St.
Joplin, Missouri

Dear Mr. Johnson,

We understand this project consists of providing civil engineering and land surveying services related to the design of approximately 1,800 linear feet of stormwater channel design.

This proposal is based on our meeting with you and Dave Hunt on March 17th. This proposal is also based on our visit to the site on March 17th and 18th. We understand these improvements are anticipated to be made within platted easements. As part of this work, we understand you also want us to design improvements to the two detention basins just west of Country Club Drive between 28th Street and 31st Street. We understand these detention basins function appropriately hydraulically but are eroded, are not well-vegetated, and are difficult to maintain.

As requested by you our proposed scope of services is as follows:

CIVIL ENGINEERING – SITE GEOMETRY & UTILITY PLAN
Provide a site geometry and site utility plan for the proposed project. Site layout includes stormwater channel, stormwater piping, etc. The utility plan will show the existing utilities and identify any conflicts with the proposed improvements. The City of Joplin's standard technical specifications will be used.

CIVIL ENGINEERING – STORMWATER MANAGEMENT AND DESIGN
Provide stormwater analysis and drainage calculations per City of Joplin standards for stormwater. This proposal assumes U.S. Army Corps of Engineers Section 404 permitting will not be necessary. Based on a review of topographic maps and brief site observation, we do not believe permitting will be required. However, it is up to the City to determine if the project involves a jurisdictional waterway. If the City would like us to do more than a cursory review, we can modify our scope to include this service.

CIVIL ENGINEERING – GRADING & EROSION CONTROL PLAN
Provide a grading and erosion control plan. Finish grades will include spot elevations, as applicable, for top of pavement, drainage inlets, and grading at one foot contour intervals for the proposed project. As

part of the Erosion Control Plan we will also prepare a Stormwater Pollution Prevention Plan (SWPPP). The cost of the permit application fee is not included in the proposal and shall be paid directly to the appropriate state agency by the owner. The City of Joplin's standard technical specifications will be used.

SURVEYING – SITE TOPOGRAPHIC SURVEY

Provide a topographic engineering survey on the red line areas on the attached Exhibit "A" for engineering design of proposed storm water improvements. Survey will include spot elevations, location of all utilities, corners of buildings/structures and any other improvements located within the street right of way shown on the attached Exhibit "A". The survey will show basic planimetrics as well as above ground and underground utilities (as located by Missouri One Call) within survey area. The survey will be based on the Missouri State Plane Coordinate system of 1983, West Zone and NAVD 88. Control points and temporary benchmarks will be set along the survey route to be used during construction phase of the project.

SURVEYING – BOUNDARY SURVEY

We will provide right-of-way surveys as illustrated by the red lines on the attached Exhibit "B". The right of way surveys will show the right of way line on both sides of the street to be used in the design phase of this project. At this time, we will only show the right of way lines and will not show each parcel line. Also, no easements will be shown as a part of this survey.

CONDUCTING BIDDING ON BEHALF OF THE CITY

We will hold one pre-bid meeting, one bid opening, and one preconstruction meeting for a total of 3 meetings. We will coordinate these meetings with the City of Joplin and will review the results with City staff. (Bidders shall be charged a separate fee to purchase plan copies from Anderson Engineering.)
We anticipate that the City of Joplin will advertise the project out to bid.

CONSTRUCTION INSPECTION ON BEHALF OF THE CITY

We will perform site inspection during construction on behalf of the City of Joplin. We will provide documentation to the City after each inspection. We anticipate 3 weekly site visits over an eight week period and have budgeted spending eight hours per week on inspections and reporting.

OPTION #1 SURVEYING – TEMPORARY CONSTRUCTION EASEMENT PREPARATION

<u>At this time, we do not anticipate needing any permanent easements to construct these improvements.</u>
However, temporary construction easements may be necessary. We can assist the City and prepare the easement description and sketch to be used to acquire the temporary easement.

OPTION #2 - EASEMENT NEGOTIATION

If needed, we will negotiate the acquisition of the each needed temporary construction easement. We anticipation it will take up to 4 hours to acquire each temporary construction easement.

OPTION #3 - MINE SHAFT CAP DESIGN

Our preliminary analysis of this project has revealed several suspect mine features near the proposed channel location. This scope of work includes design of a structural concrete cap. This will also include field time from an Associate Engineer during excavation of mine feature area to assist in determining the mine feature extents, survey of the mine feature extents, construction observation and testing during construction of the structural caps, and survey of final, constructed cap locations. A construction detail

will be provided for each of the suspected mine features.

Base Scope/Fee:

Civil Engineering – Design, Plans and Specifications[1]	$25,700.00
Surveying – Site Topographic Survey[1]	$12,800.00
Surveying – Boundary Survey[1]	$ 4,850.00
Bidding on Behalf of the City[1]	$ 2,100.00
Construction Inspection on Behalf of the City[1]	$ 5,500.00
Base Subtotal:	***$50,950.00***

Optional Scope/Fee:

Surveying – Temporary Easement Preparation (Each)	$ 500.00 each
Easement Negotiation (Each)	$ 500.00 each
Mine Shaft Cap Design (Each)	$ 2,300.00 each

[1] We propose to complete these services on an hourly basis with a not to exceed limit.

OTHER

This proposal includes providing two sets of signed plans and one set of technical specifications.

This proposal includes one set of reviews with the local governmental agency identified above. If additional reviews are required not as a result of errors by Anderson Engineering, then that additional work will be billed at our standard hourly charge rates in addition to the fees listed above.

ASSUMPTIONS

We have also assumed that all right of ways, easements, property ownership issues, and private utilities affecting the project will be provided by you to us. We will make a Utility Locate call to identify public utilities; however, we have assumed that all public utilities will be located accurately by the Utility Locator.

GENERAL INFORMATION

Please note that any changes in the scope of work to be performed, or changes in the information provided to us, such as changes in the location of buildings or parking areas, which results in additional work will be billed at our standard hourly charge rates in addition to the fees listed above.

There are many additional, related services that we could perform, but since this proposal is limited in nature, this proposal does not include any geotechnical exploration, performance of an ALTA survey, utility main extensions, any design service not expressly listed above, and submittal of permits to various agencies. Also, this proposal also does not include preparation of cost estimates, bid forms, or bid documents, or any construction staking, observations or testing. This proposal also does not include any

plan or review compliance with local governmental agency for items not identified above. Anderson Engineering would be happy provide a proposal for these services upon request.

Invoices are due upon receipt regardless of whether the client has been, or is to be, reimbursed by any other party. A service charge of one and one-half percent per month is assessed on accounts 45 days past due. A WORK AUTHORIZATION AGREEMENT form and GENERAL CONDITIONS statement is provided for your signature. Should you have any questions regarding these proposals, please give us a call. Again, we want to thank you for the opportunity to be of service and we look forward to working with you on this project.

Sincerely,

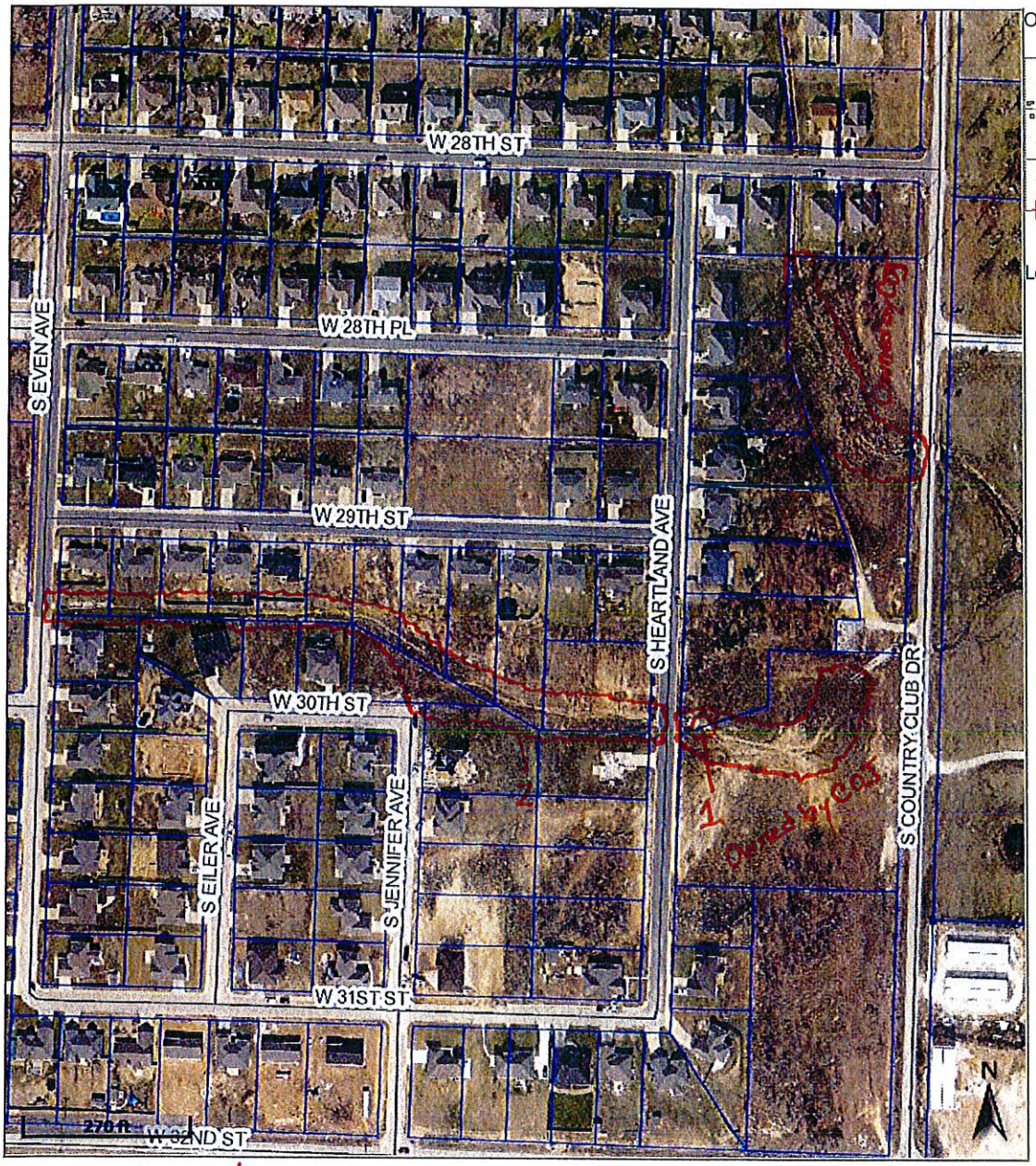
John T. Snider, PE
Vice President

Jerrod Hogan, PLS
Vice President
JIM MICHEL, PLS FOR

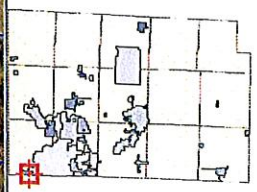
Jasper County, MO

beacon™

Date Created: 3/26/2014



Overview



Legend

Corporate Limits Boundary

- Airport Drive
- Alba
- Asbury
- Avilla
- Brooklyn Heights
- Carl Junction
- Carterville
- Carthage
- Carytown
- Duenweg
- Duquesne
- Fidelity
- Jasper
- Joplin
- La Russell
- Neck City
- Oronogo
- Purcell
- Reeds
- Sarcoxie
- Waco
- Webb City
- **Parcels**

Major Roads

- Business US
- Interstate
- Missouri
- Lettered
- United States
- **Local Roads**

① Chert rock/suspected mine cap.

② North = 30' drainage easement / South = 20' easement

Last Data Upload: 3/26/2014 7:56:37 AM

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COUNCIL BILL NO. 2014- 126

ORDINANCE NO.

AN ORDINANCE approving a agreement for Anderson Engineering for Fifty Six Thousand Two Hundred Fifty and no/100 Dollars ($56,250.00) for Consultant Services for the Even Ave to County Club Drainage System Repairs project and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. Approval of an agreement for Anderson Engineering for Fifty Six Thousand Two Hundred and no/100 Dollars ($56,250.00) for Consultant Services for the Even Ave to County Club Drainage System Repairs in the City of Joplin, Jasper County.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. That the Director of Public Works is hereby authorized to enter into an agreement on behalf of the City of Joplin with Anderson Engineering.

Section 4. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a _____ vote.

ATTEST:

_____
Melodee Colbert Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-127

Item: Consultant Agreement with Anderson Engineering, Inc. for the Pennsylvania & Virginia – 31st to 28th Stormwater Repairs Project

Originating Department: Public Works – Engineering

Attachments: 1) Contract Agreement
2) Council Bill No. 2014-127

Department Head: Nicholas A. Heatherly Date: 3/31/14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3/31/14
Interim City Manager: Samuel L Anselm Date: 5/3/14

Recommended Action: Approval of a Consultant Agreement with Anderson Engineering, Inc. in the amount of $84,700.00 for design services on the Pennsylvania & Virginia – 31st to 28th Stormwater Repairs Project.

Background: The May 2011 tornado caused damage to the City's storm sewer system. City staff has identified individual projects inside the tornado zone for repair projects. The drainage system around Pennsylvania & Virginia from 31st to 28th Street was damaged by the tornado and is in need of repairs. Anderson Engineering will prepare a repair plan, create bid documents, and manage the construction project.

Discussion: City staff advertised in the Joplin Globe for one day and received 16 sets of qualifications from consulting firms for this project. City staff ranked the firms and has selected Anderson Engineering, Inc. for this project. The consulting fees are within industry standards and the engineer's estimate.

Recommendation: It is recommended that an award of the consultant agreement with Anderson Engineering, Inc. not to exceed the amount of $84,700.00

Penn + Virginia Storm

CITY	ENGINEER
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801	Name: Anderson Engineering Address: 811 E. 3rd, Joplin, Mo 64801
Attention: Dan Johnson	Attention: John Snider
Department: Public Works	Phone: 417-782-7399 Fax: 417-782-7399
Phone: 624-0820 Fax: 625-4738	

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 20 14 by the parties identified above.

WITNESSETH:

THAT, WHEREAS, the City of Joplin desires to engage the Engineer to render certain technical and professional services in connection with a projects identified on future Work Authorizations to this Agreement;

WHEREAS, the Engineer made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal; and

WHEREAS, the Engineer represents Engineer is licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors to perform the services designated under this contract, and further represents that all survey services shall be done under the direction of a Land Surveyor licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Engineer as follows:

1. **Services.** The City agrees to engage the services of the Engineer and the Engineer agrees, upon receipt of each duly executed Work Authorization, to perform the services described in the Work Authorization. The services of the Engineer shall commence as soon as practicable after the execution of a Work Authorization, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract. The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this Agreement. Approval by the City and other agencies of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of his responsibility for the technical adequacy of his work except as to matters involving peculiar conditions or uses of the property known to the City or other agencies but not to the Engineer.

2. **Term.** The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A*** of any executed Work Authorization.

3. **Payment.** The City, pursuant to each fully executed Work Authorization, shall pay Engineer the consideration set forth in the Work Authorization, which shall constitute complete payment for the services furnished in connection with the work required to be performed under the Work Authorization.

4. **Exchange of Data.** All information, data, and reports as are in the City's possession and necessary for the carrying out of the work, shall be furnished to the Engineer without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.

5. **Personnel.** The Engineer represents that Engineer will secure at Engineer's own expense, all personnel required to perform the services called for under this contract by Engineer. Such personnel shall not be employees of or have any contractual

relationship with the City except as employees of the Engineer. All of the services required hereunder will be performed by the Engineer or under Engineer's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

6. **Termination of Contract.**

a. Termination for breach. Failure of the Engineer to fulfill Engineer's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services set forth in Exhibit A shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Engineer by one of three different means: Facsimile Transmission ("FAX") if Engineer has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Engineer; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Engineer or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Engineer.

b. Right to terminate in the absence of breach. Either party may terminate this contract for any reason, by serving notice of intent to terminate upon the other party by the means specified in paragraph A of this section. Such notice shall specify the date of termination, but in no event shall either party terminate the contract under this provision upon less than thirty (30) days' notice to the other party; provided, that the parties may mutually agree to waive the thirty (30) day requirement and to shorten the time for notice of termination. In the event of termination in the absence of breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

7. **Conflicts.** No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Engineer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Engineer further covenants that in the performance of this contract no person having such interest shall be employed.

8. **Assignment.** The Engineer shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Engineer from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

9. **Confidentiality of Documents.** Any reports, data, design or similar information given to or prepared or assembled by the Engineer under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Engineer without prior written approval of the City.

10. **Discrimination.** The Engineer agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Engineer or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

11. **Occupational License**: The Engineer shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Engineer. No contract will be executed by the City until this occupational license has been obtained and that the Engineer is current on any City taxes is verified.

12. **Compliance with Laws**. Engineer agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Engineer affirmatively states that payment of all local, state, and federal taxes and assessments owed by Engineer is current.

13. **Affidavit for Contracts Over $5,000.00**. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Engineer is associated with a business entity, Engineer shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Engineer must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

14. **Nonresident/Foreign Contractors**. The Engineer shall procure and maintain during the life of this contract:

a. If the Engineer is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

15. **General Independent Contractor Clause**. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Engineer will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Engineer will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Engineer's activities and responsibilities hereunder. The Engineer agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Engineer and the City, and the City will not be liable for any obligation incurred by the Engineer, including but not limited to unpaid minimum wages and/or overtime premiums.

16. **City Benefits**. The Engineer shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

17. **Liability and Indemnity**. The parties mutually agree to the following:

a. The Engineer shall defend, indemnify, and hold the City harmless from and against all damages, losses, liabilities, expenses, and costs with respect to all claims, including, but not limited to, claims for personal injuries, wrongful death, and damages to property, which may be asserted against the City by any person or entity as the result of Engineer's (or any of Engineer's subcontractors) negligent acts, errors, or omissions in the course of the performance of this contract, provided that the Engineer is not obligated to indemnify or hold harmless the City from the City's own negligence or wrong doing.

b. The Engineer shall indemnify and hold the City harmless from all wages or overtime compensation due its employees in rendering services pursuant to this agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

c. In no event shall the City be liable to the Engineer for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

18. **Ownership of Documents**. All files and information will be submitted before or upon final approval and acceptance of the contract documents. All documents, including original drawings, calculations, computer runs, field notes, drawings, estimates, specifications, written design criteria and written reports are and remain the property of the Engineer until such time as this Agreement is, for any reason, terminated, at which time they become the property of the City. The Engineer shall furnish to the City, one set of reproducible record Mylars of drawings, AutoCAD files and copies of estimates, specifications, written reports, and written design criteria, in consideration of which the City will use them fully in connection with the project and will not sell them.

19. **Notices**. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Engineer at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

20. **Jurisdiction**. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

21. **Entire Agreement**. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer:

Anderson Engineering

By: John Snider

Printed Name: John Snider

Title: Vice President

Date:

CITY OF JOPLIN, MISSOURI

By:
Nicholas A. Heatherly, P.E.
Public Works Director

Date:

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Anderson Engineering Address: 811 E. 3rd, Joplin, Mo 64801	
Attention: Dan Johnson		Attention: John Snider	
Department: Public Works		Phone: 417-782-7399	Fax: 417-782-7398
Phone: 624-0820	Fax: 625.4738		

WORK AUTHORIZATION NUMBER ___
TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

City and Engineer agree to amend their Agreement for Professional Engineering Consulting Services to include a scope of work and fees for engineering services, by adding the following terms to their Agreement.

1. **Services**. The City agrees to engage the services of the Engineer and the Engineer agrees to perform the services hereinafter set forth in connection with projects described in ***Exhibit A***.

2. **Addition to Services**. The City may add to the Engineer services or delete therefrom activities of a similar nature to those set forth in ***Exhibit A***, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 5 hereof. The Engineer shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the City and shall be accepted and countersigned by the Engineer.

3. **Term**. The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A***.

4. **Costs not to Exceed**. The City of Joplin is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract, which cannot be exceeded unless this contract is amended. The Engineer providing services hereunder shall be required to keep track of the amount of hours billable under this contract at all times; and any work in excess of the fixed sum shall not be eligible for payment. The Engineer shall notify the City if Engineer anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Engineer shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment**.

a. **Conditioned upon acceptable performance.** The City agrees to pay the Engineer in accordance with the terms set forth in ***Exhibit A***, which shall constitute complete compensation for all services to be rendered under this contract; provided, that where payments are to be made periodically to Engineer for services rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of services set forth in ***Exhibit A***.

b. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Engineer under the terms of this work Authorization Number ___ exceed the sum of Seventy-nine thousand Seven hundred dollars Dollars ($ 79,700.00).

6. **Insurance**. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin

against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City at the time that this contract is signed by the Engineer. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to cancellation or non-renewal of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main, Joplin, MO 64801; and

All policies except for the professional liability policy shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.
(See, http://insurance.mo.gov/industry/sovimmunity.php).

As of January 1, 2014, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation....Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Engineer agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Engineer, its employees, officers or agents. Engineer agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of $1,000,000.00 on both a per-claim and an aggregate basis. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all of this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such

additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer: Anderson Engineering

By: John Snider

Printed Name: John Snider

Title: Vice President

Date:

CITY OF JOPLIN, MISSOURI

By:
Nicholas A. Heatherly, P.E.
Public Works Director

Date:

ANDERSON ENGINEERING, INC

EMPLOYEE OWNED

EXHIBIT A

March 27, 2014

City of Joplin
Attn: Dan Johnson
602 S. Main Street
Joplin, Missouri 64801

Re: PJ-1538 Proposal for Surveying and Civil Engineering Services
Pennsylvania and Virginia from 31st to 28th
Joplin, Missouri

Dear Mr. Johnson,

We understand this project consists of providing design services and easement documents for approximately 2,100 linear feet of storm water improvements Pennsylvania and Virginia, draining into and including Garvin Park.

This proposal is based on our meeting with you and David Hunt on March 17, 2014. This proposal is also based on our visit to the site on March 19, 2014. We have been in contact with Jim Ross with Bartlett and West about obtaining the GIS information at the site that they have cataloged for the City.

As requested by you our proposed scope of services is as follows. Our proposed schedule is attached.

CIVIL ENGINEERING – SITE GEOMETRY & UTILITY PLAN

Provide a site geometry and site utility plan for the proposed project. Site layout includes stormwater channel, stormwater piping, and street crossings. Based on our meeting with you, a closed-pipe stormwater structures are preferred for this project within the right-of-way. The utility plan will show the existing utilities and identify any conflicts with the proposed improvements. The City of Joplin's standard technical specifications will be used.

CIVIL ENGINEERING – STORMWATER MANAGEMENT AND DESIGN

Provide stormwater analysis and drainage calculations per City of Joplin standards for stormwater. This proposal assumes U.S. Army Corps of Engineers Section 404 permitting will not be necessary. Based on a review of topographic maps and brief site observation, we do not believe permitting will be required. However, it is up to the City to determine if the project involves a jurisdictional waterway. If the City would like us to do more than a cursory review, we can modify our scope to include this service. We anticipate having a few options for the final design and will meet with the city to determine the final course of action.

811 EAST 3RD STREET • JOPLIN, MO 64801 • PH: 417.782.7399 • FX: 417.782.7398 • E-MAIL: AEINC@AEINCMO.COM • WWW.AEINCMO.COM

CIVIL ENGINEERING – GRADING & EROSION CONTROL PLAN

Provide a grading and erosion control plan. Finish grades will include spot elevations, as applicable, for top of pavement, drainage inlets, and grading at one foot contour intervals for the proposed project. As part of the Erosion Control Plan we will also prepare a Stormwater Pollution Prevention Plan (SWPPP). The cost of the permit application fee is not included in the proposal and shall be paid directly to the appropriate state agency by the owner. The City of Joplin's standard technical specifications will be used.

SURVEYING – SITE TOPOGRAPHIC SURVEY

Provide a topographic engineering survey on the red line areas on the attached Exhibit "A" for engineering design of proposed storm water improvements. Survey will include spot elevations, location of all utilities, corners of buildings/structures and any other improvements located within the street right of way shown on the attached Exhibit "A". The survey will show basic planimetrics as well as above ground and underground utilities (as located by Missouri One Call) within survey area. The survey will be based on the Missouri State Plane Coordinate system of 1983, West Zone and NAVD 88. Control points and temporary benchmarks will be set along the survey route to be used during construction phase of the project. We understand that the City will Hydrovac any structures located during the survey that require being cleared out.

SURVEYING – RIGHT-OF-WAY SURVEY

We anticipate that all work will be within City of Joplin right-of-way or on City owned property. We will provide right-of-way surveys as listed below, as illustrated by the yellow lines on the attached Exhibit "B". The right of way surveys will show the
right of way line on both sides of the street to be used in the design phase of this project.
At this time, we will only show the right of way lines and will not show each parcel line. Also, no easements will be shown as a part of this survey. Below is a list of the right of way lines to be established as a part of this agreement:

1. Pennsylvania from 28th to 30th
2. 28th from Virginia to Kentucky
3. 30th from Pennsylvania to Kentucky

The survey will be based on the Missouri State Plane Coordinate system of 1983, West Zone.

CONDUCTING BIDDING ON BEHALF OF THE CITY

We will hold one pre-bid meeting, one bid opening, and one preconstruction meeting for a total of 3 meetings. We will coordinate these meetings with the City of Joplin and will review the results with City staff. (Bidders shall be charged a separate fee to purchase plan copies from Anderson Engineering.)
We anticipate that the City of Joplin will advertise the project out to bid.

CONSTRUCTION INSPECTION ON BEHALF OF THE CITY

We will perform site inspection during construction on behalf of the City of Joplin. We will provide documentation to the City after each inspection. We anticipate daily site visits over a eight week period.

OPTION #1 SURVEYING – TEMPORARY CONSTRUCTION EASEMENT PREPARATION

At this time, we do not anticipate needing any permanent easements to construct these improvements. However, temporary construction easements may be necessary. We can assist the City and prepare the easement description and sketch to be used to acquire the temporary easement.

OPTION #2 - EASEMENT NEGOTIATION

If needed, we will negotiate the acquisition of the each needed temporary construction easement. We anticipation it will take up to 4 hours to acquire each temporary construction easement.

OPTION #3 - MINE SHAFT CAP DESIGN

Our preliminary analysis of this project has revealed several suspect mine features near the proposed channel location. This scope of work includes design of a structural concrete cap. This will also include field time from an Associate Engineer during excavation of mine feature area to assist in determining the mine feature extents, survey of the mine feature extents, construction observation and testing during construction of the structural caps, and survey of final, constructed cap locations. A construction detail will be provided for each of the suspected mine features.

Base Scope/Fee:

Civil Engineering – Design, Plans and Specifications[1]	$ 57,950.00
Surveying – Site Topographic Survey[1]	$ 9,800.00
Surveying – Right-of-way Survey[1]	$ 4,850.00
Bidding on Behalf of the City	$ 2,100.00
Construction Inspection on Behalf of the City	$ 5,000.00
MAXIMUM NOT TO EXCEED FEE:	**$79,700.00**

Optional Scope/Fee:

Surveying – Temporary Easement Preparation (Each)	$ 500.00 each
Easement Negotiation (Each)	$ 500.00 each
Mine Shaft Cap Design (Each)	$ 2,300.00 each

[1] We propose to complete these services on an hourly basis with a not to exceed limit.

OTHER

This proposal includes providing two sets of sealed plans to the City.

This proposal includes reviews with the City for conceptual, preliminary, and final plans. If additional reviews are required not as a result of errors by Anderson Engineering, then that additional work will be billed at our standard hourly charge rates in addition to the fees listed above.

ASSUMPTIONS

We have also assumed that all right of ways, easements, property ownership issues, and private utilities affecting the project will be provided by you to us. We will make a Utility Locate call to identify public utilities. We have assumed that all public utilities will be located accurately and completely by the Utility Locator.

GENERAL INFORMATION

Please note that any changes in the scope of work to be performed, or changes in the information provided to us, such as changes in the location of buildings or parking areas, which results in additional work will be billed at our standard hourly charge rates in addition to the fees listed above.

There are many additional, related services that we could perform, but since this proposal is limited in nature, this proposal does not include any geotechnical exploration, additional utility main extensions, any design service not expressly listed above, and submittal of permits to various agencies. Also this proposal also does not include any construction staking, observations, or testing. This proposal also does not include any plan or review compliance with local governmental agency for items not identified above. Anderson Engineering would be happy provide a proposal for these services upon request.

Invoices are due upon receipt regardless of whether the client has been, or is to be, reimbursed by any other party. A service charge of one and one-half percent per month is assessed on accounts 45 days past due. A WORK AUTHORIZATION AGREEMENT form and GENERAL CONDITIONS statement is provided for your signature. Should you have any questions regarding these proposals, please give us a call. Again, we want to thank you for the opportunity to be of service and we look forward to working with you on this project.

Sincerely,

John T. Snider

John Snider, PE
Vice President

Jerrod Hogan, PLS Jim Michel, PLS
Vice President



Google earth feet 1000
meters 300

Survey Area

COUNCIL BILL NO. 2014- 127 **ORDINANCE NO.**

AN ORDINANCE approving a agreement for Anderson Engineering for Eighty Four Thousand Seven Hundred and no/100 Dollars ($84,700.00) for Consultant Services for the Pennsylvania & Virginia – 31st to 28th Stormwater Repairs project and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. Approval of an agreement for Anderson Engineering for Eighty Four Thousand Seven Hundred and no/100 Dollars ($84,700.00) for Consultant Services for the Pennsylvania & Virginia – 31st to 28th Stormwater Repairs in the City of Joplin, Jasper County.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. That the Director of Public Works is hereby authorized to enter into an agreement on behalf of the City of Joplin with Anderson Engineering.

Section 4. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a _____ vote.

ATTEST: _____
Melodee Colbert Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-128

Item: Consultant Agreement with BARTLETT & WEST, INC. for the Storm Sewer Damage Assessment & GIS Mapping of the Tornado Zone Project

Originating Department: Public Works – Engineering

Attachments: 1) Contract Agreement
2) Council Bill No. 2014-128

Department Head: Nicholas A. Heatherly Date: 3/31/14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3-31-14
Interim City Manager: Samuel L Anselm Date: 3/31/14

Recommended Action: Approval of a Consultant Agreement with BARTLETT & WEST, INC. in the amount of $608,260.00 for Storm Sewer Damage Assessment & GIS Mapping of the Tornado Zone Project.

Background: The May 2011 tornado caused damage to the City's storm sewer system. City staff has determined that a project that assesses the damage to the storm sewer system throughout the tornado zone and maps the results using the City's GIS with State of Missouri DED funding is a priority for the remaining work to be done throughout the tornado zone. There are approximately 75,000 feet of pipes & culverts and approximately 1800 inlets in the tornado that need to be damage assessed. A significant portion of the services in this contract are cleaning and video inspecting the inlets and pipes of the storm sewer system, this is $294,000.00 of the total cost. The clean & TV inspection will be performed by ACE Pipe Cleaning as a sub consultant to Bartlett & West, Inc.

Discussion: City staff advertised in the Joplin Globe for one day and received 16 sets of qualifications from consulting firms for this project. Six firms were given interviews for this project and BARTLETT & WEST, INC. was selected. The consulting fees are within industry standards. The cost is 9.7% over the engineer's estimate because the engineer's estimate was based on a smaller number of inlets & pipes.

Recommendation: It is recommended that an award of the consultant agreement with BARTLETT & WEST, INC. not to exceed the amount of $608,260.00.

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: **Bartlett & West, Inc.** Address: **1719 Southridge Drive, Ste 100** **JEFFERSON CITY, MO 65109**	
Attention: **Dan Johnson, P.E.**		Attention: **Bob Gilbert, P.E.**	
Department: **Public Works**		Phone: **(573) 659-6719**	Fax: **(573) 634-7904**
Phone: **417-624-0820**	Fax: **(417) 625-4738**		

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 20___, by the parties identified above.

WITNESSETH:

THAT, WHEREAS, the City of Joplin desires to engage the Engineer to render certain technical and professional services in connection with a projects identified on future Work Authorizations to this Agreement;

WHEREAS, the Engineer made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal; and

WHEREAS, the Engineer represents Engineer is licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors to perform the services designated under this contract, and further represents that all survey services shall be done under the direction of a Land Surveyor licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Engineer as follows:

1. **Services.** The City agrees to engage the services of the Engineer and the Engineer agrees, upon receipt of each duly executed Work Authorization, to perform the services described in the Work Authorization. The services of the Engineer shall commence as soon as practicable after the execution of a Work Authorization, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract. The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this Agreement. Approval by the City and other agencies of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of his responsibility for the technical adequacy of his work except as to matters involving peculiar conditions or uses of the property known to the City or other agencies but not to the Engineer.

2. **Term.** The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A*** of any executed Work Authorization.

3. **Payment.** The City, pursuant to each fully executed Work Authorization, shall pay Engineer the consideration set forth in the Work Authorization, which shall constitute complete payment for the services furnished in connection with the work required to be performed under the Work Authorization.

4. **Exchange of Data**. All information, data, and reports as are in the City's possession and necessary for the carrying out of the work, shall be furnished to the Engineer without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.

5. **Personnel**. The Engineer represents that Engineer will secure at Engineer's own expense, all personnel required to perform the services called for under this contract by Engineer. Such personnel shall not be employees of or have any contractual

relationship with the City except as employees of the Engineer. All of the services required hereunder will be performed by the Engineer or under Engineer's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

6. **Termination of Contract.**

a. Termination for breach. Failure of the Engineer to fulfill Engineer's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services set forth in Exhibit A shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Engineer by one of three different means: Facsimile Transmission ("FAX") if Engineer has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Engineer; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Engineer or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Engineer.

b. Right to terminate in the absence of breach. Either party may terminate this contract for any reason, by serving notice of intent to terminate upon the other party by the means specified in paragraph A of this section. Such notice shall specify the date of termination, but in no event shall either party terminate the contract under this provision upon less than thirty (30) days' notice to the other party; provided, that the parties may mutually agree to waive the thirty (30) day requirement and to shorten the time for notice of termination. In the event of termination in the absence of breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

7. **Conflicts**. No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Engineer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Engineer further covenants that in the performance of this contract no person having such interest shall be employed.

8. **Assignment**. The Engineer shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Engineer from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

9. **Confidentiality of Documents**. Any reports, data, design or similar information given to or prepared or assembled by the Engineer under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Engineer without prior written approval of the City.

10. **Discrimination.** The Engineer agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Engineer or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

11. **Occupational License**: The Engineer shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Engineer. No contract will be executed by the City until this occupational license has been obtained and that the Engineer is current on any City taxes is verified.

12. **Compliance with Laws**. Engineer agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Engineer affirmatively states that payment of all local, state, and federal taxes and assessments owed by Engineer is current.

13. **Affidavit for Contracts Over $5,000.00**. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Engineer is associated with a business entity, Engineer shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Engineer must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

14. **Nonresident/Foreign Contractors**. The Engineer shall procure and maintain during the life of this contract:

a. If the Engineer is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

15. **General Independent Contractor Clause**. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Engineer will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Engineer will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Engineer's activities and responsibilities hereunder. The Engineer agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Engineer and the City, and the City will not be liable for any obligation incurred by the Engineer, including but not limited to unpaid minimum wages and/or overtime premiums.

16. **City Benefits**. The Engineer shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

17. **Liability and Indemnity**. The parties mutually agree to the following:

a. The Engineer shall defend, indemnify, and hold the City harmless from and against all damages, losses, liabilities, expenses, and costs with respect to all claims, including, but not limited to, claims for personal injuries, wrongful death, and damages to property, which may be asserted against the City by any person or entity as the result of Engineer's (or any of Engineer's subcontractors) negligent acts, errors, or omissions in the course of the performance of this contract, provided that the Engineer is not obligated to indemnify or hold harmless the City from the City's own negligence or wrong doing.

b. The Engineer shall indemnify and hold the City harmless from all wages or overtime compensation due its employees in rendering services pursuant to this agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

c. In no event shall the City be liable to the Engineer for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

18. **Ownership of Documents.** All files and information will be submitted before or upon final approval and acceptance of the contract documents. All documents, including original drawings, calculations, computer runs, field notes, drawings, estimates, specifications, written design criteria and written reports are and remain the property of the Engineer until such time as this Agreement is, for any reason, terminated, at which time they become the property of the City. The Engineer shall furnish to the City, one set of reproducible record Mylars of drawings, AutoCAD files and copies of estimates, specifications, written reports, and written design criteria, in consideration of which the City will use them fully in connection with the project and will not sell them.

19. **Notices**. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Engineer at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

20. **Jurisdiction**. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

21. **Entire Agreement**. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

_____

Dan Johnson, P.E.
Civil Engineer (Sewers)

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

_____

Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____

Brian Head, City Attorney

Engineer:

Bartlett & West, Inc.

By: _____

Printed Name: Bob Gilbert, P.E.

Title: Location Manager/Vice President

Date: _____

CITY OF JOPLIN, MISSOURI

By: _____
Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: **Bartlett & West, Inc.** Address: **1719 Southridge Drive, Ste 100** **JEFFERSON CITY, MO 65109**	
Attention: **Dan Johnson, P.E.**		Attention: **Bob Gilbert, P.E.**	
Department: **Public Works**		Phone: **(573) 659-6719**	Fax: **(573) 634-7904**
Phone: **417-624-0820**	Fax: **(417) 625-4738**		

WORK AUTHORIZATION NUMBER ___
TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

City and Engineer agree to amend their Agreement for Professional Engineering Consulting Services to include a scope of work and fees for engineering services, by adding the following terms to their Agreement.

1. **Services**. The City agrees to engage the services of the Engineer and the Engineer agrees to perform the services hereinafter set forth in connection with projects described in ***Exhibit A***.

2. **Addition to Services**. The City may add to the Engineer services or delete therefrom activities of a similar nature to those set forth in ***Exhibit A***, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 5 hereof. The Engineer shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the City and shall be accepted and countersigned by the Engineer.

3. **Term**. The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A***.

4. **Costs not to Exceed**. The City of Joplin is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract, which cannot be exceeded unless this contract is amended. The Engineer providing services hereunder shall be required to keep track of the amount of hours billable under this contract at all times; and any work in excess of the fixed sum shall not be eligible for payment. The Engineer shall notify the City if Engineer anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Engineer shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment**.

a. **Conditioned upon acceptable performance**. The City agrees to pay the Engineer in accordance with the terms set forth in ***Exhibit A***, which shall constitute complete compensation for all services to be rendered under this contract; provided, that where payments are to be made periodically to Engineer for services rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of services set forth in ***Exhibit A***.

b. **Total compensation not to exceed**. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Engineer under the terms of this work Authorization Number ___ exceed the sum of Six Hundred and Eight Thousand Two Hundred Sixty Dollars and No Cents Dollars ($ 608,260.00).

6. **Insurance**. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin

against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City at the time that this contract is signed by the Engineer. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to cancellation or non-renewal of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main, Joplin, MO 64801; and

All policies except for the professional liability policy shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.
(See, http://insurance.mo.gov/industry/sovimmunity.php).

As of January 1, 2014, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation....Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Engineer agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Engineer, its employees, officers or agents. Engineer agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of $1,000,000.00 on both a per-claim and an aggregate basis. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all of this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such

additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

_____

Dan Johnson, P.E.
Civil Engineer (Sewers)

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

_____

Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____

Brian Head, City Attorney

Engineer: Bartlett & West, Inc.

By: _____

Printed Name: Bob Gilbert, P.E.

Title: Location Manager/Vice President

Date: _____

CITY OF JOPLIN, MISSOURI

By: _____
Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

COUNCIL BILL NO. 2014- 128

ORDINANCE NO.

AN ORDINANCE approving a agreement for Bartlett & West Inc. not to exceed Six Hundred Eight Thousand Two Hundred Sixty and no/100 Dollars ($608,260.00) for Consultant Services for the Storm Sewer Damage Assessment & Repair & GIS Mapping of the Tornado Zone project and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. Approval of an agreement for Bartlett & West Inc. not to exceed Six Hundred Eight Thousand Two Hundred Sixty and no/100 Dollars ($608,260.00) for Consultant Services for the Storm Sewer Damage Assessment & Repair & GIS Mapping of the Tornado Zone project in the City of Joplin, Jasper County.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. That the Director of Public Works is hereby authorized to enter into an agreement on behalf of the City of Joplin with Bartlett & West Inc.

Section 4. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a _____ vote.

ATTEST:

_____
Melodee Colbert Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014
Council Bill No. 2014-129

Item: Consultant Agreement with Tran-Systems for Surface Street, Sidewalk, and Curb Assessment & GIS Mapping of the Tornado Zone Project

Originating Department: Public Works – Engineering

Attachments: 1) Contract Agreement
2) Council Bill No. 2014-129

Department Head: Nicholas A. Heatherly Date: 3/31/14
Finance Department: Leslie Haase Date: 3-31-14
City Attorney: Brian Head Date: 3/31/14
Interim City Manager: Samuel L Anselm Date: 3/31/14

Recommended Action: Approval of a Consultant Agreement with Tran-Systems in the amount of $292,000.00 for Surface Street, Sidewalk, and Curb Assessment & GIS Mapping of the Tornado Zone Project.

Background: The May 2011 tornado caused damage to the City's Street, Sidewalk, and Curb. City staff has determined that a project that assesses the damage to the Street, Sidewalk, and Curb throughout the tornado zone, along with areas to add sidewalk and map the results using the City's GIS is required for proper design. State of Missouri DED funding will be used for the work to be done throughout the tornado zone. There are approximately 106 miles of roadway in the tornado zone, with sidewalk and curb mixed throughout. The project oversight and management is by Tran-Systems, and they have partnered with CJW Transportation Consultants and Tri-State Engineering.

Discussion: City staff advertised in the Joplin Globe for one day and received 16 sets of qualifications from consulting firms for this project. Six firms were given interviews for this project and Tran-Systems as partnered with CJW Transportation Engineers and Tri-State Engineering was selected. The consulting fees are within industry standards.

Recommendation: It is recommended that an award of the consultant agreement with Tran-Systems not to exceed the amount of $292,000.00.

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Tran Systems Address: 2400 Pershing Road Kansas City, Mo 64108	
Attention:		Attention: Shawn Turner	
Department:		Phone: 816-298-8600	Fax: 816-329-8601
Phone:	Fax:		

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

THIS AGREEMENT, made and entered into this _____ day of _____, 20___, by the parties identified above.

WITNESSETH:

THAT, WHEREAS, the City of Joplin desires to engage the Engineer to render certain technical and professional services in connection with a projects identified on future Work Authorizations to this Agreement;

WHEREAS, the Engineer made certain representations and statements to the City with respect to the provision of such services and the City has accepted said proposal; and

WHEREAS, the Engineer represents Engineer is licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors to perform the services designated under this contract, and further represents that all survey services shall be done under the direction of a Land Surveyor licensed by the Missouri Board for Architects, Professional Engineers, and Land Surveyors;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between the City and the Engineer as follows:

1. **Services.** The City agrees to engage the services of the Engineer and the Engineer agrees, upon receipt of each duly executed Work Authorization, to perform the services described in the Work Authorization. The services of the Engineer shall commence as soon as practicable after the execution of a Work Authorization, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract. The Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by the Engineer under this Agreement. Approval by the City and other agencies of drawings, designs, specifications, reports, and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of his responsibility for the technical adequacy of his work except as to matters involving peculiar conditions or uses of the property known to the City or other agencies but not to the Engineer.

2. **Term.** The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A*** of any executed Work Authorization.

3. **Payment.** The City, pursuant to each fully executed Work Authorization, shall pay Engineer the consideration set forth in the Work Authorization, which shall constitute complete payment for the services furnished in connection with the work required to be performed under the Work Authorization.

4. **Exchange of Data**. All information, data, and reports as are in the City's possession and necessary for the carrying out of the work, shall be furnished to the Engineer without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.

5. **Personnel**. The Engineer represents that Engineer will secure at Engineer's own expense, all personnel required to perform the services called for under this contract by Engineer. Such personnel shall not be employees of or have any contractual

relationship with the City except as employees of the Engineer. All of the services required hereunder will be performed by the Engineer or under Engineer's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.

6. **Termination of Contract.**

a. Termination for breach. Failure of the Engineer to fulfill Engineer's obligations under this contract in a timely and satisfactory manner in accordance with the schedule and description of services set forth in Exhibit A shall constitute a breach of the contract, and the City shall thereupon have the right to immediately terminate the contract. The City shall give written notice of termination to the Engineer by one of three different means: Facsimile Transmission ("FAX") if Engineer has a FAX number; U.S. Postal Service Mails; or by hand delivering a copy of the same to the Engineer; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Engineer or given by FAX, or the third day following mailing of the notice of termination, whichever first occurs. In the event of termination for breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Engineer shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Engineer.

b. Right to terminate in the absence of breach. Either party may terminate this contract for any reason, by serving notice of intent to terminate upon the other party by the means specified in paragraph A of this section. Such notice shall specify the date of termination, but in no event shall either party terminate the contract under this provision upon less than thirty (30) days' notice to the other party; provided, that the parties may mutually agree to waive the thirty (30) day requirement and to shorten the time for notice of termination. In the event of termination in the absence of breach, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Engineer under this contract shall at the option of the City become its property, and the Engineer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

7. **Conflicts**. No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Engineer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Engineer further covenants that in the performance of this contract no person having such interest shall be employed.

8. **Assignment**. The Engineer shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City thereto. Provided, however, that claims for money due or to become due to the Engineer from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

9. **Confidentiality of Documents**. Any reports, data, design or similar information given to or prepared or assembled by the Engineer under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Engineer without prior written approval of the City.

10. **Discrimination**. The Engineer agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Engineer or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

11. **Occupational License**: The Engineer shall obtain and maintain an occupational license with the City of Joplin, Missouri, if required by city code and any required state or federal license. The cost for this occupational license shall be borne by the Engineer. No contract will be executed by the City until this occupational license has been obtained and that the Engineer is current on any City taxes is verified.

12. **Compliance with Laws**. Engineer agrees to comply with all applicable federal, state and local laws or rules and regulations applicable to the provision of services and products hereunder. Engineer affirmatively states that payment of all local, state, and federal taxes and assessments owed by Engineer is current.

13. **Affidavit for Contracts Over $5,000.00**. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of $5,000.00 and Engineer is associated with a business entity, Engineer shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Engineer must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

14. **Nonresident/Foreign Contractors**. The Engineer shall procure and maintain during the life of this contract:

a. If the Engineer is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.572 RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

15. **General Independent Contractor Clause**. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Engineer will be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws. The Engineer will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Engineer's activities and responsibilities hereunder. The Engineer agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the Engineer and the City, and the City will not be liable for any obligation incurred by the Engineer, including but not limited to unpaid minimum wages and/or overtime premiums.

16. **City Benefits**. The Engineer shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

17. **Liability and Indemnity**. The parties mutually agree to the following:

a. The Engineer shall defend, indemnify, and hold the City harmless from and against all damages, losses, liabilities, expenses, and costs with respect to all claims, including, but not limited to, claims for personal injuries, wrongful death, and damages to property, which may be asserted against the City by any person or entity as the result of Engineer's (or any of Engineer's subcontractors) negligent acts, errors, or omissions in the course of the performance of this contract, provided that the Engineer is not obligated to indemnify or hold harmless the City from the City's own negligence or wrong doing.

b. The Engineer shall indemnify and hold the City harmless from all wages or overtime compensation due its employees in rendering services pursuant to this agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

c. In no event shall the City be liable to the Engineer for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.

18. **Ownership of Documents**. All files and information will be submitted before or upon final approval and acceptance of the contract documents. All documents, including original drawings, calculations, computer runs, field notes, drawings, estimates, specifications, written design criteria and written reports are and remain the property of the Engineer until such time as this Agreement is, for any reason, terminated, at which time they become the property of the City. The Engineer shall furnish to the City, one set of reproducible record Mylars of drawings, AutoCAD files and copies of estimates, specifications, written reports, and written design criteria, in consideration of which the City will use them fully in connection with the project and will not sell them.

19. **Notices**. All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Engineer at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

20. **Jurisdiction**. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

21. **Entire Agreement**. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer:

Tran Systems

By: _____

Printed Name: Shawn Turner

Title: Vice President

Date: 3/27/14

CITY OF JOPLIN, MISSOURI

By: _____
Nicholas A. Heatherly, P.E.
Public Works Director

Date: _____

CITY		ENGINEER	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Tran Systems Address: 2400 Pershing Road Kansas City, MO 64108	
Attention:		Attention: Shawn Turner	
Department:		Phone: 816-329-8600	Fax: 816-329-8601
Phone:	Fax:		

WORK AUTHORIZATION NUMBER ___
TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

City and Engineer agree to amend their Agreement for Professional Engineering Consulting Services to include a scope of work and fees for engineering services, by adding the following terms to their Agreement.

1. **Services**. The City agrees to engage the services of the Engineer and the Engineer agrees to perform the services hereinafter set forth in connection with projects described in ***Exhibit A***.

2. **Addition to Services**. The City may add to the Engineer services or delete therefrom activities of a similar nature to those set forth in ***Exhibit A***, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 5 hereof. The Engineer shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the City and shall be accepted and countersigned by the Engineer.

3. **Term**. The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as ***Exhibit A***.

4. **Costs not to Exceed**. The City of Joplin is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract, which cannot be exceeded unless this contract is amended. The Engineer providing services hereunder shall be required to keep track of the amount of hours billable under this contract at all times; and any work in excess of the fixed sum shall not be eligible for payment. The Engineer shall notify the City if Engineer anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Engineer shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment**.

a. **Conditioned upon acceptable performance**. The City agrees to pay the Engineer in accordance with the terms set forth in ***Exhibit A***, which shall constitute complete compensation for all services to be rendered under this contract; provided, that where payments are to be made periodically to Engineer for services rendered under this contract, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the schedule and description of services set forth in ***Exhibit A***.

b. **Total compensation not to exceed**. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Engineer under the terms of this work Authorization Number 1 exceed the sum of two hundred & ninety two thousand Dollars ($ 292,000).

6. **Insurance**. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin

against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City at the time that this contract is signed by the Engineer. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to cancellation or non-renewal of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main, Joplin, MO 64801; and

All policies except for the professional liability policy shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.
(See, http://insurance.mo.gov/industry/sovimmunity.php).

As of January 1, 2014, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation....Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Engineer agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Engineer, its employees, officers or agents. Engineer agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Two Million Six Hundred Eighty-Seven Thousand Five Hundred Ninety-Four and no/100 Dollars ($2,687,594.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Three Thousand One Hundred Thirty-Nine and no/100 Dollars ($403,139.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of $1,000,000.00 on both a per-claim and an aggregate basis. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all of this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such

additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Brian Head, City Attorney

Engineer: TranSystems

By:

Printed Name: Shawn Turner

Title: Vice President

Date: 3/28/14

CITY OF JOPLIN, MISSOURI

By:
Nicholas A. Heatherly, P.E.
Public Works Director

Date:

Anticipated Scope

1. **Establishing GIS Portal for Evaluation/Data Management:**

   A. Develop the Rating Criteria and 'Condition Zones'. It is envisioned that a different evaluation system will be needed depending upon the level of damage in the target areas. The overall area will be reviewed and divided into two separate zones, based on condition.

   a. **Condition Zones.** The target area will be categorized into a Heavily Damaged Zone or a Lightly Damaged Zone. This scope estimates that one third of the target area will be categorized as Heavily Damaged, and two thirds as Lightly Damaged. A basic description of the process used for the evaluation of the infrastructure in each zone follows:

      1. **Heavily Damaged Zones:** In these zones, replacement of large quantities of curb and gutter and sidewalks are anticipated. In these zones, aerial photography of the existing curb and gutter and sidewalk will be digitized at the ¼ block (face of each block, or each side of the block) level. The digitized quantity of curb and gutter and sidewalk will be known. The digitized outline of the curb and gutter will also be utilized to determine the area of pavement in the zone. In the GIS portal, the digitized line segments of each ¼ block of sidewalk and curb and gutter will be utilized by field evaluators in making their evaluations.

      2. **Lightly Damaged Zones:** In these zones, replacement of smaller sections of curb and gutter and sidewalks are anticipated. In these zones, point assessments of conditions will be undertaken, with the assessment data tied to the nearest parcel in the GIS portal. If larger areas of replacement are needed in this zone, those areas will be noted as 'non typical'. Field notes of the necessary improvements will be taken, and the field notes will be added to the GIS data system manually.

   b. **Rating Criteria**

      1. **Curb and gutter.** A rating system for curb and gutter for each zone will be developed with input from the City. The rating system will include a 'menu' of options for the evaluators to choose from in the field. The menu selections will result in quantities being generated for cost estimation purposes. In addition to menu items, the evaluators will also be capable of adding notes for special circumstances. The system will allow for pictures to be referenced to line segments in the Heavily Damaged Zones, and parcels in the Lightly Damaged Zones.

      2. **Sidewalks**: Sidewalks must be rated on condition and ADA requirements. The rating system will include a 'menu' of options for the evaluators to choose from in the field. The menu selections will result in quantities being

generated for cost estimation purposes. In addition to menu items, the evaluators will also be capable of adding notes for special circumstances.

3. **Block Corners**: At each block corner where sidewalk is present, the ADA ramps will be evaluated, as will surface storm water drainage, and utility conflicts.

    a. **ADA:** The evaluators will photograph each corner and rate the pedestrian sidewalks ramps based on complexity required to meet the ADA. It is envisioned that a menu of 5 categories (1-5) will be available, with an increasing cost for each based on complexity of compliance.

    b. **Surface Storm water Drainage:** The evaluators will photograph each corner under item 3a above, and note the presence of storm water inlets that may interfere with ADA ramps. Evaluators will also note any apparent storm water ponding issues in the immediate area.

    c. **Utility Conflicts:** Evaluators will photograph each corner under item 3a above. Evaluators will note if above ground features are present that may lead to a utility conflict with the ADA ramps

4. **Streets:** The existing methodology of rating streets will be reviewed with the City and modified as necessary. It is envisioned each block (1/4 block level) of pavement will have a number rating. 0 (worse), 100 (best), and the system will incorporate methods of recording the numerical rating. Areas of full depth patching will be estimated for each block, and will be recorded by the system. The assumed method of pavement improvement will be a 2" mill and overlay, or a micro overlay.

b. **Quantifying existing infrastructure**.

1. **Heavily Damaged Zones**: In these zones, aerial photography of the existing curb and gutter and sidewalk will be digitized at the ¼ block (face of each block, or each side of the block) level. The digitized quantity of curb and gutter and sidewalk will be known. The digitized outline of the curb and gutter will also be utilized to determine the area of pavement in the zone. In the GIS portal, the digitized line segments of each ¼ block of sidewalk and curb and gutter will be utilized by field evaluators in making their evaluations.

2. **Lightly Damaged Zones:** In these zones, point assessments of conditions will be undertaken, with the assessment data tied to the nearest parcel in the GIS portal. Overall quantities of infrastructure in the entire zone will not be determined. Digitizing methodology will be developed to determine

quantities of pavement and quantities of adding new sidewalk where none exists. If more significant areas of replacement existing in these areas, field notes will be taken by the evaluators, and manually entered into the GIS system.

c. **GIS Portal:** A web portal will be developed to make project data available to all project stakeholders. As an integral part of our project management, the GIS web portal will include 1) Search Criteria, 2) Automated Email Linking, 3) Query Control, 4) On-Line Help and Tutorial, 5) Fast and Simple Print Capability. The application provides accountability and ensures the city access to program management team records and related information in addition to ensuring easy geospatial access. Reports will be easy to locate and open easily in a PCor MAC based browser format. Digital photos from the field will be accessed from the portal as well. The availability of documents and photos ensures that all project data will be presented in an easy to find graphical interface. The GIS web portal makes it easy to generate maps and conduct simple spatial analysis on the infrastructure evaluation layers required for this project.

d. **Tablet Field "App" –** An easy to use application will be made available to provide access to evaluators for the City of Joplin infrastructure layers in the field. The evaluators will be given tablets with an off the shelf application from Esri called "Collector for ArcGIS". The availability of this "App" along with the infrastructure data developed in house prior to field evaluation assists the city with handling the accelerated schedule of assessing the curb and gutters, sidewalks and streets. The Collector app gives the evaluators the ability for adding notes selecting pull-down menus and attaching photos from the field. This tool will be configured to specifically fit the City of Joplin infrastructure evaluation workflow.

2. Field Evaluations and Data Management:

a. **Field Evaluations**

a. **Team Description:** The field application described in item 1.d above will be operated by the evaluation team. A team of 5 field evaluators will be utilized. It is envisioned that the sidewalk will be rated by a Segway mounted system, with the remaining elements rated by four individual evaluators. The field team will be supported by GIS technicians from the teams office in Joplin, and from the office in Kansas City. For an initial startup period of one week, it is envisioned that 2 GIS technicians will periodically assist the field evaluation crew's full time. For the second week, 1 GIS technicians will assist the field evaluation crews full time, and for the remaining period of the evaluations, 1 GIS technician will assist full time.

b. **QA/QC and Consistency of Evaluations**

a. **Training and QA/QC:** During the field evaluation, calibration to maintain an acceptable level of consistency will be needed during the evaluations. Periodically,

the teams will meet jointly at Tri-State Engineers Joplin office for a safety, calibration and troubleshooting meeting. During this period, presentation and discussion will be led by Tri-State and assisted by TranSystems. Tri-State and TranSystems personnel will be utilized for troubleshooting assistance.

c. **Field Data Management**

a. **GIS staff to assist evaluation staff.** Tri-State and TranSystems personnel will be utilized for troubleshooting assistance. For the first week of evaluations, it is envisioned that one GIS Technician from Tri-State, and one from TranSystems will be periodically needed in the field full time to assist the evaluation teams. During the second week, it is anticipated that this field assistance level will decrease to one from Tri-State, and one from TranSystems. Following this two week period, it is envisioned that the field assistance level for GIS assistance will decrease, split evenly by Tri-State and TranSystems.

3. Project Development:

a. **Data Management:**

a. **Incoming Data:** During the evaluations, technical office assistance will be needed to insure proper data management. It is envisioned that one part time GIS technician from TranSystems will be needed, and one part time GIS technician from Tri-State. Both will be utilized to assist in managing incoming data during the evaluation period. Review of incoming data will also be performed by senior level engineers intermittently throughout the evaluation period.

b. **Pre-evaluation planning:**

1. Potential and existing tornado related projects, such as Joplin Commons, 20th Street Complete Streets, and other new significant development will be reviewed for sidewalk/trail connectivity. A GIS based conceptual plan to improve connectivity will be developed with the aid of City Staff. For this scope and fee, the estimated time for this task will be limited to 8 hours of E-IV time, and 8 hours of GIS technician time.

2. Members of the evaluation team will core the pavement at selected locations. The necessity of this will be jointly determined by the City and Engineer for selected locations. The coring will be completed by utilizing a portable coring machine, and consist of coring through existing pavement to determine depth of pavement, and depth of granular subgrade. For this scope and fee, a maximum time of 8 hours for a two man team will be estimated.

c. **Coordination with Other Consultants**

a. It is understood that the City has contracted with other consultants for evaluation of the stormwater and sanitary sewer infrastructure. We also understand that the

City desires that all consultants coordinate and interact sufficiently to integrate the evaluations. Our initial discussions with the other consultants involved indicate that is acceptable to all to have access to each others data to insure that all areas are covered, and that overlapping and connecting infrastructure items are properly evaluated. In addition to frequent conversation via telephone and email, we have planned for two Consultant Coordination meetings to interact and gauge the overall integration of data. We have planned for one meeting approximately one week into the field evaluations, and one meeting after the field evaluations.

d. **System for Generating Variable Cost Estimates**

a. A system will be developed to transfer quantities and estimates of probable costs from the portal to a matrix of cost estimates. It is envisioned that he City will request estimated costs for a variety of alternatives for improvements. A system will be developed to generate the costs that can have varied quantities and unit costs.

e. **Defining Projects for City to put out for design SOQ's**

a. Due to the unusual nature of this project, the exact deliverables are not known. To provide an initial fee, this initial scoping document will assume that the following will be delivered:

1. **Overall Repair and Replacement costs:** The evaluation data will be utilized to generate an overall cost estimate for the entire tornado zone, including a separate category for the green zones and the five other zones.

2. **Design Packages:** The GIS system will outline improvements with colorized hashing/lines to represent the proposed improvements, such as:

Blue Hashing = 2" mill and overlay

Red line = curb and gutter replacement

Yellow line = sidewalk replacement

Yellow hashing = access ramp replacement

The concept level cost estimates will serve solely as opinions of probably costs and be based on our experience from similar design and construction projects.

f. **Progress Meetings**

a. In addition to regular correspondence via email and telephone, we have planned for progress meetings every two weeks for the duration of the project. These are anticipated to occur at Joplin City Hall, and will be attended by various staff in person and by teleconference.

g. Schedule

a. It is understood that the evaluation and related services in the 'Green Zone' are the highest priority, and we envision completing all evaluation work in the Green Zone within 30 days. We envision completing all field evaluations in the entire area within 6 to 8 weeks, and the entire scope of work within 14 weeks of the date of the notice to proceed.

TranSystems Corporation
Schedule of Hourly Rates for 2014
Joplin, Missouri

Classification	Rate	Classification	Rate
Principal/Civil Engineer V	$275	Structural Engineer II	$125
Civil Engineer IV	$218	Industry Specialist III	$140
Civil Engineer Manager	$160	Industry Specialist IV	$220
Civil Engineer III	$160	Industry Specialist V	$275
Civil Engineer II	$120	Inspector V	$145
Civil Engineer I	$96	Inspector IV	$120
Architect IV	$190	Inspector III	$88
Architect II	$92	Inspector II	$72
Planner II	$98	Marketing Mgr.	$275
Scientist II	$88	Marketing Administrator II	$140
Technician V	$150	Administrator Mgr.	$225
Technician IV	$100	Administrator II	$120
Technician III	$94	Administrator I	$88
Technician II	$78	Surveyor IV	$109
Technician I	$65	Surveyor III	$90
Principal/ Structural Engineer V	$280	Surveyor II	$67
Structural Engineer Manager	$170	Surveyor I	$53
Structural Engineer IV	$200	Two- Person Survey Crew	$133
Structural Engineer III	$170	Three- Person Survey Crew	$187

- Sub-contracted labor, material testing equipment, printing and technical photography, and all other direct job costs to be paid at cost.
- Vehicle mileage to be paid at the current IRS rate per mile.
- The rates set forth on this initial Schedule of Rates shall be the rates provisions in effect from the date of this Agreement until December 31, 2014. TranSystems will revise the Schedule of Rates annually and will submit the revised Schedule of Rates which shall automatically become effective with regard to this Agreement and the Services performed under this Agreement on January 1st of the next calendar year.

COUNCIL BILL NO. 2014- 129

ORDINANCE NO.

AN ORDINANCE approving a agreement for TranSystems for Two Hundred Ninety Two Thousand and no/100 Dollars ($292,000.00) for Consultant Services for the Surface Street, Sidewalk, and Curb Assessment & GIS Mapping of the Tornado Zone project and containing an emergency clause.

BE IT ORDAINED by the Council of the City of Joplin, Missouri, as follows:

Section 1. Approval of an agreement for TranSystems for Two Hundred Ninety Two Thousand and no/100 Dollars ($292,000.00) for Consultant Services for the Surface Street, Sidewalk, and Curb Assessment & GIS Mapping of the Tornado Zone project in the City of Joplin, Jasper County.

Section 2. Upon the final approval and acceptance of the contractor's work under said contracts in writing by the Director of Public Works and their certification to that effect to the Director of Finance.

Section 3. That the Director of Public Works is hereby authorized to enter into an agreement on behalf of the City of Joplin with TranSystems.

Section 4. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____ day of

_____, 2014 by a _____ vote.

ATTEST:

_____
Melodee Colbert Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014

Item: Recipient Agreement for the execution of a Joplin Homeowner Rehabilitation Program through CDBG-Disaster Recovery
Originating Department: Planning & Community Development

Attachments: 1) Agreement with Exhibits
2) CDBG-DR Budget
3) Council Bill No. 2014-402

Department Head: Nick Heatherly NH	Date: 3/31/14
Planning & Community Development Director: Troy Bolander TB	Date: 3-31-14
Finance Department: Leslie Haase LH	Date: 3-31-14
City Attorney: Brian Head	Date: 3-31-14
Interim City Manager: Sam Anselm	Date: 3/3/14

Recommended Action: Approval of Council Bill No. 2014-402

DISCUSSION:

The following Council Bill is an agreement between the City of Joplin and Economic Security Corporation of Southwest Area (ESC) for Administration Services of a Homeowner Rehabilitation Assistance Program related to the City's Community Development Block Grant – Disaster Recovery Funds. The Council had previously approved the Action Plan for programs related to the initial $45 Million award from the Department of Housing and Urban Development (HUD). This initial Action Plan included funding for Single Family Housing Rehabilitation.

This agreement is the result of a Request for Proposal process that was conducted by a four member selection committee comprised of City Staff. Proposals were received by four non-profit firms and scored independently by the selection committee. The top three firms were then interviewed and ranked based on the combination of their written proposals, interview, and references. A consensus was reached by the selection committee that each of the top three firms should be awarded a contract for the provision of homeowner rehabilitation assistance.

The agreement establishes a Joplin Homeowner Rehabilitation Program (J-HRP), which provides funding to homeowners to rehabilitate disaster damaged, single-family residences in the designated Disaster Area.

This agreement will result in the award of $275,000 to ESC for administration and execution of the J-HRP, rehabilitating up to 10 homes through the $45 Million CDBG-DR program.

City Staff recommends the approval of this Council Bill with an emergency clause.

CITY OF JOPLIN MISSOURI

COMMUNITY DEVELOPMENT BLOCK GRANT- DISASTER RECOVERY (CDBG-DR)
RECIPIENT AGREEMENT
BETWEEN
THE CITY OF JOPLIN
AND
ECONOMIC SECURITY CORPORATION OF SOUTHWEST AREA
FOR THE JOPLIN HOMEOWNER REHABILITATION PROGRAM (J-HRP)

THIS AGREEMENT entered this ____ day of _____, 2014 by and between the City of Joplin (herein called the "Grantee") and Economic Security Corporation of Southwest Area (herein called the "Recipient").

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383, and Public Law 112-55; and

WHEREAS, the Grantee wishes to engage the Recipient to assist the Grantee in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. Activities

The Recipient will be responsible for administering a CDBG-DR activity in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant Disaster Recovery (CDBG-DR) program. Please refer Exhibit "A", the Recipient's J-HRP Partner Proposal, for a comprehensive Scope of Services and Budget.

Program Delivery

Activity: CDBG-DR grant funds will be used to establish a Joplin Homeowner Rehabilitation Program(J-HRP), which provides funding to homeowners to rehabilitate disaster damaged, single-family residences in the designated Disaster Area, please refer to Exhibit " B". The City of Joplin Homeowner Rehabilitation Program will help to rebuild the community's housing stock and encourage the resettlement of displaced homeowners unable to secure sufficient funds through private insurance or other government programs to repair or rehabilitate their home.

General Administration

The Recipient will maintain program and financial records documenting eligibility, provisions of services, and Recipient's expenses relative to the project as a result of assistance provided

through the CDBG-DR J-HRP program. Recipient records are subject to Grantee audit at any time during the lifecycle of the program. If records are found to be insufficient, the Recipient will be given ten (10) working days to remedy the records issue (s)

B. National Objectives

All activities funded with CDBG/CDBG-DR funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

The Recipient certifies that the activity(ies) carried out under this Agreement will meet the LMC low-moderate income clientele [570.208(a)(2)]. This activity is eligible under the category Eligible rehabilitation and preservation activities – 570.202 (a). Recipient will use Demographic/Income form, or similar form approved by the Grantee, to document the necessary demographic information for beneficiaries.

C. Levels of Accomplishment – Goals and Performance Measures

The levels of accomplishment may include things such as:

- The Recipient will procure according to Grantee's Procurement Policy for contracted services (reference City Regulation). If the Recipient intends to use a procurement method, not currently addressed by the Grantee's Procurement Policy, the alternative method must be brought to the Grantee for review and approval prior to implementation.
- Recipient will inform the Grantee of the winning bidder for each J-HRP project and issue the Notice to Proceed.
- Recipient will coordinate all J-HRP related applicant qualification, construction, and any/all J-HRP related activities.
- Recipient will provide reports to both the Grantee and CDBG office for funding and client data.
- Recipient will review J-HRP funding, progress, and provide a sample of current J-HRP applicant files quarterly to the City of Joplin : January 20th, April 21st, July 21st, October 20th.
- The Recipient must provide a Minor Rehabilitation Checklist (Exhibit "C") with each J-HRP project file.
- The Recipient is expected to conduct all preliminary environmental reviews, for each J-HRP property, and submit the Environmental Review Checklist (Exhibit "D").

D. Staffing

The Recipient shall assign the following staff as key personnel to this project.

_____

_____

_____

"Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee."

E. Performance Monitoring

The Grantee will monitor the performance of the Recipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Recipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Recipient shall start on the ____ day of _____, 2014 and end on the ____ day of _____, 2016. The Performance Period shall not exceed 24 months.

Funds will not be available to the Recipient from the Community Development Block Grant Disaster Recovery Program after the completion date, unless otherwise approved by Grantee.

III. BUDGET

The grantee will provide funding to the Recipient in an amount not-to-exceed $ $275,000.00 to establish the Joplin Homeowner Rehabilitation Program(J-HRP), which provides funding to homeowners (qualifying properties must be owner occupied) to rehabilitate disaster damaged, single-family residences.

Any funds not used for costs associated with the project will revert to the CDBG-DR program.

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. Any amendments to the budget must be approved in writing by both the Grantee and the Recipient.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed: $275,000.00.

Drawdowns for the payment of eligible expenses shall be made against the budget specified in Paragraph III herein and in accordance with performance. Expenses for general administration (If Applicable) shall also be paid against the budget specified in Paragraph III and in accordance with performance. Payments will be paid both on a reimbursement basis and directly by the Grantee contingent upon proper documentation provided. The Recipient with submit billings to the Grantee for reimbursement, upon completion of the rehabilitation of each single-family residence.

Payments may be contingent upon certification of the Recipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

Grantee
Name: Troy Bolander
Title: Planning & Community Development Director
Grantee: City of Joplin
602 South Main Street

Joplin, Missouri 64801
Phone: (417) 624-0820
Fax: (417) 625-4738

Recipient
Name: John Joines
Title: Executive Director
Economic Security Corp. of Southwest Area
1924 West Fourth Street
PO Box 207
Joplin, MO 64802
Phone: (417) 781-4437

VI. SPECIAL CONDITIONS

- If the Recipient has not provided the Grantee with a complete and comprehensive budget, the Recipient must so do prior to the commencement of any J-HRP project activity.

- The Recipient will conduct all preliminary environmental reviews, for each J-HRP property, and submit the Environmental Review Checklist (Exhibit "D").

VII. GENERAL CONDITIONS

The following requirements are applicable to all activities undertaken with Community Development Block Grant (CDBG) funds.

A. General Compliance

The Recipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the Recipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Recipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Recipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Recipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Recipient is an independent contractor.

C. Hold Harmless

The Recipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Recipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance & Bonding

The Recipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Recipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

F. Grantee Recognition

The Recipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Recipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Recipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Recipient.

H. Suspension or Termination

In accordance with 24 CFR 85.43, the Grantee may suspend or terminate this Agreement if the Recipient materially fails to comply with any terms of this Agreement, which include (but are not limited to), the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;

2. Failure, for any reason, of the Recipient to fulfill in a timely and proper manner its obligations under this Agreement;

3. Ineffective or improper use of funds provided under this Agreement; or

4. Submission by the Recipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Recipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Recipient agrees to comply with 24 CFR 84.21–28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

The Recipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the National

Objectives of the CDBG program;

c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21–28; and
g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years.. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Recipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Recipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Recipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, de-obligation of unused funds, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Recipient has control over CDBG funds, including program income.

6. Audits & Inspections

All Recipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United

States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Recipient within 30 days after receipt by the Recipient. Failure of the Recipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Recipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Recipient audits and OMB Circular A-133.(A-133 Audit required if the Recipient receives $500,000 or more in federal funds)

C. Reporting and Payment Procedures

1. Program Income

The Recipient shall report all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. All unexpended program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Recipient will develop an indirect cost allocation plan for determining the appropriate Recipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Recipient funds available under this Agreement based upon information submitted by the Recipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Recipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Recipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Recipient.

4. Progress Reports

The Recipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

D. Procurement

1. Compliance

The Recipient shall comply with current Grantee policy concerning the purchase of equipment, materials and/or services. The Recipient shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this agreement, the Recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48.

3. Travel

The Recipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National

Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Recipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Recipient shall provide relocation assistance to displaced persons as defined by 24 CFR

570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Recipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Recipient agrees to comply with and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Recipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program.

B. Affirmative Action

1. Approved Plan

The Recipient agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246

of September 24, 1966.This Executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race. The Recipient shall submit a plan for an Affirmative Action Program to the grantee for approval.

2. Women- and Minority-Owned Businesses (W/MBE)

The Recipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Recipient shall furnish and cause each of its own Recipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Recipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient; state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Recipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Recipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Recipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and it's implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Recipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Recipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Recipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including

reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

4. Federal Work Authorization Program "FWAP"

Contractor represents and agrees that it is enrolled and participating a Federal Work Authorization Program ("FWAP") that ensures that all of its employees or agents have the legal right to work in the United States, as defined in 8 U.S.C. 1324a(h)(3) and RSMo § 285.525-285.555, and that it will maintain this compliance for the entire duration of its contract with the City of Joplin. Contractor agrees that it does not knowingly employee any unauthorized alien in connection with the contracted services with the City. Contractor agrees to provide an Affidavit of Compliance stating that they are in enrolled and participating in a FWAP, and that Contractor does not knowingly employee any unauthorized aliens in connection with the contracted services, upon execution of this Agreement. All Subcontractors shall state, in writing, in their contracts with Contractor, that they are not in violation of RSMo § 285.530.1 and shall not

thereafter be in violation, or subcontractor may submit a sworn affidavit to this effect. Contractor agrees to hold harmless and indemnify the City for any liability due to Contractor's failure to maintain compliance with FWAP or for violations of the Missouri Unauthorized Alien Workers Act.

D. Conduct

1. Assignability

The Recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Recipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Recipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Recipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Recipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Recipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

a. The Recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the Recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Recipient, or any designated public agency.

5. Lobbying

The Recipient hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose accordingly:

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Recipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Executive Order 11990, Protection of Wetlands;
- The Wild and Scenic Rivers Act of 1968, as amended, (16 U.S.C.S. 1271);
- The Safe Drinking Water Act of 1974, as amended (42 U.S.C.S. 30f et. seq.);
- The Clean Water Act of 1977 (Public Law 95-217);

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may

be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted. The recipient must comply with all U.S. Department of Housing and Urban Development Lead Paint Requirements as prescribed by the dollar threshold of the Rehabilitation project.

D. Historic Preservation

The Recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

E. Other provisions

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- The National Environmental Policy Act of 1969 (42 U.S.C. Sect. 4321 et. seq.) and 24 CFR Part 58;
- The Endangered Species Act of 1973, as amended (16 U.S.C.S. 1531 et. seq.);
- The Fish and Wildlife Coordination Act of 1958, as amended, (16 U.S.C.S. 661 et. seq.);
- The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (re U.S.C.S. 6901 et. seq.).

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Recipient with respect to this Agreement.

Date: April ____, 2014

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

City of Joplin, Missouri A Municipal Corporation	Economic Security Corporation of Southwest Area
_____	_____
Samuel L. Anselm Interim City Manager	John Joines Executive Director

[NOTE: For the above sections, if the Recipient is a governmental or quasi-governmental agency, the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and OMB Circular A-87 would apply.]

STATE OF MISSOURI)
) ss.
COUNTY OF JASPER)

AFFIDAVIT OF COMPLIANCE
(Missouri Unauthorized Alien Workers Act)

My name is John Joines and I am the Executive Director of Economic Security Corporation of Southwest Area. I hereby represent, affirm and certify to the City of Joplin that my company does not knowingly employ any person who is an unauthorized alien in connection with contracted services with the City. I further affirm that my company is actively enrolled and participating in a federal work authorization program with respect to all employees working in connection with the contract services provided to the City.

_____
Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this _____ day of _____, 2014.

_____
Notary Public

My commission expires:

_____

Exhibit "A"

JHRP Partner Organization Proposal on File in the City of Joplin's Community Development Office

Exhibit "B" – Map of Eligible J-HRP Area

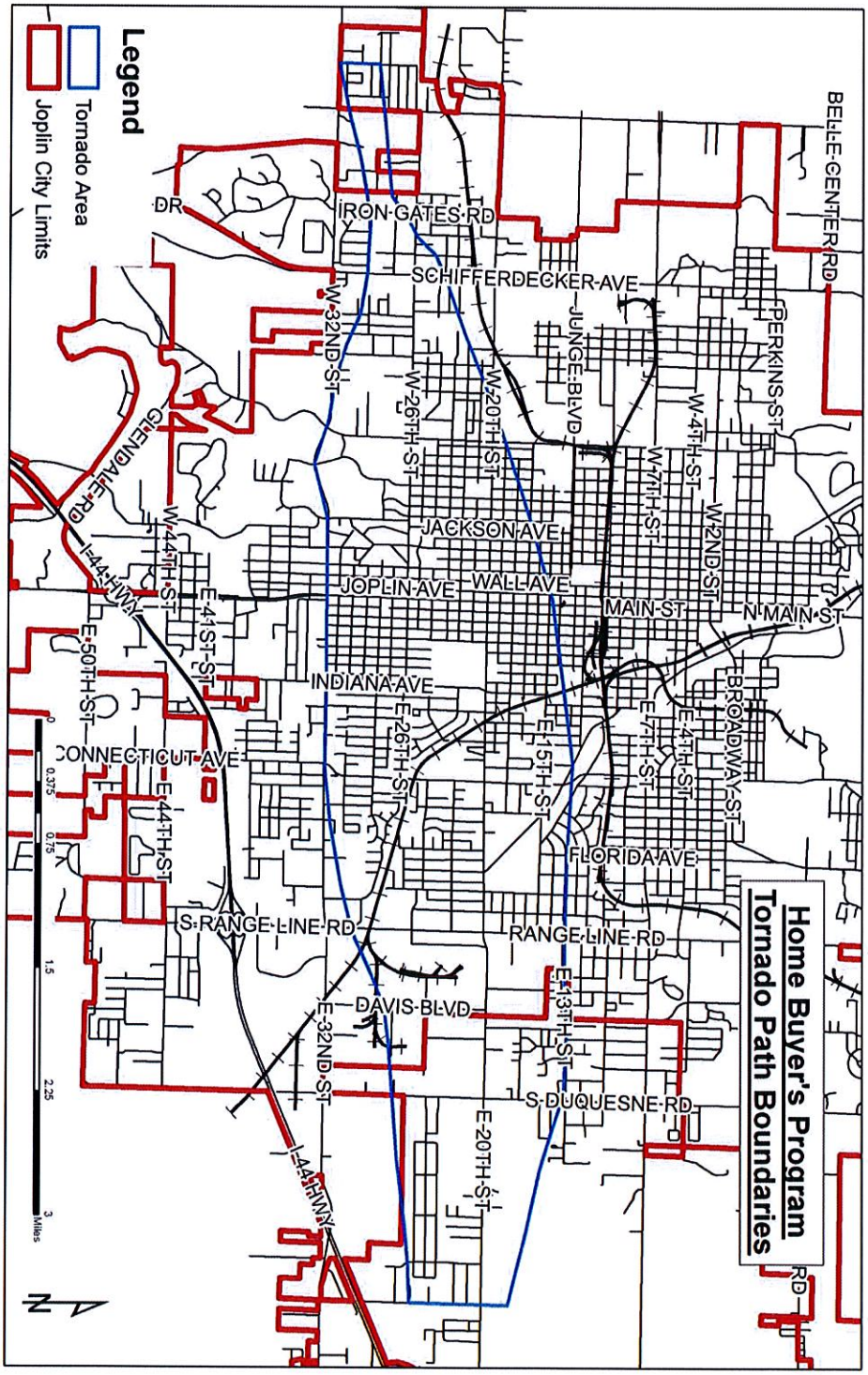


Exhibit "C"

CITY OF JOPLIN MISSOURI

Minor Housing Rehab Document Checklist

Name of Recipient:

All Activities Should Have the Following From the Homeowner:

__ Signed Homeowner Agreement
__ Proof of Ownership (Title or Deed)
__ Income/Demographic Form
__ Reimbursement Records
__ Lead Booklet
__ Lead Paper Signed
__ Bid Documentation

Collect the following from/about the contractor:

__ EPLS Search Results
__ Bidder Qualification Form
__ Subcontractor Agreement
__ E-Verify Affidavit
__ Davis Bacon Forms
__ Building Permit
__ Lead Contractor Certification
__ Lead Test Results
__ Lien Waiver/Notice of Final Inspection

"EXHIBIT D"

Site Specific Review (TIER II)
Planning/Community Development
City of Joplin, Missouri

Tier I Review ERR File # DR-2012-03-C

Tier II Review ERR File # DR-2012-03-C (#) *Last Name

Property Address: _____

Description of Activities: This Environmental Assessment applies to applicants pursuing homeownership assistance for homes not yet under construction. For assistance provided to existing homes or homes under construction, please refer to the Categorically Excluded, Not Subject to 58.5 (CENST) Environmental Review Record.

The City has reserved approximately $1,500,000.00 for this activity to provide funding to non-profit organizations to rehabilitate single-family, owner-occupied housing units in the tornado area. The Housing Rehabilitation Program will help rehabilitate the community's housing stock and encourage the resettlement of displaced homeowners unable to secure sufficient funds through private insurance or other government programs to repair and rehabilitate their homes. Repairs will be limited to a maximum grant amount of $25,000 in hard costs per house and are anticipated to be minor rehabilitations. Rehabilitation of owner occupied single family residential property. Applications are accepted competitively and selected based on criteria including income level and ability to restore the home to standard condition. The City will partner with local non-profit organizations to help administer the program. An estimated 60 single-family homes will be rehabilitated through this program. The program is designed to benefit Low to Moderate Income families.

COMPLLINACE DOCUMENTATION – Part 58.5 Laws & Authorities

1. **Contamination and Toxic Substances (50 CFR 402)**
   A. Radon Mitigation Required with Building Plans to Document.
   B. Comparison of site to EPA's EnviroMapper website for Toxic Facilities
   C. HUD's Field Contamination Checklist (Site-visit)

2. **Floodplain Management (24 CFR 55, Executive Order 11988)**
   A. Identification of properties in relation to the floodplain.

3. **Historic Preservation (36 CFR 800)**
   A. If property is within the EDR, SHPO & THPO clearance letters have been received. SHPO approval for areas outside the EDR but inside the Tornado Affected Area. THPO has provided clearance for this program in the entire Tornado Area.

4. **Wetland Protection (EO 11990)**
   A. Confirmation that site is not located in a floodplain.

For properties that are not located in wetlands, but may impact wetlands or may have an indirect impact on wetlands, staff will seek consultation through the 8-step process.

A site specific environmental review has been performed at the above location in compliance with HUD environmental review regulations (24CFR Part 58) and related laws, authorities and requirements. The review has been preformed prior to the commitment of HUD or non-HUD funds, as required by §58.22 (a) and (c).

This review shall be retained as a component of the City's Environmental Review Record (ERR). Consult the Tier 1 review listed above for further information as to compliance with other laws and authorities for this HUD-assisted project or program.

_____ _____

Printed Name: Date
Tier II Preparer

_____ _____

Printed Name: Date
City of Joplin Approver

COUNCIL BILL NO. 2014-402 **ORDINANCE NO.**

AN ORDINANCE authorizing the City of Joplin to enter into an Agreement with Economic Security Corporation of Southwest Area (ESC) in the amount not to exceed Two Hundred Seventy-five Thousand Dollars ($275,000.00) to provide administrative services related to Joplin Homeowner Rehabilitation Program through the 2012 Community Development Block Grant- Disaster Recovery fund, authorizing the City Manager to execute said Agreement for the City, and containing an emergency clause.

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

Section 1. That the City enter into an Agreement, attached hereto as Exhibit A, between the City of Joplin and Economic Security Corporation of Southwest Area (ESC) in the amount not to exceed Two hundred seventy-five thousand dollars ($275,000.00) to provide administer the Joplin Homeowner Rehabilitation Program related to the 2012 Community Development Block Grant- Disaster Recovery fund.

Section 2. That the Interim City Manager of the city of Joplin, Missouri, is hereby authorized to execute said Agreement, or substantially similar in form, for and on behalf of the City of Joplin.

Section 3. This Ordinance is an emergency within the meaning of Section 2.2 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin

Passed by the Council of the City of Joplin, Missouri, this _____day of _____, 2014, by a _____ vote.

_____
Melodee Colbert-Kean, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014

Item: Recipient Agreement for the execution of a Joplin Homeowner Rehabilitation Program through CDBG-Disaster Recovery
Originating Department: Planning & Community Development

Attachments: 1) Agreement with Exhibits
2) CDBG-DR Budget
3) Council Bill No. 2014-403

Department Head: Nick Heatherly	Date: 3/31/14
Planning & Community Development Director: Troy Bolander T.B.	Date: 3-31-14
Finance Department: Leslie Haase	Date: 3-31-14
City Attorney: Brian Head	Date: 3-31-14
Interim City Manager: Sam Anselm	Date: 3/31/14

Recommended Action: Approval of Council Bill No. 2014-403

DISCUSSION:

The following Council Bill is an agreement between the City of Joplin and Catholic Charities of Southern Missouri (Catholic Charities) for Administration Services of a Homeowner Rehabilitation Assistance Program related to the City's Community Development Block Grant – Disaster Recovery Funds. The Council had previously approved the Action Plan for programs related to the initial $45 Million award from the Department of Housing and Urban Development (HUD). This initial Action Plan included funding for Single Family Housing Rehabilitation.

This agreement is the result of a Request for Proposal process that was conducted by a four member selection committee comprised of City Staff. Proposals were received by four non-profit firms and scored independently by the selection committee. The top three firms were then interviewed and ranked based on the combination of their written proposals, interview, and references. A consensus was reached by the selection committee that each of the top three firms should be awarded a contract for the provision of homeowner rehabilitation assistance.

The agreement establishes a Joplin Homeowner Rehabilitation Program (J-HRP), which provides funding to homeowners to rehabilitate disaster damaged, single-family residences in the designated Disaster Area.

This agreement will result in the award of $250,000 to Catholic Charities for administration and execution of the J-HRP, rehabilitating up to 10 homes through the $45 Million CDBG-DR program.

City Staff recommends the approval of this Council Bill which includes an emergency clause.

CITY OF JOPLIN MISSOURI

COMMUNITY DEVELOPMENT BLOCK GRANT- DISASTER RECOVERY (CDBG-DR)
RECIPIENT AGREEMENT
BETWEEN
THE CITY OF JOPLIN
AND
CATHOLIC CHARITIES OF SOUTHERN MISSOURI, INC.
FOR THE JOPLIN HOMEOWNER REHABILITATION PROGRAM (J-HRP)

THIS AGREEMENT entered this ____ day of _____, 2014 by and between the City of Joplin (herein called the "Grantee") and Catholic Charities of Southern Missouri, Inc. (herein called the "Recipient").

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383, and Public Law 112-55; and

WHEREAS, the Grantee wishes to engage the Recipient to assist the Grantee in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. Activities

The Recipient will be responsible for administering a CDBG-DR activity in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant Disaster Recovery (CDBG-DR) program. Please refer Exhibit "A", the Recipient's J-HRP Partner Proposal, for a comprehensive Scope of Services and Budget.

Program Delivery

Activity: CDBG-DR grant funds will be used to establish a Joplin Homeowner Rehabilitation Program(J-HRP), which provides funding to homeowners to rehabilitate disaster damaged, single-family residences in the designated Disaster Area, please refer to Exhibit " B". The City of Joplin Homeowner Rehabilitation Program will help to rebuild the community's housing stock and encourage the resettlement of displaced homeowners unable to secure sufficient funds through private insurance or other government programs to repair or rehabilitate their home.

General Administration

The Recipient will maintain program and financial records documenting eligibility, provisions of services, and Recipient's expenses relative to the project as a result of assistance provided

through the CDBG-DR J-HRP program. Recipient records are subject to Grantee audit at any time during the lifecycle of the program. If records are found to be insufficient, the Recipient will be given ten (10) working days to remedy the records issue (s)

B. National Objectives

All activities funded with CDBG/CDBG-DR funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

The Recipient certifies that the activity(ies) carried out under this Agreement will meet the LMC low-moderate income clientele [570.208(a)(2)]. This activity is eligible under the category Eligible rehabilitation and preservation activities – 570.202 (a). Recipient will use Demographic/Income form, or similar form approved by the Grantee, to document the necessary demographic information for beneficiaries.

C. Levels of Accomplishment – Goals and Performance Measures

The levels of accomplishment may include things such as:

- The Recipient will procure according to Grantee's Procurement Policy for contracted services (reference City Regulation). If the Recipient intends to use a procurement method, not currently addressed by the Grantee's Procurement Policy, the alternative method must be brought to the Grantee for review and approval prior to implementation.
- Recipient will inform the Grantee of the winning bidder for each J-HRP project and issue the Notice to Proceed.
- Recipient will coordinate all J-HRP related applicant qualification, construction, and any/all J-HRP related activities.
- Recipient will provide reports to both the Grantee and CDBG office for funding and client data.
- Recipient will review J-HRP funding, progress, and provide a sample of current J-HRP applicant files quarterly to the City of Joplin : January 20th, April 21st, July 21st, October 20th.
- The Recipient must provide a Minor Rehabilitation Checklist (Exhibit "C") with each J-HRP project file.
- The Recipient is expected to conduct all preliminary environmental reviews, for each J-HRP property, and submit the Environmental Review Checklist (Exhibit "D").

D. Staffing

The Recipient shall assign the following staff as key personnel to this project.

_____

_____

_____

"Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee."

E. Performance Monitoring

The Grantee will monitor the performance of the Recipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Recipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Recipient shall start on the ____ day of _____, 2014 and end on the ____ day of _____, 2016. The Performance Period shall not exceed 24 months.

Funds will not be available to the Recipient from the Community Development Block Grant Disaster Recovery Program after the completion date, unless otherwise approved by Grantee.

III. BUDGET

The grantee will provide funding to the Recipient in an amount not-to-exceed $ $250,000.00 to establish the Joplin Homeowner Rehabilitation Program(J-HRP), which provides funding to homeowners (qualifying properties must be owner occupied) to rehabilitate disaster damaged, single-family residences.

Any funds not used for costs associated with the project will revert to the CDBG-DR program.

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. Any amendments to the budget must be approved in writing by both the Grantee and the Recipient.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed: $250,000.00.

Drawdowns for the payment of eligible expenses shall be made against the budget specified in Paragraph III herein and in accordance with performance. Expenses for general administration (If Applicable) shall also be paid against the budget specified in Paragraph III and in accordance with performance. Payments will be paid both on a reimbursement basis and directly by the Grantee contingent upon proper documentation provided. The Recipient with submit billings to the Grantee for reimbursement, upon completion of the rehabilitation of each single-family residence.

Payments may be contingent upon certification of the Recipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

Grantee
Name: Troy Bolander
Title: Planning & Community Development Director
Grantee: City of Joplin
602 South Main Street
Joplin, Missouri 64801
Phone: (417) 624-0820
Fax: (417) 625-4738

Recipient
Name: Maura Taylor
Title: Executive Director
Catholic Charities of Southern Missouri, Inc.
424 E Monastery Street
Springfield, MO 65807
Phone: (417) 866-0841

VI. SPECIAL CONDITIONS

- If the Recipient has not provided the Grantee with a complete and comprehensive budget, the Recipient must so do prior to the commencement of any J-HRP project activity.

- The Recipient will conduct all preliminary environmental reviews, for each J-HRP property, and submit the Environmental Review Checklist (Exhibit "D").

VII. GENERAL CONDITIONS

The following requirements are applicable to all activities undertaken with Community Development Block Grant (CDBG) funds.

A. General Compliance

The Recipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the Recipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Recipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Recipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Recipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Recipient is an independent contractor.

C. Hold Harmless

The Recipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Recipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance & Bonding

The Recipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Recipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

F. Grantee Recognition

The Recipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Recipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Recipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Recipient.

H. Suspension or Termination

In accordance with 24 CFR 85.43, the Grantee may suspend or terminate this Agreement if the Recipient materially fails to comply with any terms of this Agreement, which include (but are not limited to), the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;

2. Failure, for any reason, of the Recipient to fulfill in a timely and proper manner its obligations under this Agreement;

3. Ineffective or improper use of funds provided under this Agreement; or

4. Submission by the Recipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Recipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Recipient agrees to comply with 24 CFR 84.21–28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

The Recipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the National

Objectives of the CDBG program;

c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21–28; and
g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years.. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Recipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Recipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Recipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, deobligation of unused funds, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Not withstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Recipient has control over CDBG funds, including program income.

6. Audits & Inspections

All Recipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United

States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Recipient within 30 days after receipt by the Recipient. Failure of the Recipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Recipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Recipient audits and OMB Circular A-133.(A-133 Audit required if the Recipient receives $500,000 or more in federal funds)

C. Reporting and Payment Procedures

1. Program Income

The Recipient shall report all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. All unexpended program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Recipient will develop an indirect cost allocation plan for determining the appropriate Recipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Recipient funds available under this Agreement based upon information submitted by the Recipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Recipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Recipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Recipient.

4. Progress Reports

The Recipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

D. Procurement

1. Compliance

The Recipient shall comply with current Grantee policy concerning the purchase of equipment, materials and/or services. The Recipient shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this agreement, the Recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48.

3. Travel

The Recipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National

Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Recipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Recipient shall provide relocation assistance to displaced persons as defined by 24 CFR

570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Recipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Recipient agrees to comply with and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Recipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program.

B. Affirmative Action

1. Approved Plan

The Recipient agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246

of September 24, 1966.This Executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race. The Recipient shall submit a plan for an Affirmative Action Program to the grantee for approval.

2. Women- and Minority-Owned Businesses (W/MBE)

The Recipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Recipient shall furnish and cause each of its own Recipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Recipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient; state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Recipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Recipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Recipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and it's implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Recipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Recipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Recipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including

reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

4. Federal Work Authorization Program "FWAP"

Contractor represents and agrees that it is enrolled and participating a Federal Work Authorization Program ("FWAP") that ensures that all of its employees or agents have the legal right to work in the United States, as defined in 8 U.S.C. 1324a(h)(3) and RSMo § 285.525-285.555, and that it will maintain this compliance for the entire duration of its contract with the City of Joplin. Contractor agrees that it does not knowingly employee any unauthorized alien in connection with the contracted services with the City. Contractor agrees to provide an Affidavit of Compliance stating that they are in enrolled and participating in a FWAP, and that Contractor does not knowingly employee any unauthorized aliens in connection with the contracted services, upon execution of this Agreement. All Subcontractors shall state, in writing, in their contracts with Contractor, that they are not in violation of RSMo § 285.530.1 and shall not

thereafter be in violation, or subcontractor may submit a sworn affidavit to this effect. Contractor agrees to hold harmless and indemnify the City for any liability due to Contractor's failure to maintain compliance with FWAP or for violations of the Missouri Unauthorized Alien Workers Act.

D. Conduct

1. Assignability

The Recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Recipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Recipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Recipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Recipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Recipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

a. The Recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the Recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Recipient, or any designated public agency.

5. Lobbying

The Recipient hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose accordingly:

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Recipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Executive Order 11990, Protection of Wetlands;
- The Wild and Scenic Rivers Act of 1968, as amended, (16 U.S.C.S. 1271);
- The Safe Drinking Water Act of 1974, as amended (42 U.S.C.S. 30f et. seq.);
- The Clean Water Act of 1977 (Public Law 95-217);

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may

be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted. The recipient must comply with all U.S. Department of Housing and Urban Development Lead Paint Requirements as prescribed by the dollar threshold of the Rehabilitation project.

D. Historic Preservation

The Recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

E. Other provisions

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- The National Environmental Policy Act of 1969 (42 U.S.C. Sect. 4321 et. seq.) and 24 CFR Part 58;
- The Endangered Species Act of 1973, as amended (16 U.S.C.S. 1531 et. seq.);
- The Fish and Wildlife Coordination Act of 1958, as amended, (16 U.S.C.S. 661 et. seq.);
- The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (re U.S.C.S. 6901 et. seq.).

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Recipient with respect to this Agreement.

Date April ____, 2014

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

City of Joplin, Missouri
A Municipal Corporation

Samuel L. Anselm
Interim City Manager

Catholic Charities of Southern Missouri, LLC

Maura Taylor
Executive Director

[NOTE: For the above sections, if the Recipient is a governmental or quasi-governmental agency, the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and OMB Circular A-87 would apply.]

STATE OF MISSOURI)
) ss.
COUNTY OF JASPER)

AFFIDAVIT OF COMPLIANCE
(Missouri Unauthorized Alien Workers Act)

My name is _Maura Taylor_ and I am the __Executive Director of Catholic Charities of Southern Missouri_ I hereby represent, affirm and certify to the City of Joplin that my company does not knowingly employ any person who is an unauthorized alien in connection with contracted services with the City. I further affirm that my company is actively enrolled and participating in a federal work authorization program with respect to all employees working in connection with the contract services provided to the City.

_____
Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official

seal this _____ day of _____, 2014.

_____
Notary Public

My commission expires:

_____

Exhibit "A"

JHRP Partner Organization Proposal is on file in the City of Joplin's Community Development Office.

Exhibit "B" – Map of Eligible J-HRP Area

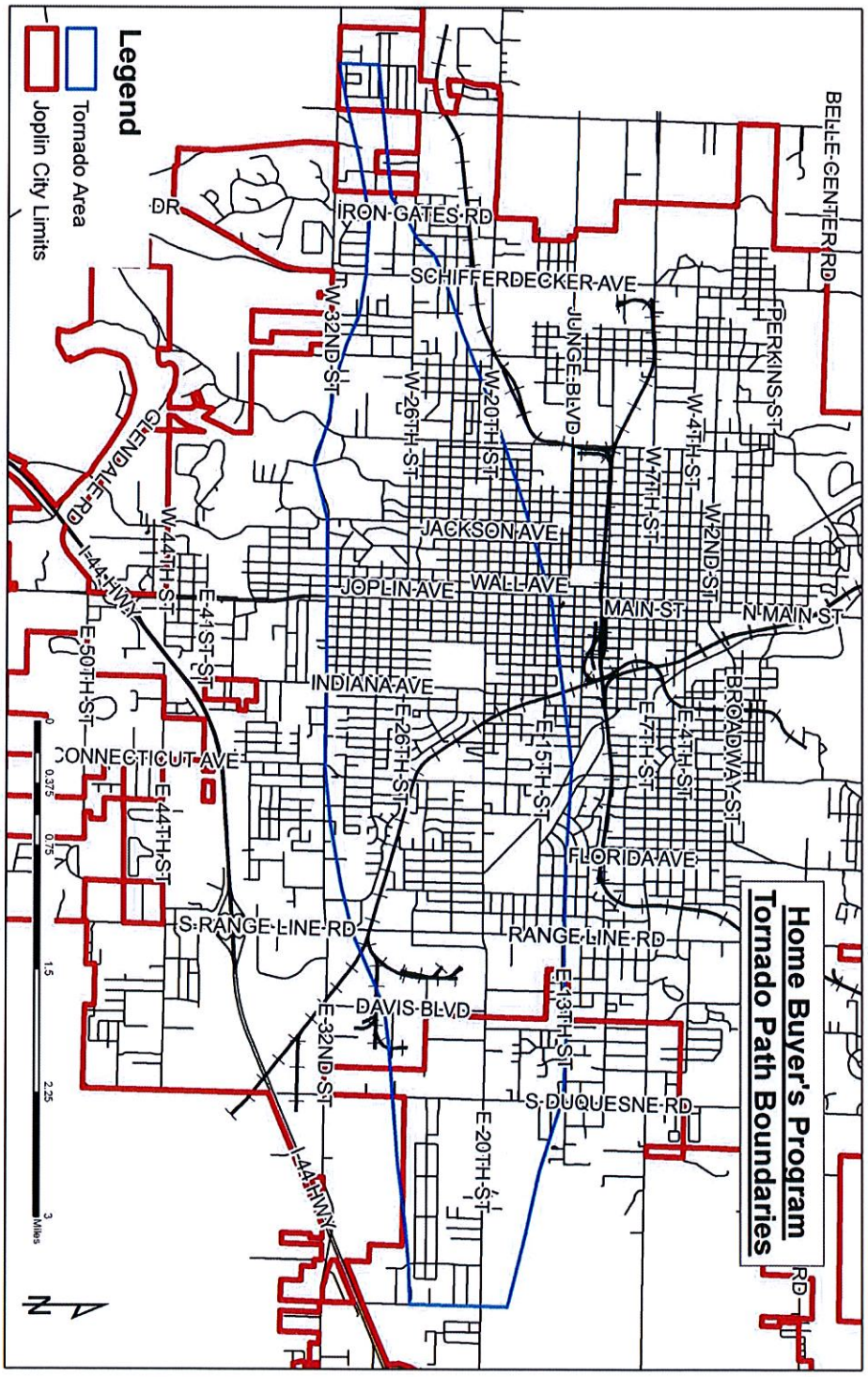


Exhibit "C"

CITY OF JOPLIN MISSOURI

Minor Housing Rehab Document Checklist

Name of Recipient:

All Activities Should Have the Following From the Homeowner:

__ Signed Homeowner Agreement
__ Proof of Ownership (Title or Deed)
__ Income/Demographic Form
__ Reimbursement Records
__ Lead Booklet
__ Lead Paper Signed
__ Bid Documentation

Collect the following from/about the contractor:

__ EPLS Search Results
__ Bidder Qualification Form
__ Subcontractor Agreement
__ E-Verify Affidavit
__ Davis Bacon Forms
__ Building Permit
__ Lead Contractor Certification
__ Lead Test Results
__ Lien Waiver/Notice of Final Inspection

"EXHIBIT D"

Site Specific Review (TIER II)
Planning/Community Development
City of Joplin, Missouri

Tier I Review ERR File # DR-2012-03-C

Tier II Review ERR File # DR-2012-03-C (#) *Last Name

Property Address: _____

Description of Activities: This Environmental Assessment applies to applicants pursuing homeownership assistance for homes not yet under construction. For assistance provided to existing homes or homes under construction, please refer to the Categorically Excluded, Not Subject to 58.5 (CENST) Environmental Review Record.

The City has reserved approximately $1,500,000.00 for this activity to provide funding to non-profit organizations to rehabilitate single-family, owner-occupied housing units in the tornado area. The Housing Rehabilitation Program will help rehabilitate the community's housing stock and encourage the resettlement of displaced homeowners unable to secure sufficient funds through private insurance or other government programs to repair and rehabilitate their homes. Repairs will be limited to a maximum grant amount of $25,000 in hard costs per house and are anticipated to be minor rehabilitations. Rehabilitation of owner occupied single family residential property. Applications are accepted competitively and selected based on criteria including income level and ability to restore the home to standard condition. The City will partner with local non-profit organizations to help administer the program. An estimated 60 single-family homes will be rehabilitated through this program. The program is designed to benefit Low to Moderate Income families.

COMPLLINACE DOCUMENTATION – Part 58.5 Laws & Authorities

1. **Contamination and Toxic Substances (50 CFR 402)**
   A. Radon Mitigation Required with Building Plans to Document.
   B. Comparison of site to EPA's EnviroMapper website for Toxic Facilities
   C. HUD's Field Contamination Checklist (Site-visit)

2. **Floodplain Management (24 CFR 55, Executive Order 11988)**
   A. Identification of properties in relation to the floodplain.

3. **Historic Preservation (36 CFR 800)**
   A. If property is within the EDR, SHPO & THPO clearance letters have been received. SHPO approval for areas outside the EDR but inside the Tornado Affected Area. THPO has provided clearance for this program in the entire Tornado Area.

4. **Wetland Protection (EO 11990)**
   A. Confirmation that site is not located in a floodplain.

For properties that are not located in wetlands, but may impact wetlands or may have an indirect impact on wetlands, staff will seek consultation through the 8-step process.

A site specific environmental review has been performed at the above location in compliance with HUD environmental review regulations (24CFR Part 58) and related laws, authorities and requirements. The review has been preformed prior to the commitment of HUD or non-HUD funds, as required by §58.22 (a) and (c).

This review shall be retained as a component of the City's Environmental Review Record (ERR). Consult the Tier 1 review listed above for further information as to compliance with other laws and authorities for this HUD-assisted project or program.

_____ _____

Printed Name: Date
Tier II Preparer

_____ _____

Printed Name: Date
City of Joplin Approver

COUNCIL BILL NO. 2014-403 **ORDINANCE NO.**

AN ORDINANCE authorizing the City of Joplin to enter into an Agreement with Catholic Charities of Southern Missouri (Catholic Charities) in the amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00) to provide administrative services related to Joplin Homeowner Rehabilitation Program through the 2012 Community Development Block Grant- Disaster Recovery fund, authorizing the City Manager to execute said Agreement for the City, and containing an emergency clause.

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

Section 1. That the City enter into an Agreement, attached hereto as Exhibit A, between the City of Joplin and Catholic Charities of Southern Missouri (Catholic Charities) in the amount not to exceed Two hundred fifty thousand dollars ($250,000.00) to provide administer the Joplin Homeowner Rehabilitation Program related to the 2012 Community Development Block Grant-Disaster Recovery fund.

Section 2. That the Interim City Manager of the City of Joplin, Missouri, is hereby authorized to execute said Agreement, or substantially similar in form, for and on behalf of the City of Joplin.

Section 3. This Ordinance is an emergency within the meaning of Section 2.2 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this _____day of _____, 2014, by a _____ vote.

_____
Melodee Colbert-Kean, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: April 7, 2014

Item: Recipient Agreement for the execution of a Joplin Homeowner Rehabilitation Program through CDBG-Disaster Recovery
Originating Department: Planning & Community Development

Attachments: 1) Agreement with Exhibits
2) CDBG-DR Budget
3) Council Bill No. 2014-404

Department Head: Nick Heatherly	Date: 3/31/14
Planning & Community Development Director: Troy Bolander T.B.	Date: 3-31-14
Finance Department: Leslie Haase	Date: 3-31-14
City Attorney: Brian Head	Date: 3-31-14
Interim City Manager: Sam Anselm	Date: 3/31/14

Recommended Action: Approval of Council Bill No. 2014-404

DISCUSSION:

The following Council Bill is an agreement between the City of Joplin and St. Bernard Project dba Rebuild Joplin (Rebuild Joplin) for Administration Services of a Homeowner Rehabilitation Assistance Program related to the City's Community Development Block Grant – Disaster Recovery Funds. The Council had previously approved the Action Plan for programs related to the initial $45 Million award from the Department of Housing and Urban Development (HUD). This initial Action Plan included funding for Single Family Housing Rehabilitation.

This agreement is the result of a Request for Proposal process that was conducted by a four member selection committee comprised of City Staff. Proposals were received by four non-profit firms and scored independently by the selection committee. The top three firms were then interviewed and ranked based on the combination of their written proposals, interview, and references. A consensus was reached by the selection committee that each of the top three firms should be awarded a contract for the provision of homeowner rehabilitation assistance.

The agreement establishes a Joplin Homeowner Rehabilitation Program (J-HRP), which provides funding to homeowners to rehabilitate disaster damaged, single-family residences in the designated Disaster Area.

This agreement will result in the award of $250,000 to Rebuild Joplin for administration and execution of the J-HRP, rehabilitating up to 10 homes through the $45 Million CDBG-DR program.

City Staff recommends the approval of this Council Bill which includes an emergency clause.

CITY OF JOPLIN MISSOURI

COMMUNITY DEVELOPMENT BLOCK GRANT- DISASTER RECOVERY (CDBG-DR)
RECIPIENT AGREEMENT
BETWEEN
THE CITY OF JOPLIN
AND
ST. BERNARD PROJECT DBA REBUILD JOPLIN
FOR THE JOPLIN HOMEOWNER REHABILITATION PROGRAM (J-HRP)

THIS AGREEMENT entered this ____ day of _____, 2014 by and between the City of Joplin (herein called the "Grantee") and St. Bernard Project DBA Rebuild Joplin (herein called the "Recipient").

WHEREAS, the Grantee has applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (HCD Act), Public Law 93-383, and Public Law 112-55; and

WHEREAS, the Grantee wishes to engage the Recipient to assist the Grantee in utilizing such funds;

NOW, THEREFORE, it is agreed between the parties hereto that;

I. SCOPE OF SERVICE

A. Activities

The Recipient will be responsible for administering a CDBG-DR activity in a manner satisfactory to the Grantee and consistent with any standards required as a condition of providing these funds. Such program will include the following activities eligible under the Community Development Block Grant Disaster Recovery (CDBG-DR) program. Please refer Exhibit "A", the Recipient's J-HRP Partner Proposal, for a comprehensive Scope of Services and Budget.

Program Delivery

Activity: CDBG-DR grant funds will be used to establish a Joplin Homeowner Rehabilitation Program(J-HRP), which provides funding to homeowners to rehabilitate disaster damaged, single-family residences in the designated Disaster Area, please refer to Exhibit " B". The City of Joplin Homeowner Rehabilitation Program will help to rebuild the community's housing stock and encourage the resettlement of displaced homeowners unable to secure sufficient funds through private insurance or other government programs to repair or rehabilitate their home.

General Administration

The Recipient will maintain program and financial records documenting eligibility, provisions of services, and Recipient's expenses relative to the project as a result of assistance provided through the CDBG-DR J-HRP program. Recipient records are subject to Grantee audit at any

time during the lifecycle of the program. If records are found to be insufficient, the Recipient will be given ten (10) working days to remedy the records issue (s)

B. National Objectives

All activities funded with CDBG/CDBG-DR funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

The Recipient certifies that the activity(ies) carried out under this Agreement will meet the LMC low-moderate income clientele [570.208(a)(2)]. This activity is eligible under the category Eligible rehabilitation and preservation activities – 570.202 (a). Recipient will use Demographic/Income form, or similar form approved by the Grantee, to document the necessary demographic information for beneficiaries.

C. Levels of Accomplishment – Goals and Performance Measures

The levels of accomplishment may include things such as:

- The Recipient will procure according to Grantee's Procurement Policy for contracted services (reference City Regulation). If the Recipient intends to use a procurement method, not currently addressed by the Grantee's Procurement Policy, the alternative method must be brought to the Grantee for review and approval prior to implementation.
- Recipient will inform the Grantee of the winning bidder for each J-HRP project and issue the Notice to Proceed.
- Recipient will coordinate all J-HRP related applicant qualification, construction, and any/all J-HRP related activities.
- Recipient will provide reports to both the Grantee and CDBG office for funding and client data.
- Recipient will review J-HRP funding, progress, and provide a sample of current J-HRP applicant files quarterly to the City of Joplin : January 20th, April 21st, July 21st, October 20th.
- The Recipient must provide a Minor Rehabilitation Checklist (Exhibit "C") with each J-HRP project file.
- The Recipient is expected to conduct all preliminary environmental reviews, for each J-HRP property, and submit the Environmental Review Checklist (Exhibit "D").

D. Staffing

The Recipient shall assign the following staff as key personnel to this project.

_____

_____

_____

"Any changes in the Key Personnel assigned or their general responsibilities under this project are subject to the prior approval of the Grantee."

E. Performance Monitoring

The Grantee will monitor the performance of the Recipient against goals and performance standards required herein. Substandard performance as determined by the Grantee will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Recipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

II. TIME OF PERFORMANCE

Services of the Recipient shall start on the ____ day of _____, 2014 and end on the ____ day of _____, 2016. The Performance Period shall not exceed 24 months.

Funds will not be available to the Recipient from the Community Development Block Grant Disaster Recovery Program after the completion date, unless otherwise approved by Grantee.

III. BUDGET

The grantee will provide funding to the Recipient in an amount not-to-exceed $ $250,000.00 to establish the Joplin Homeowner Rehabilitation Program (J-HRP), which provides funding to homeowners (qualifying properties must be owner occupied) to rehabilitate disaster damaged, single-family residences.

Any funds not used for costs associated with the project will revert to the CDBG-DR program.

Any indirect costs charged must be consistent with the conditions of Paragraph VIII (C) (2) of this Agreement. Any amendments to the budget must be approved in writing by both the Grantee and the Recipient.

IV. PAYMENT

It is expressly agreed and understood that the total amount to be paid by the Grantee under this Agreement shall not exceed: $250,000.00.

Drawdowns for the payment of eligible expenses shall be made against the budget specified in Paragraph III herein and in accordance with performance. Expenses for general administration (If Applicable) shall also be paid against the budget specified in Paragraph III and in accordance with performance. Payments will be paid both on a reimbursement basis and directly by the Grantee contingent upon proper documentation provided. The Recipient with submit billings to the Grantee for reimbursement, upon completion of the rehabilitation of each single-family residence.

Payments may be contingent upon certification of the Recipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

V. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

Grantee
Name: Troy Bolander
Title: Planning & Community Development Director
Grantee: City of Joplin
602 South Main Street
Joplin, Missouri 64801
Phone: (417) 624-0820
Fax: (417) 625-4738

Recipient
Name: Thomas Corley
Title: Executive Director
St. Bernard Project DBA Rebuild Joplin
705 Illinois Ave. Suite 1
Joplin, MO 64801
Phone: (417) 623-0065

VI. SPECIAL CONDITIONS

- If the Recipient has not provided the Grantee with a complete and comprehensive budget, the Recipient must so do prior to the commencement of any J-HRP project activity.

- The Recipient will conduct all preliminary environmental reviews, for each J-HRP property, and submit the Environmental Review Checklist (Exhibit "D").

VII. GENERAL CONDITIONS

The following requirements are applicable to all activities undertaken with Community Development Block Grant (CDBG) funds.

A. General Compliance

The Recipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the Recipient does not assume the recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the Recipient does not assume the recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The Recipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The Recipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

B. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Recipient

shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Recipient is an independent contractor.

C. Hold Harmless

The Recipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Recipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Workers' Compensation

The Recipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

E. Insurance & Bonding

The Recipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

The Recipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48, Bonding and Insurance.

F. Grantee Recognition

The Recipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Recipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

G. Amendments

The Grantee or Recipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Recipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Recipient.

H. Suspension or Termination

In accordance with 24 CFR 85.43, the Grantee may suspend or terminate this Agreement if the Recipient materially fails to comply with any terms of this Agreement, which include (but are not limited to), the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;

2. Failure, for any reason, of the Recipient to fulfill in a timely and proper manner its obligations under this Agreement;

3. Ineffective or improper use of funds provided under this Agreement; or

4. Submission by the Recipient to the Grantee reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Grantee or the Recipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Grantee determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Grantee may terminate the award in its entirety.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Recipient agrees to comply with 24 CFR 84.21–28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Recipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record Keeping

1. Records to be Maintained

The Recipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a. Records providing a full description of each activity undertaken;
b. Records demonstrating that each activity undertaken meets one of the National

Objectives of the CDBG program;

c. Records required to determine the eligibility of activities;
d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
f. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21−28; and
g. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Retention

The Recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years.. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

3. Client Data

The Recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

4. Disclosure

The Recipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Recipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

5. Close-outs

The Recipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, de-obligation of unused funds, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the Grantee), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Recipient has control over CDBG funds, including program income.

6. Audits & Inspections

All Recipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, grantor agency, and the Comptroller General of the United

States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Recipient within 30 days after receipt by the Recipient. Failure of the Recipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Recipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Recipient audits and OMB Circular A-133.(A-133 Audit required if the Recipient receives $500,000 or more in federal funds)

C. Reporting and Payment Procedures

1. Program Income

The Recipient shall report all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. All unexpended program income shall be returned to the Grantee at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the Grantee.

2. Indirect Costs

If indirect costs are charged, the Recipient will develop an indirect cost allocation plan for determining the appropriate Recipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

3. Payment Procedures

The Grantee will pay to the Recipient funds available under this Agreement based upon information submitted by the Recipient and consistent with any approved budget and Grantee policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Recipient, and not to exceed actual cash requirements. Payments will be adjusted by the Grantee in accordance with advance fund and program income balances available in Recipient accounts. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Recipient.

4. Progress Reports

The Recipient shall submit regular Progress Reports to the Grantee in the form, content, and frequency as required by the Grantee.

D. Procurement

1. Compliance

The Recipient shall comply with current Grantee policy concerning the purchase of equipment, materials and/or services. The Recipient shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets (unexpended program income, property, equipment, etc.) shall revert to the Grantee upon termination of this Agreement.

2. OMB Standards

Unless specified otherwise within this agreement, the Recipient shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48.

3. Travel

The Recipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Recipient shall transfer to the Grantee any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Recipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National

Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the Recipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the Recipient shall pay the Grantee an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the Grantee. The Recipient may retain real property acquired or improved under this Agreement after the expiration of the five-year period.

3. In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the Recipient for activities under this Agreement shall be (a) transferred to the Grantee for the CDBG program or (b) retained after compensating the Grantee [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment].

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Recipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Recipient shall provide relocation assistance to displaced persons as defined by 24 CFR

570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Recipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. Compliance

The Recipient agrees to comply with and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

2. Nondiscrimination

The Recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

3. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Recipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Recipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. Section 504

The Recipient agrees to comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program.

B. Affirmative Action

1. Approved Plan

The Recipient agrees that it shall be committed to carry out an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246

of September 24, 1966.This Executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race. The Recipient shall submit a plan for an Affirmative Action Program to the grantee for approval.

2. Women- and Minority-Owned Businesses (W/MBE)

The Recipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

3. Access to Records

The Recipient shall furnish and cause each of its own Recipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

4. Notifications

The Recipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Recipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient; state that it is an Equal Opportunity or Affirmative Action employer.

6. Subcontract Provisions

The Recipient will include the provisions of Paragraphs X.A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own Recipients or subcontractors.

C. Employment Restrictions

1. Prohibited Activity

The Recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

2. Labor Standards

The Recipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Recipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and it's implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Recipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

3. "Section 3" Clause

a. Compliance

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Recipient and any of the Recipient's Recipients and subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Recipient certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

The Recipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> "The work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

The Recipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including

reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The Recipient certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

b. Notifications

The Recipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

c. Subcontracts

The Recipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Recipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

4. Federal Work Authorization Program "FWAP"

Contractor represents and agrees that it is enrolled and participating a Federal Work Authorization Program ("FWAP") that ensures that all of its employees or agents have the legal right to work in the United States, as defined in 8 U.S.C. 1324a(h)(3) and RSMo § 285.525-285.555, and that it will maintain this compliance for the entire duration of its contract with the City of Joplin. Contractor agrees that it does not knowingly employee any unauthorized alien in connection with the contracted services with the City. Contractor agrees to provide an Affidavit of Compliance stating that they are in enrolled and participating in a FWAP, and that Contractor does not knowingly employee any unauthorized aliens in connection with the contracted services, upon execution of this Agreement. All Subcontractors shall state, in writing, in their contracts with Contractor, that they are not in violation of RSMo § 285.530.1 and shall not

thereafter be in violation, or subcontractor may submit a sworn affidavit to this effect. Contractor agrees to hold harmless and indemnify the City for any liability due to Contractor's failure to maintain compliance with FWAP or for violations of the Missouri Unauthorized Alien Workers Act.

D. Conduct

1. Assignability

The Recipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Recipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

2. Subcontracts

a. Approvals

The Recipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

b. Monitoring

The Recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

c. Content

The Recipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

d. Selection Process

The Recipient shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the Grantee along with documentation concerning the selection process.

3. Hatch Act

The Recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

4. Conflict of Interest

The Recipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

a. The Recipient shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

b. No employee, officer or agent of the Recipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

c. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Recipient, or any designated public agency.

5. Lobbying

The Recipient hereby certifies that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose accordingly:

6. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

7. Religious Activities

The Recipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder;
- Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
- Executive Order 11990, Protection of Wetlands;
- The Wild and Scenic Rivers Act of 1968, as amended, (16 U.S.C.S. 1271);
- The Safe Drinking Water Act of 1974, as amended (42 U.S.C.S. 30f et. seq.);
- The Clean Water Act of 1977 (Public Law 95-217);

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Recipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint

The Recipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may

be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted. The recipient must comply with all U.S. Department of Housing and Urban Development Lead Paint Requirements as prescribed by the dollar threshold of the Rehabilitation project.

D. Historic Preservation

The Recipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

E. Other provisions

The Recipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- The National Environmental Policy Act of 1969 (42 U.S.C. Sect. 4321 et. seq.) and 24 CFR Part 58;
- The Endangered Species Act of 1973, as amended (16 U.S.C.S. 1531 et. seq.);
- The Fish and Wildlife Coordination Act of 1958, as amended, (16 U.S.C.S. 661 et. seq.);
- The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (re U.S.C.S. 6901 et. seq.).

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Grantee's failure to act with respect to a breach by the Recipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Grantee to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the Grantee and the Recipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Grantee and the Recipient with respect to this Agreement.

Date: April ____, 2014

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

City of Joplin, Missouri
A Municipal Corporation

Samuel L. Anselm
Interim City Manager

St. Bernard Project dba Rebuild Joplin

Thomas Corley
Executive Director

[NOTE: For the above sections, if the Recipient is a governmental or quasi-governmental agency, the applicable sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," and OMB Circular A-87 would apply.]

STATE OF MISSOURI)
) ss.
COUNTY OF JASPER)

AFFIDAVIT OF COMPLIANCE
(Missouri Unauthorized Alien Workers Act)

My name is Thomas Corley and I am the Executive Director of Rebuild Joplin. I hereby represent, affirm and certify to the City of Joplin that my company does not knowingly employ any person who is an unauthorized alien in connection with contracted services with the City. I further affirm that my company is actively enrolled and participating in a federal work authorization program with respect to all employees working in connection with the contract services provided to the City.

_____
Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this _____ day of _____, 2014.

_____
Notary Public

My commission expires:

_____

Exhibit "A"

JHRP Partner Organization Proposal is on file in the City of Joplin's Community Development Office.

Exhibit "B" – Map of Eligible J-HRP Area

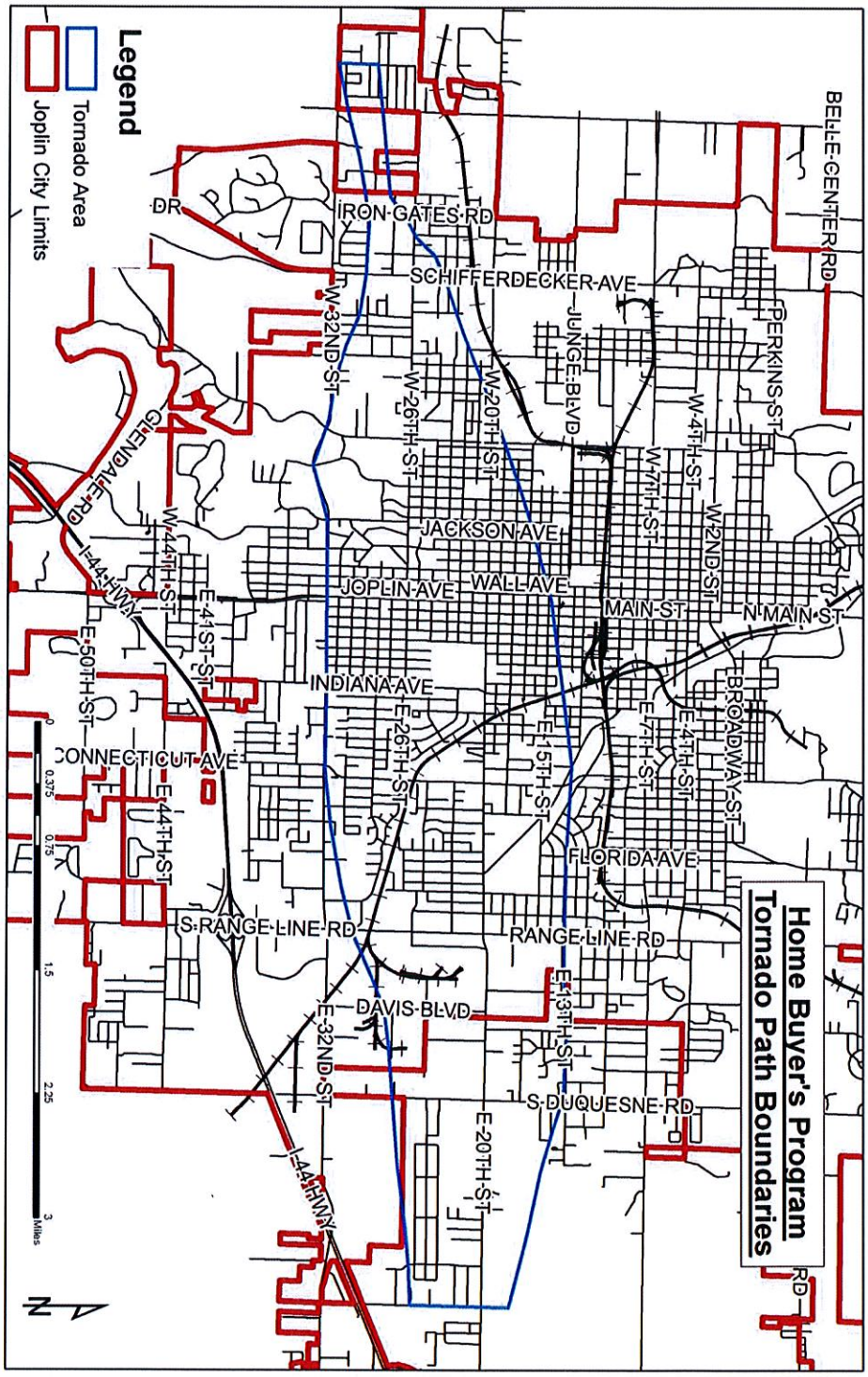


Exhibit "C"

CITY OF JOPLIN MISSOURI

Minor Housing Rehab Document Checklist

Name of Recipient:

All Activities Should Have the Following From the Homeowner:

__ Signed Homeowner Agreement
__ Proof of Ownership (Title or Deed)
__ Income/Demographic Form
__ Reimbursement Records
__ Lead Booklet
__ Lead Paper Signed
__ Bid Documentation

Collect the following from/about the contractor:

__ EPLS Search Results
__ Bidder Qualification Form
__ Subcontractor Agreement
__ E-Verify Affidavit
__ Davis Bacon Forms
__ Building Permit
__ Lead Contractor Certification
__ Lead Test Results
__ Lien Waiver/Notice of Final Inspection

"EXHIBIT D"

Site Specific Review (TIER II)
Planning/Community Development
City of Joplin, Missouri

Tier I Review ERR File # DR-2012-03-C

Tier II Review ERR File # DR-2012-03-C (#) *Last Name

Property Address: _____

Description of Activities: This Environmental Assessment applies to applicants pursuing homeownership assistance for homes not yet under construction. For assistance provided to existing homes or homes under construction, please refer to the Categorically Excluded, Not Subject to 58.5 (CENST) Environmental Review Record.

The City has reserved approximately $1,500,000.00 for this activity to provide funding to non-profit organizations to rehabilitate single-family, owner-occupied housing units in the tornado area. The Housing Rehabilitation Program will help rehabilitate the community's housing stock and encourage the resettlement of displaced homeowners unable to secure sufficient funds through private insurance or other government programs to repair and rehabilitate their homes. Repairs will be limited to a maximum grant amount of $25,000 in hard costs per house and are anticipated to be minor rehabilitations. Rehabilitation of owner occupied single family residential property. Applications are accepted competitively and selected based on criteria including income level and ability to restore the home to standard condition. The City will partner with local non-profit organizations to help administer the program. An estimated 60 single-family homes will be rehabilitated through this program. The program is designed to benefit Low to Moderate Income families.

COMPLLINACE DOCUMENTATION – Part 58.5 Laws & Authorities

1. **Contamination and Toxic Substances (50 CFR 402)**
   A. Radon Mitigation Required with Building Plans to Document.
   B. Comparison of site to EPA's EnviroMapper website for Toxic Facilities
   C. HUD's Field Contamination Checklist (Site-visit)

2. **Floodplain Management (24 CFR 55, Executive Order 11988)**
   A. Identification of properties in relation to the floodplain.

3. **Historic Preservation (36 CFR 800)**
   A. If property is within the EDR, SHPO & THPO clearance letters have been received. SHPO approval for areas outside the EDR but inside the Tornado Affected Area. THPO has provided clearance for this program in the entire Tornado Area.

4. **Wetland Protection (EO 11990)**
   A. Confirmation that site is not located in a floodplain.

For properties that are not located in wetlands, but may impact wetlands or may have an indirect impact on wetlands, staff will seek consultation through the 8-step process.

A site specific environmental review has been performed at the above location in compliance with HUD environmental review regulations (24CFR Part 58) and related laws, authorities and requirements. The review has been preformed prior to the commitment of HUD or non-HUD funds, as required by §58.22 (a) and (c).

This review shall be retained as a component of the City's Environmental Review Record (ERR). Consult the Tier 1 review listed above for further information as to compliance with other laws and authorities for this HUD-assisted project or program.

_____ _____

Printed Name: Date
Tier II Preparer

_____ _____

Printed Name: Date
City of Joplin Approver

COUNCIL BILL NO. 2014-404 **ORDINANCE NO.**

AN ORDINANCE authorizing the City of Joplin to enter into an Agreement with St. Bernard Project dba Rebuild Joplin (Rebuild Joplin) in the amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00) to provide administrative services related to Joplin Homeowner Rehabilitation Program through the 2012 Community Development Block Grant- Disaster Recovery fund, authorizing the City Manager to execute said Agreement for the City, and containing an emergency clause.

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

Section 1. That the City enter into an Agreement, attached hereto as Exhibit A, between the City of Joplin and St. Bernard Project dba Rebuild Joplin in the amount not to exceed Two hundred fifty thousand dollars ($250,000.00) to provide administer the Joplin Homeowner Rehabilitation Program related to the 2012 Community Development Block Grant- Disaster Recovery fund.

Section 2. That the Interim City Manager of the city of Joplin, Missouri, is hereby authorized to execute said Agreement, or substantially similar in form, for and on behalf of the City of Joplin.

Section 3. This Ordinance is an emergency within the meaning of Section 2.2 (6) in that said ordinance provides for public improvements and is considered an emergency by the Council and as such shall become effective immediately upon this passage as provided by the Home Rule Charter for the City of Joplin.

Passed by the Council of the City of Joplin, Missouri, this ____day of _____, 2014, by a _____vote.

_____
Melodee Colbert-Kean, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of Joplin — City Council Agenda Item

REQUESTED COUNCIL MEETING DATE: APRIL 7, 2014

COUNCIL BILL 2014-504
ORIGINATING DEPARTMENT: FINANCE DEPARTMENT
ATTACHMENT: COOPERATIVE AGREEMENT, EXHIBIT "A"

Finance Director: Leslie Haase LH	**Date:** 3-31-14
Public Works Director: Nick Heatherly	**Date:** 3/31/14
City Attorney: Brian Head	**Date:** 3-31-14
City Manager: Sam Anselm	**Date:** 3/31/14

INTRODUCTION:
This Council Bill approves an Agreement with Federal Highway Administration to provide reimbursement for tornado destroyed and damaged signs.

DISCUSSION:
Various signs were destroyed or damaged by the devastating tornado that struck our community on May 22, 2011. Some of these signs are located on federal aid highways. Damage located on federal aid highways is reimbursed by FHWA, rather than FEMA. FEMA reimburses for the remainder of the damage. The signs have been replaced or repaired, thus we are seeking reimbursement from FHWA. FHWA reimburses 80% of the cost, while the City is responsible for 20%.

The total cost for the sign project is $89,497.30, thus FHWA will reimburse $71,597.84 and the City's share will be $17,899.46.

RECOMMENDATION:
City Staff recommends this Council Bill be approved on an emergency basis.

CCO Form: FS17
Approved: 07/06 (BDG)
Revised: 06/12 (MWH)
Modified:

CFDA Number:	CFDA #20.205
CFDA Title:	Highway Planning and Construction
Award name/number:	ER-3212(702) (cross ref: MO-11-01, FEMA-1980-DR,
Award Year:	FY2013 D7-FRGG-05)
Federal Agency:	Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FEDERAL AID PROGRAM AGREEMENT

THIS FEDERAL AID PROGRAM AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Joplin, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, the Congress of the United States of America has designated specific federal funding for certain projects;

WHEREAS, the Commission administers these funds from the United States of America as part of its Emergency Relief Program; and

WHEREAS, the City is the local agency responsible for the construction of the Congressionally-designated emergency relief project.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PROJECT DESCRIPTION: The improvement contemplated by this Agreement and designated as Project ER-3212(702) involves replacing signs damaged by the tornado as listed in the cross referenced projects above. The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project ER-3212(702) by the Commission is within the city limits of Joplin, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual. If the project is within a Transportation Management Area that

has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FHWA, information concerning conditions on streets included in the Surface Transportation Program (STP) system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Replacement Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation (MoDOT or Department) employees, from any claim or liability whether based on a claim for damages to real or personal property or to a

person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(B) The City will require any contractor procured by the City to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insured's in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The City shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the STP for the City will be constructed in accordance with current MoDOT design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the FHWA.

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit B. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by the City. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs. The federal share for this project will be 80 percent not to exceed $108,000.00. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of the City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(13) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(14) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the *Manual of Uniform Traffic Control Devices* (MUTCD).

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project ER-3212(702) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work. In addition, any maintenance of work on the state's right of way may be identified through a future agreement.

(16) DISADVANTAGED BUSINESS ENTERPRISES (DBEs): At time of processing the required project agreements with the FHWA, the Commission will advise the City of any required goals for participation by disadvantaged business enterprises (DBEs) to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(17) NOTICE TO BIDDERS: The City shall notify the prospective bidders that DBEs shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(18) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly for amounts equal to or greater than $10,000.00. The City shall repay any progress payments which involve ineligible costs.

(19) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(20) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(21) OMB AUDIT: If the City expend(s) five hundred thousand dollars ($500,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of OMB Circular A-133, if the City expend(s) less than five hundred thousand dollars ($500,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(22) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The City shall comply with all reporting requirements of the Federal Funding

Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(23) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(24) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(25) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(26) COMMISSION REPRESENTATIVE: The Commission's Southwest District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(27) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the City:
Nick Heatherly, Public Works Director
City of Joplin
602 S. Main
Joplin, MO 64801
417-624-0820
nheather@joplinmo.org

(B) To the Commission:
Chad Zickefoose, Transportation Project Designer - LPA
Missouri Department of Transportation
3025 East Kearney
Springfield, MO 65803
417-895-7638
chad.zickefoose@modot.mo.gov

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or

a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(28) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (28) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(29) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this ___ day of _____, 2014.

Executed by the Commission this ___ day of _____, 2014.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

CITY OF JOPLIN

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

By _____

Title _____

Ordinance No:_____

Exhibit A - Location of Project

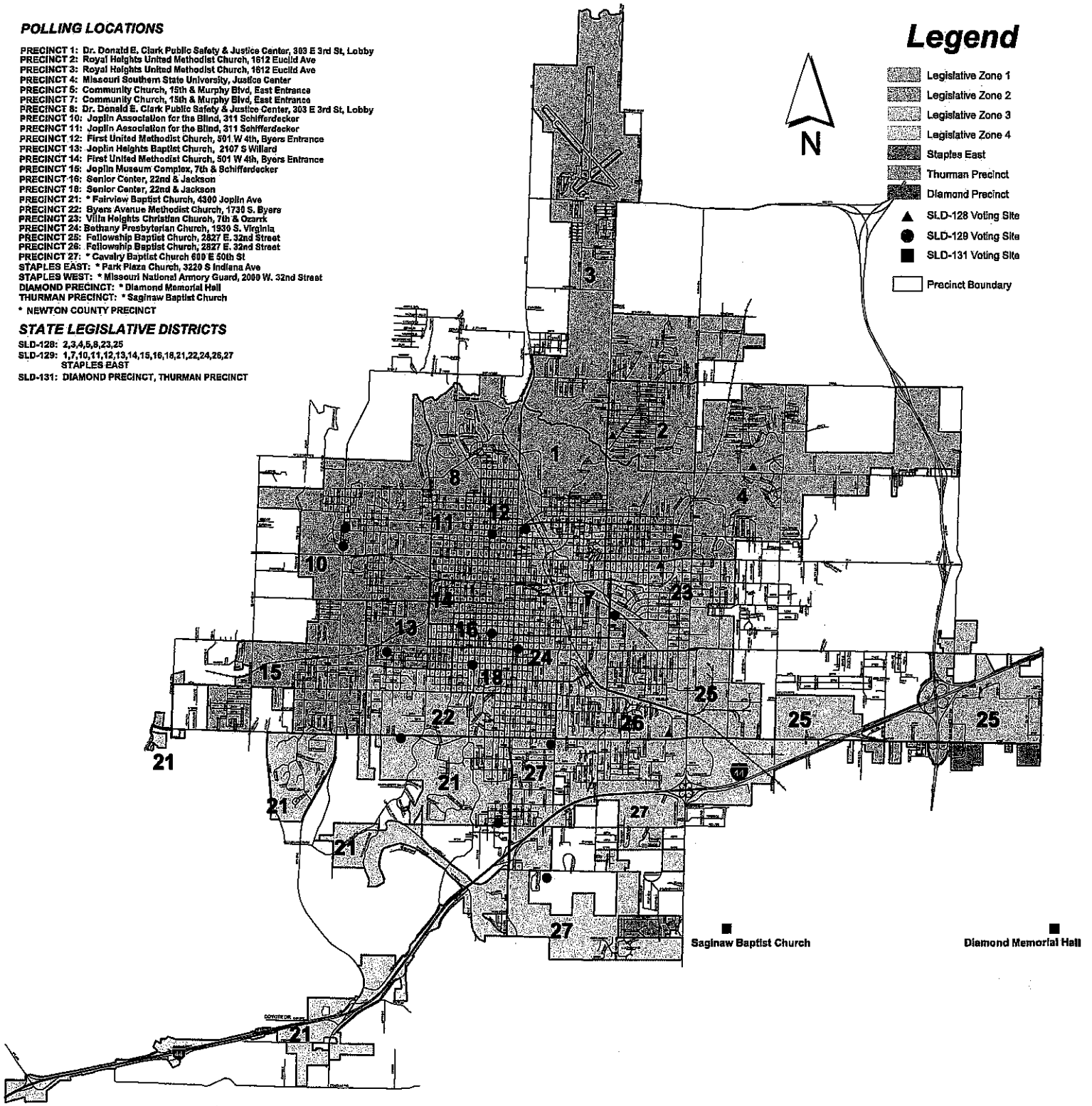


Exhibit B

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

COUNCIL BILL NO. 2014-504 **ORDINANCE NO.**

AN ORDINANCE approving an Agreement by and between the City of Joplin and Missouri Highways and Transportation on behalf of Federal Highway Administration to provide reimbursement for tornado destroyed and damaged signs; authorizing the City Manager to execute said Agreement by and on behalf of the City of Joplin; and containing an emergency clause.

WHEREAS, various signs were destroyed and damaged by the devastating EF-5 tornado that struck our community on May 22, 2011; and,

WHEREAS, some of these signs are located on federal highways and are eligible for FHWA reimbursement; and,

WHEREAS, the City has replaced the destroyed and damaged signs; and,

WHEREAS, the City of Joplin desires to receive reimbursement from FHWA;

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

Section 1. That the Agreement by and between the City of Joplin and Missouri Highways and Transportation on behalf of Federal Highway Administration to provide reimbursement for tornado destroyed and damaged signs, a true and accurate copy of the same being attached hereto and incorporated herein as Exhibit "A", be, and the same is, hereby approved.

Section 2. That the City Manager is hereby authorized and directed to execute said Agreement by and on behalf of the City of Joplin, Missouri.

Section 3. This Ordinance is declared by the City Council to be an emergency within this meaning of Section 2.12, subparagraph (1), of the Home Rule Charter of the City of Joplin, Missouri, in so much as it provides for reimbursement for and relates to road signs in public works, and as such shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2014, by a _____ vote.

_____
Melodee Colbert-Kean, Mayor

COUNCIL BILL NO. 2014-504 **ORDINANCE NO.**

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

City of Joplin — City Council Agenda Item

REQUESTED COUNCIL MEETING DATE: APRIL 7, 2014

COUNCIL BILL 2014-505
ORIGINATING DEPARTMENT: FINANCE DEPARTMENT
ATTACHMENT: COOPERATIVE AGREEMENT, EXHIBIT "A"

Finance Director: Leslie Haase LH	**Date:** 3-31-14
Public Works Director: Nick Heatherly	**Date:** 3/31/14
City Attorney: Brian Head	**Date:** 3-31-14
City Manager: Sam Anselm	**Date:** 3/31/14

INTRODUCTION:
This Council Bill approves an Agreement with Federal Highway Administration to provide reimbursement for tornado destroyed and damaged signals.

DISCUSSION:
Various signals were destroyed or damaged by the devastating tornado that struck our community on May 22, 2011. Some of these signals are located on federal aid highways. Damage located on federal aid highways is reimbursed by FHWA, rather than FEMA. FEMA reimburses for the remainder of the damage. The signals have been replaced or repaired, thus we are seeking reimbursement from FHWA. FHWA reimburses 80% of the cost, while the City is responsible for 20%.

The total cost for the signal project is $1,103,821.00, thus FHWA will reimburse $883,056.80 and the City's share will be $220,764.20.

RECOMMENDATION:
City Staff recommends this Council Bill be approved on an emergency basis.

CCO Form: FS17
Approved: 07/06 (BDG)
Revised: 06/12 (MWH)
Modified:

CFDA Number:	CFDA #20.205
CFDA Title:	Highway Planning and Construction
Award name/number:	ER-3212(701) (cross ref: MO-11-01, FEMA-1980-DR,
Award Year:	FY2013 D7-FRGG-03 and D7-FRGG-04)
Federal Agency:	Federal Highway Administration, Department of Transportation

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FEDERAL AID PROGRAM AGREEMENT

THIS FEDERAL AID PROGRAM AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Joplin, Missouri (hereinafter, "City").

WITNESSETH:

WHEREAS, the Congress of the United States of America has designated specific federal funding for certain projects;

WHEREAS, the Commission administers these funds from the United States of America as part of its Emergency Relief Program; and

WHEREAS, the City is the local agency responsible for the construction of the Congressionally-designated emergency relief project.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PROJECT DESCRIPTION: The improvement contemplated by this Agreement and designated as Project ER-3212(701) involves replacing signals and lights damaged by the tornado as listed in the cross referenced projects above. The City shall be responsible for all aspects of the construction of the improvement.

(2) LOCATION: The contemplated improvement designated as Project ER-3212(701) by the Commission is within the city limits of Joplin, Missouri. The general location of the improvement is shown on an attachment hereto marked "Exhibit A" and incorporated herein by reference.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual. If the project is within a Transportation Management Area that

has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the City agrees to repay the Commission for any progress payments made to the City for the project and agrees that the Commission may deduct progress payments made to the City from future payments to the City.

(4) LIMITS OF SYSTEM: The limits of the surface transportation system for the City shall correspond to its geographical area as encompassed by the urban boundaries of the City as fixed cooperatively by the parties subject to approval by the Federal Highway Administration (FHWA).

(5) ROUTES TO BE INCLUDED: The City shall select the high traffic volume arterial and collector routes to be included in the surface transportation system, to be concurred with by the Commission, subject to approval by the FHWA. It is understood by the parties that surface transportation system projects will be limited to the said surface transportation system, but that streets and arterial routes may be added to the surface transportation system, including transfers from other federal aid systems.

(6) INVENTORY AND INSPECTION: The City shall:

(A) Furnish annually, upon request from the Commission or FHWA, information concerning conditions on streets included in the Surface Transportation Program (STP) system under local jurisdiction indicating miles of system by pavement width, surface type, number of lanes and traffic volume category.

(B) Inspect and provide inventories of all bridges on that portion of the federal-aid highway systems under the jurisdiction of the City in accordance with the Federal Special Bridge Replacement Program, as set forth in 23 U.S.C. §144, and applicable amendments or regulations promulgated thereunder.

(7) CITY TO MAINTAIN: Upon completion of construction of this improvement, the City shall accept control and maintenance of the improved street and shall thereafter keep, control, and maintain the same as, and for all purposes, a part of the City street system at its own cost and expense and at no cost and expense whatsoever to the Commission. Any traffic signals installed on highways maintained by the Commission will be turned over to the Commission upon completion of the project for maintenance. All obligations of the Commission under this Agreement shall cease upon completion of the improvement.

(8) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the City shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation (MoDOT or Department) employees, from any claim or liability whether based on a claim for damages to real or personal property or to a

person for any matter relating to or arising out of the City's wrongful or negligent performance of its obligations under this Agreement.

(B) The City will require any contractor procured by the City to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insured's in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The City shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(9) CONSTRUCTION SPECIFICATIONS: Parties agree that all construction under the STP for the City will be constructed in accordance with current MoDOT design criteria/specifications for urban construction unless separate standards for the surface transportation system have been established by the City and the Commission subject to the approval of the FHWA.

(10) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit B. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(11) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, City shall acquire any additional necessary right of way required for the project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. 4601-4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with the Act.

(12) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the City as follows:

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by the City. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs. The federal share for this project will be 80 percent not to exceed $700,000.00. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of the City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(B) The total reimbursement otherwise payable to the City under this Agreement is subject to reduction, offset, levy, judgment, collection or withholding, if there is a reduction in the available federal funding, or to satisfy other obligations of the City to the Commission, the State of Missouri, the United States, or another entity acting pursuant to a lawful court order, which City obligations or liability are created by law, judicial action, or by pledge, contract or other enforceable instrument. Any costs incurred by the City prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs.

(13) PERMITS: The City shall secure any necessary approvals or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the contemplated improvements.

(14) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signal and marking in accordance with the *Manual of Uniform Traffic Control Devices* (MUTCD).

(15) WORK ON STATE RIGHT OF WAY: If any contemplated improvements for Project ER-3212(701) will involve work on the state's right of way, the City will provide reproducible final plans to the Commission relating to such work. In addition, any maintenance of work on the state's right of way may be identified through a future agreement.

(16) DISADVANTAGED BUSINESS ENTERPRISES (DBEs): At time of processing the required project agreements with the FHWA, the Commission will advise the City of any required goals for participation by disadvantaged business enterprises (DBEs) to be included in the City's proposal for the work to be performed. The City shall submit for Commission approval a DBE goal or plan. The City shall comply with the plan or goal that is approved by the Commission and all requirements of 49 C.F.R. Part 26, as amended.

(17) NOTICE TO BIDDERS: The City shall notify the prospective bidders that DBEs shall be afforded full and affirmative opportunity to submit bids in response to the invitation and will not be discriminated against on grounds of race, color, sex, or national origin in consideration for an award.

(18) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly for amounts equal to or greater than $10,000.00. The City shall repay any progress payments which involve ineligible costs.

(19) OUTDOOR ADVERTISING: The City further agrees that the right of way provided for any improvement will be held and maintained inviolate for public highway or street purposes, and will enact and enforce any ordinances or regulations necessary to prohibit the presence of billboards or other advertising signs or devices and the vending or sale of merchandise on such right of way, and will remove or cause to be removed from such right of way any sign, private installation of any nature, or any privately owned object or thing which may interfere with the free flow of traffic or impair the full use and safety of the highway or street.

(20) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the City, through the Commission, any monies due. The City shall refund any overpayments as determined by the final audit.

(21) OMB AUDIT: If the City expend(s) five hundred thousand dollars ($500,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with OMB Circular A-133. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of OMB Circular A-133, if the City expend(s) less than five hundred thousand dollars ($500,000) a year, the City may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(22) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The City shall comply with all reporting requirements of the Federal Funding

Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(23) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(24) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(25) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(26) COMMISSION REPRESENTATIVE: The Commission's Southwest District Engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(27) NOTICES: Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be deemed given three (3) days after delivery by United States mail, regular mail postage prepaid, or upon receipt by personal or facsimile delivery, addressed as follows:

(A) To the City:
Nick Heatherly, Public Works Director
City of Joplin
602 S. Main
Joplin, MO 64801
417-624-0820
nheather@joplinmo.org

(B) To the Commission:
Chad Zickefoose, Transportation Project Designer - LPA
Missouri Department of Transportation
3025 East Kearney
Springfield, MO 65803
417-895-7638
chad.zickefoose@modot.mo.gov

or to such other place as the parties may designate in accordance with this Agreement. To be valid, facsimile delivery shall be followed by delivery of the original document, or

a clear and legible copy thereof, within three (3) business days of the date of facsimile transmission of that document.

(28) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the City agrees as follows:

(A) Civil Rights Statutes: The City shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, et seq.), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, et seq.). In addition, if the City is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The City shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The City shall not discriminate on grounds of the race, color, religion, creed, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The City shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the City. These apply to all solicitations either by competitive bidding or negotiation made by the City for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the City of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, creed, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The City shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the City is in the exclusive possession of another who fails or refuses to furnish this information, the City shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the City fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (28) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(29) ACCESS TO RECORDS: The City and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the City receives reimbursement of their final invoice from the Commission.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the City this ___ day of _____, 2014.

Executed by the Commission this ___ day of _____, 2014.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION

_____

Title _____

ATTEST:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

CITY OF JOPLIN

By _____

Title _____

ATTEST:

By _____

Title _____

Approved as to Form:

By _____

Title _____

Ordinance No:_____

Exhibit A - Location of Project

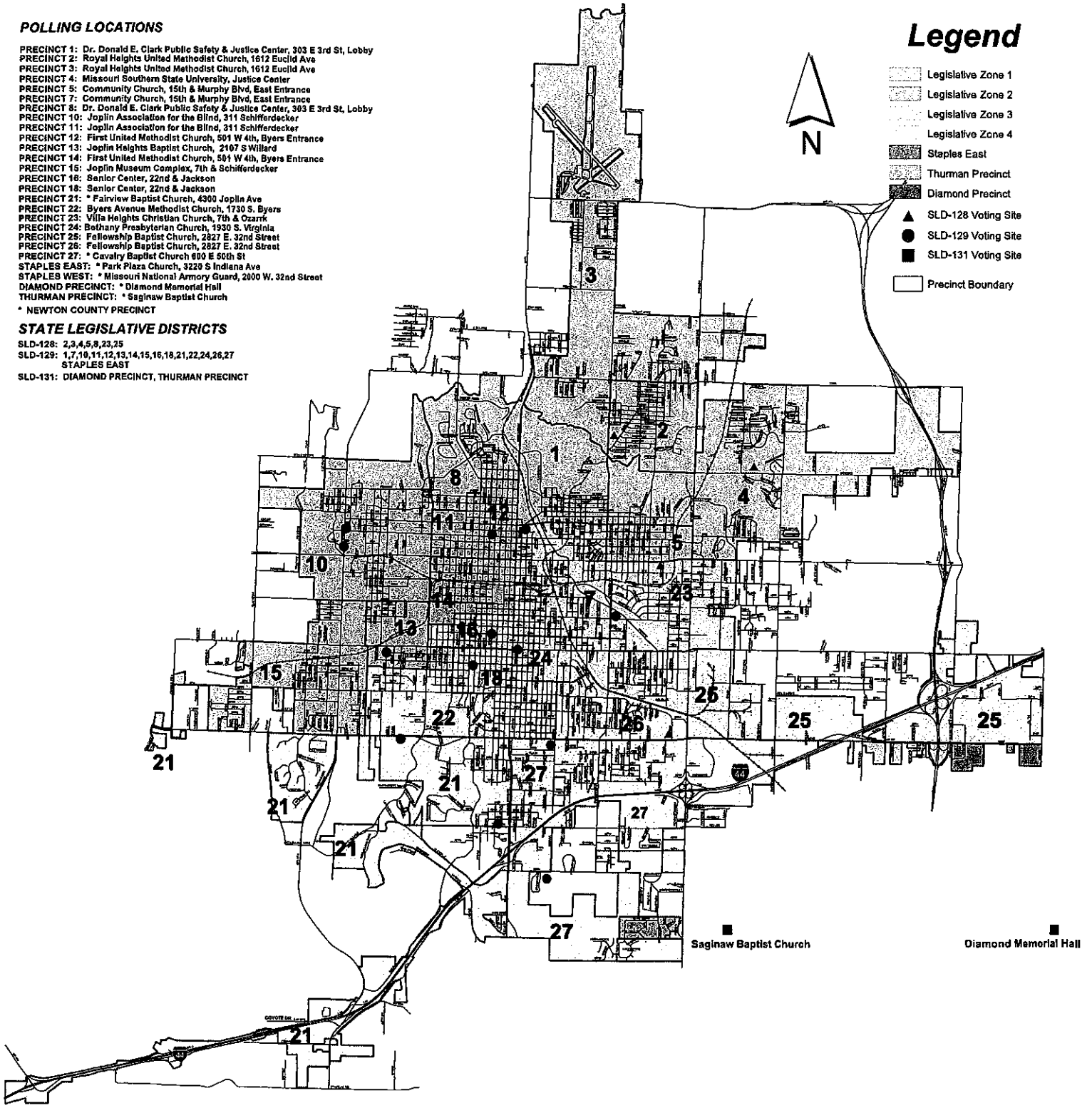


Exhibit B

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

COUNCIL BILL NO. 2014-505 **ORDINANCE NO.**

AN ORDINANCE approving an Agreement by and between the City of Joplin and Missouri Highways and Transportation on behalf of Federal Highway Administration to provide reimbursement for tornado destroyed and damaged signals; authorizing the City Manager to execute said Agreement by and on behalf of the City of Joplin; and containing an emergency clause.

WHEREAS, various signals were destroyed and damaged by the devastating EF-5 tornado that struck our community on May 22, 2011; and,

WHEREAS, some of these signals are located on federal highways and are eligible for FHWA reimbursement; and,

WHEREAS, the City has replaced the destroyed and damaged signals; and,

WHEREAS, the City of Joplin desires to receive reimbursement from FHWA;

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

Section 1. That the Agreement by and between the City of Joplin and Missouri Highways and Transportation on behalf of Federal Highway Administration to provide reimbursement for tornado destroyed and damaged signals, a true and accurate copy of the same being attached hereto and incorporated herein as Exhibit "A", be, and the same is, hereby approved.

Section 2. That the City Manager is hereby authorized and directed to execute said Agreement by and on behalf of the City of Joplin, Missouri.

Section 3. This Ordinance is declared by the City Council to be an emergency within this meaning of Section 2.12, subparagraph (6), of the Home Rule Charter of the City of Joplin, Missouri, in so much as it provides for reimbursement for and relates to street and highway signals for public works, and as such shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2014, by a _____ vote.

_____
Melodee Colbert-Kean, Mayor

COUNCIL BILL NO. 2014-505 **ORDINANCE NO.**

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

SECOND
&
THIRD
READING

City of **JOPLIN** City Council Agenda Item

Requested Council Meeting Date: February 3, 2014

Item: COUNCIL BILL NO. 2014-250
Originating Department: PLANNING & COMMUNITY DEVELOPMENT

Attachments: 1) Planning Report
2) Commission Minutes
3) Copy of Council Bill

Public Works Director: Nick Heatherly — Date: 1/24/2014
City Attorney: Brian Head — Date: 1-28-14
City Manager: R. Mark Rohr — Date: 1-28-14
Board or Commission: Planning and Zoning Commission — Date: 1/13/2014

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "7 in favor, 0 absent"

SUMMARY/REQUEST:
Case 001-14: 2318 East 20th Street – A request to rezone from District R-1 (Single-Family) to District C-1 PD (Neighborhood Commercial – Planned Development) for proposed commercial development – Charles Kuehn.

STAFF SUMMARY:
The proposed rezoning is for the development of a 2,500 square foot commercial office building.

Access Management: The site will have one point of access from 20th Street. Future cross access is shown on both the east and west property lines. The site has also reserved land along 20th Street for future infrastructure improvements, including enough space for a proposed bike/pedestrian trail. Direct pedestrian connections from 20th Street to the building entrance have also been provided.

Parking: A total of 17 parking spaces have been provided, including 2 ADA spaces.

Building Design & Materials: The site will contain a 2,500 square foot building. The exterior of the building will primarily be brick, with LP SmartSide wood siding. Staff has reviewed the design guidelines and believes that wood siding when complemented with a significant amount of masonry and a 360 degree design does meet the higher design standards along the 20th Street corridor. The building will maintain a residential appearance to complement residential to the south and west.

Landscaping and Open Space: The site has provided required landscaping, including street and parking lot trees. Interior parking islands include parking lot trees and shrubs.

RECEIVED
12-9-13

REZONING APPLICATION FORM

Return Form to:
Planning / Community Development Specialist.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only
Case No.: CO1-14
Filing Fee: $350.00
Date Advertised: 12-29-13
Date Notices Sent:
P&Z Date: 1-13-14
City Council Date: 2-3-14

APPLICANT: Charles Kuehn PHONE: 825-3907
ADDRESS: 620 McConnell ZIP: 64801
EMAIL: CKuehn@FourStateHomes.com
OWNER: Steve + Dianna Heckmaster PHONE: 417 623-2047 (417 540-6895 cell)
ADDRESS: 2607 Wisconsin Ave Joplin Mo 64804 ZIP: 64804
EMAIL: sheckmaster@hotmail.com.
LOCATION OF PROPERTY: South Side of 20th+ East of S. Maryland Ave.
LEGAL DESCRIPTION: Joplin Misc Rec 150' W NE Corner Lot 19 th west 194' S. 180' E 90' S 76' E 54' N to Beg Ex N 40' for St

Present Zoning R-1 Requested Zoning: CPD Acreage: .55
Present Use of Property: Vacant
Proposed Use of Property: Retail + Office

SURROUNDING LAND USE AND ZONING:

	Land Use	Zoning
North	Vacant	C-1
South	Vacant	R-1
East	Vacant	R-1
West	Vacant	R-1

CHARACTER OF THE NEIGHBORHOOD: Apartments + Retail

RELATIONSHIP TO EXISTING ZONING PATTERN:

1. Would proposed change create a small, isolated district unrelated to surrounding districts? NO
2. Are there substantial reasons why the property cannot be used in accord with existing zoning? NO
   If yes, explain:

CONFORMANCE WITH COMPREHENSIVE PLAN:

1. Consistent with Development Policies? yes
2. Consistent with Future Land Use Map? yes

THE FOLLOWING MUST ACCOMPANY YOUR APPLICATION:

1. One copy of a legal description of the property proposed to be rezoned.
2. One copy of a statement describing the reasoning for the rezoning, the impact of the proposed change, including any traffic conditions that may result; any danger from fire hazards; how the proposed change may effect the character of the surrounding properties; and how the proposed change will benefit the City of Joplin.
3. Owner Affidavit, if applicant applying for the rezoning is not the owner of the property be rezoned
4. For Planned Developments the following must be submitted and reviewed before the rezoning can be advertised for public hearing:
   X Site Plan X Landscape Plan X Building Elevations

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: 20th St.
2. Classification of Street(s):
   Arterial X Collector _____ Local _____
3. Right-of-Way Width: 75'
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   NO

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR:

1. Appropriately Sized Lots? NO
2. Properly Sized Street Right-of-Way? NO
3. Drainage Easements? NO
4. Utility Easements:
   Electricity? NO
   Gas? NO
   Sewers? NO
   Water? NO
5. Additional Comments: N/A

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:
N/A

SIGNATURE: Charles F Kuehn III DATE: 11-19-13

BY: Charles F. Kuehn III

TITLE: Managing Member

Z&P Meeting: January 13, 2014
City Council Meeting: February 3, 2014

STAFF PLANNING REPORT
Rezoning

CASE 001-14:

A request to rezone from District R-1 (Single-Family Residential) to District C-1 PD (Neighborhood Commercial – Planned Development) for property located at 2318 E. 20th Street for future planned commercial development.

APPLICANT: Charles Kuehn

LOCATION: 2318 E. 20th Street

REQUESTED ZONING: C-1 PD (Neighborhood Commercial – Planned Development)

CORRIDOR: 20th Street – Site Plan Required

EXISTING CONDITIONS:

Zoning	Land Use	Property Size
R-1 (Single-Family)	Vacant (Former Single-Family)	145' x 145'-200' / .55 acres

SITE CONTEXT:

	North	East	South	West
Existing Zoning	R-1 & C-1 PD	R-1	R-2 & R-2 PD	R-1 & R-2
Land Use	Vacant (Former Single-Family)	Vacant (Former Single-Family)	Vacant (Former Two-Family)	Vacant (Former Single-Family & Two-Family)

FUTURE LAND USE:

This site is located along the 20th Street corridor and is eligible for rezoning subject to site plan review and approval.

TRANSPORTATION:

Streets with access	Classification	Right-of-way width
20th Street	Minor Arterial	85'

WILL TURNING MOVEMENTS OF THE PROPOSED USE CREATE AN UNDUE TRAFFIC HAZARD?

No.

UTILITIES: The property has utility connections.

FLOOD PLAIN: Zone X – Area of minimal flooding.

STAFF ANALYSIS:

CONSISTENT WITH DEVELOPMENT POLICIES OF THE COMPREHENSIVE PLAN?

Yes.

THE SUITABILITY OF THE SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

This property is suitable for commercial development.

THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

The planned rezoning and development plans should not detrimentally affect nearby properties.

DISCUSSION

The proposed rezoning is for the development of a 2,500 square foot commercial office building.

Access Management: The site will have one point of access from 20th Street. Future cross access is shown on both the east and west property lines. The site has also reserved land along 20th Street for future infrastructure improvements, including enough space for a proposed bike/pedestrian trail. Direct pedestrian connections from 20th Street to the building entrance have also been provided.

Parking: A total of 17 parking spaces have been provided, including 2 ADA spaces.

Building Design & Materials: The site will contain a 2,500 square foot building. The exterior of

the building will primarily be brick, with LP SmartSide wood siding. Staff has reviewed the design guidelines and believes that wood siding when complemented with a significant amount of masonry and a 360 degree design does meet the higher design standards along the 20th Street corridor. The building will maintain a residential appearance to complement residential to the south and west.

Landscaping and Open Space: The site has provided required landscaping, including street and parking lot trees. Interior parking islands include parking lot trees and shrubs.

Buffering: A 6' vinyl privacy fence with landscaping will be installed along the south and west property lines to screen the commercial property from adjacent residential properties.

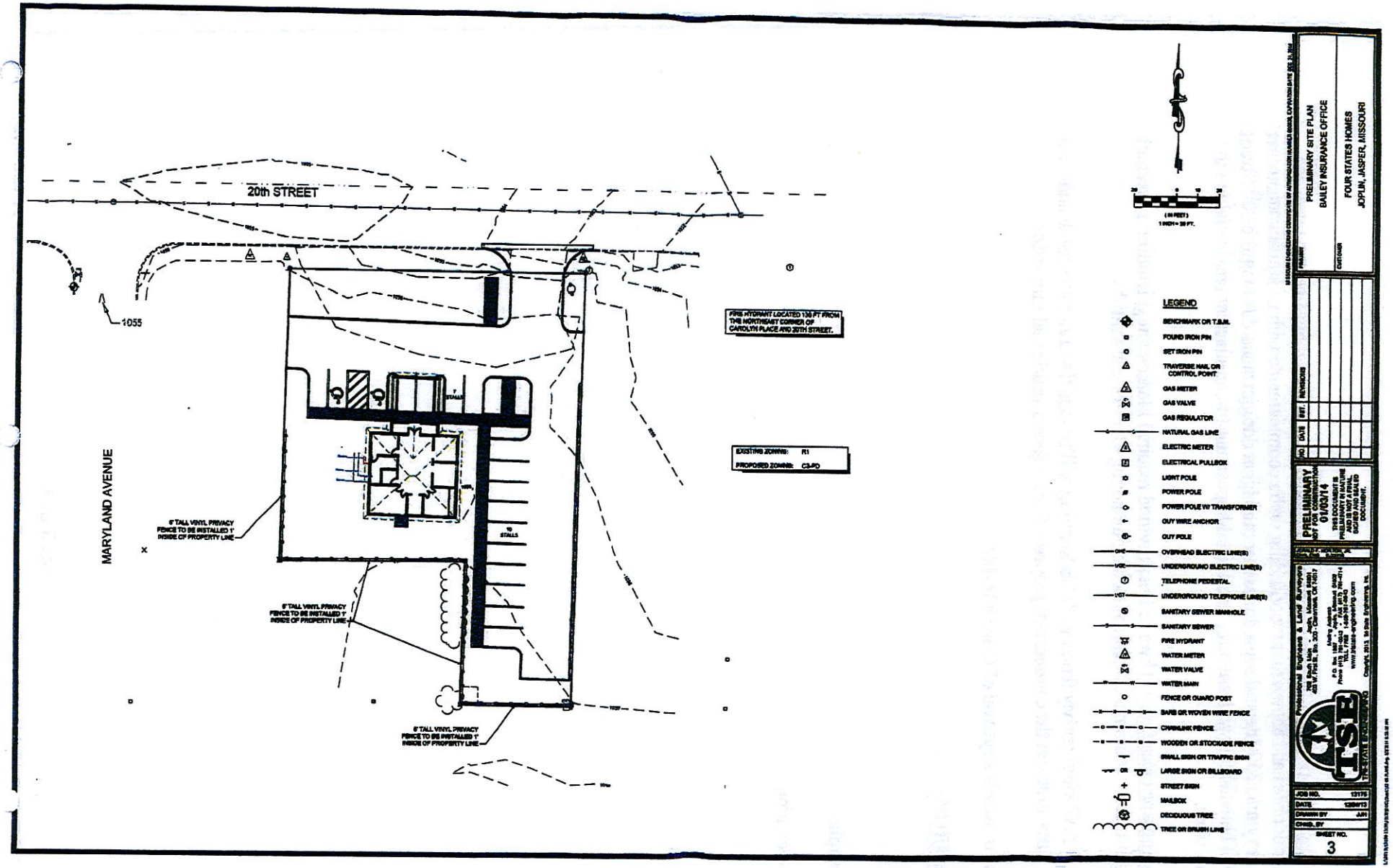
Staff recommends approval of Case 001-14.

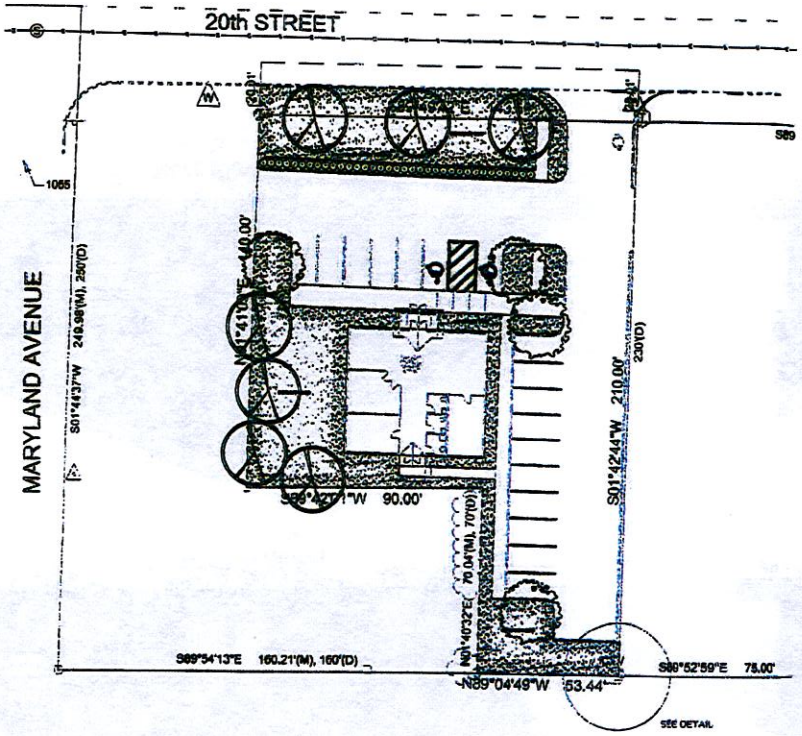
ENCLOSURES:

Site plan

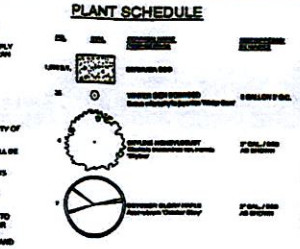
Landscape plan

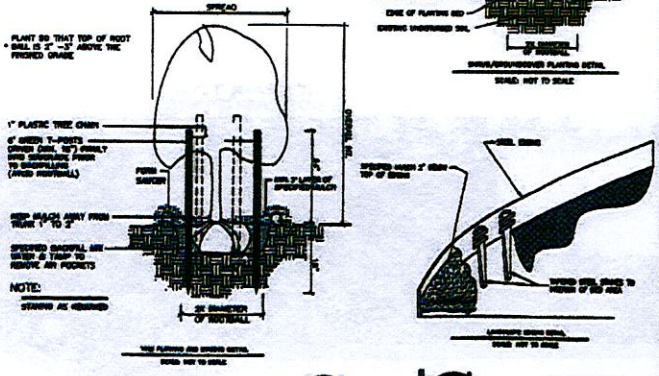
Building elevations

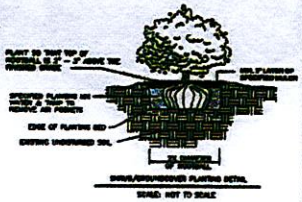

20th STREET
MARYLAND AVENUE
1055
FIRE HYDRANT LOCATED 130 FT FROM THE NORTHEAST CORNER OF CAROLYN PLACE AND 20TH STREET.
EXISTING ZONING: R1
PROPOSED ZONING: C3-PD
6' TALL VINYL PRIVACY FENCE TO BE INSTALLED 1' INSIDE OF PROPERTY LINE
6' TALL VINYL PRIVACY FENCE TO BE INSTALLED 1' INSIDE OF PROPERTY LINE
6' TALL VINYL PRIVACY FENCE TO BE INSTALLED 1' INSIDE OF PROPERTY LINE
10 STALLS
7 STALLS
LEGEND
BENCHMARK OR T.B.M.
FOUND IRON PIN
SET IRON PIN
TRAVERSE NAIL OR CONTROL POINT
GAS METER
GAS VALVE
GAS REGULATOR
NATURAL GAS LINE
ELECTRIC METER
ELECTRICAL PULLBOX
LIGHT POLE
POWER POLE
POWER POLE W/ TRANSFORMER
GUY WIRE ANCHOR
GUY POLE
OVERHEAD ELECTRIC LINE(S)
UNDERGROUND ELECTRIC LINE(S)
TELEPHONE PEDESTAL
UNDERGROUND TELEPHONE LINE(S)
SANITARY SEWER MANHOLE
SANITARY SEWER
FIRE HYDRANT
WATER METER
WATER VALVE
WATER MAIN
FENCE OR GUARD POST
BARB OR WOVEN WIRE FENCE
CHAINLINK FENCE
WOODEN OR STOCKADE FENCE
SMALL SIGN OR TRAFFIC SIGN
LARGE SIGN OR BILLBOARD
STREET SIGN
MAILBOX
DECIDUOUS TREE
TREE OR BRUSH LINE
(IN FEET)
1 INCH = 20 FT.
PRELIMINARY SITE PLAN
BAILEY INSURANCE OFFICE
FOUR STATES HOMES
JOPLIN, JASPER, MISSOURI
PRELIMINARY
NOT FOR CONSTRUCTION
01/03/14
THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT TO BE SIGNED AND SEALED.
Professional Engineers & Land Surveyors
JOB NO. 13175
DATE 12/09/13
DRAWN BY JJH
CHKD. BY
SHEET NO. 3



PLANT SCHEDULE









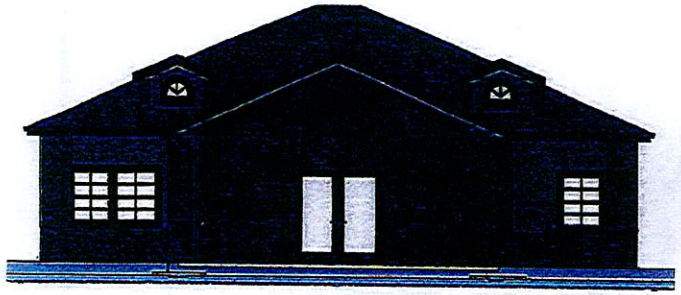
SCALE 1" = 20 FEET

GRAY ROCK, LLC.

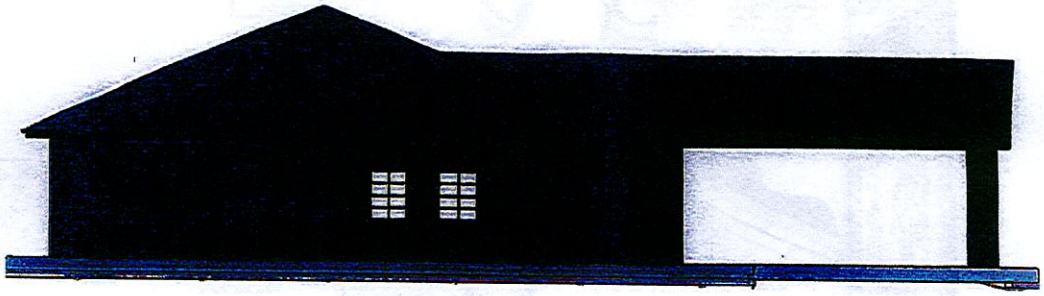
LANDSCAPE PLAN
BAILEY INSURANCE OFFICE
FOUR STATES HOMES
JOPLIN, JASPER, MISSOURI

JOB NO 13173
DATE 12-11-2013
DRAWN BY MDT
CHKD BY

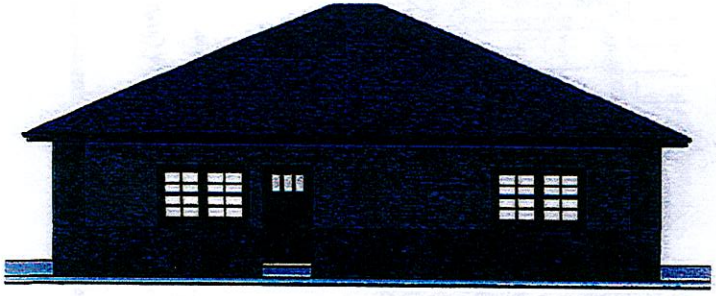
SHEET NO
L1



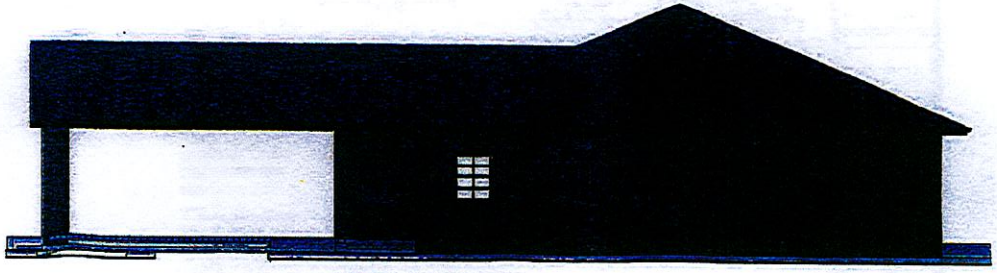
Front Elevation



East Elevation

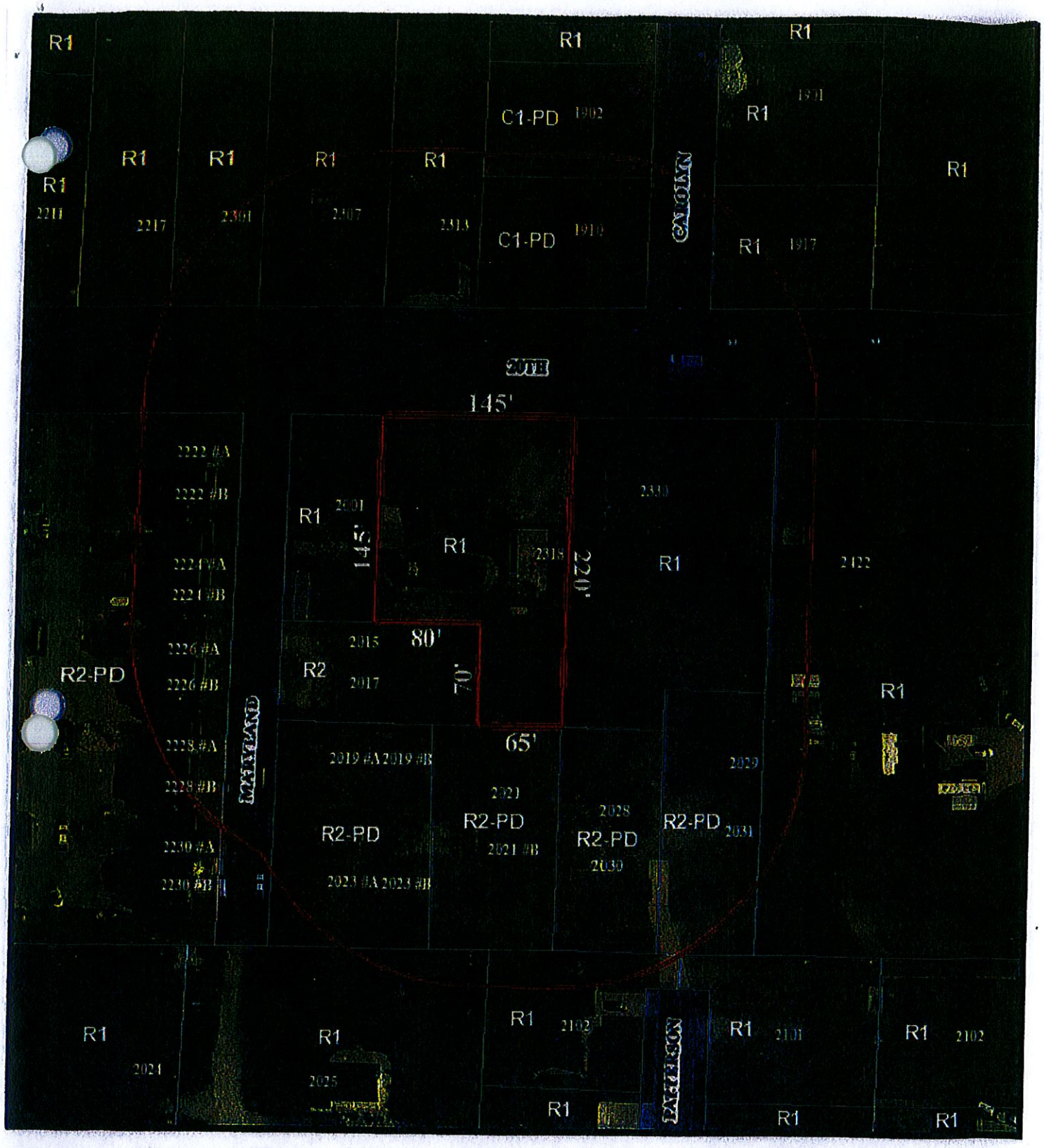


Rear Elevation



West Elevation

Bailey Insurance Office Building Elevations
2318 E. 20th Street, Joplin, MO



Case 001-14: A request to rezone from District R-1 (Single-Family) to District C-1 PD (Neighborhood Commercial - Planned Development) for future planned commercial development at 2318 E. 20th Street. - Charles Kuehn

Case 001-14: 2318 East 20th Street – A request to rezone from District R-1 (Single-Family) to District C-1 PD (Neighborhood Commercial – Planned Development) for proposed commercial development – Charles Kuehn.

Mr. Harrington opened the public hearing for Case 001-14.

Mr. Charles Kuehn, 620 McConnell Avenue, Joplin, appeared representing Steve and Diana Heckmaster to rezone the property in this request to District C-1-PD for a single-tenant insurance agency. The type of construction will be wood and will have a residential look similar to Kevin Locke's development on 20th Street west of Connecticut Avenue.

Mr. Harrington asked for questions from the commissioners.

Mr. Eastman noticed the request to rezone to District C-3 as stated on the original application and asked Mr. Kuehn about his plans to rezone to District C-1-PD. Mr. Kuehn replied that due to the recommendation from the City staff, he thought that would be the best way to rezone the property.

Mr. Kuehn is not showing a fence or any sideline to the east of his property but has received an affidavit from the property owner to the west stating that he will be rezoning that property commercial as well.

Mr. Bolander stated that the adjacent owner had indicated that he would like to rezone his property to commercial, so the staff saw no use in installing a fence at their cost and having to remove the fence in the future. The staff has received an affidavit from that adjacent property owner.

Mr. Kuehn will make accommodations to blend the two commercial parking lots together for cross-access.

Mr. Eastman asked if this is the property owner to the east or the west, and Mr. Kuehn replied to the east of the property in this request.

Mr. Harrington asked for comments from the commissioners and the audience, and none were received. He then closed the public hearing for Case 001-14.

MR. SMITH MOVED, SECONDED BY MR. CORTEZ, THAT CASE 001-14 BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL, BASED UPON THE COMMENTS RECEIVED IN THE PLANNING REPORT AND DURING THE PUBLIC HEARING. THE MOTION CARRIED, WITH MR. BROWN, MR. CORTEZ, MR. DUNCAN, MR. EASTMAN, MR. HARRINGTON, MR. RAMSOUR, AND MR. SMITH VOTING "AYE" (7 IN FAVOR, 0 ABSENT).

P & Z Case 001-14
Charles Kuehn
(P & Z Recommended Approval)

COUNCIL BILL NO. 2014-250 **ORDINANCE NO.**

AN ORDINANCE amending Ordinance No. 2004-256, passed by the Council of the City of Joplin, Missouri, November 15, 2004, by removing from District R-1 and including in District C-1-PD property as described below and located at 2318 East 20th Street in the City of Joplin, Jasper County, Missouri.

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

Section 1. Having referred the subject matter of this ordinance to the City Planning and Zoning Commission and having given at least fifteen days notice of time and place of hearing on same by publication in the Joplin Globe, Ordinance No. 2004-256 is hereby amended by removing the following described property from District R-1 and including same in District C-1-PD:

All of the North 230 feet of Miscellaneous Tract Numbered Nine (9) in Section 13, Township 27, Range 33, in the City of Joplin, Jasper County, Missouri, except the East 150 feet, and except a Tract beginning at a point 415.62 feet East of the Northwest Corner of the Northeast Quarter of the Northwest Quarter of Section 13, Township 27, Range 33, in the City of Joplin, Jasper County, Missouri thence South 250 feet, thence East 160 feet, thence North 70 feet, thence West 90 feet, thence North 160 feet, thence West to the point of beginning,

Section 2. That the City Clerk is hereby ordered to file this ordinance with the Zoning District Map maintained in her office and to note the changes herein provided for thereon.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this the _____ day of _____, 2014.

ATTEST: _____
Melodee Colbert-Kean, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney