INFORMAL AGENDA

March 17, 2014

5:15 p.m.

1) Allocation of former marathon funding in CVB budget.

2) Approval to continue JCVB Community Grant program.

3) JASCO virtual consolidation

4) Boards/Commissions Appointments

5) Any other business

# C O U N C I L  A G E N D A

March 17, 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. The Joplin First Response Tornado Fund Committee report presented by Chairman Phil Stinnett

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

**4. Finalization of Consent Agenda**

**5. Reports and Communications**

**6. Citizen Requests and Petitions**
1. Allen Hall, 2401 E. 32nd Suite 1, Joplin, requests to address Council regarding the Sewer –Trash.

2. Charles McGrew, 2912 S. Minnesota, requests to address Council concerning the bill from Mr. Loraine.

3. Robert Mathis and Stephen Walker of Deffenbaugh Industries would like to address the City Council regarding the April 8, 2014 Curbside Recycling vote.

**7. Public Hearings**

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 3, 2014 Council Meeting

2. Minutes of the March 10, 2014 Special Council Meeting

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

**9. Resolutions**

1. RESOLUTION NO. 2014-006 - A RESOLUTION affirming the support of the City of Joplin to receive the designation of a Purple Heart City.

**10. Ordinances – Emergency**

1. COUNCIL BILL NO. 2014-009 - 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.

2. COUNCIL BILL NO.2013-010 –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.

COUNCIL BILL NO. 2014-111 - 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;

COUNCIL BILL NO. 2014-117 - 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

COUNCIL BILL NO. 2014-118 - 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.

COUNCIL BILL NO. 2014-119 - 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.

COUNCIL BILL NO. 2014-605 - 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.

**11. Ordinances – First Reading**

**12. Ordinances – Second Reading and Third Reading**

1. Council Bill No. 2014-011 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.

**13. Unfinished Business**

**14. New Business**

**Notice posted at 4:30p.m. on this the 13th day of March, 2014. (RSMo 610.020)**

# PRESENTATIONS

# First Response Fund Balance

## As of March 10,2014

| | | | | |
|---|---|---|---|---|
| **Deposits:** | | | | |
| Contributions | $ 972,140.44 | | | |
| **Interest Income** | 23,811.38 | | | |
| **Total Income** | **$ 995,951.82** | | | |
| **Payments:** | | | | |
| **Grant Description** | **Amount** | **Grantee Name** | **Cycle** | **Grantee Total** |
| Seminar | $ 500.00 | National Center for Prevention of Home Improvement Fraud | | $ 500.00 |
| Radio's | $ 99,600.00 | Weather Alert Radio's | | $ 99,600.00 |
| Land Acquisition and construction of 6 bedroom duplex for residents with disabilities | $ 25,000.00 | Arc of Ozarks | Grant Cycle I | $ 25,000.00 |
| Delivery Truck | $ 40,000.00 | Area Agency on Aging | Grant Cycle I | |
| Repair overhang on front door and replace main alarm damaged in tornado | $ 4,996.80 | Area Agency on Aging | Grant Cycle II | $ 44,996.80 |
| Expand Art Feeds Program to Cecil Floyd, McKinley, and Eastmorland Elementary Schools-art supplies and part-time leader | $ 10,000.00 | Art Feeds | Grant Cycle II | $ 10,000.00 |
| Storm Impacted Program Expenses-child enrollment, volunteer recruitment, match process, match supervisors, match activities and year-end evaluations | $ 6,000.00 | Big Brothers Big Sisters | Grant Cycle I | $ 6,000.00 |
| Lighting, Emergency Radios, and handheld radios to ensure club members are well informed of approaching severe weather | $ 8,230.00 | Boys & Girls Club | Grant Cycle II | |
| Move and install 2 FEMA shelters | $ 8,852.00 | Boys & Girls Club | Grant Cycle III | $ 17,082.00 |
| Major Appliances for people affected by tornado | $ 23,052.95 | Catholic Charities | Grant Cycle I | |
| $10,000 to help with credit assistance for those affected by tornado; $15,000 for construction of homes for low-income | $ 25,000.00 | Catholic Charities | Grant Cycle III | $ 48,052.95 |
| Sheltering Services to children & families affected by the tornado | $ 35,000.00 | Children's Haven | Grant Cycle II | |
| Shelter Construction at New Facility | $ 50,000.00 | Children's Haven | Grant Cycle III | $ 85,000.00 |

| | | | | |
|---|---|---|---|---|
| Residential Safe Room | $ 15,000.00 | Community Support Services/Jasper County Sheltered Facilities | Grant Cycle I | |
| Move and install 2 FEMA shelters | $ 8,852.00 | Community Support Services/Jasper County Sheltered Facilities | Grant Cycle III | |
| Shelter at 2929 N Hickory and prepare sites for shelter access | $ 19,148.00 | Community Support Services/Jasper County Sheltered Facilities | Grant Cycle III | $ 43,000.00 |
| | | | | |
| Office Manager of the Multi-Agency Warehouse | $ 12,703.93 | Crosslines Church | Grant Cycle II | $ 12,703.93 |
| | | | | |
| Playground equipment at Head Start Facility | $ 4,000.00 | Economic Security | Grant Cycle I | $ 4,000.00 |
| | | | | |
| 2-15 Foot Light Towers for treatment during disasters | $ 10,994.82 | Freeman Health | Grant Cycle I | $ 10,994.82 |
| | | | | |
| Move and install 1 FEMA shelter | $ 4,426.00 | Girl Scouts | Grant Cycle III | $ 4,426.00 |
| | | | | |
| Tornado Shelter at School Campus | $ 10,000.00 | Immanuel Lutheran Church | Grant Cycle III | $ 10,000.00 |
| | | | | |
| Accessible Alerting Devices and emergency preparedness education to individuals with disabilities | $ 8,000.00 | Independent Living Center | Grant Cycle I | $ 8,000.00 |
| | | | | |
| Food and Housing of volunteers; Operating supplies for families needing assistance as a result of tornado | $ 50,000.00 | Joplin Family Worship | Grant Cycle I | $ 50,000.00 |
| | | | | |
| Staffing for after-school care for children with behavioral and emotional trauma as a result of the tornado | $ 36,000.00 | Joplin Family Y | Grant Cycle I | |
| Specialized Summer Care to Joplin children with severe behaviorial and emotional disorders resulting from the trauma of the tornado | $ 19,900.00 | Joplin Family Y | Grant Cycle II | |
| Certify 5 staff in American Red Cross First Aid, adult, infant and child CPR & AED training to assist in disaster response | $ 15,440.00 | Joplin Family Y | Grant Cycle II | $ 71,340.00 |
| | | | | |
| Family Services Manager to oversee partner family services and support for families affected by the tornado; Build house at 2416 Wall | $ 35,000.00 | Joplin Habitat for Humanity | Grant Cycle II | |

| | | | | |
|---|---|---|---|---|
| 15 Shelters at Residential Homes | $ 45,000.00 | Joplin Habitat for Humanity | Grant Cycle III | $ 80,000.00 |
| Furnishings, Appliances for people affected by tornado | $ 25,000.00 | Joplin Long-Term Recovery Committee | Grant Cycle I | $ 25,000.00 |
| Snackpacks for Joplin R-VIII students | $ 25,000.00 | Joplin R-VIII School District | Grant Cycle II | $ 25,000.00 |
| Move and install 3 FEMA shelters | $ 13,279.00 | Joplin Workshops | Grant Cycle III | $ 13,279.00 |
| Emergency Generator | $ 20,000.00 | Lafayette House | Grant Cycle III | $ 20,000.00 |
| Support for legal services to low income residents impacted by tornado | $ 20,000.00 | Legal Aid | Grant Cycle I | $ 20,000.00 |
| Work Materials & project managers for youth camp to repair tornado damaged homes | $ 10,000.00 | New Creation Church | Grant Cycle III | $ 10,000.00 |
| Anonymous disaster assistance Text and Online Helpline for use by students affected by the tornado | $ 30,000.00 | Ozark Center | Grant Cycle I | |
| Shelters for Turnaround Ranch | $ 30,000.00 | Ozark Center | Grant Cycle II | |
| Move and install 1 FEMA shelter | $ 4,426.00 | Ozark Center | Grant Cycle III | $ 64,426.00 |
| Move and install 2 FEMA shelters | $ 8,852.00 | Peace Lutheran | Grant Cycle III | $ 8,852.00 |
| 1 Staff Member for Rebuilding effort; Tools & Materials for Rebuilding effort | $ 50,000.00 | St Bernard/Rebuild Joplin | Grant Cycle I | |
| AmeriCorps Volunteers | $ 50,000.00 | St Bernard/Rebuild Joplin | Grant Cycle III | |
| Repair & Rebuild Homes destroyed in tornado | $ 20,000.00 | St Bernard/Rebuild Joplin | Grant Cycle III | $ 120,000.00 |
| Replacement Wheelchairs lost in tornado | $ 4,200.00 | SW MO Arthritis Association | Grant Cycle III | $ 4,200.00 |
| Reimbursement for grant supplies-estimate | $ 22,190.00 | City of Joplin | | $ 22,190.00 |
| Postage Charge by CFO | $ 9.00 | CFO | | $ 9.00 |
| **Total Disbursements** | **$ 963,652.50** | | | **$ 963,652.50** |
| **FIRST RESPONSE FUND BALANCE** | $ 32,299.32 | | | |

# PROCLAMATION

***WHEREAS***, service to others is a hallmark of the American character, and central to how we meet our challenges; and

***WHEREAS***, AmeriCorps and Senior Corps address the most pressing challenges facing our cities and nation, from educating students for the jobs of the 21st century and supporting veterans and military families to preserving the environment and helping communities recover from natural disasters; and

***WHEREAS,*** national service expands economic opportunity by creating more sustainable, resilient communities and providing education, career skills, and leadership abilities for those who serve; and

***WHEREAS***, national service participants serve in more than 70,000 locations across the country, bolstering the civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being; and

***WHEREAS***, national service participants increase the impact of the organizations they serve with, both through their direct service and by recruiting and managing millions of additional volunteers; and

***WHEREAS***, national service represents a unique public-private partnership that invests in community solutions and leverages non-federal resources to strengthen community impact and increase the return on taxpayer dollars; and

***WHEREAS***, AmeriCorps members and Senior Corps volunteers demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and

***WHEREAS***, the Corporation for National and Community Service shares a priority with mayors nationwide to engage citizens, improve lives, and strengthen communities; and is joining with the National League of Cities, City of Service, and mayors across the country to recognize the impact of service on the Mayors Day of Recognition for National Service on April 1, 2014.

**THEREFORE, BE IT RESOLVED** that I, Melodee Colbert-Kean, Mayor of Joplin, do hereby proclaim April 1, 2014, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our city and thank those who serve; and to find ways to give back to their communities.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of Joplin to be affixed this 17th day of March, 2014

_____

**Melodee Colbert-Kean, Mayor**

# 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: 3-5-14

I would like to address the Joplin City Council at the 3/17/14 (date) meeting on the following subject:

Sewer - Trash

RECEIVED
MAR 5 2014
OFFICE OF CITY CLERK
CITY OF JOPLIN MISSOURI

Name: Allen Hall (Please print)
Address: 2401 E 32nd Suite 1
Daytime Phone: 437-2288
Phone No.: 626-5595

Printed in the office of the City Clerk

03-05-23-A13-099Vo

625-4710

CITY OF JOPLIN MISSOURI

# REQUEST TO ADDRESS COUNCIL

Date: 3-6-2014

TO: Joplin City Council members:

I would like to address the Joplin City Council at the 3/17/2014 (date) meeting on the following subject:

The Bill from Mr. Loraine.
I would like to speak on 3-10 but was told that is a WORKING SESSION

RECEIVED
MAR 7 2014
OFFICE OF CITY CLERK
CITY OF JOPLIN MISSOURI
03-07-14 07:45 IN

Name: CHARLES McGREW (Please print)
Address: 2912 S. Minnesota
Daytime Phone: 438-3142
Phone No.: 782-2248

MAR. 7. 2014 9:18AM LABARGE, INC. NO. 5056 P. 1

CITY OF JOPLIN MISSOURI

# REQUEST TO ADDRESS CITY COUNCIL

**Persons wishing to address Council regarding an issue not on the agenda should complete this form and give it to the City Clerk prior to the start of the city council 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:** 3-12-14

**I would like to address the Joplin City Council on the following subject:**

Robert Mathis and Stephen Walker of Deffenbaugh Industries would like to address the City Council on Monday March, 17th 2014, regarding the April 8th, Curbside Recycling vote.

RECEIVED
MAR 12 2014
OFFICE OF CITY CLERK
CITY OF JOPLIN MISSOURI

**Name: Stephen Walker**
**(Please print)**

**Address: 4700 West 7th Street, Joplin**

**Contact Phone #: 479-799-9935**

Printed in the Office of the City Clerk

# CONSENT AGENDA

CITY OF JOPLIN

CITY COUNCIL MEETING

MINUTES March 3, 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 City Attorney, Brian Head

**FLAG SALUTE** – led by Mr. Scearce

**PRESENTATIONS**

Crystal Stokes, along with Thing One and Thing Two, were in attendance to receive a proclamation for Joplin NEA – Cat in the Hat Read Across America Day.

Brittany Lampe, Vice President of MSSU Student Senate, and other members of the Student Senate, were presented with a proclamation proclaiming March 12, 2014 as St. Baldrick's Foundation Day. The St. Baldrick Foundation is a volunteer-driven charity committed to funding the most promising research to find cures for childhood cancer.

A presentation on Severe Weather Preparedness, and a progress update on the storm warning system, were presented by Fire Chief Mitch Randles and Emergency Management Director, Keith Stammer. With the citywide tornado drill coming up this week, Chief Randles and Mr. Stammer informed Council with updates on the storm warning system and how they had spent $300,000 to upgrade the siren system. This year a weather transmitter will be installed on top of city hall for better reception and coverage.

Oscar Arras made a presentation on behalf of a National League of Cities program that would offer a water and sewer lateral line protection/warranty for residents who may face future issues with their water or sewer lines located on private property. He stated the lateral lines would cost the homeowner $5.95 a month and sewer lines would be $7.95 a month. City Manager suggested an RFP be put out for bid service. No action was taken.

**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**

Mr. Kim Seavy, 1607 Byers Ave addressed concerning the council investigation and the firing of the city manager.

Motion by Mr. Glaze, Second by Mr. Scearce to move two additional requests to address Council up on the Agenda. Motion carried. 9-0.

Maurice Filson, 824 Vermont Ave. requests to address Council concerning the city of Joplin.

R. Mark Rohr, 4327 Kentucky Ave., requests to address Council regarding recent investigation and surrounding circumstances and general matters in Joplin.

Motion by Mr. Seibert, Second by Mr. Woolston to allow Mr. Rohr the time needed to address Council. Motion carried 8-1 with Mr. Golden voting no.

**PUBLIC HEARINGS**
**PUBLIC HEARING PROCEDURES**
**Public Hearing Procedures** - read by City Clerk Barbara Hogelin

ACTION

PUBLIC HEARING for COUNCIL BILL NO. 2014-252

Mayor Colbert-Kean opened the Public Hearing

Charles Thomas, 2715 Adele, appeared on behalf of this request.

Don Ness, 1821 E. 4th appeared on behalf of this request.

No one appeared in opposition to this request.

The Public Hearing was closed.

Mr. Woolston introduced Council Bill No. 2014-252. Motion by Mr. Woolston, Second by Mr. Golden, to Place Council Bill No. 2014-252 on First Reading and Advance to Second and Third Reading. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 9. Nays: 0.

The Bill was read as being 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.

PUBLIC HEARING for COUNCIL BILL NO. 2014-253

Mayor Colbert-Kean opened the Public Hearing

Kyle Denham, 303 S. Main, appeared on behalf of this item.

No one appeared in opposition to this request.

The Public Hearing was closed.

Mr. Scearce introduced Council Bill No. 2014-253. Motion by Mr. Scearce, Second by Ms. Raney, to Place Council Bill No. 2014-253 on First Reading and Advance to Second and Third Reading. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 9. Nays: 0.

The Bill was read as being 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.

PUBLIC HEARING for COUNCIL BILL NO. 2014-254

Mayor Colbert-Kean opened the Public Hearing

Geary Williams, 2930 S. Illinois, appeared on behalf of this request.

No one appeared in opposition to this request.

The Public Hearing was closed.

Dr. Rosenberg introduced Council Bill No. 2014-254. Motion by Dr. Rosenberg, Second by Ms. Raney, to Place Council Bill No. 2014-254 on First Reading and Advance to Second and Third Reading. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 9. Nays: 0.

The Bill was read as being 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.

**CONSENT AGENDA** - Motion by Mr. Scearce, 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 February 18, 2014 Council Meeting

COUNCIL BILL NO. 2014-008 - AN ORDINANCE amending Sec. 10-43. Review of application of Article II., Licenses of Chapter 10 Alcoholic Beverages of the Charter of the City of Joplin, Missouri to allow an applicant to more effectively coordinate with the licensing process of the state of Missouri. Ordinance No. 2014-026

COUNCIL BILL NO. 2014-110 – AN ORDINANCE approving the contract between the City of Joplin, Missouri and the City of Duane, Missouri, through their duly authorized representatives, for reimbursement from City of Duenweg, Missouri to city of Joplin, Missouri for Metro Area

PublicTransit system (MAPS) providing bus rides and transportation to city of Duenweg, Missouri residents. Ordinance No. 2014-027

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.

**RESOLUTIONS**

**ORDINANCES-EMERGENCIES**

Mr. Woolston introduced Council Bill No. 2014-105. Motion by Mr. Woolston, Second by Mr. Golden to Adopt Council Bill No. 2014-105. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 9. Nays: 0.

The Council Bill was declared Adopted and entitled Ordinance No. 2014-028

AN ORDINANCE approving a agreement for GLMV Architecture Inc. for Three Hundred Twenty Three Thousand Nine Hundred Sixty Four and no/100 Dollars ($323,964.00) for Architectural and Design Services for the Police and Fire Training Facility and containing an emergency clause.

Mr. Seibert introduced Council Bill No. 2014-112 - Motion by Mr. Seibert, Second by Mr. Glaze to Adopt Council Bill No. 2014-112. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 9. Nays: 0.

The Council Bill was declared Adopted and entitled Ordinance No. 2014-029

AN ORDINANCE approving the contract by and between the City of Joplin and JRB industries for the demolition of the structure(s) and clearing of lot area located at 209 E. 16TH ST. in the City of Joplin, Missouri, for the amount of Two Thousand One Hundred Fifty and 00/100 Dollar ($2,150.00); providing how the cost thereof shall be paid; how the assessment thereof shall be made; and containing an emergency clause.

Mr. Woolston introduced Council Bill No. 2014-503 - Motion by Mr. Woolston, Second by Mr. Golden to Adopt Council Bill No. 2014-503. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 9. Nays: 0.

The Council Bill was declared Adopted and entitled Ordinance No. 2014-031

AN ORDINANCE approving an Agreement by and between the City of Joplin and Jasper County, Missouri to provide for the collection of City of Joplin real property taxes through the County real estate property tax bills; authorizing the City Manager to execute said Agreement by and on behalf of the City of Joplin; and containing an emergency clause.

**ORDINANCES – FIRST READING**

Mr. Woolston introduced Council Bill No. 2014-113 - Motion by Mr. Woolston, Second by Mr. Golden to Place Council Bill No. 2014-113 on First Reading and Advance to Second and Third

Reading. Voting in favor were Council Members: Colbert-Kean, Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 9. Nays: 0.

The Council Bill was read as being 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.

**ORDINANCES – SECOND READING AND THIRD READING**

**UNFINISHED BUSINESS**

**NEW BUSINESS**

Appointments to Boards and Commissions:

Motion by Mr. Shaw, Second by Mr. Scearce to make the following appointments to Boards and Commissions. City Tree Board: Jason Grossman: Design Review: Paul Whitehall: Historic Preservation: Paul Whitehall and Adriane Fain; Parks and Recreation: Diana Fuss.

Motion by Dr. Rosenberg, Second by Ms. Raney to pay the bill for Investigator Tom Loraine, upon auditing it, minus the double billing, and to have the complete file delivered to City Attorney Brian Head with a letter to the City Council stating how he got to the investigation.

Voting in favor were Council Members: Colbert-Kean, Golden, Raney, Rosenberg, and Scearce, 5. Nays: 4, Glaze, Seibert, Shaw, and Woolston.

There being no further business the meeting adjourned at 7:45p.m.

Respectfully submitted,

Barbara L Hogelin

Barbara L. Hogelin, MMC/MPCC

City Clerk

CITY OF JOPLIN
CITY COUNCIL SPECIAL MEETING
MINUTES

March 10, 2014

**CALL TO ORDER**

The Special Meeting for the Joplin City Council was called to order at 5:45 p.m. by Mayor Pro Tem William Scearce

**READING OF THE SPECIAL CALL**

Notice is hereby given that the City Council of the City of Joplin, Missouri, will hold a Special Meeting beginning at 5:45 p.m. on Monday, March 10, 2014 Joplin City Hall, in the 5th Floor Informal Conference Room, 602 S. Main for the purpose of to hear an Update from the Master Developer and to consider items related to economic development.

**ROLL CALL:** PRESENT: Morris Glaze, Jack Golden, Trisha Raney, Benjamin Rosenberg, Bill Scearce, Michael Seibert Gary Shaw, and Mike Woolston. 9. Absent: 01, Melodee Colbert-Kean.

**UPDATE FROM THE MASTER DEVELOPER.**

Gary Box and Bruce Anderson teamed to provide an overview update to council on where the master developer was on projects. They cited the 20th street projects and separating the library and the movie theatre operations into different projects. They also said plans were underway to develop the villas at 26th and McClelland. And, to go ahead with the science project at the Mercy hospital site for school projects.

Mr. Golden introduced Council Bill No. 2014-113 - Motion by Mr. Golden, Second by Mr. Seibert to Place Council Bill No. 2014-113 on First Reading and Advance to Second and Third Reading. Voting in favor were Council Members: Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 7. Nays: 0. Absent: 1, Colbert-Kean. Abstention: 1, Glaze.

The Council Bill was read as being COUNCIL BILL NO.2014-113

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.

Consideration of a letter of intent to provide an economic development loan from the Revolving Loan Fund (UDAAG) to Able Manufacturing and Assembly, LLC.

Motion by Mr. Golden, Second by Ms. Raney approve Letter of Intent to further all the city to negotiate the terms of the loan agreement. Voting in favor were Council Members: Glaze, Golden, Raney, Rosenberg, Scearce, Seibert, Shaw and Woolston. 8. Nays: 0. Absent: 1, Colbert-Kean..

Mayor Pro Tem Mr. Scearce reminded the Council the City will be celebrating it's birthday here at city hall on Monday, March 24,2014 at 10:00am. Everyone is invited to come and hear children from West Central read Essays from a contest they have participated in on why they like Joplin. Cake will be served.

**ADJOURNMENT**

There being no further business to come before the Council, the meeting was adjourned at 6:30 p.m.

Respectfully submitted,

Barbara L Hogelin

Barbara L. Hogelin, MMC/MPCC

City Clerk

City of **JOPLIN** City Council Agenda Item

**Requested Council Meeting Date: March 3, 2014**

**Item: Council Bill 2014-113**
**Originating Department: Planning and Community Development**

Attachments: 1) MOU Agreement
2) Council Bill
3) Exhibit "A" – Council Briefing

| | |
|---|---|
| P & CD Manager: Troy Bolander T.B. | Date: 2-24-14 |
| Department Head: Nick Heatherly | Date: 2/24/14 |
| Interim City Manager: Sam Anselm | Date: 2/24/14 |
| Finance Department: Leslie HAASE LH | Date: 2-24-14 |
| City Attorney: Brian Head | Date: 2/24/14 |

**Recommended Action:** Approval of Council Bill 2014-113

**SUMMARY:**
The City has been afforded a unique and extremely low-cost opportunity to acquire approximately 8 acres of undeveloped land adjacent and contiguous to Campbell Parkway to add to the parks system. This is property that the city has long been interested in remaining undeveloped for stormwater quality improvements and greenway expansion opportunities. The property will be improved as a grassland demonstration area in partnership with the Trustees.

Acquisition and improvement funding will be provided by the US Fish and Wildlife Service to Missouri Prairie Foundation. The City will be responsible for survey costs and installation of a provided fence along the north property. After the improvement period, the City will take possession of the property from the Trustees.

**RECOMMENDATION:**
Staff recommends approval of the MOU Agreement that will ultimately result in a unique community asset and an increase in public park property.

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES FISH & WILDLIFE SERVICE, MISSOURI DEPARTMENT OF NATURAL RESOURCES, MISSOURI PRAIRIE FOUNDATION, AND THE CITY OF JOPLIN**

This Memorandum of Understanding (MOU) is entered into 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. 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 parties.

W I T N E S S E T H:

WHEREAS, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and its implementing regulations provide the Trustees with the authority to use recovered natural resource damages to restore, replace, rehabilitate or acquire the equivalent of the natural resources that have been injured, in accordance with a Springfield Plateau Regional Restoration Plan;

WHEREAS, The Springfield Plateau Regional Restoration Plan provides for acquisition and restoration of degraded prairies;

WHEREAS, a landowner owns certain real estate at 2700 East 15th Street in the City of Joplin, Missouri and wishes to sell the real estate subject to certain deed restrictions that are consistent with the use of the real estate for a prairie grass preservation area and future part of the City of Joplin's park system;

WHEREAS, acquisition and preservation of the property would preserve some areas of existing high quality upland resources and improve the ecological functions of the remaining unrestored property;

WHEREAS, The Missouri Prairie Foundation will purchase the real estate from the landowner, subject to certain deed restrictions to be included in a conservation easement, as described in paragraph 2 below, with funds from a federal grant administered by the U.S. Fish and Wildlife Service;

WHEREAS, The Missouri Prairie Foundation, in conjunction with the U.S. Fish and Wildlife Service, will manage and improve the property into a prairie grass, wild flower and nature preservation area for a five (5) year period from the date the real estate is deeded; or until such time as the property is deeded to another party approved by the Trustees and that will manage the property for the purpose of natural resource restoration and protection through habitat preservation;

WHEREAS, at or prior to the five (5) year period, the Missouri Prairie Foundation will deed the real estate to the City of Joplin, subject to the same deed restrictions, for the City's use of the real estate as a park area.

NOW, THEREFORE, the parties do hereby agree as follows:

Term. This Agreement shall be terminated upon the conveyance of the subject real estate from the MPF to the City of Joplin, or to such other entity as approved by the Trustees, and the entity will manage the property for the purpose of natural resource restoration and protection through habitat preservation.

1. Purchase Price. The MPF anticipates paying the sum of Twelve Thousand Dollars ($12,000.00) per acre to the landowner for a portion of the lot currently located at 2700 East 15th Street. The survey of this portion shall be paid for by the City of Joplin.

2. Deed Restrictions. The landowner shall convey the property to the MPF with the understanding that certain recorded deed restrictions will be covenants running with the land, including, but not limited to, the following: The land shall be used as a prairie grassland area and park in perpetuity. No structures shall be placed on the real estate. Walking paths may be constructed on the real estate with minimal signage, if any, to describe the prairie grass area or give directions. The conservation easement will be drafted by the Trustees, held by MDNR, and recorded by MPF simultaneous with the recording of the deed. Access to the real estate shall be from the southwest edge of the real estate, from the area where the old fire station at the corner of Murphy Boulevard and 20th Street intersect, and/or from the adjoining northeast Campbell Parkway property, and/or from the east Texas Avenue city-owned street easements at 17th and 18th Streets.

3. Use of Real Estate After Acquisition. The MPF and the U.S. Fish and Wildlife Service will have the exclusive right to establish, restore, develop and maintain the real estate as a prairie grassland habitat and nature area, using native grasses and plants, to be more fully described in a restoration plan. The U.S. Fish and Wildlife Service shall have access to the property for these purposes. The exact scope of work for the restoration plan will be contained in a cooperative agreement to be written between the U.S. Fish and Wildlife Service and MPF.

4. Use of Real Estate After Conveyed to City of Joplin. When the City of Joplin is conveyed the real estate, subject to certain deed restrictions as identified above and in the conservation easement and deed, it will incorporate the area into its park system consistent with the terms in this Agreement. The City will own the real estate but maintenance will be contracted with another entity that specializes in prairie maintenance to manage the real estate consistent with a maintenance plan to be written by the Trustees. Funds from the Trustees will be available for maintenance activities (such as burning or spraying for exotic weeds) for 75 years after the maintenance phase begins, via contracts managed by the Trustees. The intended purpose of the maintenance is to maintain or improve the quality of prairie habitat established at the end of the restoration phase. The City of Joplin will need to mow once per year at a maximum, at their own expense, to prevent the encroachment of undesirable trees.

5. Date of Conveyance. Within five years from the acquisition of the parcels by MPF, MPF shall convey the real estate to the City of Joplin at no cost, and Joplin will accept said conveyance. It is the intent of all parties hereto that MPF and the US Fish and Wildlife Service

have control of the real estate for the period prior to transfer of the property to the City of Joplin in order for the grasses and vegetation to be properly established.

6. Miscellaneous.

A. CHOICE OF LAW. This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Jasper County, Missouri, or the United States District Court for the Western District of Missouri.

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

C. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by all parties.

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

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

F. REPRESENTATIONS. The signatories hereto represent and warrant that they have read this Agreement, that they are fully authorized in the capacities shown, that they understand the terms of this Agreement, and that they are executing the same voluntarily and solely for the consideration described herein.

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

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES FISH & WILDLIFE SERVICE, MISSOURI DEPARTMENT OF NATURAL RESOURCES, MISSOURI PRAIRIE FOUNDATION, AND THE CITY OF JOPLIN**

CITY OF JOPLIN, MISSOURI,
a Municipal Corporation (CITY)

_____ _____

Samuel Anselm, Date
Interim City Manager

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES FISH & WILDLIFE SERVICE, MISSOURI DEPARTMENT OF NATURAL RESOURCES, MISSOURI PRAIRIE FOUNDATION, AND THE CITY OF JOPLIN**

MISSOURI PRAIRIE FOUNDATION

_____ _____

Carol Davit, Date
Executive Director

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES FISH & WILDLIFE SERVICE, MISSOURI DEPARTMENT OF NATURAL RESOURCES, MISSOURI PRAIRIE FOUNDATION, AND THE CITY OF JOPLIN**

MISSOURI DEPARTMENT OF NATURAL RESOURCES

_____ _____

Sara Parker Pauley, Director

Date

**MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES FISH & WILDLIFE SERVICE, MISSOURI DEPARTMENT OF NATURAL RESOURCES, MISSOURI PRAIRIE FOUNDATION, AND THE CITY OF JOPLIN**

U.S. DEPARTMENT OF THE INTERIOR

_____ _____

Dr. Benjamin Tuggle, Date
Authorized Official
Regional Director, Region 2, U.S. Fish & Wildlife Service

COUNCIL BILL NO. 2014-113 ORDINANCE NO.

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.

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

Section 1. That the MOU Agreement by and between the Trustees is hereby approved.

Section 2. That the Interim City Manager is hereby authorized and directed to execute said MOU Agreement and other documents necessary to complete the agreement by and on behalf of the City of Joplin, Missouri.

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

Tony Robyn
Disaster Recovery Coordinator
Joplin Planning and Community Development
January 22, 2014 (revised)

# CAMPBELL PARKWAY PROPERTY AQUISITION

## Overview

With minimal cost to the City, we have been afforded a unique opportunity to acquire approximately 8 acres of undeveloped land adjacent and contiguous to Campbell Parkway to add to the parks system. Prior to the May 2011 tornado, this lot was primarily wooded and is now heavily damaged with dead and dying trees. This is property that the City has long been interested in remaining undeveloped for stormwater quality improvement and greenway expansion opportunities.

## Background

The current landowner has had the property since the 1970s. The owner has expressed interest in selling the property at fair market value as long as it is agreed that it be retained as green park space accessible the community.

The United States Fish and Wildlife Service (USFWS) has agreed to provide property acquisition funds and future maintenance funds through their Mined Lands Remediation Fund. They will contract with Missouri Prairie Foundation to acquire, clean up and restore the property as a prairie-savanna wildflower demonstration area prior to turning over to the city. The property still has significant tree damage from the 2011 tornado and USFW is supportive of having a natural green space with native plants, educational graphics, and trails. Retaining viable large trees is acceptable. Given proximity of the new high school, the Missouri Department of Conservation and Audubon are interested in utilizing the area for student learning and stewardship activities.

In discussions with the city manager, planning and community development director, CVB director, stormwater engineer, and parks director, we believe this area would be a significant addition to the parks system and would add one more unique amenity to a suite of redevelopment efforts in the community for citizens and visitors alike. Joplin currently has approximately 950 acres of parks, including the 120 acre golf course, and lags slightly behind the national average ratio of park acres per citizen.

With this in mind, this acquisition conforms to the goals of Parks, CVB, and Public Works Departments. Furthermore, this type of project adheres to the overall goals of the Citizens Advisory Recovery Team recommendations adopted by the city council.

In addition:

- Dynamic public parks provide Joplin citizens with the opportunity to get outdoors, explore, and be physically active. Having close-to-home access to places where people can recreate was cited as important to Joplin citizens in the 2010 Parks Survey. More than just mowed green spaces, a variety of park types and settings provide enjoyment to broad cross sections of community stakeholders like walkers, joggers, bicyclists, canoeists, birders and wildflower enthusiasts.
- Parks also have real economic benefits and proximity to a community park has proven to improve property value. Parks improve the quality of life and make communities more livable and desirable for businesses and homeowners.[i]
- Given the intense redevelopment efforts along 20th Street, additional park space will enhance growth and provide additional vegetative buffers to residential homes and developments. More importantly, this parcel will also act as a natural sound barrier, groundwater recharge area, and stormwater protection, while providing reductions in heat island effects, and carbon uptake from abundant trees and vegetation. The city will gain stormwater credit with the state for this type of amenity.
- Parks preserve critical open space. As our community redevelops we have an opportunity to maintain natural open space providing recreational and educational opportunity for children and families. We are fortunate that this property holds an impressive stand of historic prairie grasses and wildflowers that once dominated the Joplin region for residents and visitors to enjoy.
- Parks provide a meeting place where citizens can develop and strengthen social and family ties at playgrounds, picnics, and parties, and where healthy behavior is modeled and admired.[i]

**Timing and Maintenance**

In early 2014, the USFWS will work out acquisition details and develop a recommended management plan for the property at no cost to the city. Once the Council Bill is approved, the Missouri Prairie Foundation will have up to five years to remediate the property prior to turning over to the city. The property would then be integrated into the Joplin Parks system. Due to the more natural condition of the site to be maintained, minimal annual maintenance will be required. The management plan will include annual maintenance costs to be provided to the city from USFWS for 75 years.

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[i] http://www.americantrails.org/resources/economics/Economic-Benefits-Trails-Open-Space-Walkable-Community.html

City of **JOPLIN** City Council Agenda Item

**Requested Council Meeting Date: March 3, 2014**

**Item: COUNCIL BILL NO. 2014-252**
**Originating Department: PLANNING & COMMUNITY DEVELOPMENT**

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

Public Works Director: Nicholas A. Heatherly Date: 2/21/2014
City Attorney: Brian Head Date: 2/21/14
Interim City Manager: Samuel L. Anselm Date: 2/24/14
Board or Commission: Planning and Zoning Commission Date: 2/10/2014

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 004-14: 2800 block of South Adele Avenue – A request to rezone from District R-3 (Apartment House) to District R-4 (Townhouse) for proposed townhouse development – Joplin Villa's LLC

STAFF SUMMARY:
The proposed rezoning will allow a 42-unit senior townhouse/villa development to move forward. The units will need to be platted in the future for individual ownership.

Staff recommends approval of Case 004-14.

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Don Ness requested the rezoning for the design of 42 villas, and in order to do so, the zoning must be changed from District R-3 to District R-4 so that the total tract will be combined to include all of the units as shown in the development plans.

PUBLIC COMMENT:
None.

Z&P Meeting: February 10, 2014
City Council Meeting: March 3, 2014

# STAFF PLANNING REPORT
## Rezoning

**CASE 004-14:**

A request to rezone from District R-3 (Apartment House) to District R-4 (Townhouse) for property located on the east side of the 2800 block of S. Adele Avenue for future townhouse development.

**APPLICANT:** Joplin Villa's LLC

**LOCATION:** 2800 block of S. Adele Avenue

**REQUESTED ZONING:** R-4 (Townhouse)

**CORRIDOR:** N/A (Planned Development not required)

---

**EXISTING CONDITIONS:**

| Zoning | Land Use | Property Size |
|---|---|---|
| R-3 (Apartment House) | Undeveloped | 395' x 135' / 1.22 acres |

**SITE CONTEXT:**

| | North | East | South | West |
|---|---|---|---|---|
| Existing Zoning | R-3 | R-4 | R-1 | R-4 |
| Land Use | Vacant (Former Two-Family) | Undeveloped | Undeveloped | Undeveloped |

**FUTURE LAND USE:**

The 2012 Future Land Use Map designates this property as high-density residential.

**TRANSPORTATION:**

| Streets with access | Classification | Right-of-way width |
|---|---|---|
| S. Adele Avenue | Local | 50' |

**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 the development of townhomes.

**THE EXTENT THAT THE ZONING CHANGE WILL DETRIMENTALLY AFFECT NEARBY PROPERTY**

The proposed rezoning should not detrimentally affect nearby properties.

**DISCUSSION**

The proposed rezoning will allow a 42-unit senior townhouse/villa development to move forward. The units will need to be platted in the future for individual ownership.

**Staff recommends approval of Case 004-14.**

**ENCLOSURES:**

Preliminary Site Plan

RECEIVED 12-16-13

# 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.: 034-14
Filing Fee: $350.00
Date Advertised: 1-26-14
Date Notices Sent: 1-27-14
P&Z Date: 2-10-14
City Council Date: 3-3-14

APPLICANT: JOPLIN VILLA'S, LLC PHONE: 417-208-5100
ADDRESS: 1027 MAIN, SUITE 350 ZIP: 64801
EMAIL: BRUCE@WALLACEBAJALI.COM
OWNER: JOPLIN REDELOPMENT CORP, INC PHONE: 624-0824
ADDRESS: 602 MAIN, JOPLIN MO ZIP: 64801
EMAIL:
LOCATION OF PROPERTY: SOUTH ADELE AVENUE
LEGAL DESCRIPTION:
REFER TO EXHIBIT A-A

Present Zoning R2 Requested Zoning: R4 Acreage: 1.24
Present Use of Property: VACANT LAND
Proposed Use of Property: MULTI-FAMILY (SENIOR LIVING UNITS)

SURROUNDING LAND USE AND ZONING:

| | Land Use | Zoning |
|---|---|---|
| North | DUPLEX'S | R3 |
| South | VACANT | R1 |
| East | VACANT | R4 |
| West | VACANT | R4 |

CHARACTER OF THE NEIGHBORHOOD: MULTI-FAMILY / ELK'S LODGE

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?
   If yes, explain: YES, - PROPERTIES TO THE EAST & WEST ARE ZONED R4

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. REFER TO EXHIBIT B-B
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 NA Landscape Plan NA Building Elevations

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: SOUTH ADELE AVENUE
2. Classification of Street(s):
   Arterial_____ Collector_____ Local X
3. Right-of-Way Width: 50'-0"
4. Will turning movements caused by the proposed use create an undue traffic hazard?
   NO

IS PLATTING OR REPLATTING REQUIRED TO PROVIDE FOR: NA

1. Appropriately Sized Lots?_____
2. Properly Sized Street Right-of-Way?_____
3. Drainage Easements?_____
4. Utility Easements:
   - Electricity?_____
   - Gas?_____
   - Sewers?_____
   - Water?_____
5. Additional Comments:_____

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

SIGNATURE: _____ DATE: 12.5.2013

BY: DON NESS AIA

TITLE: PRINCIPAL / OWNER - NESS DESIGN GROUP

B - 625 - 1970

C - 499 - 4898

ness
designoup
architects

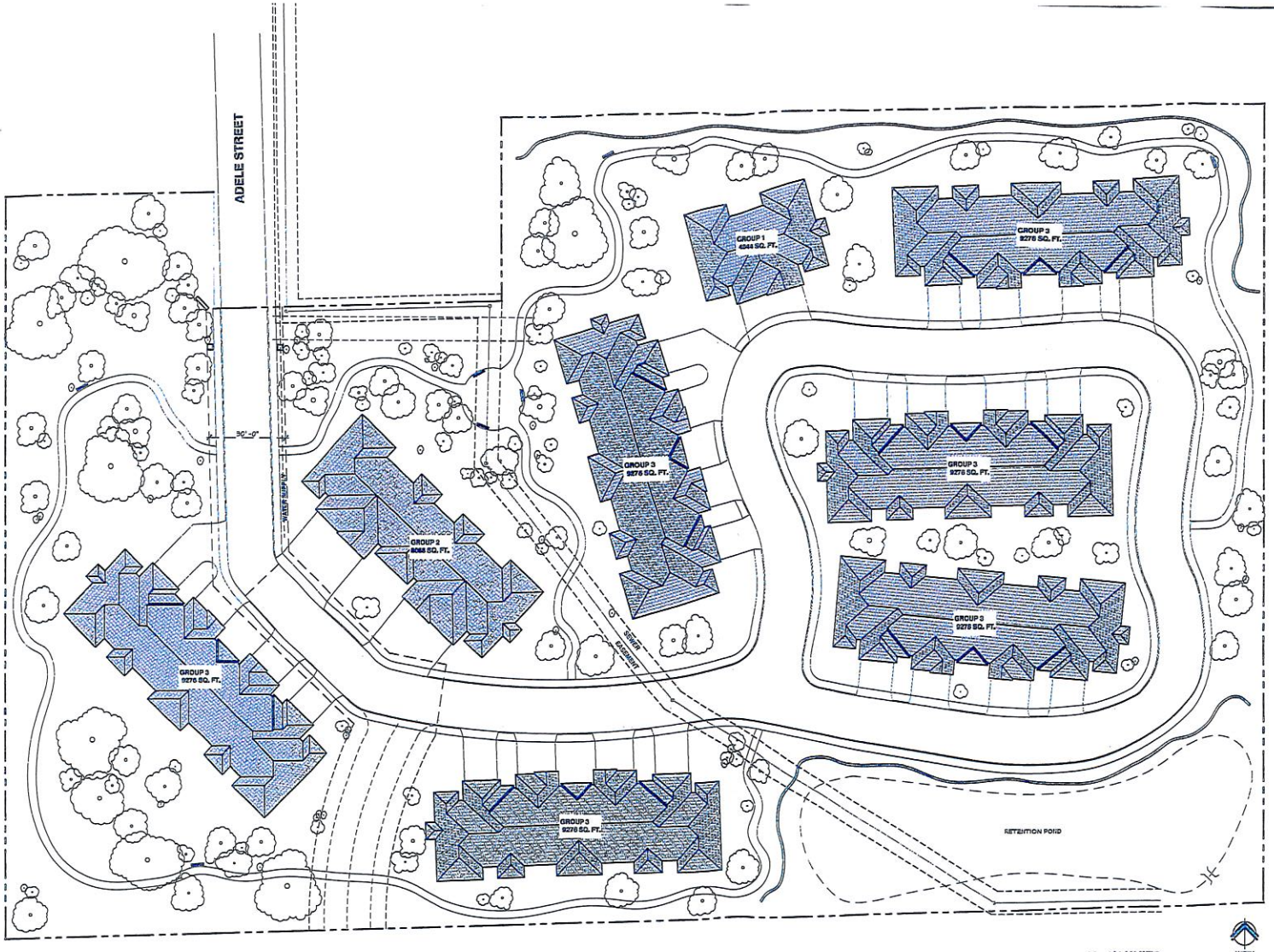
EXHIBIT B-B

Statement Describing the Reasoning for the Rezoning

The rezoning of this property from R3 to R4 will allow Multi Family Housing (Senior Housing) to be placed on this site. The rezoning of this property will be consistent with the zoning of adjacent property. We find that this project should have no impact on surrounding properties and in fact improve this area. This project will provide quality Senior Living that is needed in this area.

1821 E. Fourth
Joplin, MO 64801

417-625-1970 ph
417-625-1971 fx




18 - 'A' UNITS
24 - 'B' UNITS

1 SITE PLAN
1" = 30'

ness designoup

PRELIMINARY - NOT FOR CONSTRUCTION - 1/30/2014

DATE:
ARCHITECT: DONALD P. NESS
MO #A-6226

NESS ARCHITECTS, INC. DBA
NESS DESIGN GROUP ARCHITECTS
CA: MO #C0020016765

MECHANICAL/ELECTRICAL ENGINEER
FSC MEP - ENGINEERS, LLC
9225 INDIAN CREEK PKWY, ST. 300
OVERLAND PARK, KS 66210
PH. 816-333-4373
FX. 816-722-3484

CONSULTANT:
OLSSON ASSOCIATES
1505 E. ROBLIC ROAD
BUILDING B, SUITE 100
SPRINGFIELD, MO 65804
PH.417-890-6552
FX. 417-890-6553

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THESE PLANS ARE PROPERTY OF NESS DESIGN GROUP ARCHITECTS AND SHALL BE USED ONLY FOR THE DESIGNATED PROJECT.

PROJECT ARCHITECT - D.P.N
DRAWN BY - M.D.L.
CHECKED BY - D.P.N

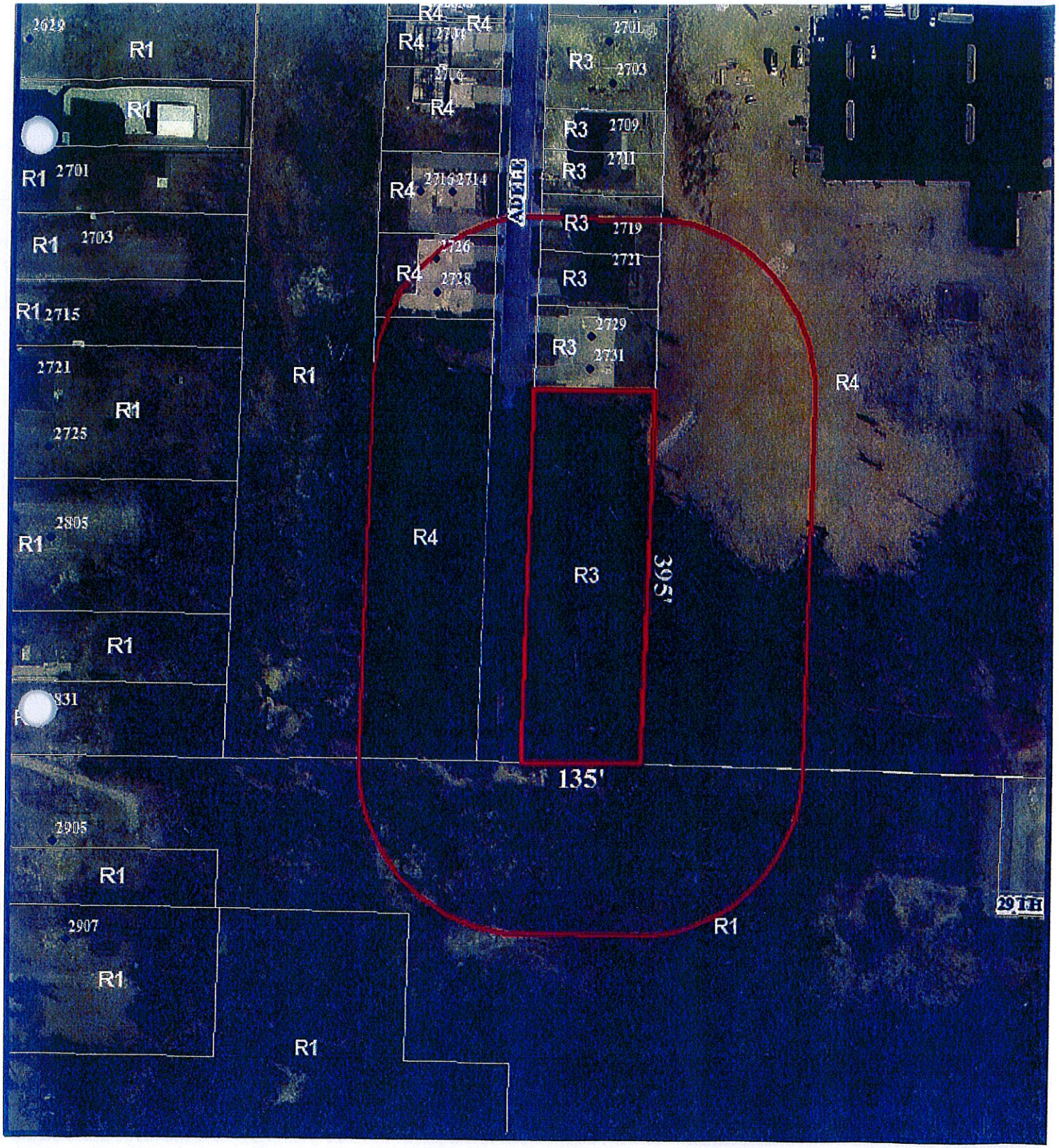
# Senior Villas

ADDRESS
CITY, STATE ZIP

Dec. 17, 2013
NDG13-18

REVISIONS

C1.1




**Case 004-14: A request to rezone from District R-3 (Apartment House) to District R-4 (Townhouse) for future senior living development in the 2800 Block of S. Adele Avenue. - Joplin Villa's LLC**

Case 004-14: 2800 block of South Adele Avenue – A request to rezone from District R-3 (Apartment House) to District R-4 (Townhouse) for proposed townhouse development – Joplin Villa's LLC

Mr. Harrington opened the public hearing for Case 004-14.

Mr. Don Ness, 1821 East Fourth Street, Joplin, appeared to request the rezoning for the design of 42 villas, and in order to do so, the zoning must be changed from District R-3 to District R-4 so that the total tract will be combined to include all of the units as shown in the development plans.

Mr. Harrington asked for comments from the commissioners and the audience, and none were received. He then closed the public hearing for Case 004-14.

**MR. SMITH MOVED, SECONDED BY MR. CORTEZ, THAT CASE 004-14 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. EASTMAN, MR. HARRINGTON, MR. RAMSOUR, AND MR. SMITH VOTING "AYE"; AND WITH MR. DUNCAN BEING ABSENT (6 IN FAVOR, 1 ABSENT).**

P & Z Case 004-14
Joplin Villa's LLC
(P & Z Recommended Approval)

**COUNCIL BILL NO. 2014-252** **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-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.

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-3 and including same in District R-4:

All of Lots Number Ten (10) through Thirteen (13), both inclusive, in Woodland Hills South, a Sub-division in the City of Joplin, Jasper County, Missouri, according to the recorded Plat thereof.

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

City of **JOPLIN** City Council Agenda Item

**Requested Council Meeting Date: March 3, 2014**

**Item: COUNCIL BILL NO. 2014-253**
**Originating Department: PLANNING & COMMUNITY DEVELOPMENT**

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

Public Works Director: Nicholas A. Heatherly Date: 2/21/2014
City Attorney: Brian Head Date:
Interim City Manager: Samuel L. Anselm Date: 2/12/14
Board or Commission: Planning and Zoning Commission MDW Date: 2/10/2014

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 006-14: West of 3002, 3006 and 3010 South Main Street – A request 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 – Kyle Denham.

STAFF SUMMARY:
The vacation request will complete the vacation of the remaining portion of the alley south of 30th Street between South Main and South Joplin Avenue.

Staff recommends approval of Case 006-14.

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Kyle Denham, PLJBD Architects, appeared representing Patrick Goodknight, who owns three lots on Main Street and three lots on Joplin Avenue. Mr. Goodknight built his office at 3010 South Main about 22 years ago.

Mr. Denham stated that a lot has changed in that area along South Main during the last 20 years with the vacation of 31st Street, and with the intersection of 32nd and Main Streets being totally redesigned. Traffic islands were added on 32nd Street and on Main Street to prohibit left-hand turns. The existing alley was vacated from 32nd Street down to Mr. Goodknight's property.

Mr. Denham stated that Mr. Goodknight's front entrance formerly faced the south, and because of the way the traffic flow has changed with the development to the south, he has already remodeled his office to face the north. He wants to redevelop the two lots at the southwest corner of 30th and Main Streets to create a better parking situation and better access for his

property. By vacating the alley, he can maximize his land. He intends on leaving the three houses on Joplin Avenue as residences at this point.

Mr. Denham has contacted all of the utility companies. All utilities except Missouri American Water have consented to the vacation of the alley. Discussions are taking place with Missouri American Water, and they have basically agreed to the vacation, but they want some proof that the utility easement will remain. They have requested that the City's ordinance state clearly that the utility easement will remain.

Mr. Ramsour asked Mr. Denham about traffic flow, and he replied that the alley was never designed for traffic. The alley is being heavily used to access the two strip centers to the south of Mr. Goodknight's property. The alley is not designed for two-way traffic but is being used that way. Mr. Goodknight wants to avoid using the alley and develop the two lots north of his office for parking. The two strip centers to the south would become self-contained units with their own parking.

Mr. Brown asked if Mr. Goodknight owns all three residential lots along Joplin Avenue from 30th Street south, and Mr. Denham replied yes.

PUBLIC COMMENT:
None.

Z&P Meeting: February 10, 2014
City Council Meeting: March 3, 2014

# STAFF PLANNING REPORT
## Vacation

**CASE 006-14:**

A request for the vacation of the remaining portion of a 20 foot wide public alley south of 30th Street between S. Main Street and S. Joplin Avenue.

**APPLICANT:** Kyle Denham (representing owner, Patrick Goodknight)

**REPRESENTATIVE:** N/A

**LOCATION:** South of 30th Street between S. Main and S. Joplin

---

**EXISTING CONDITIONS:**

| Easement Type(s) | Easement Size |
|---|---|
| Alley | 20' x 150' |

**REASON FOR VACATION:**

This is the final 150' portion of a north-south alley bounded by 30th and vacated 31st Streets, S. Main and S. Joplin Avenue. The first 250' portion was vacated in June 2013 for the redevelopment of commercial property to the south. All six lots bordering the remaining portion of this alley have been acquired by a single property owner. The property owner is requesting to vacate the alley and plans to possibly redevelop some of the lots in the future. The utility easement will remain. Therefore utilities will not be impacted by this vacation.

**UTILITIES CURRENTLY LOCATED IN THE EASEMENT?:** Yes

**UTILITIES PLANNED TO LOCATE IN THE EASEMENT?:** Yes

---

**DISCUSSION:**

The vacation request will complete the vacation of the remaining portion of the alley south of 30th Street between S. Main and S. Joplin Avenue.
**Staff recommends approval of Case 006-14.**

**ENCLOSURES:** None

RECEIVED
12-16-13

# 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.: 0006-14
Filing Fee: $ 350.00
Date Advertised: 1-24-14
Date Notices Sent 1-27-14
Public Hearing Date: 2-10-14

---

I. Applicant Name: KYLE DENHAM Phone: 624.5778

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

Address: 303 S. MAIN JOPLIN MO 64801 Zip: _____

Email: denham@pljbd.com

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

Street Vacation_____

Alley Vacation X

Utility vacation_____

Other (Please specify)_____

III. Legal Description of area requested to be vacated: Alley between the following addresses: 3001 JOPLIN, 3007 JOPLIN, 3009 JOPLIN and 3004 MAIN, 3008 MAIN, 3010 MAIN

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. The applicant owns all of the property on boths sides of the alley requested to be vacated.

2. The vacation will not cause the public to suffer a loss or inconvenience. This alley is already vacated south of this to 32nd Street.

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

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: DEC. 16, 2013

BY: KYLE DENHAM

TITLE: ARCHITECT




0 85 170 340 510 680 Feet

**Case 006-14: A request to vacate the remainder of a 20 foot wide alley between S. Main a[illegible] S. Joplin Avenue south of 30th Street. - Kyle Denham**

N

Case 006-14: West of 3002, 3006 and 3010 South Main Street – A request 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 – Kyle Denham.

Mr. Harrington opened the public hearing for Case 006-14.

Mr. Kyle Denham, PLJBD Architects, 303 South Main Street, Joplin, appeared representing Patrick Goodknight, who owns three lots on Main Street and three lots on Joplin Avenue. Mr. Goodknight built his office at 3010 South Main about 22 years ago.

Mr. Denham stated that a lot has changed in that area along South Main during the last 20 years with the vacation of 31st Street, and with the intersection of 32nd and Main Streets being totally redesigned. Traffic islands were added on 32nd Street and on Main Street to prohibit left-hand turns. The existing alley was vacated from 32nd Street down to Mr. Goodknight's property.

Mr. Denham stated that Mr. Goodknight's front entrance formerly faced the south, and because of the way the traffic flow has changed with the development to the south, he has already remodeled his office to face the north. He wants to redevelop the two lots at the southwest corner of 30th and Main Streets to create a better parking situation and better access for his property. By vacating the alley, he can maximize his land. He intends on leaving the three houses on Joplin Avenue as residences at this point.

Mr. Denham has contacted all of the utility companies. All utilities except Missouri American Water have consented to the vacation of the alley. Discussions are taking place with Missouri American Water, and they have basically agreed to the vacation, but they want some proof that the utility easement will remain. They have requested that the City's ordinance state clearly that the utility easement will remain.

Mr. Ramsour asked Mr. Denham about traffic flow, and he replied that the alley was never designed for traffic. The alley is being heavily used to access the two strip centers to the south of Mr. Goodknight's property. The alley is not designed for two-way traffic but is being used that way. Mr. Goodknight wants to avoid using the alley and develop the two lots north of his office for parking. The two strip centers to the south would become self-contained units with their own parking.

Mr. Brown asked if Mr. Goodknight owns all three residential lots along Joplin Avenue from 30th Street south, and Mr. Denham replied yes.

Mr. Harrington asked for comments from the commissioners and the audience, and none were received. He then closed the public hearing for Case 006-14.

**MR. RAMSOUR MOVED, SECONDED BY MR. BROWN, THAT CASE 006-14 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. EASTMAN, MR. HARRINGTON, MR. RAMSOUR,**

**AND MR. SMITH VOTING "AYE"; AND WITH MR. DUNCAN BEING ABSENT (6 IN FAVOR, 1 ABSENT).**

P & Z Case 006-14
Kyle Denham
(P & Z Recommended Approval)

**COUNCIL BILL NO. 2014-253** **ORDINANCE NO.**

**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.

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

Section 1. That 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, described as follows is hereby vacated, conveyed, relinquished, and reverted to the owners of the abutting lots and land:

The portion of a north-south public alley bounded by the West line of Lots 60, 61 and 62 in D.W. Luke's Southern Heights Sub-division to the City of Joplin, Jasper County, Missouri, and the East line of Lots 127, 128 and 129 in D.W. Luke's Southern Heights Sub-division to the City of Joplin, Jasper County, Missouri.

Section 2. That this vacation of the portion of the alley hereby vacated shall not affect or derogate from the existing rights of way or other easements of public utility companies now having installations in that portion of the alley hereby vacated. Such utility companies shall have the right to maintain, repair and replace any such installations now on the vacated portion of said alley and shall be subject to the rights of the City of Joplin for sewer construction and maintenance.

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: March 3, 2014**

**Item: COUNCIL BILL NO. 2014-254**
**Originating Department: PLANNING & COMMUNITY DEVELOPMENT**

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

Public Works Director: Nicholas A. Heatherly — Date: 2/21/2014
City Attorney: Brian Head — Date: 2/21/14
Interim City Manager: Samuel L. Anselm — Date: 2/21/14
Board or Commission: Planning and Zoning Commission — Date: 2/10/2014

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 007-14: 2927 East 11th Street – A request to rezone from District C-1 (Neighborhood Commercial) to District C-3 (Commercial) for future commercial development. – Geary W. Williams.

STAFF SUMMARY:
The proposed rezoning will make the zoning consistent with the C-3 properties to the north and east towards Range Line Road.

Staff recommends approval of Case 007-14.

PLANNING & ZONING COMMISSION TESTIMONY:
Mr. Geary Williams stated that the lot in this request measures only 65 feet by 120 feet. The lot is adjacent and attached to the parcel that he already owns and wants to develop. All of the adjacent lots are already zoned C-3, and he believes the highest and best use of this parcel is to develop it for retail. The C-3 zoning would be a step in the right direction so this land could be developed to its highest potential.

PUBLIC COMMENT:
None.

Z&P Meeting: February 10, 2014
City Council Meeting: March 3, 2014

# STAFF PLANNING REPORT
## Rezoning

**CASE 007-14:**

A request to rezone from District C-1 (Neighborhood Commercial) to District C-3 (Commercial) for property located at 2927 East 11th Street for future commercial development.

**APPLICANT:** Geary W. Williams

**LOCATION:** 2927 E. 11th Street

**REQUESTED ZONING:** C-3 (Commercial)

**CORRIDOR:** N/A (Planned Development not required)

---

**EXISTING CONDITIONS:**

| Zoning | Land Use | Property Size |
|---|---|---|
| C-1 (Neighborhood Commercial) | Undeveloped | 65' x 120' / 7,800 ft² / .18 acre |

**SITE CONTEXT:**

| | North | East | South | West |
|---|---|---|---|---|
| Existing Zoning | C-3 | C-3 | R-1 | R-1, R-2 |
| Land Use | Undeveloped | Undeveloped | Eastmorland Elementary | Two-Family Residential |

**FUTURE LAND USE:**

The 2012 Future Land Use Map designates this property as commercial.

**TRANSPORTATION:**

| Streets with access | Classification | Right-of-way width |
|---|---|---|
| E. 11th Street | Local | 60' |
| Frost Avenue | Local | 50' |

**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.

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**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 proposed rezoning should not detrimentally affect nearby properties.

**DISCUSSION**

The proposed rezoning will make the zoning consistent with the C-3 properties to the north and east towards Range Line Road.

**Staff recommends approval of Case 007-14.**

**ENCLOSURES:**

None

# REZONING APPLICATION FORM

RECEIVED 1-14-14

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.: 007-14
Filing Fee: $350.00
Date Advertised: 1-26-14
Date Notices Sent: 1-27-14
P&Z Date: 2-10-14
City Council Date: 3-3-14

APPLICANT: Geary W. Williams PHONE: 417-291-4030
ADDRESS: 2930 S. Illinois Joplin, MO ZIP: 64804
EMAIL: gearyw@rocketmail.com
OWNER: Geary Williams / Angela Enrit PHONE: 417-291-4030
ADDRESS: 2930 S. Illinois Joplin, MO ZIP: 64804
EMAIL: gearyw@rocketmail.com
LOCATION OF PROPERTY: 2927 E 11th
LEGAL DESCRIPTION: Campbell's 1st W ½ Lots 9 & 10

Present Zoning C-1 Requested Zoning: C-3 Acreage:
Present Use of Property: vacant
Proposed Use of Property: retail

SURROUNDING LAND USE AND ZONING:

| | Land Use | Zoning |
|---|---|---|
| North | vacant | C-3 |
| South | School | R-1 |
| East | Commercial | C-3 |
| West | duplexes | R-1 & R-2 |

CHARACTER OF THE NEIGHBORHOOD: Commercial, 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? yes
   If yes, explain: NOT CONSISTENT W/ SURROUNDING ZONING

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:
   ___ Site Plan ___ Landscape Plan ___ Building Elevations

TRAFFIC CONDITIONS:

1. Street(s) with Access to Property: 11th
2. Classification of Street(s):
   Arterial_____ Collector_____ Local ✓
3. Right-of-Way Width: _____
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?_____
2. Properly Sized Street Right-of-Way?_____
3. Drainage Easements?_____
4. Utility Easements:
   Electricity?_____
   Gas?_____
   Sewers?_____
   Water?_____
5. Additional Comments:_____

UNIQUE CHARACTERISTIC OF PROPERTY AND ADDITIONAL COMMENT:

SIGNATURE: Geary W. Williams DATE:_____

BY: Geary W. Williams

TITLE: Owner




**Case 007-14: A request to rezone from District C-1 (Neighborhood Commercial) to District C-3 (Commercial) for future commercial development at 2927 E. 11th Street. - Geary W. Williams**

N

Case 007-14: 2927 East 11th Street – A request to rezone from District C-1 (Neighborhood Commercial) to District C-3 (Commercial) for future commercial development. – Geary W. Williams.

Mr. Harrington opened the public hearing for Case 007-14.

Mr. Geary Williams, 2930 South Illinois Avenue, Joplin, appeared and stated that the lot in this request measures only 65 feet by 120 feet. The lot is adjacent and attached to the parcel that he already owns and wants to develop. All of the adjacent lots are already zoned C-3, and he believes the highest and best use of this parcel is to develop it for retail. The C-3 zoning would be a step in the right direction so this land could be developed to its highest potential.

Mr. Harrington asked for comments from the commissioners and the audience, and none were received. He then closed the public hearing for Case 007-14.

**MR. BROWN MOVED, SECONDED BY MR. EASTMAN, THAT CASE 007-14 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. EASTMAN, MR. HARRINGTON, MR. RAMSOUR, AND MR. SMITH VOTING "AYE"; AND WITH MR. DUNCAN BEING ABSENT (6 IN FAVOR, 1 ABSENT).**

P & Z Case 007-14
Geary W. Williams
(P & Z Recommended Approval)

**COUNCIL BILL NO. 2014-254** **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 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.

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 C-1 and including same in District C-3:

The West one-half of Lots 9 and 10 of Campbell's 1st Addition to the City of Joplin, Jasper County, Missouri, according to the recorded Plat thereof.

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

City of **JOPLIN** City Council Agenda Item

**Requested Council Meeting Date: March 3, 2014**

**Item: COUNCIL BILL NO. 2014-255**
**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: 2/21/2014
City Attorney: Brian Head BH Date: 2/21/2014
Interim City Manager: Samuel L. Anselm SA Date: 2/21/14
Board or Commission: Planning and Zoning Commission MDW Date: 2/10/2014

Recommended Action: Planning and Zoning Commission recommended approval by a vote of "6 in favor, 1 absent"

SUMMARY/REQUEST:
Case 009-14: Northeast corner of 26th Street and Country Club Drive – A request for the review of a final plat for "Twin Hills Subdivision Plat 1" – Jerrod Hogan.

STAFF SUMMARY:
The final plat is for the Twin Hills Subdivision Plat 1, the first 12 lots of the Twin Hills Subdivision. The lots will be developed along the southern perimeter of the Twin Hills Golf & Country Club and will have golf course views and connection to the cart path.

Staff recommends approval of Case 009-14.

PLANNING & ZONING COMMISSION TESTIMONY:

Mr. Jim Michel, Anderson Engineering, appeared on behalf of Jerrod Hogan to request the review of the final plat for Twin Hills Subdivision Phase 1 as submitted.

Mr. Eastman stated that a barbed wire fence currently exists along 26th Street. He asked Mr. Michel if he intends on fencing along 26th Street. He replied that any fencing would be in compliance with the City codes. He did not know if fencing would be required since the property would be residential.

Mr. Ramsour asked about Phase 2, and Mr. Michel showed the commissioners a diagram of the plat. Everything that is highlighted in yellow is Phase 1, with Phase 2 being highlighted in orange. Phase 3, the final phase, consists of four lots.

PUBLIC COMMENT: None.

Z&P Meeting: February 10, 2014
City Council Meeting: March 3, 2014

# STAFF PLANNING REPORT
## Final Plat

**CASE 009-14:**

Final Plat review for "Twin Hills Subdivision Plat 1."

**NAME OF SUBDIVISION:** Twin Hills Subdivision

**LOCATION:** Northeast corner of 26th & Country Club Drive

**APPLICANT:** Twin Hills Golf & Country Club, Inc. / Jerrod Hogan

**PRESENT ZONING:** R-1 (Single-Family)

**PRESENT LAND USE:** Golf Course/Country Club

---

**SITE CONTEXT:**

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

**SUBDIVISION:**

| Number of lots | Smallest lot | Largest lot | Average lot size |
|---|---|---|---|
| 12 | 20,993 ft² | 31,137 ft² | 26,395 ft² |

**TRANSPORTATION:**

| Streets with access | Classification | Right-of-way width |
|---|---|---|
| W. 26th Street | Local | 70' |
| S. Country Club Drive | Local | 70' |

**DEDICATED STREET(S):**

| Dedicated street(s) | Width of street(s) |
|---|---|
| Golf Link Road | 25' (total of 50') |

**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?**

Yes.

**DISCUSSION**

The final plat is for the Twin Hills Subdivision Plat 1, the first 12 lots of the Twin Hills Subdivision. The lots will be developed along the southern perimeter of the Twin Hills Golf & Country Club and will have golf course views and connection to the cart path.

**Staff recommends approval of Case 009-14.**

**ENCLOSURES:**

Final Plat – Twin Hills Subdivision Plat 1

RECEIVED 1-15-14

# CITY OF JOPLIN, MISSOURI

## FINAL PLAT CHECKLIST

Case No.
~~Subdivision No.~~: 009-14
Date Filed: 1-15-14
Date of Meeting: 2-10-14
Fee: N/A

Return Form To:
Planning and Community Development Manager
602 Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

I. Name of Subdivision: TWIN HILLS SUBDIVISION PLAT 1

II. Name of Owner: TWIN HILLS GOLF & COUNTRY CLUB.

III. Name of Subdivider: SAME AS OWNER

IV. Name of Person who prepared the Plat: JERROD HOGAN, PLS

V. Date of Hearing: _____

VI. Location of Property by Streets: 26TH & COUNTRY CLUB DR

VII. Present Zoning of Property R-1

VIII. Present Uses of Property GOLF COURSE (VACANT)

IX. No. of Acres in Total Tract 11.4 No. of Lots 12

Instructions:

The following checklist is to be completed by a licensed surveyor or engineer 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. | ✓ | |

| | | Yes | No |
|---|---|---|---|
| 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. | ✓ | |
| XI. | Was the original on mylar, tracing cloth, or similar material, and were 25 copies submitted? | ✓ | |

| | | Yes | No |
|---|---|---|---|
| XII. | Have all acknowledgments been signed? | | |
| | A. Owner or owners and all mortgager. | (will prior to Recording). | |
| | B. Dedications or reservations. | ✓ | |
| | C. Surveyor preparing plat. | ✓ | |
| XII. | Has certification been submitted stating that all taxes and special assessments due and payable have been paid? | | |
| XIII. | Deed Restrictions: | | |
| | A. Are any deed restrictions planned for subdivision? | ✓ | |
| | B. If so, has a copy been submitted? | (will prior to Recording). | |

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

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

(will be determined prior to Recording)

XV. Are additional comments attached? ____ ____




0 312.5 625 1,250 1,875 2,500 Feet

**Case 009-14: A request for the review of a Final Plat for "Twin Hills Subdivision Plat 1." Located at the northeast corner of 26th Street and Country Club Drive. - Jerrod Hogan**

N

Case 008-14: Northeast corner of 26th Street and Country Club Drive – A request for the review of a preliminary plat for "Twin Hills Subdivision" – Jerrod Hogan.

Mr. Harrington opened the public comment period for Case 008-14.

Mr. Jim Michel, Anderson Engineering, 811 East Third Street, Joplin, appeared on behalf of Jerrod Hogan to request the review of the preliminary plat for Twin Hills Golf & Country Club. They ask that the approval be made for the preliminary plat for this subdivision.

Mr. Eastman stated that a barbed wire fence currently exists along 26th Street. He asked Mr. Michel if he intends on fencing along 26th Street. He replied that any fencing would be in compliance with the City codes. He did not know if fencing would be required since the property would be residential.

Mr. Harrington asked for comments from the commissioners and the audience, and none were received. He then closed the public comment period for Case 008-14.

**MR. SMITH MOVED, SECONDED BY MR. RAMSOUR, THAT THE PRELIMINARY PLAT AS PRESENTED IN CASE 008-14 BE APPROVED, BASED UPON THE COMMENTS RECEIVED IN THE PLANNING REPORT AND DURING THE PUBLIC COMMENT PERIOD. THE MOTION CARRIED, WITH MR. BROWN, MR. CORTEZ, MR. EASTMAN, MR. HARRINGTON, MR. RAMSOUR, AND MR. SMITH VOTING "AYE"; AND WITH MR. DUNCAN BEING ABSENT (6 IN FAVOR, 1 ABSENT).**

Case 009-14: Northeast corner of 26th Street and Country Club Drive – A request for the review of a final plat for "Twin Hills Subdivision Plat 1" – Jerrod Hogan.

Mr. Harrington opened the public comment period for Case 009-14.

Mr. Jim Michel, Anderson Engineering, 811 East Third Street, Joplin, appeared on behalf of Jerrod Hogan to request the review of the final plat for Twin Hills Subdivision Phase 1 as submitted.

Mr. Ramsour asked about Phase 2, and Mr. Michel showed the commissioners a diagram of the plat. Everything that is highlighted in yellow is Phase 1, with Phase 2 being highlighted in orange. Phase 3, the final phase, consists of four lots.

Mr. Harrington asked for comments from the commissioners and the audience, and none were received. He then closed the public comment period for Case 009-14.

**MR. CORTEZ MOVED, SECONDED BY MR. EASTMAN, THAT THE FINAL PLAT AS PRESENTED IN CASE 009-14 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. EASTMAN, MR. HARRINGTON, MR. RAMSOUR, AND MR. SMITH VOTING "AYE"; AND WITH MR. DUNCAN BEING ABSENT (6 IN FAVOR, 1 ABSENT).**

P & Z Case 009-14
Jerrod Hogan
(P & Z Recommended Approval)

**COUNCIL BILL NO. 2014-255** **ORDINANCE NO.**

**AN ORDINANCE** Request 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.

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 TWIN HILLS SUBDIVISION PLAT 1 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 TWIN HILLS SUBDIVISION PLAT 1, described as follows:

A PARCEL OF LAND BEING A PART OF THE GRANTOR'S TRACT OF LAND LYING IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI, BEING THE SAME PARCEL AS DESCRIBED IN THE JASPER COUNTY, MISSOURI RECORDER'S OFFICE IN BOOK 828, IN PAGE 190, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 17, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI, THENCE ALONG THE WEST SECTION LINE, NORTH 01°55'14" EAST, 583.25 FEET; THENCE LEAVING SAID SECTION LINE, SOUTH 88°03'35" EAST, 183.46 FEET; THENCE SOUTH 00°19'17" EAST, 132.93 FEET; THENCE SOUTH 19°15'06" WEST, 68.80 FEET; THENCE SOUTH 06°17'29" WEST, 119.76 FEET; THENCE SOUTH 43°35'09" EAST, 69.88 FEET; THENCE NORTH 46°24'51" EAST, 23.15 FEET; THENCE SOUTH 90°00'00" EAST, 156.56 FEET; THENCE SOUTH 54°49'02" EAST, 171.48 FEET; THENCE NORTH 01°32'34" EAST, 14.41 FEET; THENCE NORTH 36°10'18" EAST, 70.60 FEET; THENCE 74.64 FEET ALONG A 58.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 79°25'25" WEST, WITH A DISTANCE OF 69.60 FEET; THENCE 10.30 FEET ALONG A 10.00 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING SOUTH 86°46'52" EAST, A DISTANCE OF 9.85 FEET; THENCE SOUTH 57°16'12" EAST, 55.23 FEET; THENCE 25.66 FEET ALONG A 25.00 FOOT RADIUS CURVE WITH AN CHORD BERING SOUTH 27°51'49" EAST, A DISTANCE OF 24.55 FEET; THENCE SOUTH 88°27'26"

EAST, 915.00 FEET; THENCE NORTH 01°32'34" EAST, 125.90 FEET; THENCE SOUTH 90°00'00" EAST, 147.14 FEET; THENCE SOUTH 84°34'51" EAST, 78.58 FEET; THENCE NORTH 64°01'26" EAST, 73.95 FEET; THENCE NORTH 90°00'00" EAST, 678.00 FEET, TO A POINT ON THE EAST LINE OF THE NORTHWEST QUARTER; THENCE SOUTH 01°58'37" WEST, 254.67 FEET, TO THE CENTER OF SECTION 17, TOWNSHIP 27 NORTH, RANGE 33 WEST; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER, NORTH 87°58'45" WEST, 2612.12 FEET, TO THE POINT OF BEGINNING. ALL LYING IN THE SECTION 17, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI. CONTAINING 11.6 ACRES, MORE OR LESS. BEARINGS BASED ON GRID NORTH OF THE MISSOURI COORDINATE SYSTEM OF 1983, WEST ZONE. CONDITIONS AND MONUMENTS ARE AS SHOWN ON ANDERSON ENGINEERING, INC., DRAWING NUMBER JOP-100-3415.

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.

_____
Melodee Colbert-Kean, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

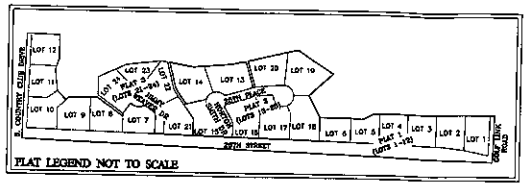
_____
Brian W. Head, City Attorney

# FINAL PLAT OF
# TWIN HILLS SUBDIVISION PLAT 1
# CITY OF JOPLIN, JASPER COUNTY, MISSOURI



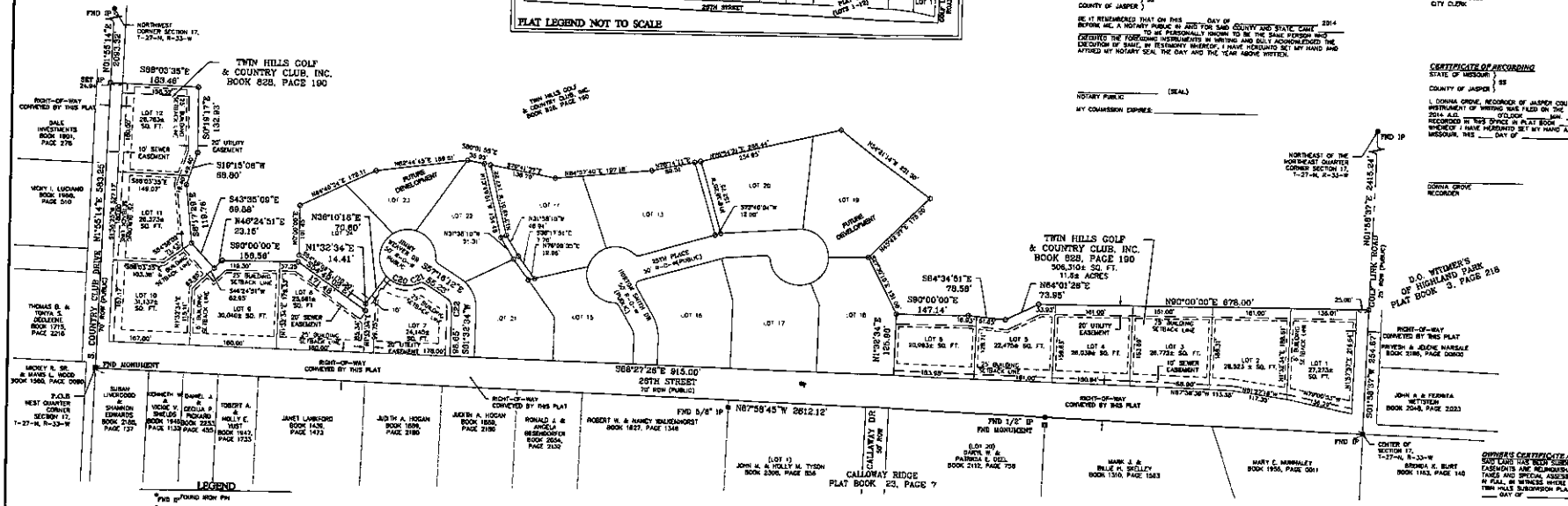

LOCATION SKETCH
SECTION 17
T 27 N, R 33 W
SCALE: 1"=2000'

| CURVE TABLE | | | | | |
|---|---|---|---|---|---|
| CURVE # | DELTA | ARC LENGTH | RADIUS | BEARING | CHORD LEGTH |
| C20 | 73°46'13" | 74.64' | 58.00' | S79° 25' 25"E | 69.60' |
| C21 | 39°01'25" | 10.30' | 10.00' | S66° 46' 32"E | 9.85' |
| C22 | 50°48'48" | 25.66' | 28.00' | S27° 51' 49"E | 24.55' |




PLAT LEGEND NOT TO SCALE

GRAPHIC SCALE
100 0 50 100 200 400
( IN FEET )
1 inch = 100 ft.




LEGEND
FND IP FOUND IRON PIN
SET IP SET IRON PIN
PROPERTY LINE
EASEMENT LINE
BUILDING SETBACK LINE
EASEMENT LINE

## ZONING DATA
SUBJECT PROPERTY IS ZONED R-1 (SINGLE-FAMILY RESIDENTIAL DISTRICT)

HEIGHT AND AREA REGULATIONS
BUILDING HEIGHT: NO BUILDING SHALL EXCEED 35 FEET OR 2-1/2 STORIES

BUILDING SETBACK LINES:
FRONT: 25'
SIDE: 6'
REAR: 25'

## NOTES
1) BEARING BASED ON GRID NORTH OF THE MISSOURI COORDINATE SYSTEM OF 1983, WEST ZONE

## UTILITY NOTE
THIS SURVEY REFLECTS ABOVE GROUND INDICATIONS OF UTILITIES AND INFORMATION AVAILABLE FROM UTILITY COMPANIES. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANTY THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. UTILITY LOCATE NUMBER 133336308.

## FLOOD NOTE
BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 29097C0035E WHICH BEARS AN EFFECTIVE DATE OF NOVEMBER 2, 2012 AND IN FLOOD INSURANCE RATE AND COMMUNITY PANEL NO. 29097C0035E WHICH BEARS AN EFFECTIVE DATE OF NOVEMBER 2, 2012 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE.

## SURVEY DESCRIPTION
A PARCEL OF LAND BEING A PART OF THE GRANTOR'S TRACT OF LAND LYING IN THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI, BEING THE SAME PARCEL AS DESCRIBED IN THE JASPER COUNTY, MISSOURI RECORDER'S OFFICE IN BOOK 828, IN PAGE 190, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 17, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI, THENCE ALONG THE WEST SECTION LINE, NORTH 01°58'37" EAST, 583.25 FEET; THENCE LEAVING SAID SECTION LINE, SOUTH 65°03'35" EAST, 163.46 FEET; THENCE SOUTH 89°58'17" EAST, 132.83 FEET; THENCE SOUTH 16°15'08" WEST, 88.90 FEET; THENCE SOUTH 89°05'35" EAST, 119.78 FEET; THENCE SOUTH 43°35'09" EAST, 69.88 FEET; THENCE NORTH 46°24'51" EAST, 23.16 FEET; THENCE SOUTH 89°00'00" EAST, 158.56 FEET; THENCE SOUTH 34°49'02" EAST, 175.48 FEET; THENCE NORTH 01°32'34" EAST, 14.41 FEET; THENCE NORTH 36°10'18" EAST, 79.80 FEET; THENCE 74.64 FEET ALONG A 58.00 FOOT RADIUS CURVE TO THE LEFT WITH A CHORD BEARING SOUTH 79°25'25" WEST, WITH A DISTANCE OF 94.60 FEET; THENCE 10.30 FEET ALONG A 10.00 FOOT RADIUS CURVE TO THE RIGHT WITH A CHORD BEARING SOUTH 66°46'32" EAST, A DISTANCE OF 9.85 FEET; THENCE SOUTH 93°16'12" EAST, 56.33 FEET; THENCE 25.66 FEET ALONG A 28.00 FOOT RADIUS CURVE WITH AN CHORD BEING SOUTH 27°24'49" EAST, A DISTANCE OF 24.55 FEET; THENCE SOUTH 48°27'25" EAST, 215.00 FEET; THENCE NORTH 81°03'34" EAST, 125.89 FEET; THENCE SOUTH 89°00'00" EAST, 147.14 FEET; THENCE SOUTH 64°34'51" EAST, 78.58 FEET; THENCE NORTH 64°01'28" EAST, 73.95 FEET; THENCE NORTH 89°00'00" EAST, 675.00 FEET, TO A POINT ON THE EAST LINE OF THE NORTHWEST QUARTER; THENCE SOUTH 01°58'37" WEST, 354.67 FEET, TO THE CENTER OF SECTION 17, TOWNSHIP 27 NORTH, RANGE 33 WEST; THENCE ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER, NORTH 87°58'45" WEST, 2612.12 FEET, TO THE POINT OF BEGINNING, ALL LYING IN THE SECTION 17, TOWNSHIP 27 NORTH, RANGE 33 WEST, JASPER COUNTY, MISSOURI, CONTAINING 11.8 ACRES, MORE OR LESS BEARINGS BASED ON GRID NORTH OF THE MISSOURI COORDINATE SYSTEM OF 1983, WEST ZONE. CONDITIONS AND MONUMENTS ARE AS SHOWN ON ANDERSON ENGINEERING, INC. DRAWING NUMBER JOP-100-3415.

## SUBDIVISION INFORMATION
| | |
|---|---|
| TOTAL ACRES: | 11.8± |
| ACREAGE OF DEDICATED STREET: | 1.3± |
| MINIMUM LOT SIZE: | 20,003± SQ. FT. |
| MAXIMUM LOT SIZE: | 31,137± SQ. FT. |
| AVERAGE LOT SIZE: | 28,395± SQ. FT. |
| TOTAL NO OF LOTS: | 12 |
| CURRENT ZONING: | R-1 |
| SUBMITTAL DATE: | 1-31-14 |
| SOURCE OF WATER: | MISSOURI AMERICAN WATER |
| SOURCE OF SEWER: | CITY OF JOPLIN |
| SOURCE OF RYLE: | BK 828, PG 190 |
| PRELIMINARY APPROVAL: | XX-XX-XXX |
| ACCURACY STANDARD: | URBAN |

## SURVEYORS CERTIFICATE
KNOW ALL MEN BY THESE PRESENTS:
THAT I, JERROD L. HOGAN, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY SUPERVISION FROM AN ACTUAL SURVEY OF THE LAND HEREON DESCRIBED AND IN ACCORDANCE WITH THE CURRENT MISSOURI MINIMUM STANDARDS FOR SUBURBAN PROPERTY SURVEYS, PREPARED BY ANDERSON ENGINEERING, INC., AND THAT THE CORNER MONUMENTS AND LOT CORNER PINS SHOWN HEREIN WERE PLACED OR WILL BE PLACED WITH IN 12 MONTHS AFTER RECORDING PLAT.
LAST REVISION DATE FEBRUARY 6, 2014

ANDERSON ENGINEERING, INC. L.C. 82
by

JERROD L. HOGAN
MO P.L.S. NO. 2004001333

STATE OF MISSOURI
JERROD L. HOGAN
NUMBER
PLS-2004001333
PROFESSIONAL LAND SURVEYOR

2-6-14
DATE

## CITY APPROVAL
THIS PLAT OF TWIN HILLS SUBDIVISION PLAT 1, INCLUDING EASEMENTS AND RIGHTS-OF-WAY ACCEPTED BY THE CITY COUNCIL WAS BEEN SUBMITTED TO AND APPROVED BY THE JOPLIN CITY COUNCIL BY ORDINANCE NO. _____ DULY PASSED AND APPROVED BY THE MAYOR ON THE _____ DAY OF _____ 2014, OF JOPLIN, MISSOURI.

ATTEST:

MELODEE COLBERT - MEAN
MAYOR

BARBARA MCKEUM
CITY CLERK

NICK HEATHERLY
PUBLIC WORKS DIRECTOR

## ACKNOWLEDGMENT
STATE OF MISSOURI }
COUNTY OF JASPER } SS

BE IT REMEMBERED THAT ON THIS _____ DAY OF _____ 2014 BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME _____ TO ME PERSONALLY KNOWN TO BE THE SAME PERSON WHO EXECUTED THE FOREGOING INSTRUMENTS IN WRITING AND DULY ACKNOWLEDGED THE EXECUTION OF SAME, IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARY SEAL THE DAY AND THE YEAR ABOVE WRITTEN.

NOTARY PUBLIC _____ (SEAL)
MY COMMISSION EXPIRES: _____

## CERTIFICATE OF RECORDING
STATE OF MISSOURI }
COUNTY OF JASPER } SS

I, DONNA GROVE, RECORDER OF JASPER COUNTY DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT OF WRITING WAS FILED ON THE _____ DAY OF _____ 2014 A.D. AT _____ O'CLOCK _____ M. DULY FOR RECORD AND IS RECORDED IN THIS OFFICE IN PLAT BOOK _____ AT PAGE _____ IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY SEAL AT CARTHAGE, MISSOURI, THIS _____ DAY OF _____ 2014.

DONNA GROVE
RECORDER

DEPUTY

## OWNER'S CERTIFICATE AND DEDICATION
SAID OWNER HAS CAUSED THIS TRACT SUBDIVIDED AS SHOWN HEREON, STREETS AND EASEMENTS ARE RELINQUISHED AND DEDICATED TO THE PUBLIC ALL TAXES AND SPECIAL ASSESSMENTS DUE AND PAYABLE HAVE BEEN PAID IN FULL. IN WITNESS WHERE OF, I, _____, PRESIDENT OF TWIN HILLS SUBDIVISION PLAT 1, HAVE HEREUNTO SET MY HAND, THIS _____ DAY OF _____ 2014.

(Signed) _____

## CERTIFICATE OF PLANNING AND ZONING COMMISSION
THIS PLAT OF TWIN HILLS SUBDIVISION PLAT 1 HAS BEEN SUBMITTED TO AND APPROVED BY THE JOPLIN PLANNING AND ZONING COMMISSION THIS _____ DAY OF _____ 2014.

BOB HARRINGTON
CHAIRMAN

## SOURCE OF DEED
TWIN HILLS GOLF & COUNTRY CLUB, INC
BOOK 828, PAGE 190

## DEVELOPER AND OWNER
TWIN HILLS GOLF & COUNTRY CLUB, INC.
ATTN: CURT CROSSLAND

## ENGINEER AND SURVEYOR
ANDERSON ENGINEERING, INC.
811 E. 3RD STREET
JOPLIN, MISSOURI 64801
W. CODY SEXTON, P.E.
JERROD L. HOGAN, P.L.S.

ANDERSON ENGINEERING, INC
811 E. 3RD STREET
JOPLIN, MISSOURI 64801
PHONE (417) 782-7369

FIELD: LB | DATE: 2-6-14 | JOP 100-3415
DRAWN: SLM | FIELD BK#:
CHECKED: JLH | JOB NO: 80097-13 | SHT. 1 OF 1 REV.

# RESOLUTIONS

# RESOLUTION NO. 2014-006

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

***WHEREAS***, the City of Joplin, Missouri and our community have a great admiration and the utmost gratitude for all the men and women who have selflessly served their country and this community in the Armed Forces; and

***WHEREAS***, veterans have paid the high price of freedom by leaving their families and communities and placing themselves in harm's way for the good of all; and,

***WHEREAS***, the contributions and sacrifices of the men and women who served the Armed Forces have been vital in maintaining the freedoms and way of life enjoyed by our citizens; and

***WHEREAS***, many men and women in uniform have given their lives while serving in the Armed Forces; and

***WHEREAS***, citizens of our country have received the Purple Heart Medal as a result of being wounded while engaged in combat with an enemy force, construed as a singularly meritorious act of essential service; and

***WHEREAS***, the City of Joplin seeks to remember and recognize veterans who are recipients of the Purple Heart Medal; and

***WHEREAS***, the City Council desires to proclaim the City of Joplin, Missouri to be a Purple Heart City, honoring the service and sacrifice of our nation's men and women in uniform, wounded or killed by the enemy while serving to protect our freedoms.

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

The City Council of Joplin hereby supports the City of Joplin becoming a Purple Heart City in recognition of our communities Purple Heart Medal Recipients.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, on this the 17th day of March, 2014.

_____

Melodee Colbert-Kean, Mayor

# ORDINANCES

# EMERGENCY

City of Joplin City Council Agenda Item

**REQUESTED COUNCIL MEETING DATE:** March 17, 2014

**ITEM:** Council Bill No. 2014-009 approving an amendment to the Site Development Agreement between the City, the JRC and SWJOMO SENIORS, LLC.

**ORIGINATING DEPARTMENT:** Legal Department

**ATTACHMENTS:** Council Bill No. 2014-009; Exhibit (Amendment)

| | | |
|---|---|---|
| **DEPARTMENT HEAD:** | Brian W. Head BWH | **DATE:** 3-5-14 |
| **INTERIM CITY MANAGER:** | Sam Anselm | **DATE:** 3/6/14 |
| **FINANCE DIRECTOR:** | Leslie Haase LH | **DATE:** 3-6-14 |
| **PUBLIC WORKS:** | Nick Heatherly | **DATE:** |
| **PLANNING/C.D.** | Troy Bolander TB | **DATE:** 3-7-14 |

**INTRODUCTION:**

This Council Bill approves an amendment to the Site Development Agreement between the City, the JRC, and SWJOMO SENIORS, LLC.

**DISCUSSION:**

On September 3, 2013, the Council of the City of Joplin approved an agreement for the Development of the Senior Transitional Living project located near the intersection of 26th and McClelland. Since that time, it has been determined that it is necessary to develop this project and the Villas (near the Elks lodge) separately. This amendment separates the two projects and further, more clearly defines the responsibilities and privileges of the parties.

**RECOMMENDATION:**

Staff recommends this Council Bill be approved on an emergency basis.

BWH:ab
attachments

COUNCIL BILL NO. 2014-009 ORDINANCE NO.

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.

WHEREAS, on September 3, 2013, the Council of the City of Joplin, Missouri approved Ordinance No. 2013-197 authorizing the execution of the Senior Transitional Housing Site Development Agreement between the City, the Joplin Redevelopment Corporation and SWJOMO Seniors, LLC.; and,

WHEREAS, recent developments have required splitting that development into two separate, stand-alone projects.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOPLIN, MISSOURI, AS FOLLOWS:

Section 1. That the Second Amendment to the Senior Transitional Housing Site Development Agreement by and between the City of Joplin and SWJOMO Seniors, LLC, and the Joplin Redevelopment Corporation relating to redevelopment of property located at or near the intersection of 26th Street and McClelland Blvd., a true and accurate copy of the same being attached hereto, be and the same is hereby approved.

Section 2. That the Interim City Manager is hereby authorized to execute said Agreement in a substantially similar form upon approval of the City Attorney, by and on behalf of the City of Joplin, Missouri.

Section 3. That this Ordinance is an emergency within the meaning of Section 2.12(1)(6) of the Home Rule Charter of the City of Joplin, Missouri, in that said ordinance deals with the preservation of property, health, and safety and relating to public improvements, and as such, is considered an emergency and shall take effect immediately upon passage.

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

By: _____
Melodee Colbert-Kean, Mayor

ATTEST:

By:_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

By:_____
Brian W. Head, City Attorney

**SECOND AMENDMENT TO SITE DEVELOPMENT AGREEMENT**
**(Senior Transitional Housing)**

**THIS SECOND AMENDMENT TO SITE DEVELOPMENT AGREEMENT DEVELOPMENT AGREEMENT** (the **"Second Amendment"**) is made and entered into as of the ____ day of _____, 2014, by and among the **CITY OF JOPLIN, MISSOURI**, a constitutional home rule charter city and political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri (the "**City**"), the **JOPLIN REDEVELOPMENT CORPORATION, INC.**, an urban redevelopment corporation organized pursuant to Chapter 353 of the Revised Statues of Missouri (the "**Corporation**"), and **SWJOMO SENIORS, LLC**, a Missouri limited liability company (the "**Site Developer**") (collectively the "**Parties**" and individually as a "**Party**" as the context so requires).

**RECITALS:**

**A.** In connection with the Joplin Recovery Tax Increment Financing Redevelopment Plan (the "**Redevelopment Plan**"), the redevelopment project described in the Redevelopment Plan (the "**Redevelopment Project**") and the Joplin Recovery Tax Increment Financing Redevelopment Agreement dated as of May 29, 2013 (the "**Master Redevelopment Agreement**") by and between the City and the Corporation, the Parties have previously entered into that certain Site Development Agreement dated as of September 3, 2013, and that certain First Amendment to Site Development Agreement dated as of November 18, 2013 (collectively, the "**SDA**") pursuant to which the City and the Corporation have selected the Site Developer to develop a senior housing development at 26th Street and McClelland Boulevard (the "**Site Development Project**"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the SDA.

**B.** The Parties desire to amend the SDA.

NOW, THEREFORE, the City, the Corporation and the Site Developer agree that the SDA is amended as follows:

1. The following definitions are hereby added to Section 1.1 of the SDA:

"**Additional Land Proceeds**" is defined in Section 5.1 of this Agreement.

"**Firm Commitment**" is defined in Section 6.3(a) of this Agreement.

"**Preexisting SDA**" is defined in Section 5.1 of this Agreement.

"**Project Lender**" is defined in Section 7.4 of this Agreement.

"**Public Funds**" means $5,400,000.00 of public funds to reimburse for a portion of the Site Developer's Work, pursuant to a reimbursement process reasonably acceptable to the Parties.

2. The definition of Maximum Reimbursable Amount in Section 1.1 of the SDA is hereby amended and restated as follows:

"**Maximum Reimbursable Amount**" means Four Million Seven Hundred Thousand and No/100 Dollars ($4,700,000.00) for the Site Development Project, plus any Site Developer Carry Costs.

3. The definition of City Pursuit Costs in Section 1.1 of the SDA is hereby amended and restated as follows:

**"City Pursuit Costs"** means that portion of Pursuit Costs (as defined in the Predevelopment Agreement) associated with the Site Development Project, in an amount of Forty Thousand Dollars ($40,000.00), previously reimbursed by the City or Corporation to Wallace Bajjali.

4. The definition of Redevelopment Project Costs in Section 1.1 of the SDA is hereby amended and restated as follows:

**"Redevelopment Project Costs"** shall include all (i) "redevelopment project costs" as set forth in Section 99.805(15) of the TIF Act; and (ii) all costs of constructing the Private Improvements on the Property.

5. The definition of Site Developer's Work in Section 1.1 of the SDA is hereby amended and restated as follows:

**"Site Developer's Work"** means all work necessary to prepare the Property and to construct the Site Development Project including construction of the Public Improvements including (a) any traffic upgrades necessary to comply with the requirements of MoDOT, (b) storm sewers, stormwater control, detention facilities and other infrastructure improvements required by the City, or any other entity in order to obtain all necessary stormwater approvals, licenses and permits, (c) water mains, and (d) construction, reconstruction and/or relocation of other utilities as deemed necessary by the Site Developer or as required under the City's municipal code and the Private Improvements including (a) demolition and removal of any existing buildings and improvements located on the Property which the Site Developer deems reasonably necessary to construct the Site Development Project; (b) clearing and grading of the Property; (c) construction of retaining structures; (d) construction of the buildings and structures, and parking fields, and screening and site landscaping on the Property, in accordance with the Concept Site Plan; (e) environmental remediation with respect to the Property as deemed necessary by the Site Developer; and (f) all other work necessary to build the Site Development Project in accordance with the Concept Site Plan.

6. The legal description of the Property attached to the SDA as Exhibit A is hereby deleted and replaced in its entirety by the legal description of the Property attached hereto as **Exhibit A**. Any reference to the land or the Property in the SDA shall henceforth mean the property legally described on **Exhibit A** to this Second Amendment.

7. The Form of Certificate of Reimbursable Redevelopment Project Costs attached to the SDA as **Exhibit B** is hereby deleted and replaced in its entirety by the Form of Certificate of Reimbursable Redevelopment Project Costs attached hereto as **Exhibit B**.

8. The Concept Site Plan attached to the SDA as Exhibit D is hereby deleted and replaced in its entirety by the Concept Site Plan attached hereto as **Exhibit D**. Any reference to Concept Site Plan in the SDA shall henceforth mean the Concept Site Plan set forth on **Exhibit D** to this Second Amendment.

9. The description of Private Improvements attached to the SDA as Exhibit E is hereby deleted and replaced in its entirety by the description of Private Improvements attached hereto as **Exhibit E**. Any reference to the Private Improvements in the SDA shall henceforth mean the Private Improvements described on **Exhibit E** to this Second Amendment.

10. The Site Development Project Cost Budget attached to the SDA as Exhibit G is hereby deleted and replaced in its entirety by the Site Development Project Cost Budget attached hereto as **Exhibit G**. Any reference to the Site Development Project Cost Budget in the SDA shall henceforth mean the Site Development Project Cost Budget set forth in **Exhibit G** to this Second Amendment.

11. The Site Development Schedule attached to the SDA as Exhibit H is hereby deleted and replaced in its entirety by the Site Development Schedule attached hereto as **Exhibit H**. Any reference to the Site Development Schedule in the SDA shall henceforth mean the Site Development Schedule set forth on **Exhibit H** to this Second Amendment.

12. Section 5.1 of the SDA is amended and restated as follows:

**"5.1 Corporation's Obligation to Reimburse Site Developer.** Pursuant to this Agreement and in accordance with the Site Development Project Cost Budget, the Corporation agrees to reimburse the Site Developer for Redevelopment Project Costs of the Site Development Project up to the Maximum Reimbursable Amount, plus any Site Developer Carry Costs, but less the City Pursuit Costs (which costs are to be reimbursed to the City or Corporation as set forth in the Site Development Project Cost Budget). Such Redevelopment Project Costs are payable (when and to the extent funds are then available) first from the proceeds from the sale of the Property by the Corporation to the Site Developer, net only of customary closing costs, fees and commissions then owed by the Corporation, and the amount required to pay off any current debt obligations of the Corporation (the "**Sale Proceeds**"), next from any proceeds obtained by the Corporation from the sale or other transfer of any Distressed Area Land Assembly tax credits received by the Corporation (the "**DALA Proceeds**"), next from the proceeds from the sale of any other land owned by the Corporation within the Redevelopment Area, net only of customary closing costs, fees and commissions then owed by the Corporation and the amount required to pay off any current debt obligations of the Corporation (the "**Additional Land Proceeds**"), next from any cash or credit then available to the Corporation, and next from any TIF Revenues then available. Notwithstanding anything to the contrary in this Agreement, the Parties agree that (a) the Corporation will not reimburse the Site Developer for Redevelopment Project Costs incurred to acquire the Property for the Site Development Project unless there are no other eligible Redevelopment Project Costs to be reimbursed and the Maximum Reimbursement Amount and any Site Developer Carry Costs (less the City Pursuit Costs) have not yet been paid in full, and (b) no Redevelopment Project Costs will be reimbursed prior to the Commencement of Construction.

The Corporation agrees that the Sale Proceeds, the DALA Proceeds, and the Additional Land Proceeds will not be used by the Corporation for any purpose other than: (i) to fund the reimbursements due to the Site Developer, up to the Maximum Reimbursement Amount, plus any Site Developer Carry Costs, but less the City Pursuit Costs, (ii) to fund the reimbursements due to any site developer(s) under any other site development agreement(s) entered into by the City and Corporation pursuant to the Master Redevelopment Agreement on or prior to the date of the Second Amendment to this Agreement (each a "**Preexisting SDA**"), or (iii) pursuant to Section 7.4 of this Agreement, to re-purchase the Property from the Site Developer in the event of a termination of this Agreement pursuant to such Section 7.4.

Notwithstanding anything to the contrary in the Master Redevelopment Agreement with regard to the priority of payments to site developers, the Parties to this Agreement hereby agree, that Redevelopment Project Costs incurred by the Site Developer and to be reimbursed hereunder, and redevelopment project costs to be reimbursed as provided in any Preexisting SDA, will be reimbursed as and when incurred by the respective site developer. Accordingly, the Site Developer will be eligible to receive reimbursement for Redevelopment Project Costs even if the site developer under any Preexisting SDA has not yet received the full "Maximum Reimbursable Amount" under such Preexisting SDA. Nothing in this Agreement shall otherwise alter the payment priority structure under the Master Redevelopment Agreement for payments to site developers."

13. The first paragraph of Section 5.2 of the SDA is amended and restated as follows:

"**Reimbursements Procedure.** Redevelopment Project Costs incurred by the Site Developer will be eligible for reimbursement under this Agreement and in accordance with the Site Development Project Cost Budget upon compliance with the following procedures:"

14. The third sentence of Section 5.2(b) of the SDA is amended and restated as follows:

"The Site Developer shall then have the right to identify and substitute other Redevelopment Project Costs as Redevelopment Project Costs eligible under this Agreement, the TIF Act and the Redevelopment Plan and in accordance with the Site Development Project Cost Budget with a supplemental application for payment."

15. Section 5.3 of the SDA is amended and restated as follows:

"**5.3 Corporation's Obligations Limited.** Notwithstanding any other term or provision of this Agreement, the Corporation's reimbursement obligations under this Agreement with respect to Redevelopment Project Costs under the Redevelopment Plan are a limited obligation, payable solely in accordance with this Agreement."

16. Section 6.1 of the SDA is amended and restated as follows:

"**6.1 Site Developer to Acquire the Property.** Subject to Section 6.3 of this Agreement, the Site Developer shall acquire all Property necessary for the Site Development Project. The Site Developer shall have the right to encumber its interest in the Property concurrent with acquisition of such Property and payment of acquisition costs. All of the Property acquired by the Site Developer, subject to the rights of assignment under this Agreement, and except with regard to Property upon which the Public Improvements are located or which may be held by the City, the Corporation or other political subdivision, shall be held in the name of the Site Developer and shall be subject to the terms, conditions and covenants contained herein and in the Redevelopment Plan immediately upon acquisition and prior to any encumbrances placed thereon. In accordance with 24 C.F.R. Part 58.22, the Site Developer agrees to refrain from undertaking any physical activities or choice limiting actions until the City has approved the Project's environmental review. Choice limiting activities include acquisition of real property, leasing, repair, rehabilitation, demolition, conversion, or new

construction. This limitation applies to all parties in the development process, including public or private nonprofit or for-profit entities, or any of their contractors."

17. Section 6.3(a) of the SDA is amended and restated as follows:

"(a) It is the intention of the parties that development activities for the Site Development Project be substantially commenced and completed on or before the estimated dates set forth on the Site Development Schedule, as may be reasonably amended from time to time. Notwithstanding the foregoing, the City and the Corporation each acknowledge and agree that the Site Developer shall not be obligated to acquire the Property until: (i) the Corporation delivers to the Site Developer a written commitment that the Corporation has the necessary funds to fully reimburse the Site Developer for all Redevelopment Project Costs up to the Maximum Reimbursable Amount plus Site Developer Carry Costs less the City Pursuit Costs; and (ii) the Parties have entered into an agreement which commits the Public Funds to the Site Development Project (collectively, the "**Firm Commitment**"). The Site Developer shall perform the Site Developer's Work in sufficient time to comply with the Site Development Schedule; provided that the Site Development Schedule shall be reasonably extended if any delay on the part of the City or Corporation in satisfaction of the conditions set forth in this Section 6.3(a) prevents the Site Developer from complying with the Site Development Schedule. Changes in the development program contemplated by the Redevelopment Plan that require a Redevelopment Plan amendment under the TIF Act (as determined by City) shall be processed in accordance with the TIF Act, and changes in the development program contemplated by the Redevelopment Plan that do not require a statutorily mandated Redevelopment Plan amendment shall be made by agreement of the parties hereto. The parties hereto recognize and agree that market and other conditions may affect the Site Development Schedule. Therefore, the Site Development Schedule is subject to change and/or modification, with the written approval of City and Corporation, which shall not be unreasonably conditioned, delayed, or withheld."

18. Section 6.5(a)(9)(v)(a) is amended by deleting "what about any MODOT improvements?" from the first sentence.

19. Section 7.4 of the SDA is amended and restated as follows:

"**7.4 Site Developer's Right of Termination**. The Site Developer may, by giving written notice to the Corporation and the City at any time prior to the dates provided below, abandon the Site Development Project and terminate this Agreement, if any of the following contingencies should arise within the time periods provided:

(a) on or before January 31, 2015, the Site Developer does not (despite the Site Developer's diligent efforts) receive all necessary permits and approvals from any and all entities having jurisdiction over the Property;

(b) if any default exists under the Master Redevelopment Agreement, or any changes are made to the Master Redevelopment Agreement, that could prevent the Corporation from receiving reimbursement of Redevelopment Project Costs that relate to the Site Development Project;

(c) if by October 1, 2014, the City or the Corporation fails to deliver the Firm Commitment; or

(d) If either the City or Corporation fails to comply with its obligations to cooperate with any Project Lender pursuant to Section 8.11 of this Agreement.

In the event the Property has been transferred or conveyed to the Site Developer prior to the time this Agreement is terminated pursuant to this Section, then within thirty (30) days after the notice of termination, the Corporation may repurchase the Property from Site Developer or subsequent purchasers, in the amount that the Site Developer paid to the Corporation for the Property, plus any carry costs incurred by the Site Developer prior to the date of termination, less the amount of any reimbursements paid by the Corporation to the Site Developer to reimburse costs of the Site Development Project. At such time as the Site Developer encumbers the Site Development Project with any lien to secure debt incurred by the Site Developer to finance costs of the Site Development Project, the Corporation may request that the lender (the **"Project Lender"**) offer to the Corporation certain rights and remedies with respect to the Site Development Project in the event of any default by the Site Developer under its loan, which the Project Lender may accept or deny in its sole discretion and subject to its internal credit approvals."

20. Schedule 8.3 to the SDA, which sets forth an example calculation of the Annual Rate of Return for a hypothetical project, is hereby deleted and replaced in its entirety by **Schedule 8.3** attached hereto.

21. Section 8.11 of the SDA is amended and restated as follows:

"**8.11 Collateral Assignment of Agreement.** Notwithstanding the provisions of Section 8.9, the Site Developer may assign or pledge its rights under this Agreement, including without limitation, any right to receive reimbursement for Redevelopment Project Costs incurred, by providing City with notice of any such assignment or pledge. Such assignment or pledge shall remain subject to the terms, provisions and conditions of this Agreement. Further, the City and Corporation each agree to cooperate with the Site Developer and its Project Lender(s) in connection with any financing of the Site Development Project, and to execute and deliver such consents, estoppels and agreements as are reasonably requested by any Project Lender to acknowledge, confirm and perfect the interests of the Project Lender in the Site Developer's rights under this Agreement."

22. Section 8.13(c) is amended by adding the following notice parties:

If to Site Developer:

SWJOMO, LLC
c/o O'Reilly Development Co., LLC
431 South Jefferson, Suite 116-C
Springfield, Missouri 65806
Attention: Denise Mathisen

With a copy to:

Husch Blackwell, LLP
901 St. Louis Street, Suite 1800
Springfield, Missouri 65806
Attention: S. Shawn Whitney

23. Except as specifically amended by this Second Amendment, the SDA shall continue in full force and effect. In the event of any conflict between the provisions of the SDA and the provisions of this Second Amendment, the provisions of this Second Amendment shall prevail.

24. This Second Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but any number of which, taken together, shall constitute one and the same instrument.

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF,** the parties hereto have caused this Second Amendment to be executed by their respective officers or officials.

**CITY OF JOPLIN, MISSOURI**

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

**[CORPORATION SIGNATURE FOLLOWS ON NEXT PAGE]**

**CONTINUATION OF SIGNATURE PAGE**

**JOPLIN REDEVELOPMENT CORPORATION, INC.**

[SEAL]

By: _____
Name: _____
Title: _____

ATTEST:

_____
Name: _____
Title: _____

**[SITE DEVELOPER SIGNATURE FOLLOWS ON NEXT PAGE]**

**CONTINUATION OF SIGNATURE PAGE**

**SWJOMO SENIORS, LLC,**
a Missouri limited liability company

By: _____
David G. Wallace, Co-Manager

By: _____
Patrick E. O'Reilly, Co-Manager

**EXHIBIT A**

**DESCRIPTION OF THE PROPERTY**

Parcel 1

ALL OF LOT NUMBERED TWO (2) AND THE NORTH 30 FEET OF THE WEST ONE HALF OF LOT NUMBERED FOUR (4) IN RICHARD J. JOSEPH'S SUBDIVISION IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

Parcel 2

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE/4) OF THE SOUTHEAST QUARTER (SE/4) OF SECTION 16, TOWNSHIP 27, RANGE 33, IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI; THENCE NORTH 88°41' EAST 190.0 FEET; THENCE SOUTH 315.6 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°32' EAST 280.0 FEET; THENCE SOUTH 150.0 FEET; THENCE SOUTH 89°32' WEST 280 FEET; THENCE NORTH 150 FEET TO THE POINT OF BEGINNING.

EXCEPT: ALL OF A TRACT OF LAND COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE/4) OF THE SOUTHEAST QUARTER (SE/4) OF SECTION 16, TOWNSHIP 27, RANGE 33, IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI THENCE NORTH 88°41' EAST 190 FEET; THENCE SOUTH 315.60 FEET TO AN IRON PIN; THENCE NORTH 89°32' EAST 178 FEET TO AN IRON PIN TO THE POINT OF BEGINNING; THENCE NORTH 89°32'00" EAST 102 FEET TO AN IRON PIN; THENCE SOUTH 00°00'00" WEST 150 FEET TO AN IRON PIN; THENCE SOUTH 89°32'00" WEST 102 FEET TO AN IRON PIN; THENCE NORTH 150 FEET TO AN IRON PIN BEING THE POINT OF BEGINNING, BEING A PART OF MISCELLANEOUS TRACT 15A IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI.

Parcel 3

Commencing at the Northeast corner of Lot Numbered Five (5) in RICHARD J JOSEPH'S SUBDIVISION, in the City of Joplin, Jasper County, Missouri, according to the recorded Plat thereof, thence South 89°32' West along the North line of Lot Five (5), 70.0 feet to the point of beginning, thence South 89°32' West 140.0 feet, thence South 144.90 feet to the South line of Lot Five (5), THENCE North 88°28' East 140.0 feet, thence North 142.30 feet to the point of beginning.

Parcel 4

ALL OF THE NORTH 70 FEET OF THE EAST HALF (E/2) OF LOT NUMBERED FOUR (4) IN RICHARD J. JOSEPH'S SUBDIVISION IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

AND

ALL OF THE EAST ONE-HALF (E/2) OF LOT NUMBERED FOUR (4) IN RICHARD J. JOSEPH'S SUBDIVISION EXCEPT THE NORTH 70 FEET THEREOF, TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI.

Parcel 5

All of the South 110.6 feet of the West One-half (W1/2) of Lot Numbered Four (4) in RICHARD J. JOSEPH'S SUB-DIVISION to the City of Joplin, Jasper County, according to the recorded Plat thereof.

Parcel 6

ALL OF LOT NUMBERED THREE (3) IN RICHARD J. JOSEPH'S SUBDIVISION, IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF.

Parcel 7

Commencing at the Northeast corner of Lot 5 in Richard J. Joseph's Subdivision, thence South 89°32' West along the North line of said Lot 5, 210.0 feet to the point of beginning, thence South 144.90 feet to the South line of Lot 5, thence South 88°28' West 120 feet, thence North 147.14 feet to the South line of 27th Street, thence North 89°32' East 120.0 feet to the point of beginning, being a part of Lot Numbered Five (5) in RICHARD J. JOSEPH'S SUBDIVISION in the City of Joplin, Jasper County, Missouri.

Parcel 8

ALL OF A TRACT OF LAND COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE/4) OF THE SOUTHEAST QUARTER (SE/4) OF SECTION 16, TOWNSHIP 27, RANGE 33 IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI; THENCE NORTH 88 DEGREES 41 MINUTES EAST 190 FEET; THENCE SOUTH 315.60 FEET TO AN IRON PIN; THENCE NORTH 89 DEGREES 32 MINUTES EAST 178 FEET TO AN IRON PIN TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 32 MINUTES 00 SECONDS EAST 102 FEET TO AN IRON PIN; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 150 FEET TO AN IRON PIN; THENCE SOUTH 89 DEGREES 32 MINUTES 00 SECONDS WEST 102 FEET TO AN IRON PIN; THENCE NORTH 150 FEET TO AN IRON PIN BEING THE POINT OF BEGINNING, BEING A PART OF MISCELLANEOUS TRACT 15A IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI.

Parcel 9

A parcel of land lying in the Southeast Quarter of Section 16, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri, being more described as follows:

Commencing at the East Quarter corner of said Section 16, thence along the East line of the Southeast Quarter of Section 16, South 01 degrees 59 minutes 04 seconds West 175.05 feet, thence leaving said East Section line, North 89 degrees 21 minutes 31 seconds West 50.06 feet to a point on the West right-of-way line of South McClelland Boulevard and the Point of Beginning, thence along said West right-of-way line, South 01 degrees 59 minutes 08 seconds West 484.65 feet, thence leaving said West right-of-way line, North 89 degrees 32 minutes 48 seconds West 802.46 feet, thence North 01 degrees 54 minutes 30 seconds East 142.83 feet to the South right-of-way line of 27th Street, thence along said South right-of-way line, South 88 degrees 33 minutes 30 seconds East 70.00 feet to the East right-of-way line of McCoy Avenue, thence along said East right-of-way line, North 01 degrees 54 minutes 30 seconds East 495.45 feet to a point on the South right-of-way line of West 26th Street, thence along said South right-of-way line, South 89 degrees 21 minutes 31 seconds East 583.20 feet, thence leaving said South right-of-way line, South 01 degrees 59 minutes 08 seconds West 150.04 feet, thence South 89 degrees 21 minutes 31 seconds East 150.04 feet to the Point of Beginning, being part of LUDWIG'S FIRST ADDITION, to the City of Joplin, and part of Lot Numbered Five (5) in RICHARD J. JOSEPH'S SUB-

DIVISION to the City of Joplin, and being part of Miscellaneous Tract Numbered Fifteen (15) in Section 16, Township 27, Range 33, All in the City of Joplin, Jasper County, Missouri.

**EXHIBIT B**

**FORM OF CERTIFICATE OF REIMBURSABLE REDEVELOPMENT PROJECT COSTS**

Certificate of Reimbursable Redevelopment Project Costs

TO: Joplin Redevelopment Corporation, Inc.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
Attention: Chairman

City of Joplin
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
Attention: City Manager

Re: City of Joplin, Missouri, Joplin Recovery Tax Increment Financing District

*Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Site Development Agreement dated as of September 3, 2014 (as subsequently amended, the "Agreement") among the City, the Corporation and the Site Developer. In connection with said Agreement, the undersigned hereby states and certifies that:*

1. Each item listed on **Schedule 1** hereto is a Redevelopment Project Cost eligible for reimbursement under the Agreement, the Master Redevelopment Agreement, or the TIF Act and was incurred in connection with the development of the Site Development Project, a portion of the Redevelopment Project, by the Site Developer, acting under its contractual agreements to perform the Site Developer's Work on behalf of the Corporation.

2. These Redevelopment Project Costs reimbursable under the Agreement, the Master Redevelopment Agreement, and the TIF Act have been paid by the Site Developer and are reimbursable under the TIF Ordinance, the Agreement, and the Master Redevelopment Agreement.

3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived by the Corporation from the Special Allocation Fund or any money derived from any project fund established pursuant to the Trust Indenture, and no part thereof has been included in any other certificate previously filed with the City.

4. There has not been filed with or served upon the Site Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.

5. If any cost item to be reimbursed under this Certificate is deemed not to constitute a Redevelopment Project Cost within the meaning of this Agreement, the Site Developer shall have the right to substitute other eligible Reimbursable Redevelopment Project Costs for payment hereunder in accordance with the terms of the Agreement.

6. The Site Developer is not in default or breach of any term or condition of the Agreement.

Dated this _____ day of _____, 20___.

**SWJOMO SENIORS, LLC**, a Missouri limited liability company

By: _____
Name: _____
Its: _____

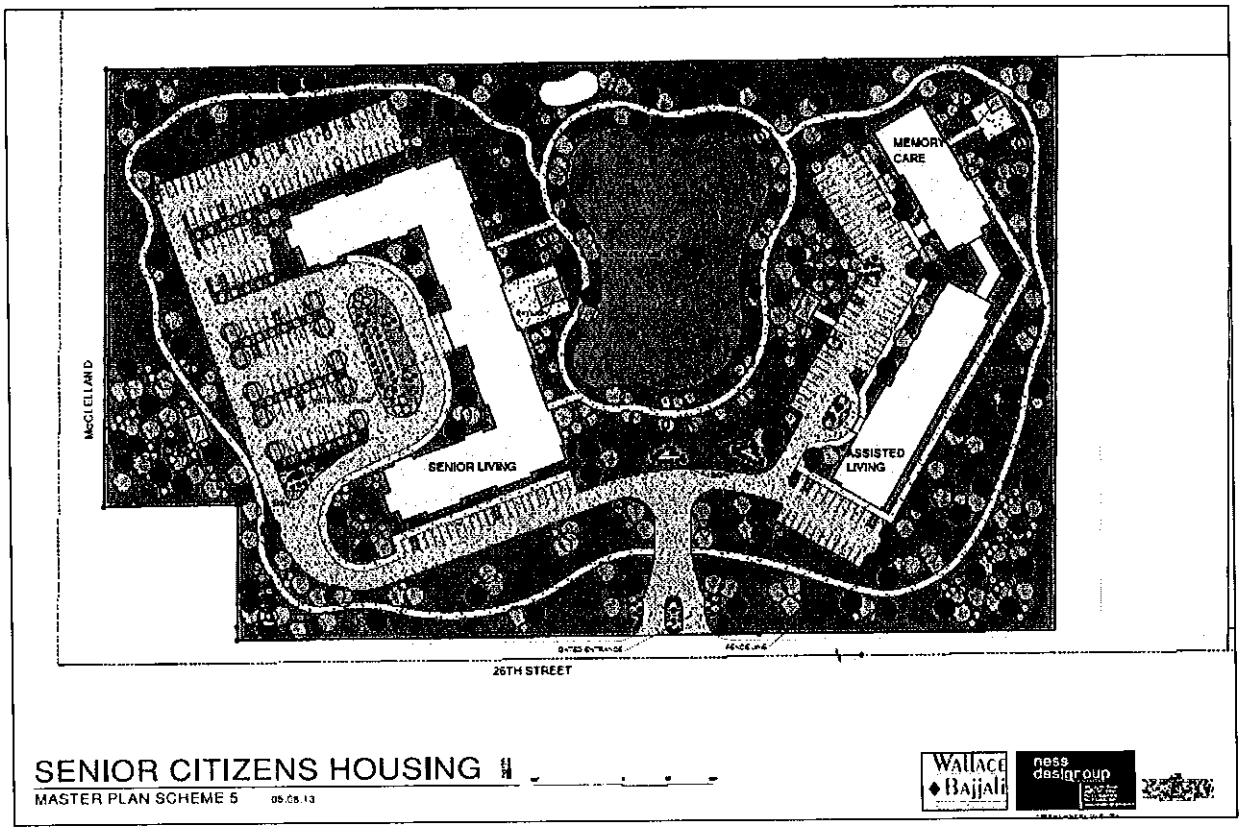
Approved for Payment this _____ day of _____, 20___:

**CITY OF JOPLIN, MISSOURI**

By: _____
Printed Name: _____
Director of Finance

## EXHIBIT D

## CONCEPT SITE PLAN



## EXHIBIT E

## PRIVATE IMPROVEMENTS

Senior housing community, including assisted living (with memory care) units, and related improvements, as shown on the Concept Site Plan and as described in the Site Development Project Cost Budget.

**EXHIBIT G**

**SITE DEVELOPMENT PROJECT COST BUDGET**

# Senior Care
## Financial Overview

| Key Assumptions | | | | | |
|---|---|---|---|---|---|
| Unit mix: | | sq ft | Initial Rent | Rent / SF | |
| 35 | Lodge 1-BR | 600 | $2,000.00 | $3.33 | |
| 25 | Lodge 2-BR | 800 | $2,400.00 | $3.00 | |
| 24 | Assisted Living--private | 400 | $3,000.00 | $7.50 | |
| 16 | Assisted Living--semi-private | 500 | $2,750.00 | $5.50 | |
| 24 | Memory Care | 250 | $4,250.00 | $17.00 | |
| | Covered parking spaces | | | | |
| | Garages | | $50.00 | | |

| | First | Second/Gap |
|---|---|---|
| Interest rate, senior debt / Secondary or Gap | 4.75% | 0.00% |
| Term [years] | 20 | 999999999 |
| Income tax rates--ordinary | 0.0% | |
| --capital gains | 0.0% | |
| Construction cost / gross sq foot--Lodge | $112.68 | |
| --AL/MC | $117.04 | |
| Gross sq feet | 101,300 | |
| Rentable sq feet | 73,600 | |

| Sources and Use of Funds | | |
|---|---|---|
| **Financing** | | |
| Equity investment | | 3,000,000 |
| Gap funding--TIF | 4,700,000 | |
| Stormwater retention-Other local funds | 900,000 | |
| Other local funds | 4,500,000 | |
| Total Gap funding | | 10,100,000 |
| Senior Debt | | 13,090,000 |
| **Total** | | 26,190,000 |
| **Use of Funds** | | |
| Construction costs | | 16,385,309 |
| Land cost | | 3,800,000 |
| Pursuit costs | | 40,000 |
| Soft costs | | 5,314,691 |
| Startup expenses, reserve, contingency | | 650,000 |
| **Total** | | 26,190,000 |

## EXHIBIT H

## SITE DEVELOPMENT SCHEDULE

| | |
|---|---|
| **Acquisition of Land by Site Developer** | **Fourth quarter 2014** |
| **Commencement of Construction of the Site Development Project** | **Second quarter 2015** |
| **Delivery of Certificate of Completion** | **First quarter 2017** |

# SCHEDULE 8.3

| Example Scenario | | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Total project cost | 1,500,000 | | | | | | | | | | |
| Public financing for Public Infrastructure | 250,000 | | | | | | | | | | |
| Net project cost | 1,250,000 | | | | | | | | | | |
| TIF funding | 250,000 | | | | | | | | | | |
| Private Investment | 1,000,000 | | | | | | | | | | |
| Public Investment | 500,000 | | | | | | | | | | |
| EBITDA by year | | 75,000 | 76,500 | 78,030 | 79,591 | 81,182 | 82,806 | 84,462 | 86,151 | 87,874 | 89,632 |
| Annual rate of return on Private Investment | | 7.50% | 7.65% | 7.80% | 7.96% | 8.12% | 8.28% | 8.45% | 8.62% | 8.79% | 8.96% |
| Cash yield upon sale of project | | | | | Cap rate: | 6.00% | | | | Cap rate: | 6.00% |
| Net Sales Price | | | | | | 1,353,040 | | | | | 1,493,866 |
| Less - Return of Capital | | | | | | 1,000,000 | | | | | 1,000,000 |
| Net Sales Proceeds | | | | | | 353,040 | | | | | 493,866 |
| Cash to Seller- annual EBITDA | | 75,000 | 76,500 | 78,030 | 79,591 | 81,182 | 82,806 | 84,462 | 86,151 | 87,874 | 89,632 |
| Aggregate Cash Flow | | | | | | 743,343 | | | | | 1,315,095 |
| Aggregate Yield upon sale | | | | | | 74.33% | | | | | 131.51% |
| Annual rate of return upon sale of project | | | | | | 14.87% | | | | | 13.15% |

City of Joplin City Council Agenda Item

**REQUESTED COUNCIL MEETING DATE:** March 17, 2014
**ITEM:** Council Bill No. 2014-010 approving a Site Development Agreement between the City, the JRC and Joplin Villas, LLC.

**ORIGINATING DEPARTMENT:** Legal Department
**ATTACHMENTS:** Council Bill No. 2014-010; Exhibit (Agreement)

| | | |
|---|---|---|
| **DEPARTMENT HEAD:** | Brian W. Head BWH | **DATE:** 3-5-14 |
| **INTERIM CITY MANAGER:** | Sam Anselm | **DATE:** 3/6/14 |
| **FINANCE DIRECTOR:** | Leslie Haase LH | **DATE:** 3-6-14 |
| **PUBLIC WORKS:** | Nick Heatherly | **DATE:** |
| **PLANNING/C.D.** | Troy Bolander TB | **DATE:** 3-7-14 |

**INTRODUCTION:**

This Council Bill approves a Site Development Agreement between the City, the JRC and Joplin Villas, LLC.

**DISCUSSION:**

This Agreement separates out the Villas project from the Senior Transitional Living project. The terms are similar to those in the original SDA for the Senior Transitional Living project. By separating the two projects, it is the intention of the Developer to proceed quickly with the purchase of property from the JRC and the commencement of construction on this project.

**RECOMMENDATION:**

Staff recommends this Council Bill be approved on an emergency basis.

BWH:ab
attachments

COUNCIL BILL NO. 2013-010 ORDINANCE NO.

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.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOPLIN, MISSOURI, AS FOLLOWS:

Section 1. That the Villas Site Development Agreement by and between the City of Joplin and SWJOMO Seniors, LLC, and the Joplin Redevelopment Corporation relating to redevelopment of property located at or near the intersection of 26th Street and McCoy Ave., a true and accurate copy of the same being attached hereto, be and the same is hereby approved.

Section 2. That the Interim City Manager is hereby authorized to execute said Agreement in a substantially similar form upon approval of the City Attorney, by and on behalf of the City of Joplin, Missouri.

Section 3. That this Ordinance is an emergency within the meaning of Section 2.12(1)(6) of the Home Rule Charter of the City of Joplin, Missouri, in that said ordinance deals with the preservation of property, health, and safety and relating to public improvements, and as such, is considered an emergency and shall take effect immediately upon passage.

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

By: _____
Melodee Colbert-Kean, Mayor

ATTEST:

By:_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

By:_____
Brian W. Head, City Attorney

**SITE DEVELOPMENT AGREEMENT**

**(Villas)**

**THIS SITE DEVELOPMENT AGREEMENT** (the **"Agreement"**) is made and entered into as of the _____ day of _____, 2014 (the "Effective Date"), by and among the **CITY OF JOPLIN, MISSOURI,** a constitutional home rule charter city and political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri (the "**City**"), the **JOPLIN REDEVELOPMENT CORPORATION, INC.,** an urban redevelopment corporation organized pursuant to Chapter 353 of the Revised Statues of Missouri (the "**Corporation**"), and **JOPLIN VILLAS, LLC**, a Missouri limited liability company (the **"Site Developer"**) (collectively the "**Parties**" and individually as a "**Party**" as the context so requires).

**RECITALS:**

**A.** Pursuant to the authority expressly granted under Section 99.800 *et seq.* of the Revised Statutes of Missouri (the "**TIF Act**"), the City Council created the Tax Increment Financing Commission of the City of Joplin, Missouri (the "**TIF Commission**") and empowered the TIF Commission to transact business and exercise its powers as authorized by the TIF Act.

**B.** Following a public hearing held on November 30, 2012, and continued until December 14, 2012, and in accordance with the provisions of the TIF Act, the TIF Commission passed four resolutions on December 14, 2012, recommending that the City Council approve the Redevelopment Plan, establish the Redevelopment Area, approve the Redevelopment Project and designate the Corporation as the Developer for the Redevelopment Plan.

**C.** On December 28, 2012, after due consideration of the TIF Commission's recommendations, the City Council introduced and, effective as of January 1, 2013, adopted Ordinance No. 2012-230, which: (1) approved the Joplin Recovery Tax Increment Financing Redevelopment Plan (as subsequently amended, modified, renewed or restated from time to time, the "**Redevelopment Plan**"); (2) established a redevelopment area as described in the Redevelopment Plan (as subsequently amended, modified, renewed or restated from time to time, the "**Redevelopment Area**"), the boundaries of which are set forth in Appendix 2 to the Redevelopment Plan; and (3) approved the Corporation as the developer of the Redevelopment Project described in the Redevelopment Plan.

**D.** Concurrently therewith, the City Council introduced and, effective as of January 1, 2013, approved Ordinance No. 2012-231, which: (1) approved the redevelopment project described in the Redevelopment Plan (the "**Redevelopment Project**"); and (2) adopted tax increment financing within the Redevelopment Area for the purpose of funding portions of the Redevelopment Project.

**E.** On May 29, 2013, the City and the Corporation entered into that certain Joplin Recovery Tax Increment Financing Redevelopment Agreement (the **"Master Redevelopment Agreement"**). The Master Redevelopment Agreement provides that the City and the Corporation will enter into Site Development Agreements with the Site Developer for individual site development projects contemplated in the Redevelopment Plan. This Agreement is a Site Development Agreement for the villas development (the **"Site Development Project"**) located on South Adele Street, south of 26th Street in the City.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

## ARTICLE I

## DEFINITIONS

**1.1. Definitions of Words and Terms**. The words and terms used in this Agreement shall have the following meanings:

**"Acquisition Costs"** is defined in Section 6.5.(a)(5)(iii) of this Agreement.

**"Additional Land Proceeds"** is defined in Section 5.1 of this Agreement.

**"Agreement"** means this Site Development Agreement, as from time to time amended in accordance with the terms hereof.

**"Board of Directors"** means the Board of Directors of the Corporation.

**"Bond Counsel"** means Gilmore & Bell, P.C. or other attorney or firm of attorneys having nationally recognized standing in the field of tax-exempt obligations approved by the City.

**"Bond Ordinance"** means the ordinance(s) of the City adopted by the City Council authorizing the TIF Obligations, any trust indenture relating thereto, and all related ordinances, resolutions and proceedings.

**"Business Day"** means any day other than a Saturday, Sunday or any other day in which banking institutions in the State are required or authorized by Law to close.

**"Certificate of Completion"** means a document substantially in the form of **Exhibit C** attached hereto, delivered by the Site Developer to the City and the Corporation in accordance with this Agreement and which, upon the City's acceptance thereof, will evidence the Site Developer's satisfaction of all obligations and covenants to perform the Site Developer's Work.

**"City"** means the City of Joplin, Missouri, and its successors and assigns.

**"City Attorney"** means the City Attorney of the City of Joplin, Missouri.

**"City Council"** means the duly elected City Council of the City of Joplin, Missouri.

**"City Engineer"** means the City Engineer of the City of Joplin, Missouri.

**"City Manager"** means the City Manager of the City of Joplin, Missouri.

**"City Parties"** is defined in Section 7.1 of this Agreement.

**"City Pursuit Costs"** means that portion of Pursuit Costs (as defined in the Predevelopment Agreement) associated with the Site Development Project, in an amount of Eight Thousand Dollars ($8,000.00), previously reimbursed by the City or Corporation to Wallace Bajjali.

**"City Treasurer"** means the Finance Director of the City of Joplin, Missouri.

**"Commencement of Construction"** means a building permit has been issued for any part of the Site Development Project, the Site Developer has waived all termination rights under Section 7.4 of this Agreement, and a notice of commencement has been delivered to the general contractor to commence construction of the Site Development Project.

**"Concept Site Plan"** means the conceptual site plan depicting the conceptual program for construction of the Site Developer's Work, a copy of which is attached hereto as **Exhibit D** and incorporated herein by reference; provided that, the site plan approved by the City pursuant to its zoning ordinance, and as amended from time to time by the City and as deemed amended to reflect permitted relocation and reconfigurations of buildings or improvements, shall constitute the Concept Site Plan for the purposes of this Agreement; provided that, the Concept Site Plan may be amended as further provided for herein.

**"Construction Plans"** means plans, drawings, specifications and related documents, notes and construction schedules for the construction of the Site Developer's Work, together with all supplements, amendments or corrections, submitted by the Site Developer and approved by the City in accordance with this Agreement.

**"Corporation"** means the Joplin Redevelopment Corporation, Inc. and its successors and assigns in interest.

**"Corporation Parties"** is defined in Section 7.1 of this Agreement.

**"County"** means Jasper County, Missouri, and its successors and assigns.

**"County Collector"** means the County Collector for Jasper County, Missouri.

"**Economic Activity Taxes**" shall have the meaning ascribed to such term in Section 99.805 of the TIF Act.

**"Events of Default"** is defined in Section 7.2 of this Agreement.

**"Final Completion"** is defined in Section 6.5(a)(9)(iii) and Section 6.5(a)(9)(v)(a) of this Agreement.

**"Governmental Approvals"** means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, approvals of any City architectural board, or other subdivision, zoning or similar approvals required for the implementation of the Redevelopment Project.

**"Land Use Approvals"** is defined in Section 6.6 of this Agreement.

**"Laws"** means all federal, state and local laws, rules, regulations, ordinances, codes, orders, decrees or requirements.

**"Master Redevelopment Agreement"** is described in Recital E of this Agreement.

**"Maximum Reimbursable Amount"** means One Million Three Hundred Thousand and No/100 Dollars ($1,300,000.00) for the Site Development Project, plus any Site Developer Carry Costs.

**"MoDOT"** or **"MODOT"** means the Missouri Department of Transportation.

**"Necessary Rights of Way"** is defined in Section 6.5(a)(5)(ii) of this Agreement.

**"Payments in Lieu of Taxes"** has the meaning provided for "Payment in Lieu of Taxes" in Section 99.805 of the TIF Act.

**"Predevelopment Agreement"** means that certain Master Predevelopment Agreement dated as of July 2, 2012, by and among the City, the Corporation and Wallace Bajjali.

**"Preexisting SDA"** is defined in Section 5.1 of this Agreement.

**"Private Improvements"** means that portion of the Site Developer's Work, including a pro rata allocation of all "soft costs" in connection therewith, described in **Exhibit E** attached hereto.

**"Project Lender"** is defined in Section 7.4 of this Agreement.

**"Property"** means all real property interests related to the Site Development Project, with the land included within the Site Development Project more particularly described on **Exhibit A** to this Agreement, which is incorporated herein by reference.

**"Public Bid Process"** is defined in Section 6.5(a)(2) of this Agreement.

**"Public Improvements"** means that portion of the Site Developer's Work, including a pro rata allocation of all "soft costs" in connection therewith, described in **Exhibit F** attached hereto.

**"Redevelopment Area"** means a certain area of the City known as the Joplin Recovery Redevelopment Area and more particularly described in the Master Redevelopment Agreement and in Appendix 2 to the Redevelopment Plan.

**"Redevelopment Plan"** means the Joplin Recovery Tax Increment Financing Redevelopment Plan, approved by the City on December 28, 2012, to be effective as of January 1, 2013, pursuant to Ordinance No. 2012-230 pursuant to the TIF Act.

**"Redevelopment Project"** means the redevelopment project for the Redevelopment Area described in the Redevelopment Plan approved by the City on December 28, 2012 and effective as of January 1, 2013, pursuant to Ordinance No. 2012-231, which project is comprised of multiple site development projects.

**"Redevelopment Project Costs"** shall include all (i) "redevelopment project costs" as set forth in Section 99.805(15) of the TIF Act; and (ii) all costs of constructing the Private Improvements on the Property.

**"Relocation Costs"** means all costs incurred to relocate the occupants of and businesses on the Property in accordance with the Relocation Plan, including but not limited to, relocation payments to displaced persons or businesses, and all costs of implementing the Relocation Plan including costs of referrals, relocation specialists, planners, attorneys' fees, brokers commissions and staff costs.

**"Relocation Plan"** means the relocation policy of the City for the Redevelopment Area attached to the Redevelopment Plan as Appendix 6.

**"Site Developer Carry Costs"** means, if any, the financing costs related to loans obtained by the Site Developer associated with advancing Redevelopment Project Costs that are eligible for reimbursement from the date of expenditure to the date of reimbursement from TIF Revenues or TIF Obligations, including actual interest costs incurred at a rate not to exceed nine percent (9%), provided that such interest shall accumulate but not compound during said time period.

**"Site Developer Parties"** is defined in Section 7.1 of this Agreement.

**"Site Developer Request"** is defined in Section 6.5(a)(5)(ii) of this Agreement.

**"Site Developer's Work"** means all work necessary to prepare the Property and to construct the Site Development Project including construction of the Public Improvements including (a) any traffic upgrades necessary to comply with the requirements of MoDOT, (b) storm sewers, stormwater control, detention facilities and other infrastructure improvements required by the City, or any other entity in order to obtain all necessary stormwater approvals, licenses and permits, (c) water mains, and (d) construction, reconstruction and/or relocation of other utilities as deemed necessary by the Site Developer or as required under the City's municipal code and the Private Improvements including (a) demolition and removal of any existing buildings and improvements located on the Property which the Site Developer deems reasonably necessary to construct the Site Development Project; (b) clearing and grading of the Property; (c) construction of retaining structures; (d) construction of the buildings and structures, and parking fields, and screening and site landscaping on the Property, in accordance with the Concept Site Plan; (e) environmental remediation with respect to the Property as deemed necessary by the Site Developer; and (f) all other work necessary to build the Site Development Project in accordance with the Concept Site Plan.

**"Site Development Project"** is defined in Recital G of this Agreement.

**"Site Development Project Cost Budget"** means the budget attached to this Agreement as **Exhibit G**.

**"Site Development Schedule"** means the schedule attached to this Agreement as **Exhibit H**.

**"Special Allocation Fund"** means the Joplin Recovery Special Allocation Fund created by the City Council, into which TIF Revenues are from time to time deposited in accordance with the TIF Act and the Master Redevelopment Agreement.

**"State"** means the State of Missouri.

**"TIF Act"** means the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended.

**"TIF Commission"** means the Tax Increment Financing Commission of the City of Joplin, Missouri.

**"TIF Obligations"** means the bonds or other obligations, singly or in series, issued by the City or other issuer designated or approved by the City pursuant to the TIF Act and in accordance with the

Master Redevelopment Agreement, approved by the City Council of the City of Joplin on the 29th Day of May 2013.

**"TIF Ordinance"** means Ordinance No. 2012-230 adopted by the City Council on December 28, 2012 and effective on January 1, 2013, and Ordinance No. 2012-231, adopted by the City Council on December 28, 2012 and effective on January 1, 2013, authorizing tax increment financing within the Redevelopment Area.

**"TIF Revenues"** means (1) Payments in Lieu of Taxes and (2) the Economic Activity Taxes (subject to annual appropriation by the City as provided in the TIF Act) in the Redevelopment Area.

**"Trustee"** means UMB Bank, N.A., or any other bank or trust company acting as trustee for the TIF Obligations.

**"Trust Indenture"** means a trust indenture or trust indentures related to the issuance of the TIF Obligations, as amended, modified, renewed or restated from time to time.

"**Wallace Bajjali**" means Wallace Bajjali Development Partners, L.P., a Texas limited partnership.

**1.2. Rules of Interpretation.**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context indicates otherwise, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(b) All references in this Agreement to designated "Articles," "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) Whenever an item or items are listed after the word "including," such listing is not intended to be a listing that excludes items not listed.

## ARTICLE II

## DESIGNATION OF SITE DEVELOPER

**2.1. Designation of Site Developer**. The Corporation has selected the Site Developer exclusively to acquire the Property and perform the Site Developer's Work necessary to develop the Site Development Project, on behalf of the Corporation, as contemplated in the Redevelopment Plan.

**2.2. Governmental Approvals**. The City agrees to cooperate with the Site Developer and to expeditiously process and timely consider all applications for Governmental Approvals as received, all in accordance with the applicable City ordinances and Laws of the State, and to take all further actions on Governmental Approvals (after processing in accordance with applicable Laws) as are consistent with the Redevelopment Plan.

## ARTICLE III

## REPRESENTATIONS

**3.1. Representations by the City**. The City makes the following representations and warranties, which are true and correct on the date hereof:

(a) The City is a constitutional home rule charter city organized under Article VI, Sections 19-20 of the Constitution of the State, duly organized and existing under the Laws of the State.

(b) The City has lawful power and authority to enter into this Agreement and to carry out its obligations hereunder. By proper action of the City Council, the City has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

(c) To the City's knowledge, the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Agreement by the City will not conflict with or result in a breach of any of the terms, conditions or provisions of or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the City is a party.

(d) To the City's knowledge, no official or employee of the City, nor any member of the City Council, has any significant or conflicting interest, financial or otherwise, in the Redevelopment Project, the Site Development Project, or in the transactions contemplated hereby.

(e) To the City's knowledge, there is no litigation or proceeding pending or threatened against the City affecting the right of the City to execute or deliver this Agreement or the ability of the City to comply with its obligations under this Agreement.

**3.2. Representations by the Corporation**. The Corporation makes the following representations and warranties, which are true and correct on the date hereof:

(a) The Corporation is an urban redevelopment corporation, duly organized and existing under the Laws of the State.

(b) The Corporation has lawful power and authority to enter into this Agreement and to carry out its obligations hereunder. By proper action of its Board of Directors, the Corporation has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

(c) To the Corporation's knowledge, the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Agreement by the Corporation will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the Corporation is a party or by which it or any of its property is bound, or any order, rule or regulation applicable to the Corporation or any of its property of any court or

governmental body, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Corporation under the terms of any instrument or agreement to which the Corporation is a party.

(d) To the Corporation's knowledge, there is no litigation or proceeding pending or threatened against the Corporation affecting the right of the Corporation to execute or deliver this Agreement or the ability of the Corporation to comply with its obligations under this Agreement.

**3.3. Representations by the Site Developer**. The Site Developer makes the following representations and warranties, which are true and correct on the date hereof:

(a) The Site Developer is a limited liability company, duly formed and existing under the Laws of the State.

(b) The Site Developer has lawful power and authority to enter into this Agreement and to carry out its obligations hereunder. By proper action of its manager, the Site Developer has been duly authorized to execute and deliver this Agreement, acting by and through its manager.

(c) To the Site Developer's knowledge, the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this Agreement by the Site Developer will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the Site Developer is a party or by which it or any of its property is bound, or any order, rule or regulation applicable to the Site Developer or any of its property of any court or governmental body, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Site Developer under the terms of any instrument or agreement to which the Site Developer is a party.

(d) To the Site Developer's knowledge, there is no litigation or proceeding pending or threatened against the Site Developer affecting the right of the Site Developer to execute or deliver this Agreement or the ability of the Site Developer to comply with its obligations under this Agreement.

## ARTICLE IV

## PROJECT FINANCING

**4.1. Financing Plan.**

(a) Within ninety (90) days after the Effective Date, Site Developer shall submit to City and Corporation a financing plan for the financing of the Redevelopment Project Costs related to the Site Development Project as set out in the Site Development Project Cost Budget setting forth (1) the anticipated sources of funds to pay Redevelopment Project Costs related to the Site Development Project in accordance with the Redevelopment Plan, and (2) the anticipated type and term of the sources of funds to pay said Redevelopment Project Costs (the "**Financing Plan**") for City's and Corporation's review and approval, which approval will not be

unreasonably withheld or delayed. Before or after City and Corporation approval, Site Developer shall immediately notify City and Corporation of any material changes in the information affecting the Financing Plan for City's and Corporation's review and approval, which approval will not be unreasonably withheld or delayed.

(b) Concurrently with delivery of the items described in Section 4.1.(a) above, Site Developer will deliver to City and Corporation its certificate stating that to the best of its knowledge and belief: (1) such sources of funds and financing commitments will enable the Site Developer to timely implement the Site Development Project by performing the Site Developer's Work; (2) the information and statements contained therein, taken as a whole, are accurate in all material respects and complete for the purposes for which used and made; (3) the information and statements contained therein do not fail to state any material facts necessary in order to make the statements or representations made therein, in light of the circumstances under which they were made, not misleading. Site Developer's warranties and representations as set forth herein shall be deemed to be ongoing until termination or expiration of this Agreement.

**4.2. Site Developer to Advance Costs.** The Site Developer agrees to advance all Redevelopment Project Costs as necessary to acquire the Site Development Project and to complete the Site Developer's Work, all subject to the Site Developer's right to abandon the Site Development Project and terminate this Agreement as set forth in Section 7.4 hereof. Without limiting the generality of the foregoing, the Redevelopment Project Costs of the Site Development Project incurred by the Site Developer pursuant to this Agreement include any and all professional costs, including without limitation, attorneys' fees, incurred by the Site Developer to create the Redevelopment Area, obtain all necessary approvals of the Redevelopment Plan and the Redevelopment Project, and to cause the issuance of any TIF Obligations.

**4.3. Preserving the Tax-Exempt Status of TIF Obligations**. The City and Corporation may irrevocably waive any requirement of this Agreement that imposes requirements on the Site Developer, or any party that is subject to the obligations and restrictions of this Agreement as an authorized assignee, successor or transferee of Site Developer, related to the payment, collection, administration, guaranty or maximum rate of return resulting from Economic Activity Taxes or Payments in Lieu of Taxes, to the extent the City and Corporation determine in their sole discretion that the waiver is necessary or appropriate in order to facilitate the tax-exempt financing of TIF Obligations. The City and Corporation shall evidence such waiver by providing to the Site Developer written notice specifically listing any requirements waived by the City and Corporation and this Agreement shall be deemed to have been amended to delete the waived provisions as provided therein.

## ARTICLE V

## REIMBURSEMENT OF REDEVELOPMENT PROJECT COSTS

**5.1. Corporation's Obligation to Reimburse Site Developer.** Pursuant to this Agreement and in accordance with the Site Development Project Cost Budget, the Corporation agrees to reimburse the Site Developer for Redevelopment Project Costs of the Site Development Project up to the Maximum Reimbursable Amount, plus any Site Developer Carry Costs, but less the City Pursuit Costs (which costs are to be reimbursed to the City or Corporation as set forth in the Site Development Project Cost Budget). Such Redevelopment Project Costs are payable (when and to the extent funds are then available) first from the proceeds from the sale of the Property by the Corporation to the Site Developer, net only of

customary closing costs, fees and commissions then owed by the Corporation, and the amount required to pay off any current debt obligations of the Corporation (the "**Sale Proceeds**"), next from any proceeds obtained by the Corporation from the sale or other transfer of any Distressed Area Land Assembly tax credits received by the Corporation (the "**DALA Proceeds**"), next from the proceeds from the sale of any other land owned by the Corporation within the Redevelopment Area, net only of customary closing costs, fees and commissions then owed by the Corporation and the amount required to pay off any current debt obligations of the Corporation (the "**Additional Land Proceeds**"), next from any cash or credit then available to the Corporation, and next from any TIF Revenues then available. Notwithstanding anything to the contrary in this Agreement, the Parties agree that (a) the Corporation will not reimburse the Site Developer for Redevelopment Project Costs incurred to acquire the Property for the Site Development Project unless there are no other eligible Redevelopment Project Costs to be reimbursed and the Maximum Reimbursement Amount and any Site Developer Carry Costs (less the City Pursuit Costs) have not yet been paid in full, and (b) no Redevelopment Project Costs will be reimbursed prior to the Commencement of Construction.

The Corporation agrees that the Sale Proceeds, the DALA Proceeds, and the Additional Land Proceeds will not be used by the Corporation for any purpose other than: (i) to fund the reimbursements due to the Site Developer, up to the Maximum Reimbursement Amount, plus any Site Developer Carry Costs, but less the City Pursuit Costs, (ii) to fund the reimbursements due to any site developer(s) under any other site development agreement(s) entered into by the City and Corporation pursuant to the Master Redevelopment Agreement prior to the date hereof (each a "**Preexisting SDA**"), or (iii) pursuant to Section 7.4 of this Agreement, to re-purchase the Property from the Site Developer in the event of a termination of this Agreement pursuant to such Section 7.4.

Notwithstanding anything to the contrary in the Master Redevelopment Agreement with regard to the priority of payments to site developers, the Parties to this Agreement hereby agree, that Redevelopment Project Costs incurred by the Site Developer and to be reimbursed hereunder, and redevelopment project costs to be reimbursed as provided in any Preexisting SDA, will be reimbursed as and when incurred by the respective site developer. Accordingly, the Site Developer will be eligible to receive reimbursement for Redevelopment Project Costs even if the site developer under any Preexisting SDA has not yet received the full "Maximum Reimbursable Amount" under such Preexisting SDA. Nothing in this Agreement shall otherwise alter the payment priority structure under the Master Redevelopment Agreement for payments to site developers.

**5.2. Reimbursements Procedure.** Redevelopment Project Costs incurred by the Site Developer will be eligible for reimbursement under this Agreement and in accordance with the Site Development Project Cost Budget upon compliance with the following procedures:

(a) The Site Developer may submit to the City and the Corporation, no more frequently than once per month, a Certificate of Reimbursable Redevelopment Project Costs in substantially the form attached as **Exhibit B** hereto. Such Certificate shall be accompanied by itemized invoices, receipts, copies of checks, or other information that will demonstrate that any cost has been incurred and qualifies for reimbursement pursuant to this Agreement. The Site Developer shall, in each certification application, identify the specific line item within the Site Development Project Cost Budget as to which each Redevelopment Project Cost for which certification is requested is assigned.

(b) The City shall notify the Site Developer and the Corporation in writing within thirty (30) days after each submission of its approval or disapproval of the costs identified in each

Certificate. If the City determines that any cost identified as a "Reimbursable Redevelopment Project Cost" is not a Redevelopment Project Cost eligible for reimbursement under this Agreement, the Redevelopment Plan or the TIF Act, then the City shall so notify the Site Developer in writing within thirty (30) days after the submission, identifying the ineligible cost and the basis for determining the cost to be ineligible. The Site Developer shall then have the right to identify and substitute other Redevelopment Project Costs as Redevelopment Project Costs eligible under this Agreement, the TIF Act and the Redevelopment Plan and in accordance with the Site Development Project Cost Budget with a supplemental application for payment. The Site Developer shall have the right and ability to adjust reimbursable expense amounts within, and among, reimbursable expense categories as shown on the Site Development Project Cost Budget, so long as the total amount of reimbursable expenses to the Site Developer does not exceed the Maximum Reimbursable Amount.

(c) The Site Developer shall provide such information as the Corporation or the City may request, and shall make its books and records with respect to the Site Development Project available to the Corporation and the City, for the Corporation and the City to confirm that any cost qualifies under this Agreement and has been incurred and paid by the Site Developer.

(d) The City acknowledges and agrees that any Certificate of Reimbursable Redevelopment Costs submitted by the Site Developer under this Agreement shall, for purposes of the Master Redevelopment Agreement, be deemed a submission of a Certificate of Reimbursable Redevelopment Costs by the Corporation under the Master Redevelopment Agreement.

**5.3. Corporation's Obligations Limited**. Notwithstanding any other term or provision of this Agreement, the Corporation's reimbursement obligations under this Agreement with respect to Redevelopment Project Costs under the Redevelopment Plan are a limited obligation, payable solely in accordance with this Agreement.

## ARTICLE VI

## CONSTRUCTION OF THE SITE DEVELOPMENT PROJECT

**6.1. Site Developer to Acquire the Property**. Subject to Section 6.3 of this Agreement, the Site Developer shall acquire all Property necessary for the Site Development Project. The Site Developer shall have the right to encumber its interest in the Property concurrent with acquisition of such Property and payment of acquisition costs. All of the Property acquired by the Site Developer, subject to the rights of assignment under this Agreement, and except with regard to Property upon which the Public Improvements are located or which may be held by the City, the Corporation or other political subdivision, shall be held in the name of the Site Developer and shall be subject to the terms, conditions and covenants contained herein and in the Redevelopment Plan immediately upon acquisition and prior to any encumbrances placed thereon.

**6.2. Relocation**. The Site Developer shall relocate those occupants or businesses displaced from any portion of the Property acquired by the Site Developer in accordance with and to the extent required by the Relocation Plan and applicable Law, except insofar as otherwise agreed in writing by such displaced occupant or business and approved in writing by the Site Developer; it being understood and agreed that any displaced occupant or business may waive his/her/their rights to statutory and other relocation benefits under the Relocation Plan or otherwise.

**6.3. Site Development Schedule.**

(a) It is the intention of the parties that development activities for the Site Development Project be substantially commenced and completed on or before the estimated dates set forth on the Site Development Schedule, as may be reasonably amended from time to time. The Site Developer shall perform the Site Developer's Work in sufficient time to comply with the Site Development Schedule; provided that the Site Development Schedule shall be reasonably extended if any delay on the part of the City or the Corporation in satisfaction of the conditions set forth in Section 7.4 prevents the Site Developer from complying with the Site Development Schedule. Changes in the development program contemplated by the Redevelopment Plan that require a Redevelopment Plan amendment under the TIF Act (as determined by City) shall be processed in accordance with the TIF Act, and changes in the development program contemplated by the Redevelopment Plan that do not require a statutorily mandated Redevelopment Plan amendment shall be made by agreement of the parties hereto. The parties hereto recognize and agree that market and other conditions may affect the Site Development Schedule. Therefore, the Site Development Schedule is subject to change and/or modification, with the written approval of City and Corporation, which shall not be unreasonably conditioned, delayed, or withheld.

(b) Any amendment to the Redevelopment Plan that is approved by City as provided herein shall immediately operate and be deemed to be an amendment to the approved Site Development Schedule and the provisions of this Agreement. City shall endeavor to expedite the approval of the Governmental Approvals; provided, however, that nothing herein shall constitute or be deemed to be a waiver by City or the City Council of its legislative authority. If as a result of solely the Site Developer's failure to timely complete its obligations under this Agreement and provided that the City and Corporation have fulfilled all of the terms of this Agreement and provided that the delay has not been caused by an event not otherwise in control of the Site Developer, the City and Corporation may require the Site Developer to appear before the City Council to show cause why this Agreement shall not be terminated in accordance with Section 7.3 hereof.

**6.4. Site Developer to Construct the Site Development Project.** In accordance with the TIF Act and the terms and conditions of the Redevelopment Plan and this Agreement, to ameliorate or satisfy those conditions which are the basis for eligibility and designation of the Redevelopment Area as a blighted area and otherwise eligible as a development area under the TIF Act, the Site Developer shall cause the Site Development Project to be developed through the performance of the Site Developer's Work. The Site Developer shall commence the construction of the Site Developer's Work in a good and workmanlike manner in accordance with the terms of this Agreement. Upon reasonable advance notice, the Site Developer and its project team shall meet with the City's zoning administrator/building commissioner to review and discuss the design and construction of the Site Development Project in order to enable the zoning administrator/building commissioner to monitor the status of construction and to determine that the Site Development Project is being performed and completed in accordance with this Agreement. The Site Development Project shall be constructed in accordance with the Site Development Project Cost Budget, shall be consistent with the Redevelopment Plan, the Master Redevelopment Agreement, and the terms of this Agreement, and shall be constructed and operated in a manner that the Property will be subject to property taxes.

**6.5. Design and Construction of Public Improvements**. The Site Developer may enter into one or more construction contracts to complete Public Improvements associated with the Site Developer's Work. Contractors will not have any recourse against the City or the Corporation.

(a) **Site Developer's Duties.** Site Developer shall cause all of the Public Improvements to be designed and constructed as follows:

(1) The Public Improvements shall be constructed in accordance with all applicable Laws and such Construction Plans as are approved by City staff in writing, including prevailing wage requirements. Site Developer, with the assistance of City as requested, shall obtain all approvals and permits required by MoDOT, and any other entities or governmental departments specified by MoDOT, for the Public Improvements prior to the commencement of any construction for any Public Improvements requiring MoDOT approval. City agrees to cooperate in good faith to facilitate approval of the design, engineering and construction of the Public Improvements requiring approval by MoDOT, if any and by any other governmental entities or governmental departments.

(2) The contracts related to the construction of the Public Improvements shall be subject to a transparent, open and competitive public bidding process conducted by Site Developer which will allow for the selection of the lowest and most qualified contractor that is capable of complying with the Site Development Schedule to be selected based upon bid criteria developed by Site Developer and approved in writing by City (the "**Public Bid Process**"), such approval shall not be unreasonably withheld.

(3) **Timing of Public Improvements.** Prior to the design, engineering, and construction of the Public Improvements, Site Developer shall submit to the City Engineer a proposed schedule for the Public Improvements. The City Engineer shall approve the schedule as presented or return the schedule with comments, to be resubmitted by Site Developer until approved by the City Engineer, and such approval shall not be unreasonably withheld or delayed. Once the schedule is approved by the City Engineer, City and Site Developer shall mutually approve and adopt such changes to the Site Development Schedule as required to take into account the schedule for the Public Improvements approved by the City Engineer. Such changes to the Site Development Schedule shall be approved administratively, unless a statutorily mandated Redevelopment Plan amendment is required. The provisions of this Section 6.5.(a)(3) and the schedule for the Public Improvements are subject to the provisions of Section 6.7.(c) hereof.

(4) **Design Phase.** Site Developer shall meet with City staff regarding preliminary design of the Public Improvements to be constructed by Site Developer pursuant to this Agreement and shall submit all preliminary design documents to City for approval before proceeding with the construction of the Public Improvements. On the basis of such approved preliminary design documents, Site Developer shall:

i) Prepare Construction Plans including detailed drawings, plans, design data, estimates, and technical specifications to show the character and scope of the work to be performed by contractors for all Public Improvements.

ii) Furnish to City staff for its review and approval copies of such Construction Plans and other documents and design data as may be required to secure approval of such governmental authorities as may have jurisdiction over design criteria applicable to the Public Improvements.

iii) Following review and approval of the Construction Plans, furnish the number of approval copies of the final Construction Plans for the Public Improvements as City staff may reasonably require.

(5) **Right of Way Acquisition.**

i) Site Developer shall be responsible for acquiring or negotiating for the conveyance of the right-of-way or easements, if any, that are needed to construct the Public Improvements, including necessary temporary construction easements. In addition, Site Developer will convey or cause to be conveyed all rights-of-way or easements upon property owned or controlled by Site Developer that are needed to construct the Public Improvements, including all necessary temporary construction easements. All rights-of-way or easements to be provided by Site Developer under this Section 6.5.(a)(5) shall be provided to City without charge.

ii) In the event that Site Developer is unable, after good faith negotiations, to acquire some or all of the right-of-way or easements necessary for those Public Improvements over which City exercises jurisdiction (the "**Necessary Rights-of-Way**"), Site Developer shall deliver to City a written request (the "**Site Developer Request**") for City to acquire any of the Necessary Rights-of-Way. If City agrees, at its sole discretion, to attempt to acquire any of the Necessary Rights-of-Way, City will enter into good faith negotiations and, at its option, may exercise its power of eminent domain to acquire any or all of such Necessary Rights-of-Way.

iii) In the event City agrees to enter into good faith negotiations or exercise its power of eminent domain to acquire the Necessary Rights-of-Way, prior to beginning any work to acquire said Necessary Rights-of-Way, Site Developer shall first deposit into escrow with City an amount equal to one hundred twenty five percent (125%) of the estimated acquisition costs. Acquisition costs paid by City ("**Acquisition Costs**") shall be a Redevelopment Project Cost eligible for reimbursement and shall include, but shall not be limited to: the actual price paid for all rights-of-way or easements, whether determined by negotiation or eminent domain; expenses paid to third parties related to the establishment of acquisition values of rights-of-way or easements, including appraisals, legal fees, other expenses paid to third parties, and expenses incurred by City related to acquisition of rights-of-way or easements, whether through negotiation or eminent domain; and any other reasonable and necessary costs or expenses related to acquisition of the rights-of-way or easements. City may require that Site Developer enter into a separate acquisition funding agreement with City to provide for the terms and conditions under which Site Developer will place one hundred twenty five (125%) of all estimated Acquisition Costs in escrow with City prior to commencement of condemnation for rights-of-

way or easements. The acquisition funding agreement shall obligate Site Developer to reimburse City in full for all Acquisition Costs that result from City's condemnation process for any portion of the Public Improvements.

(6) **Utility Relocation.** The parties agree that if costs are incurred associated with relocating the existing utilities, if any, from any existing public or private easement or from any existing right-of-way, as a result of construction of the Public Improvements, such costs shall be paid by Site Developer and are not the responsibility of City; to the extent set forth in the Site Development Project Cost Budget, such costs shall be a Redevelopment Project Cost eligible for reimbursement. The parties agree that all costs associated with relocating any existing utilities from any existing right-of-way as a result of construction of the Public Improvements, which are not paid by a utility company, shall be paid by Site Developer and are not the responsibility of City; to the extent set forth in the Site Development Project Cost Budget, such costs shall be a Redevelopment Project Cost eligible for reimbursement.

(7) **Inspections and Change Orders.** City, or its designees, shall have the right to inspect, observe, and oversee the construction of all Public Improvements in order to ascertain and determine that the standards of City have been met. Site Developer shall obtain approval of City staff of all change orders over one hundred thousand dollars and no cents ($100,000) relating to the Public Improvements; provided, however, that City shall not unreasonably withhold or delay its consent. The City shall respond within fifteen (15) days to all change orders.

(8) **Dedication.** Upon completion, inspection and approval of the Public Improvements by City or MoDOT, as applicable, Site Developer will dedicate the Public Improvements to City or MoDOT, as applicable, for its use, operation and maintenance. City shall be under no obligation to accept the dedication or conveyance of any Public Improvement constructed pursuant to this Agreement until it has been inspected and approved to the reasonable satisfaction of City or MoDOT, as applicable. Upon written notice of the inspection and approval of the City's Director of Public Works, Site Developer agrees to convey all the Public Improvements to City or MoDOT, as applicable, free and clear of all liens and encumbrances or other obligations. Said conveyance shall be by appropriate document, and shall be sufficient, in the reasonable opinion of the City Attorney, to convey marketable title of record, as set forth in Title Standard 4 of the Missouri Bar.

(9) **Insurance.**

i) General Provisions. Prior to commencing construction of the Public Improvements, and at all times until the Public Improvements are accepted by and dedicated to City or conveyed to MoDOT, as applicable, Site Developer shall obtain and keep in force the following insurance and Site Developer shall file with City a certificate of insurance evidencing such insurance:

a) Commercial General Liability: Commercial general liability insurance written on an occurrence basis including personal injury, bodily injury, broad form property damage, operations hazard, owner's protective coverage, contractual liability (with a cross liability

clause), and products and completed operations liability, in limits not to exceed $1,000,000 inclusive per occurrence and $1,000,000 annual aggregate.

b) Automobile Liability: Minimum $1,000,000 combined single limit for bodily injury and property damage; applicable to owned, non-owned and hired automobiles.

c) Workers' Compensation: As required by state statute; if exempt, must submit letter stating the exemption; employer's liability $1,000,000 each occurrence.

d) Umbrella/Excess Liability: An umbrella or excess liability policy in the minimum amount of $5,000,000 each occurrence and aggregate; at least as broad as the underlying general liability, automobile liability and employer's liability.

ii) Endorsements. The following endorsements shall attach to the policy:

a) The policy shall cover personal injury as well as bodily injury.

b) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage.

c) Broad form property damage liability shall be afforded.

d) City shall be listed as an additional insured.

e) Standard form of cross-liability shall be afforded.

f) The policy shall not be cancelled or not renewed without thirty (30) days advance written notice of such event being given to City.

iii) Use of Contractors and Subcontractors. Site Developer shall not permit any contractor to commence or continue work until they shall have obtained or caused to be obtained all insurance required under this Subsection. Said insurance shall be maintained in full force and effect until the completion of construction of the Public Improvements, and acceptance of such Public Improvements by City or MoDOT (as used in this Subsection, **"Final Completion"**). Subject to MODOT requirements, Site Developer shall send City not less than ten (10) days' advance notice of Final Completion. City shall provide Site Developer with a detailed written notice of the reasons for objection to the Final Completion of the Public Improvements within such ten (10) day period. In the event no objections are received by Site Developer, Final Completion shall be deemed to have occurred on the date of Final Completion set forth in the Site Developer's notice provided as set forth above. In the event

objections are made by the City, Site Developer shall proceed to correct the deficiency in accordance with the Construction Plans and the foregoing procedure shall be repeated until the deficiency is corrected and the City approves the Final Completion in accordance with the foregoing procedure. Upon request of Site Developer, City shall provide verification in writing of Final Completion.

iv) Workers' Compensation. Site Developer shall ensure that all contractors performing work for Site Developer obtain and maintain Workers' Compensation Insurance for all employees, Site Developer shall cause all contractors to require subcontractors to provide Workers' Compensation insurance for all subcontractor's employees, in compliance with State laws, and to fully protect City from any and all claims arising out of occurrences during construction of the Public Improvements. Site Developer hereby indemnifies City for any damage resulting to it from failure of either Site Developer or any contractor to obtain and maintain such insurance. Site Developer further waives, and shall cause all contractors performing work for Site Developer to waive, its rights to subrogation with respect to any claim against the City for injury arising out of performance under this Agreement. Site Developer shall cause all contractors to ensure that all subcontractors performing work for Site Developer to waive their rights to subrogation with respect to any claim against City for injury arising out of performance under this Agreement. Site Developer shall provide City with a certificate of insurance indicating Workers' Compensation coverage prior to commencing construction of the Public Improvements, and shall cause such insurance to be maintained at all times that any work on the Public Improvements is being performed.

v) Bonds; Assignment of Warranty. Site Developer shall provide, or cause to be provided, or cause its contractor to provide the following bonds and assignment of warranty for the Public Improvements and all other public infrastructure improvements that are constructed by Site Developer and dedicated to City. Site Developer shall comply with MoDOT requirements for bonds regarding work performed in MoDOT right of way.

a) Performance Bond and Payment Bond. Prior to commencement of construction and ending upon the completion of construction of the Public Improvements and acceptance of such Public Improvements by the City in accordance with adopted City engineering standards and requirements (as used in this Subsection, **"Final Completion"**), Site Developer shall maintain or cause to be maintained or cause its contractor to maintain a performance and payment bond substantially in the forms as set forth in a form reasonably approved by the City Attorney, in an amount equal to the cost of the Public Improvements covered by such bond, as reasonably determined by the City Engineer, conditioned upon the faithful performance of the provisions, terms and conditions of the construction contract. The performance and payment bond shall name City as obligee and copies of certificates of such bond shall be delivered to City. No other party shall be named as a co-obligee on any of such bonds except with the prior

written consent of City. Site Developer shall send City not less than ten (10) days' advance notice of Final Completion. City shall provide Site Developer with a detailed written notice of the reasons for objection to the Final Completion of the Public Improvements within such ten (10) day period. In the event no objections are received by Site Developer, Final Completion shall be deemed to have occurred on the date of Final Completion set forth in the Site Developer's notice provided as set forth above. In the event objections are made by the City, Site Developer shall proceed to correct the deficiency in accordance with the Construction Plans and the foregoing procedure shall be repeated until the deficiency is corrected and the City approves the Final Completion in accordance with the foregoing procedure. Upon request of Site Developer, City shall provide verification in writing of Final Completion.

b) Assignment of Contractor's Warranty. Prior to acceptance and dedication of the Public Improvements, Site Developer shall assign, in a form reasonably approved by the City Attorney, general contractor's warranty for the Public Improvements, which warranty shall be in effect for a term of one (1) year from the date of Final Completion as defined in subsection a) above for such Public Improvements.

c) Indemnity for Failure to Provide Bonds. Site Developer shall indemnify the City Parties for any damage resulting to the City Parties from failure of Site Developer to provide the bonds set forth in this Section.

(10) **City Inspector.** City shall cause a qualified and authorized inspector to be present at reasonable times during the construction of the Public Improvements to facilitate the resolution of construction decisions arising in the field.

**6.6. Design Criteria and Review Procedures**.

(a) The Site Developer shall comply with and/or follow controls and design criteria relating to the Private Improvements as a part of all zoning (including preliminary and final site plans) and subdivision approvals (hereinafter collectively referred to as "Land Use Approvals").

(b) Construction Plans, site plans, and building elevations for the Private Improvements shall conform to the Redevelopment Plan, Land Use Approvals, the Concept Site Plan, and this Agreement. In order to insure that the Private Improvements and their construction will be in accordance with the provisions of this Agreement, and in substantial agreement with proposals made by the Site Developer to the City and Corporation, the Parties agree as follows:

(1) No Private Improvements shall be commenced or made unless and until all the Construction Plans therefor, in the detail herein required, or any changes thereto, shall have been submitted to and approved in writing by the City or the City staff all in accordance with the Redevelopment Plan and Land Use Approvals.

(2) The City shall have the absolute right in its judgment and discretion at any time to approve a variance from conformance to, or a waiver of compliance with, the approved controls and design criteria relating to the Private Improvements, or to eliminate any one or more of such requirements in connection with the approval or disapproval of the Construction Plans or changes thereto, subject to all applicable City ordinance provisions.

(3) Subsequent to commencement of the Private Improvements and until said Private Improvements have been completed, the Site Developer shall, as part of the report required by Section 8.7, describe in such detail as may reasonably be required by the City, the progress of the Site Developer in construction. During such period the work of the Site Developer shall be subject to inspection by representatives of the City as described in Section 6.7.

(4) Unless otherwise provided by law, the City Parties shall not be liable to the Site Developer with respect to Construction Plans for the Private Improvements or modifications submitted for approval, or for any other action in connection with its or their duties hereunder. The Site Developer agrees that it will not bring any action or suit to recover any damages against the City Parties arising or in any way connected with the approval of or failure to approve any Construction Plans for the Private Improvements or changes submitted by the Site Developer.

**6.7. Control of Project.**

(a) **Construction.** Except as otherwise provided in this Agreement, Site Developer shall have complete and exclusive control over construction associated with the Site Developer's Work, subject, however, to all applicable Laws. Site Developer hereby grants to City, its agents and employees the right to enter at reasonable times for the purpose of inspecting the Site Development Project.

(b) **Dedication of Right of Way.** Site Developer shall dedicate all necessary rights-of-way located within the boundaries of the Property to City at no cost to the City. Site Developer shall dedicate the real property necessary for construction of the Public Improvements to City at no cost to City.

(c) **Certificate of Completion**. Promptly after completion of the Site Developer's Work in accordance with the provisions of this Agreement, the Site Developer will furnish to the City a Certificate of Completion so certifying. The City shall, within thirty (30) days following delivery of the Certificate of Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Completion. The Certificate of Completion shall be deemed accepted by the City unless, prior to the end of such thirty (30) day period after delivery to the City of the Certificate of Completion, the City furnishes the Site Developer with specific written objections to the status of the Site Developer's Work, describing such objections and the measures required to correct such objections in reasonable detail. Upon acceptance of the Certificate of Completion by the City or upon the lapse of thirty (30) days after delivery thereof to the City without any written objections thereto, the Site Developer may record the Certificate of Completion with the recorder of deeds for the County, and the same shall constitute evidence of the satisfaction of the Site Developer's agreements and covenants to perform all of the Site Developer's Work.

The Certificate of Completion shall be in substantially the form attached as **Exhibit C** hereto and incorporated by reference herein.

(d) **Maintenance and Repair.** Site Developer, at its sole cost and expense, at all times shall (1) maintain and operate the Site Development Project, but not City or State owned Public Improvements, like other similarly situated developments, (2) timely make all necessary repairs to and replacements and restorations of all parts of the Site Development Project, (3) keep the Site Development Project in good condition, repair and appearance, all in accordance with applicable City code requirements. Site Developer shall maintain casualty insurance on the Site Development Project in an amount equal to the full replacement value thereof and provide City with evidence of such insurance upon demand. Unless Site Developer has agreed to fulfill such obligations, Site Developer shall use its best efforts to contractually obligate any tenant, purchaser, transferee, developer, manager, contractor or subcontractor ("**User**") to comply with the provisions of this Section for its respective portion of the Private Improvements. Site Developer shall enforce the provisions of this Section in a commercially reasonable manner. Site Developer hereby agrees that every lease, sales contract or other contract regarding the Site Development Project and the Property indicate the responsibility of the Site Developer or User to fulfill the terms of this Section. Site Developer shall use commercially reasonable efforts to enforce such contract rights.

**6.8. Certificate of Completion and Compliance.**

(a) Upon the completion of construction of the Site Development Project, Site Developer shall submit a report to the City and Corporation certifying that the Site Developer's Work has been completed in accordance with the Redevelopment Plan and that it is in material compliance with all other provisions of this Agreement. Site Developer shall, as part of its report, submit its certificate setting forth on an aggregate basis and to Site Developer's knowledge, a reasonable estimate of (1) the total cost of completing the Site Developer's Work; (2) Redevelopment Project Costs incurred which are eligible for reimbursement pursuant to the Redevelopment Plan or which have been paid for or are to be reimbursed with the proceeds of the TIF Revenues or TIF Obligations; and (3) the actual private equity and debt used to complete the Site Developer's Work.

(b) City may conduct an investigation, and if City determines that the Site Development Project or any portion thereof has been completed in material accordance with the Redevelopment Plan, as evidenced by a Certificate of Completion where appropriate and other applicable Laws, and that as of the date of the request, all of Site Developer's duties pursuant to this Agreement have been performed, then it shall issue a Certificate of Completion and Compliance. If City determines that the Site Development Project or any portion thereof which is the subject of an investigation or review under this Section has not been completed in material accordance with the Redevelopment Plan, or that Redevelopment Project Costs have not been incurred as certified, or that Site Developer is not in material compliance with the terms of this Agreement, then it shall not issue a Certificate of Completion and Compliance and shall specify in writing the reason or reasons for withholding its certification. Upon request of Site Developer, City shall hold a hearing at which Site Developer may present new and/or additional evidence.

(1) The issuance of a Certificate of Completion and Compliance by City shall be a conclusive determination of the satisfaction of the covenants in this Agreement with

respect to the obligations of Site Developer to complete the Site Developer's Work within the dates for the beginning and completion thereof, but shall not prevent City or Corporation from future action in the event of any subsequent default by Site Developer in the performance of any of its other obligations under this Agreement.

(2) Each such certificate issued by City shall contain a description of the real property affected thereby and shall be in such form as will enable it to be accepted for recording in the real estate records of the County.

The City shall respond within fifteen (15) days to all requests by Site Developer for the issuance of a certificate or hearing under this Section.

## ARTICLE VII

## COVENANTS; EVENTS OF DEFAULT AND REMEDIES

**7.1. Mutual Release; Indemnification**. No party shall be liable to any other party for damages or otherwise in the event that this Agreement is declared invalid or unconstitutional in whole or in part by the final judgment of any court of competent jurisdiction, and by reason thereof any party is prevented from performing any of the covenants and agreements herein. All covenants, stipulations, promises, agreements and obligations of each party shall be deemed to be the covenants, stipulations, promises, agreements and obligations of each party, respectively, and not of any of their governing body members, officers, agents, servants or employees in their individual capacities. No elected or appointed official, employee or representative of any party shall be personally liable to any other party in the event of a default or breach by any party under this Agreement or for any amount of the TIF Obligations which may become due to any party under the terms of this Agreement. The Corporation releases from and covenants that the City and its officers, agents, attorneys, employees and independent contractors, and the members of the City Council (collectively, the **"City Parties"**), and the Site Developer and its managers, officers, agents, affiliates, attorneys, employees and contractors (collectively, the **"Site Developer Parties"**) shall not be liable for, and, to the extent permitted by law, the Corporation shall indemnify and hold harmless the City Parties and the Site Developer Parties, against any and all claims, demands, actions, causes of action, loss, damage, injury, liability and/or expense (including attorneys' fees and expenses) resulting from, arising out of, or in any way connection with (1) an event of default by the Corporation, (2) the negligence or intentional misconduct of the Corporation, any member of its Board of Directors, its employees, agents, contractors, or subcontractors (collectively, the **"Corporation Parties"**). The Site Developer releases from and covenants that the City Parties and the Corporation Parties shall not be liable for, and, to the extent permitted by law, the Site Developer shall indemnify and hold harmless the City Parties and the Corporation Parties, against any and all claims, demands, actions, causes of action, loss, damage, injury, liability and/or expense (including attorneys' fees and expenses) resulting from, arising out of, or in any way connection with (1) an event of default by the Site Developer, (2) the negligence or intentional misconduct of the Site Developer Parties, or (3) engineering, design or construction of the Site Development Project. Notwithstanding the foregoing terms of this Section, the Corporation is not obligated to defend, hold harmless or indemnify the City Parties or the Site Developer Parties with respect to any matter or expense resulting from or arising out of the negligence or willful misconduct of the City Parties or the Site Developer Parties, respectively, and the Site Developer is not obligated to defend, hold harmless or indemnify the City Parties or the Corporation Parties with respect to any matter or expense resulting from or arising out of the negligence or willful misconduct of the City Parties or the Corporation Parties, respectively.

**7.2. Events of Default**. The following shall constitute **"Events of Default"** of the Corporation, the City or the Site Developer, as the case may be:

(a) The filing of a voluntary petition in bankruptcy or insolvency or a petition for reorganization under any bankruptcy law;

(b) The consent to an involuntary petition in bankruptcy and the failure to vacate within sixty (60) days from the date of entry thereof or any order approving an involuntary petition;

(c) The entering of an order, judgment or decree by any court of competent jurisdiction, on the application of a creditor, adjudicating such party a bankrupt or insolvent or approving a petition seeking reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of such party's assets, and such order, judgment or decree shall continue unstayed and in effect for a period of sixty (60) days;

(d) The gross negligence, fraud or willful misconduct in the performance or observance of its obligations or duties provided for under the terms of this Agreement;

(e) The failure of a party to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions set forth in this Agreement, including any failure to make any payments due hereunder, and the continuance of any such default for a period of thirty (30) days after written notice of such failure, or, if the default is not a default in the payment of a monetary sum to be paid under this Agreement, the default is susceptible of cure with reasonable diligence and such party commences such cure promptly following receipt of written notice of such failure, then for such additional period as the cure shall continue to be pursued with reasonable diligence.

**7.3. Remedies**. Upon the occurrence of an Event of Default, a non-defaulting party may, without prejudice to any other recourse at law or in equity which it may have, terminate this Agreement upon written notice to the defaulting party, and in such event this Agreement shall terminate as of the date such notice is given; *provided, however*, the Parties hereto agree that the Corporation's and/or the City's sole recourse against the Site Developer for the failure to acquire the Property in accordance with the Site Development Schedule shall be limited to termination of this Agreement after providing Site Developer thirty (30) days prior written notice.

**7.4. Site Developer's Right of Termination**. The Site Developer may, by giving written notice to the Corporation and the City at any time prior to the dates provided below, abandon the Site Development Project and terminate this Agreement, if any of the following contingencies should arise within the time periods provided:

(a) on or before December 31, 2014, the Site Developer does not (despite the Site Developer's diligent efforts) receive all necessary permits and approvals from any and all entities having jurisdiction over the Property;

(b) if any default exists under the Master Redevelopment Agreement, or any changes are made to the Master Redevelopment Agreement, that could prevent the Corporation from receiving reimbursement of Redevelopment Project Costs that relate to the Site Development Project; or

(c) If either the City or Corporation fails to comply with its obligations to cooperate with any Project Lender pursuant to Section 8.11 of this Agreement.

In the event the Property has been transferred or conveyed to the Site Developer prior to the time this Agreement is terminated pursuant to this Section, then within thirty (30) days after the notice of termination, the Corporation shall, if directed by the Site Developer, in its sole discretion, repurchase the Property from Site Developer or subsequent purchasers, in the amount of One Million Three Hundred Thousand Dollars ($1,300,000.00), plus, if the Corporation approves such reimbursement, any Site Developer Carry Costs and costs of the Site Developer's Work incurred by the Site Developer prior to the date of termination, less the amount of any reimbursements paid by the Corporation to the Site Developer to reimburse costs of the Site Development Project. At such time as the Site Developer encumbers the Site Development Project with any lien to secure debt incurred by the Site Developer to finance costs of the Site Development Project, the Corporation may request that the lender (the **"Project Lender"**) offer to the Corporation certain rights and remedies with respect to the Site Development Project in the event of any default by the Site Developer under its loan, which the Project Lender may accept or deny in its sole discretion and subject to its internal credit approvals.

## ARTICLE VIII

## MISCELLANEOUS PROVISIONS

### 8.1. Payments in Lieu of Taxes.

(a) Pursuant to the provisions of the Redevelopment Plan, the Master Redevelopment Agreement, and the TIF Act, including, but not limited to, Section 99.845 thereof, when Tax Increment Financing is established by Ordinance for a Redevelopment Area, the real property located therein is subject to assessment for annual Payments in Lieu of Taxes. Payments in Lieu of Taxes shall be due November 30 of each year in which said amount is required to be paid and will be considered delinquent if not paid by December 31 of each such year or as otherwise determined by applicable law. The obligation to make said Payments in Lieu of Taxes shall be a covenant running with the land for the duration of the Redevelopment Plan (and any renewal periods thereof) and shall create a lien on the Property in favor of City on each such tax parcel as constituted from time to time and shall be enforceable against Site Developer and its successors and assigns in ownership of the Property in the Redevelopment Area.

(b) Failure to pay Payments in Lieu of Taxes as to the Property shall constitute a default by the owner, assignee, and/or tenant of such property (but not the Site Developer in the event Site Developer is not the owner of such property) of the provisions of Section 7.2 hereof, and shall entitle City, the County Collector or any other government official or body charged with the collection of any such sums (any one or more of such persons hereinafter individually or collectively referred to as the "**Collection Authority**") to proceed against such property and/or the tenant or the owner thereof (but not Site Developer in the event Site Developer is not the owner of such property) as in other delinquent property tax cases or otherwise as permitted at law or in equity, and, if applicable, such failure shall entitle the Collection Authority to seek all other legal and equitable remedies it may have to ensure the timely payment of all such sums or of the principal of and interest on any outstanding TIF Obligations secured by such payments; provided, however, that the failure of any property in the Redevelopment Area to yield sufficient payments in lieu of taxes because the increase in

the current equalized assessed value of such property is or was not as great as expected, shall not by itself constitute a breach or default.

(c) Notwithstanding anything to the contrary, herein, the lien on the Property shall be deemed (1) released as to any public street or other public way included within any plat proposed by Site Developer, effective upon the passage of an Ordinance by City approving the same, and (2) subordinated to the lot lines, utility easements and other similar matters established by any such plat (but not to any private access or parking rights granted or created by any such plat), effective upon the passage of Ordinance by City as aforesaid, and to any easement or like interests granted to City or any public utility for public facilities or utilities or connection(s) thereto.

**8.2. Economic Activity Taxes.** In addition to the payments in lieu of taxes described herein, and pursuant to Section 99.845.3 of the Act, Economic Activity Taxes shall be allocated to, and paid by the collecting officer, who shall be the City, as hereinafter provided, to the City Treasurer or other designated financial officer of City, who shall deposit such funds in the Economic Activity Account within the Special Allocation Fund. For as long as the Redevelopment Area is subject to tax increment financing, Economic Activity Taxes shall be determined in accordance with the following procedures (subject, however, to the provisions of Section 99.835 of the Act):

(a) **Disclosure of Economic Activity Taxes Information.** City shall comply with all applicable state laws limiting disclosure of sales tax information related to individual business provided to the City as documentation of Economic Activity Taxes.

(b) **Certification by City.** City, following reasonable research and investigation, using independent consultants, accountants and counsel shall certify the nature and amount of Economic Activity Taxes payable by each taxing district from which Economic Activity Taxes are due, or as otherwise required by the procedures and requirements of the taxing district from time to time established. Upon written request from Site Developer or taxing district, City shall provide its certification of Economic Activity Taxes due to the governing body of each such taxing district.

**8.3. Reserved.**

**8.4. Reserved.**

**8.5. Lease of Project Property.**

(a) Site Developer, or any third party, may lease all or any part of the Property. Site Developer shall insert in any such lease, and shall cause any third party to insert language reasonably similar to the following and shall have such Site Developer lease signed by the lessee indicating acknowledgment and agreement to the following provision:

**Economic Activity Taxes**

Tenant acknowledges that the Leased Premises are a part of a Tax Increment Financing district (**"TIF District"**) created by the City and that certain taxes generated by Tenant's economic activities, including sales taxes (if any), will be applied toward the costs of certain improvements for the Development. Tenant shall forward to the City copies of Tenant's State of Missouri sales tax returns for its property located in the TIF District

when and as they are filed with the Missouri Department of Revenue, and, upon good cause shown, shall provide such other reports and returns regarding other local taxes generated by Tenant's economic activities in the TIF District and/or the City which will permit the City to administer the TIF.

Tenant shall provide to Landlord upon Landlord's request a certification to the City that this Lease includes the provisions of preceding paragraph.

Failure of Site Developer to require that such restrictions be placed in any such lease shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Property and the Site Development Project. The City shall comply with all applicable state laws limiting disclosure of sales tax information related to individual businesses provided to the City as documentation of Economic Activity Taxes.

**8.6. Sale or Disposition of Site Development Project Property.**

(a) **Purchasing Entity.** As a condition precedent to –

(1) the transfer of any property interest within the boundaries of the Property to any transferee, other than a lender or a party under any sale or lease of a parcel for the construction thereon of improvements to be used by the purchaser or lessee of the parcel or its affiliate or borrower (such as the sale. lease, or transfer of a retail building area for the construction and operation thereon), or

(2) any transfer and assignment of Site Developer's obligations as set forth in Section 8.9 hereof (other than a lender pursuant to Section 8.9(c) or a transferee receiving its property interest by sale or lease, which transfer does not require the consent of the City pursuant to Section 8.9(d) of this Agreement),

the Site Developer shall require the transferee or assignee to enter into, and shall deliver to the City, an agreement obligating the transferee or assignee to comply with the requirements of the Redevelopment Plan, the Master Redevelopment Agreement, and the obligations in this Agreement relating to the Property. Upon execution of such agreement, the Site Developer shall be released from its obligations in this Agreement relating to said transferred property or transferred or assigned obligations.

(b) **Continuation of Payments in Lieu of Taxes.** In the event of the sale or other voluntary or involuntary disposition of any or all of the real property of Site Developer or any third party within the boundaries of the Property, Payments in Lieu of Taxes with respect to the real property so sold or otherwise disposed of shall continue and shall constitute a lien against the property from which they are derived, and such obligations shall inure to and be binding upon Site Developer and its successors and assigns in ownership of said property as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable as if such purchaser, transferee or other possessor thereof were originally a party to and bound by this Agreement.

(c) **Obligation to Ameliorate Existing Conditions.** Site Developer's obligations pursuant to Section 6.4 hereof, unless earlier satisfied and certified pursuant to Section 6.8 hereof, shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named.

(d) **Incorporation.** The restrictions set forth above in this Section, shall be incorporated into any deed or other instrument conveying an interest in real property, other than a lease agreement, within the boundaries of the Property and shall provide that said obligations or restrictions shall constitute a benefit held by both Site Developer and City and that City is an intended third party beneficiary of said obligations and restrictions. Failure of Site Developer to require that such restrictions be placed in any such deed or other instrument shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Property.

(e) **Notification to City of Transfer.** Site Developer shall notify City in writing of any proposed sale or other transfer of any or all of the Property or any interest therein where City approval is required pursuant to this Section other than any sale of a pad area for the construction thereon of improvements to be used by the purchaser of the pad area or its affiliate for retail and other permitted uses as provided for in this Agreement. Such notice shall be provided not less than thirty (30) days prior to the proposed effective date of the sale or other transfer in a manner as described in Section 8.13 hereof and shall include a copy of the instrument effecting such sale or other disposition to enable City to confirm that the requirements set forth above in this Section have been fulfilled.

**8.7. Progress Reports.**

(a) At the first regularly-scheduled meeting of the City Council following the first anniversary of the Effective Date and at any time thereafter (not to exceed more than once per year) until all of the Site Developer's Work is completed, upon written request from the City, Site Developer shall report to the City Council the progress of its implementation of the Site Development Project. Such reports shall include such information as is required under the reporting requirements of the TIF Act, such additional information as City may reasonably require, and such additional information as Site Developer wishes to present, including, without limitation:

(1) Site Developer's Work completed;

(2) status of Site Developer's Work in progress but not yet completed;

(3) actual Redevelopment Project Costs incurred on the Site Development Project compared to the Site Development Project Cost Budget;

(4) actual start and completion dates of Site Developer's Work compared to the Site Development Schedule; and

(5) estimated start date of Site Developer's Work not yet commenced at date of report.

(b) Site Developer shall from time to time furnish such other reports on specific matters not addressed by the foregoing as City may reasonably require.

**8.8. Compliance with Laws.** Subject to Site Developer's rights to contest the same in any manner permitted by law, Site Developer, its officers, directors and principals, at its sole cost and expense, shall comply in every respect with all applicable Laws, ordinances, rules and regulations of all federal, state, county and municipal governments, agencies, bureaus or instrumentalities thereof now in

force or which may be enacted hereafter which pertain to the Site Developer's Work, the ownership, occupancy, use and operation of the Site Development Project and the Property.

**8.9. Assignment of Site Developer's Obligations.** The Site Developer represents that its undertakings pursuant to this Agreement are for the purpose of redevelopment. Without limiting the rights of Site Developer or any third party under Section 8.6 hereof, Site Developer agrees that this Agreement and the rights, duties and obligations hereunder may not and shall not be assigned by Site Developer without the prior written consent of the City, not to be unreasonably withheld, delayed or conditioned. Any proposed transferee shall have all of the qualifications and financial responsibility, as determined by City in its sole discretion, necessary and adequate to fulfill the obligations of Site Developer, and, if the proposed transfer relates to a portion of the Property on which the Site Developer's Work is under way, such obligations to the extent that they relate to such property. Except for transfers described in Section 8.9(c) and Section 8.9(d) below, any proposed transferee shall enter into an agreement obligating such transferee, expressly for the benefit of City, to assume all of the obligations of Site Developer under this Agreement and agree to be subject to all the conditions and restrictions to which Site Developer is subject (or, in the event the transfer is of or relates to a portion of the Property, such obligations, conditions and restrictions to the extent that they relate to such portion). For purposes of this section, any sale, transfer, assignment, pledge or hypothecation of an interest in Site Developer (other than to an Affiliate of Site Developer) that results in a change in management control of Site Developer will constitute an assignment of this Agreement. Notwithstanding the foregoing:

(a) Site Developer may at any time without the City's consent convey all or a part of the Property, assign its rights, and delegate its duties and obligations under this Agreement to any entity controlled by the Site Developer or the principals of the Site Developer, provided that the management of the entity is provided by the principals, or by an entity which they together or individually control.

(b) For so long as any of the principals of the Site Developer or their entities continues to be the managing member or managing partner of Site Developer or any successor entity to Site Developer, no sale, transfer, assignment, pledge or hypothecation of an interest in Site Developer, to an investor, or other person will be construed as resulting in a change of control or construed as constituting an assignment of this Agreement that requires the City's consent.

(c) No consent will be required under this section for any pledge or assignment of this Agreement or pledge or assignment of an interest in Site Developer or any interest in any member of Site Developer as collateral security for Site Developer's financing, or for the exercise of rights under any such collateral assignment by the holder thereof (provided that any subsequent assignment, pledge or transfer shall be subject to all of the terms and conditions of this Agreement).

(d) No consent will be required under this section for any sale or lease of a parcel for the construction thereon of improvements to be used by the purchaser or lessee of the parcel or its affiliate or borrower (such as the sale, lease, or transfer of a retail building area for the construction and operation thereon).

Upon approval of the agreement with a transferee by City as set forth herein, Site Developer shall be released from such obligations accruing after the date of such assignment.

**8.10. Assignment of Payments.** Notwithstanding the provisions of Section 8.9, the Site Developer may assign or pledge its right to receive reimbursement for Reimbursable Project Costs incurred by providing City with notice of any such assignment or pledge. Such assignment or pledge shall remain subject to the terms, provisions and conditions of this Agreement.

**8.11. Collateral Assignment of Agreement.** Notwithstanding the provisions of Section 8.9, the Site Developer may assign or pledge its rights under this Agreement, including without limitation, any right to receive reimbursement for Redevelopment Project Costs incurred, by providing City with notice of any such assignment or pledge. Such assignment or pledge shall remain subject to the terms, provisions and conditions of this Agreement. Further, the City and Corporation each agree to cooperate with the Site Developer and its Project Lender(s) in connection with any financing of the Site Development Project, and to execute and deliver such consents, estoppels and agreements as are reasonably requested by any Project Lender to acknowledge, confirm and perfect the interests of the Project Lender in the Site Developer's rights under this Agreement.

**8.12. Transfer of Interests in Site Developer – City Approval.** Site Developer shall, prior to the sale, conveyance, merger or other transfer of greater than fifty percent (50%) of the voting interest in Site Developer membership interests if Site Developer is a limited liability company and any transfers by operation of law, deliver to City a request for approval of such transfer, and no such transfer shall be permitted except with the prior approval of City, not to be unreasonably withheld, conditioned or delayed; provided, however, that the members, partners or shareholders of Site Developer as of the Effective Date, shall have the right to transfer, in one or more transactions, the ownership interest in Site Developer, without City's consent, to any entity or entities to which Site Developer is permitted, without City's consent, to transfer property and assign its obligations in the Site Development Project and the Property pursuant to Section 8.9 hereof. Upon submission by Site Developer of any request for transfer to City, City shall have the right to request such documentation and information as City shall determine to be reasonably necessary or desirable to determine whether such transfer is acceptable to City. Any purported transfer by Site Developer or any party owning any interest in Site Developer of any interest without the consent of City shall be null and void. In addition, City may require Site Developer, as a condition precedent to the transfer of any interests in Site Developer, to require the transferee to enter into an agreement with City obligating the transferee to comply with the requirements of the Redevelopment Plan, the Master Redevelopment Agreement, and the obligations in this Agreement relating to the Property. Notwithstanding the foregoing, Site Developer or Site Developer's members, or any one of them, may, without notice to or approval of City, transfer interests in Site Developer to any Affiliate of such member, or among the members of or other holder of equity interests in Site Developer, if such transfer does not result in a material change in the controlling interests of Site Developer.

**8.13. Notices**. All notices or other communications required or desired to be given hereunder shall be in writing and addressed as follows:

(a) To the City at:

City of Joplin
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
Attention: City Manager

With copy to:

City of Joplin
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
Attention: City Attorney

(b) To the Corporation at:

Joplin Redevelopment Corporation
City of Joplin
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
Attention: Chairman

With a copy to:

Wallace Bajjali Development Partners, L.P.
13135 Dairy Ashford Rd., Suite 150
Sugar Land, Texas 77478
Attention: David Wallace

With further copy to:

Dentons US LLP
One Metropolitan Square, Suite 3000
St. Louis, Missouri 63102
Attention: Jennifer A. Marler

(c) To the Site Developer at:

Joplin Villas, LLC
c/o Wallace Bajjali Development Partners, L.P.
13135 Dairy Ashford Rd., Suite 150
Sugar Land, Texas 77478
Attention: David Wallace

And:

c/o O'Reilly Development Co., LLC
431 South Jefferson, Suite 116-C
Springfield, Missouri 65806
Attention: Denise Mathisen

With copy to:

Dentons US LLP

One Metropolitan Square, Suite 3000
St. Louis, Missouri 63102
Attention: Jennifer A. Marler

And:

Husch Blackwell, LLP
901 St. Louis Street, Suite 1800
Springfield, Missouri 65806
Attention: S. Shawn Whitney

All notices given by overnight mail by a nationally recognized overnight delivery service, or by first class, certified or registered mail as aforesaid. Any notice deposited with a nationally recognized overnight delivery service shall be deemed duly given on the next business day, and any other notice shall be deemed duly given when received. The Parties may from time to time designate, by notice given hereunder to the other such parties, another address to which subsequent notices or other communications shall be sent.

**8.14. Entire Agreement; Amendments**. The Parties agree that this Agreement constitutes the entire agreement among the Parties with respect to the Site Development Project and that no other agreements or representations other than those contained in this Agreement have been made by the Parties with respect to the Site Development Project. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the Parties. The City and the Corporation agree that they will not amend, modify or terminate the Master Redevelopment Agreement without the prior written consent of the Site Developer.

**8.15. Choice of Law**. This Agreement shall be deemed to have been fully executed, made by the Parties in, and governed by the Laws of the State of Missouri for all purposes and intents.

**8.16. Counterparts**. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but together shall constitute one and the same instrument.

**8.17. Partial Invalidity**. If any term, covenant, condition or provision of this Agreement or the application of this Agreement to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by the partial invalidity, and each term, covenant, condition and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**8.18. Opportunity to Cure Preserved**. In the event of any default in or breach of any term or conditions of this Agreement by any Party, or any successor, the aggrieved party, prior to instituting any action at law or in equity, shall give written notice to the breaching or defaulting Party (or successor) specifying, in the opinion of the aggrieved Party the nature of the breach, and the defaulting or breaching Party (or successor) shall, upon receipt of such written notice from the other Party, proceed immediately to cure or remedy such default or breach, and, shall, in any event, within thirty (30) days after receipt of notice, commence to cure or remedy such default. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved Party may then institute such proceedings as may be necessary or desirable in its opinion to

cure and remedy such default or breach, including, but not limited to proceedings to compel specific performance by the defaulting or breaching Party.

**8.19. No Waiver of City's Sovereign Immunity; Corporation's Waiver of Immunity.** Nothing in this Agreement shall be construed or deemed to constitute a waiver of the City's sovereign immunity. To the extent permitted by applicable law, the Corporation hereby voluntarily, irrevocably and unconditionally (a) agrees that the execution, delivery and performance by it of this Agreement constituted the private, proprietary and commercial acts of the Corporation rather than public or governmental acts or governmental functions, (b) agrees that should any action or proceedings be brought against it or its assets in relation to this Agreement or any transaction contemplated hereunder, no immunity (sovereign or otherwise) from such actions or proceedings shall be claimed by or on behalf of itself with respect to its assets, and (c) waives any and all such right of immunity, on the grounds of sovereignty or other similar grounds, from suit or liability which it or its assets now has or may in the future acquire with regard to this Agreement.

**8.20. Assignment; No Third Party Beneficiaries.** This Agreement shall be binding on and shall inure to the benefit of Parties and shall be binding upon their respective successors in title, and shall be for the benefit and burden of their assigns. The Parties acknowledge and agree that no other party not a Party to this Agreement is a third party beneficiary of any of the terms or conditions of this Agreement.

**8.21. Force Majeure.** Neither the City nor the Site Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended, in the event of any delay caused for force majeure, including, without limitation, damage or destruction by fire or casualty; general strike; lockout; labor disputes; labor shortages; civil disorder; riots; war; acts of God; epidemics; unusually adverse weather; landslides; earthquakes or other natural disasters; fire or other casualties; explosions; war; invasion or acts of a public enemy; failure of utilities; shortage or delay in shipment of material or fuel; or other causes beyond the party's reasonable control, including but not limited to, any court order or judgment resulting from any litigation affecting the validity of the Redevelopment Plan or the Redevelopment Project.

**8.22. Conflicts of Interest.** No member of the City Council or any branch of the City's government who has any power of review or approval of any of the Corporation's or the Site Developer's undertakings, or of the City's contracting for goods or services for the Redevelopment Area, shall participate in any meetings or decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict, disclose in writing to the City Council the nature of such interest and seek a determination by the City Council with respect to such interest and, in the meantime, shall not participate in any meetings, actions or discussions relating to the activities herein proscribed. No member of the Board of Directors shall participate in any meetings or decisions of the Corporation which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested or employed. Any member of the Board of Directors having such interest shall immediately, upon knowledge of such possible conflict, disclose in writing to the Board of Directors the nature of such interest and seek a determination by the Board of Directors with respect to such interest and, in the meantime, shall not participate in any meetings, actions or discussions relating to the activities herein proscribed.

**8.23. Effective Date; Term.** This Agreement shall become effective on the date set forth herein following execution by such Parties. This Agreement, and all of the rights and obligations of the

parties hereunder, shall terminate and shall become null and void on that date which is twenty-three (23) years from the effective date of adoption of the TIF Ordinance; provided that this Agreement may terminate sooner upon the earlier of (a) the completion of the Site Development Project and the payment in full to the Site Developer of the Maximum Reimbursable Amount under this Agreement, or (b) the delivery of a written notice by the Site Developer that this Agreement has been terminated pursuant to Section 7.4 hereof.

**8.24. Electronic Means**. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**8.25. Actions Contesting the Validity and Enforceability of the Redevelopment Plan**. In the event a third party brings an action against the City, the City Council, or the City's officials, agents, employees or representatives, or against the Corporation, the Board of Directors, or any officer, agent, employee or representative of the Corporation contesting the validity or legality of the Redevelopment Area, the Redevelopment Plan, the Master Redevelopment Agreement, any TIF Obligations, or any ordinance approving any of the foregoing or this Agreement, the Site Developer may, at its option, assume the defense of such claim or action with counsel of the Site Developer's choosing, but the Site Developer may not settle or compromise any claim or action for which the Site Developer has assumed the defense without the prior approval of the City and the Corporation. If the City or the Corporation does not approve a settlement or compromise which the Site Developer would agree to, the Site Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action. The parties expressly agree that so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City, the Corporation and the Site Developer in any such proceeding; provided, the Site Developer and its counsel shall consult with the City and the Corporation throughout the course of any such action and the Site Developer shall pay all reasonable and necessary costs incurred by the City and the Corporation in connection with such action. All cost of any such defense, whether incurred by the City, the Corporation or the Site Developer, shall be deemed to be Redevelopment Project Costs and reimbursable under this Agreement and the Master Redevelopment Agreement.

**8.26. No Indirect Damages**. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER ANY PROVISION OF THIS AGREEMENT OR OTHERWISE FOR LOST PROFITS, INCLUDING LOST OR PROSPECTIVE PROFITS, OR FOR ANY OTHER SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT CAUSED BY OR RESULTING FROM SUCH PARTY'S OWN, SOLE OR CONCURRENT NEGLIGENCE OR THE NEGLIGENCE OF ANY OF ITS EMPLOYEES, OFFICERS, OR AGENTS ACTING IN THEIR OFFICIAL CAPACITY, AFFILIATES OR RELATED PARTIES; PROVIDED THAT WITHOUT LIMITING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS OF EACH PARTY ARISING OUT OF THIRD PARTY CLAIMS FOR ANY OF THE FOREGOING.

**8.27. Recording; Covenants to Run With the Land**. This Agreement shall be recorded by the City in the real estate records of the County upon execution and delivery by each Party. The covenants set forth in this Agreement are not personal to the Parties and shall be binding upon all of the Property, shall run with the Property, and shall be binding on all future owners of the Property.

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed by their respective officers or officials.

**CITY OF JOPLIN, MISSOURI**

By: _____
Mayor

[SEAL]

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

STATE OF MISSOURI )
)
COUNTY OF JASPER )

On this _____ day of _____, 2014, before me appeared _____, to me personally known, who, being by me duly sworn, did say that she/he is the _____ of THE CITY OF JOPLIN, MISSOURI, a constitutional home rule charter city and political subdivision, and that said instrument was signed in behalf of said city and political subdivision by authority of its Board of Directors; and said _____ acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County or City and State aforesaid, the day and year first above written.

_____
Notary Public

(SEAL)

My Commission Expires:

**[CORPORATION SIGNATURE FOLLOWS IN THE NEXT PAGE]**

**CONTINUATION OF SIGNATURE PAGE**

**JOPLIN REDEVELOPMENT CORPORATION, INC.**

[SEAL]

By: _____
Name: _____
Title: _____

ATTEST:

_____
Name:_____
Title: _____

STATE OF MISSOURI )
)
COUNTY OF JASPER )

On this _____ day of _____, 2014, before me appeared _____, to me personally known, who, being by me duly sworn, did say that she/he is the _____ of JOPLIN REDEVELOPMENT CORPORATION, an urban redevelopment corporation[**, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation**] [**, and that the corporation has no seal**], and that said instrument was signed [**and sealed** ]in behalf of said corporation by authority of its Board of Directors; and said _____ acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County or City and State aforesaid, the day and year first above written.

_____
Notary Public

(SEAL)

My Commission Expires:

**[SITE DEVELOPER'S SIGNATURE APPEARS ON THE NEXT PAGE]**

**CONTINUATION OF SIGNATURE PAGE**

**JOPLIN VILLAS, LLC**,
a Missouri limited liability company

By: _____
David G. Wallace, Co-Manager

By: _____
Patrick E. O'Reilly, Co-Manager

**[NOTARY ACKNOWLEDGEMENTS APPEAR ON THE NEXT PAGE.]**

STATE OF _____ )
)
COUNTY OF _____ )

On this _____ day of _____, in the year 2014, before me, _____, a Notary Public in and for said state, personally appeared DAVID G. WALLACE, the Co-Manager of Joplin Villas, LLC, a Missouri limited liability company, known to be the person who executed the within agreement in behalf of said limited liability company and acknowledged to me that she/he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County or City and State aforesaid, the day and year first above written.

_____
Notary Public

(SEAL)

My Commission Expires:

STATE OF _____ )
)
COUNTY OF _____ )

On this _____ day of _____, in the year 2014, before me, _____, a Notary Public in and for said state, personally appeared PATRICK E. O'REILLY, the Co-Manager of Joplin Villas, LLC, a Missouri limited liability company, known to be the person who executed the within agreement in behalf of said limited liability company and acknowledged to me that she/he executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County or City and State aforesaid, the day and year first above written.

_____
Notary Public

(SEAL)

My Commission Expires:

## EXHIBIT A

## DESCRIPTION OF THE PROPERTY

**Parcel 1**

All of the South 515 feet of the following described tract of land set forth in Quit-Claim Deed recorded in Book 1142 at Page 742: Beginning at a point 25 feet South of the Northeast corner of the Northwest Quarter of the Southeast Quarter of Section 16, Township 27 North, Range 33 West, Jasper County, Missouri, thence South along the East line of said 40 acres to the Southeast corner of said 40 acres, thence West along the South line of said 40 acres 495 feet, thence North to the South line of 26th Street, thence East along the South line of 26th Street to the place of beginning, being a part of MISCELLANEOUS TRACT NO. 11, in Section 16, Township 27 North, Range 33 West, in the City of Joplin, Jasper County, Missouri, according to the recorded Plat thereof.

**Parcel 2**

All of Lots Numbered Ten (10) through Thirteen (13), both inclusive, in WOODLAND HILLS SOUTH, a Sub-division in the City of Joplin, Jasper County, Missouri, according to the recorded Plat thereof.

And:

All of Lots Numbered Fourteen (14) through Seventeen (17), both inclusive, and All of Lot Numbered Eighteen (18), EXCEPT the North 26 feet thereof, in WOODLAND HILLS SOUTH, a Sub-division in the City of Joplin, Jasper County, Missouri, according to the recorded Plat thereof.

**Parcel 3**

All of the North 135 feet of Lot Numbered One (1) in RICHARD J. JOSEPH'S SUB-DIVISION, in the City of Joplin, Jasper County, Missouri, according to the recorded plat thereof.

**Parcel 4**

An easement for ingress/egress over the east 25 feet of the following described tract of land except the south 515 feet; As set forth in quick claim deed recorded in book 1142 page 742: Beginning at a point 25 feet south of the northeast corner of the northwest quarter of the southeast quarter of section 16, township 27 north, range 33 west, Jasper County, Missouri, thence south along the east line of said 40 acres to the southeast corner of said 40 acres; thence west along the south line of said 40 acres 495 feet, thence north to the south line of 26th street, thence east along the south line of 26th street to the place of beginning, being a part of the miscellaneous tract no 11., section 16, township 27 north, range 33 west, in the city of Joplin, Jasper County, MO, according to the recorded plat thereof. Being subject to all easements, right-of-ways and reservations of record.

**EXHIBIT B**

**FORM OF CERTIFICATE OF REIMBURSABLE REDEVELOPMENT PROJECT COSTS**

Certificate of Reimbursable Redevelopment Project Costs

TO: Joplin Redevelopment Corporation, Inc.
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
Attention: Chairman

City of Joplin
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
Attention: City Manager

Re: City of Joplin, Missouri, Joplin Recovery Tax Increment Financing District

*Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Site Development Agreement dated as of _____, 2014 (the "Agreement") among the City, the Corporation and the Site Developer. In connection with said Agreement, the undersigned hereby states and certifies that:*

1. Each item listed on **Schedule 1** hereto is a Redevelopment Project Cost eligible for reimbursement under the Agreement, the Master Redevelopment Agreement, or the TIF Act and was incurred in connection with the development of the Site Development Project, a portion of the Redevelopment Project, by the Site Developer, acting under its contractual agreements to perform the Site Developer's Work on behalf of the Corporation.

2. These Redevelopment Project Costs reimbursable under the Agreement, the Master Redevelopment Agreement, and the TIF Act have been paid by the Site Developer and are reimbursable under the TIF Ordinance, the Agreement, and the Master Redevelopment Agreement.

3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived by the Corporation from the Special Allocation Fund or any money derived from any project fund established pursuant to the Trust Indenture, and no part thereof has been included in any other certificate previously filed with the City.

4. There has not been filed with or served upon the Site Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.

5. If any cost item to be reimbursed under this Certificate is deemed not to constitute a Redevelopment Project Cost within the meaning of this Agreement, the Site Developer shall have the right to substitute other eligible Reimbursable Redevelopment Project Costs for payment hereunder in accordance with the terms of the Agreement.

6. The Site Developer is not in default or breach of any term or condition of the Agreement.

Dated this _____ day of _____, 20___.

**JOPLIN VILLAS, LLC**, a Missouri limited liability company

By: _____
Name: _____
Its: _____

Approved for Payment this _____ day of _____, 20___:

**CITY OF JOPLIN, MISSOURI**

By: _____
Printed Name: _____
Director of Finance

**EXHIBIT C**

**FORM OF CERTIFICATE OF COMPLETION**

Site Developer's Certificate of Completion

The undersigned, ( or its successors or assigns) (the "Site Developer"), pursuant to that certain Site Development Agreement (the "Agreement"), dated as of _____, 2014, among the City of Joplin, Missouri (the "City"), the Joplin Redevelopment Corporation (the "Corporation") and the Site Developer, hereby certifies to the City as follows:

1. That as of _____, 20___, the construction, renovation, repairing, equipping and constructing of the Site Developer's Work (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. Such Site Developer's Work has been performed in a workmanlike manner and in accordance with the Construction Plans (as those terms are defined in the Agreement).

3. Lien waivers for the Site Developer's Work have been obtained.

4. This Certificate of Completion is accompanied by the project architect's Certificate of Completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as **Appendix A** and by this reference incorporated herein), certifying that the Site Developer's Work has been substantially completed in accordance with the Agreement.

5. This Certificate of Completion is being issued by the Site Developer to the City and the Corporation in accordance with the Agreement to evidence the Site Developer's satisfaction of all obligations and covenants with respect to the Site Developer's Work.

6. The acceptance by the City and the Corporation (below) or the failure by the City or the Corporation to object in writing to this Certificate within 30 days of the date of delivery of this Certificate to the City and the Corporation (which written objection, if any, must be delivered to the Site Developer prior to the end of such 30 day period), and the recordation of this Certificate with the Jasper County Recorder, shall evidence the satisfaction of the Site Developer's agreements and covenants to perform the Site Developer's Work.

This Certificate shall be recorded in the office of the Jasper County Recorder. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

All certifications or statements made or set forth in this Certificate of Completion are made solely for the benefit of the City and the Corporation and shall not be relied upon or used for any purpose by any third party in any proceeding, claim or contest of any kind, nature or character.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

**IN WITNESS WHEREOF**, the undersigned has hereunto set his/her hand this _____ day of _____, 20___.

**JOPLIN VILLAS, LLC**, a Missouri limited liability company

By: _____
Name: _____
Its: _____

ACCEPTED:

**CITY OF JOPLIN, MISSOURI**

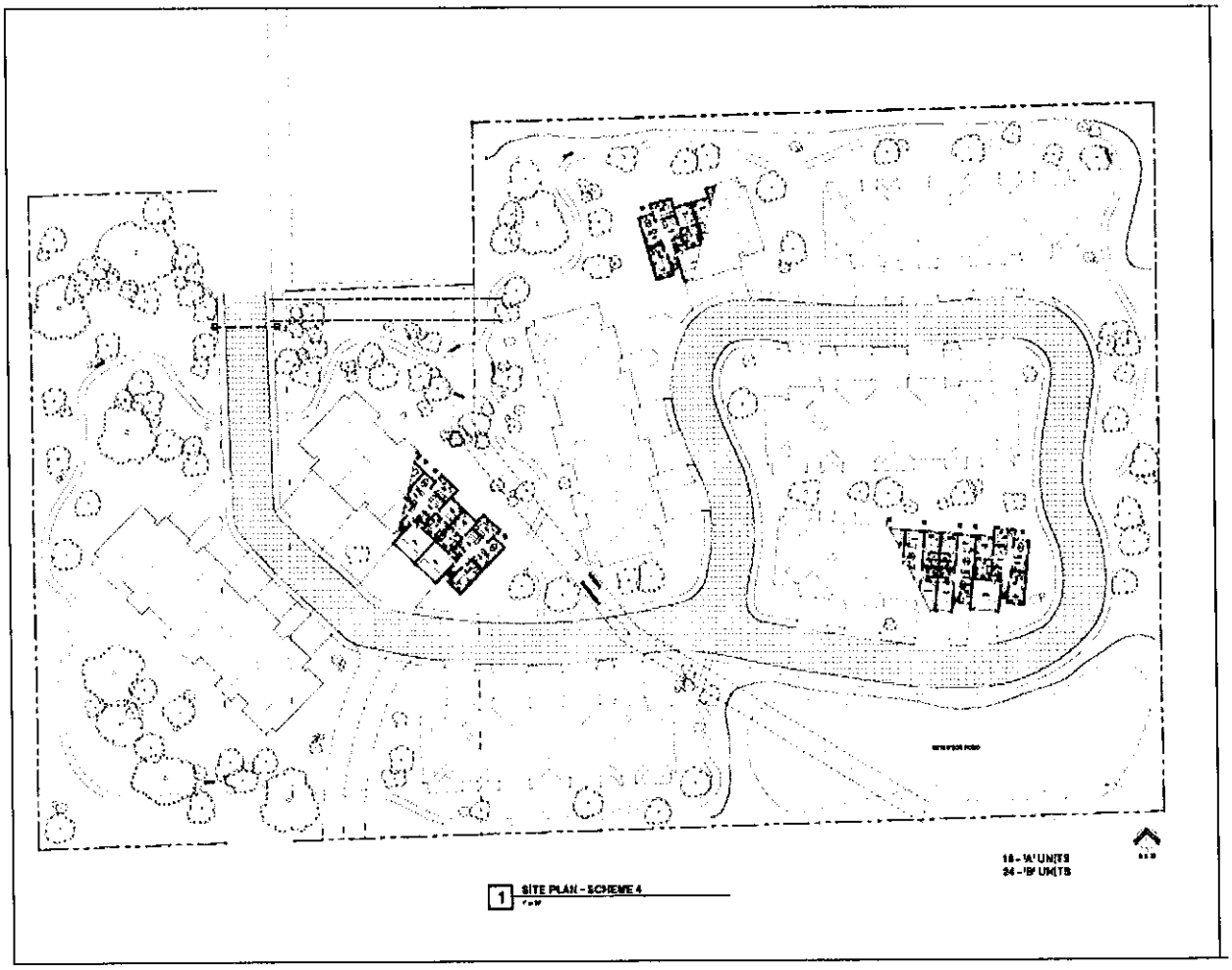
By: _____

**JOPLIN REDEVELOPMENT CORPORATION**

By: _____

(Insert Notary Form(s) and Legal Description)

**EXHIBIT D**
**CONCEPT SITE PLAN**



## EXHIBIT E

## PRIVATE IMPROVEMENTS

Villas and related improvements, as shown on the Concept Site Plan and as described in the Site Development Project Cost Budget.

## EXHIBIT F

## PUBLIC IMPROVEMENTS

Streets, sidewalks, parking facilities, landscaping, streetscaping, underground infrastructure, detention facilities and other Public Improvements, as shown on the Concept Site Plan and as described in the Site Development Project Cost Budget.

EXHIBIT G

SITE DEVELOPMENT PROJECT COST BUDGET

# Villas
## Financial Overview

| Key Assumptions | | | | |
|---|---|---|---|---|
| Unit mix: | | sq ft | Initial Rent | Rent / SF |
| 24 | Villas--1 BR | 1,000 | $1,250.00 | $1.25 |
| 18 | Villas--2 BR | 1,500 | $1,750.00 | $1.17 |
| | Covered parking spaces | | | |
| | Garages | | $50.00 | |

| | First | Second/Gap |
|---|---|---|
| Interest rate, senior debt / Secondary or Gap | 4.50% | 0.00% |
| Term [years] | 20 | 999999999 |
| Income tax rates--ordinary | 0.0% | |
| --capital gains | 0.0% | |
| Construction cost / gross sq foot--Villas | $82.67 | |
| Assumed land price / sq ft | $0.00 | |
| Gross sq feet | 51,000 | |
| Rentable sq feet | 51,000 | |

| Sources and Use of Funds | | |
|---|---|---|
| **Financing** | | |
| Equity investment | 696,084 | |
| TIF | 1,300,000 | |
| Total Gap funding | | 1,996,084 |
| Senior Debt | | 6,000,000 |
| **Total** | | 7,996,084 |
| **Use of Funds** | | |
| Construction costs | | 5,815,946 |
| Pursuit Costs | | 8,000 |
| Land cost | | 1,300,000 |
| Soft costs | | 522,138 |
| Startup expenses, reserve, contingency | | 350,000 |
| **Total** | | 7,996,084 |

**EXHIBIT H**

**SITE DEVELOPMENT SCHEDULE**

| | |
|---|---|
| Acquisition of Land by the Site Developer | Fourth quarter 2014 |
| Commencement of Construction of the Site Development Project | Fourth quarter 2014 |
| Delivery of Certificate of Completion | Third quarter 2017 |

City of **JOPLIN** City Council Agenda Item

**Requested Council Meeting Date: March 17, 2014**
**Council Bill No. 2014-111**

**Item: Reimbursement for Waterline Vault Relocation for the 26th Street Widening: Maiden Lane to Schifferdecker Avenue**

**Originating Department: Public Works – Engineering**

Attachments: 1) Location Map
2) Council Bill No. 2014-111

| | |
|---|---|
| Engineering Department: Dave Hunt DWH | Date: 3/10-14 |
| Department Head: Nicholas A. Heatherly T.B. for Nick Heatherly | Date: 3-10-14 |
| Finance Department: Leslie Haase | Date: 3-11-14 |
| City Attorney: Brian Head | Date: |
| Interim City Manager: Samuel L. Anselm | Date: 3/11/14 |

**Recommended Action:** Payment for relocation of waterline vault and backflow preventer at 1627 W. 26th Street to William D. Cook for the 26th Street Widening from Maiden Lane to Schifferdecker Avenue project.

**Background:** 26th Street was in need of widening from two lanes to three lanes due to the increase in traffic volume and projected regional growth. The widening of 26th Street started under construction in late summer 2013. This project is funded by the previously passed 2004 3/8-cent Capital Improvements Sales Tax and recent TIGER grant funding. The cost for construction for this project is $1,950,065.31. In order to complete the widening project it is necessary to relocate the existing waterline vault and backflow preventer from existing right of way to private property at 1627 W. 26th Street.

**Discussion:** In February 2013, right of way was acquired from Dr. Cook for the 26th Street widening project. It was unknown at that time that there was an existing waterline vault and backflow preventer that serviced the previous structure within the Right of Way purchased. It will be required to be relocated to serve the proposed replacement structure. Staff requested proposals from a number of contractors for the relocation services and performed independent cost estimates.

**Recommendation:** Staff recommends approval for payment of $20,015.00 for the relocation of the existing waterline fire vault and backflow preventer at 1627 W. 26th Street.

N
MCCOY AVE
1627 W 26th St
MAIDEN LN
W 26TH ST
MCCLELLAND BLVD

**COUNCIL BILL NO. 2014-111** **ORDINANCE NO.**

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;

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

Section 1. That the 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.

Section 2. That the City of Joplin authorize payment to William Cook in the amount of $20,015.00 from Account Number 145-4565-520-8650 Project number TG521.

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 Keen, Mayor

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

**Council Bill**

I hereby certify that a sufficient amount is available in the said Capital Improvement Sales Tax Fund, Account Number 145-4565-520-8650 Project TG0521 to pay the amount called for in said contract on the basis of estimates made by the City Engineer.

_____

Leslie Haase, Finance Department

City of **JOPLIN** City Council Agenda Item

**Requested Council Meeting Date: March 17, 2014**

**Item: Council Bill 2014-117**
**Originating Department: Planning and Community Development**

Attachments: 1) Missouri Department of Economic Development- Rebuild Damaged Infrastructure Program (RDIP) Agreement
2) Exhibit A – RDIP Projects
3) Exhibit B – RDIP Project Tracking List
4) Exhibit C - RDIP - Request for Funds Form
5) Council Bill 2014-117

| | |
|---|---|
| P & CD Director: Troy Bolander T.B. | Date: 3-10-14 |
| Department Head: Nick Heatherly T.B. for Nick Heatherly | Date: 3-10-14 |
| Interim City Manager: Sam Anselm | Date: 3/10/14 |
| Finance Department: Leslie Haase | Date: 3-11-14 |
| City Attorney: Brian Head | Date: 3-11-14 |

**Recommended Action:** Approval of Council Bill 2014-117 on emergency basis.

**SUMMARY:**

The following is an agreement between the City of Joplin, the Missouri Department of Economic Development and the Missouri Office of Administration for the distribution of $14,000,000 to the City of Joplin through the State of Missouri Rebuild Damaged Infrastructure Program (RDIP). The program was specifically created for the City of Joplin to help with the reconstruction, replacement, renovation or repair to infrastructure damaged by the May 22, 2011 tornado.

A condition of the RDIP program is the funds are to be used for infrastructure activities that are currently not included in the Community Development Block Grant Disaster Recovery (CDBG-DR) plan or recovery plan. Staff has identified $14,000,000 worth of infrastructure activities that will not be funded with CDGB-DR assistance (See EXHIBIT A). Proposed projects include the inspection, evaluation and repair of various storm sewer systems, sanitary sewer systems, sidewalks, curbs, gutters and streets throughout the disaster area. Per the agreement, all RDIP funds must be spent by June 30, 2015.

**RECOMMENDATION:**

Staff recommends approval of the Rebuild Damaged Infrastructure Program Agreement.

**REBUILD DAMAGED INFRASTRUCTURE PROGRAM AGREEMENT**

**THIS REBUILD DAMAGED INFRASTRUCTURE PROGRAM (RDIP) AGREEMENT**, dated as of _____, 2014 [the "Agreement"], between the Missouri Department of Economic Development ["DED"] and the Office of Administration ["OA"], agencies organized and existing under the laws of the State of Missouri [the "State"] and the City of Joplin [the "City"], a Missouri City;

**WITNESSETH:**

**WHEREAS**, on May 22, 2011, the City of Joplin suffered an EF-5 tornado which left a devastating path of destruction causing loss of life and directly impacting almost one-third of the community;

**WHEREAS**, the 96th General Assembly responded to the disaster by passing legislation creating the Rebuild Damaged Infrastructure Program and the Rebuild Damaged Infrastructure Fund; a bill which was signed in to law by the Governor and codified at 33.295.1 and 33.295.2, RSMo, respectively;

**WHEREAS**, the statute directs, *"There is hereby established the 'Rebuild Damaged Infrastructure Program' to provide funding for the reconstruction, replacement, or renovation of, or repair to, any infrastructure damaged by a presidentially declared natural disaster, including, but not limited to, the physical components of interrelated systems providing essential commodities and services to the public which includes transportation, communication, sewage, water, and electric systems as well as public elementary and secondary school buildings";*

**WHEREAS**, the statute further restricts, *"No money in the fund shall be expended for the reconstruction, replacement, or renovation of, or repair to, any infrastructure damaged by a presidentially declared natural disaster when such reconstruction, replacement, renovation, or repair is eligible for funding by the United States Department of Housing and Urban Development through a 2013 supplemental disaster allocation of community development block grant funds";*

**WHEREAS**, Section 19.060 of House Bill 19 (2013) appropriates $14,000,000 in State Revenue to the Rebuild Damaged Infrastructure Fund;

**WHEREAS**, pursuant to the appropriation, funds are available to home rule (charter) cities with more than forty-seven thousand but fewer than fifty-two thousand inhabitants and partially located in any county of the first classification with more than one hundred fifteen thousand inhabitants.

**WHEREAS**, the City of Joplin has expressed a desire for assistance through the Rebuild Damaged Infrastructure Program (hereinafter "RDIP");

**WHEREAS**, the Office of Administration has designated the Department of Economic Development to assist with the administration of the Rebuild Damaged Infrastructure Program;

**WHEREAS**, the Parties desire to set forth their mutual expectations and obligations for participation in the Program and access to the Rebuild Damaged Infrastructure Funds;

**NOW, THEREFORE**, in consideration of the promises and the mutual representations, covenants, and agreements herein contained, and in particular the intent by the City of Joplin to continue infrastructure projects designed to recover from the tornado damage, the intent of the Office of Administration to provide the benefits of funding to the City of Joplin consistent with the statute and the appropriation language, and the intent by the Department of Economic Development to facilitate the use of the funds by providing administration and oversight capacity including but not limited to, determination of eligibility, source documentation and file management, and reporting and compliance, as described herein, DED, OA and the City of Joplin do hereby represent, covenant and agree as follows:

## A. BENEFITS AWARDED

1. Pursuant to the terms of this Agreement, the City of Joplin may be eligible to receive an funding in an amount of up to$14,000,000 in State Revenue from the Rebuild Damages Infrastructure Fund;

2. Joplin has submitted, and DED has approved, the projects set forth in Exhibit A, which is incorporated herein, subject to final determination of costs as provided in this agreement and availability of funding; and

3. All approved projects and their budgets shall be subject to the terms and conditions set forth in this agreement.

Funding for each project shall be considered to be encumbered for the benefit of the City (up to the limits set forth for each project in Exhibit A) upon the submission to DED of a valid contract(s) by the City. Valid contracts establish actual costs. Amendment procedures for projects and project costs are acceptable using the process provided herein. In no event shall the State provide more than $14M total. Cost overruns that exceed $14M total, without the benefit of a decreasing project amendment are not the responsibility of the state. Funds shall be payable to the City, in the manner provided herein, upon submission by the City of proof of completion (including partial completion) and the approval by DED of those costs.

## B. ELIGIBLE COSTS/ELIGIBLE PROJECTS

1. RDIP funds may pay all or a portion of an approved project's costs; however, if the project will require other sources of funds then all such other sources must be committed and used before any RDIP funds may be accessed.

2. No RDIP funds may be used for projects otherwise depicted on the City's approved "CDBG Consolidated Plan" or "CDBG Action Plan" that may be funded through Supplemental Community Development Block Grant funds (CDBG), except where a lack of sufficient CDBG funds are available due to the previous obligation of 100% of available CDBG funding.

3. Consistent with law, RDIP funds may be used for storm sewers and wastewater systems;

4. RDIP funds are not restricted to repair, replacement or restoration of the damaged infrastructure to its original condition or material. The repair, replacement or restoration of damaged infrastructure may be designed to meet current demands, using modern materials, as the disaster area streets, utilities and other infrastructure have been moved as part of the rebuilding process. The loss of trees and other vegetation has created new and expanded locations for drainage and runoff where restoration of previous storm sewers is not feasible or effective.

5. RDIP funds may not be used to pay for costs incurred or costs paid for reimbursement that otherwise would be paid by any federal, state or non-profit agency as part of the disaster recovery.

6. RDIP funds may not be used to pay for costs incurred or costs paid for reimbursement for public infrastructure that directly benefits any private developer where city policies may otherwise require the developer pay for those costs.

7. RDIP funds may not be used to pay for costs incurred or costs paid for reimbursement for public infrastructure that directly benefits any private developer in cases where no city policy exists, without measuring the impact on the developer's rate of return and ensuring such a benefit does not cause an undue enrichment or a return at, or higher than, market rates.

## C. BENEFIT TRACKING/USE OF FUNDS

1. In addition to the state's accounting mechanism used by OA for all state funds, the DED will also track (1) the funds obligated to projects (by line item identified in the budget submitted to DED from the City), (2) the funds drawn from the state and expended (by line item for each approved project), and (3) the funds remaining (by line item for each approved project). The tracking system used by DED is attached as Exhibit B, which is incorporated herein by reference.

2. Funds for approved projects may be obligated using a cost estimate. However, once the bidder has been selected and a contract executed, the City must notify DED of the actual cost of the project and any budgets previously provided must be updated to reflect actual amounts. The sum of the project activity shall not exceed the

amount of the benefit provided under this Agreement or the amount appropriated into the fund.

3. A periodic reconciliation of amounts expended and remaining shall occur with DED and OA and DED and the City.

## D. DRAWS OF FUNDS FROM STATE

1. The City may request draws from the State at intervals consistent with contract terms for approved projects for eligible costs incurred but not yet paid.

2. The City may request draws from the State to reimburse costs incurred and actually paid by the city for approved projects for eligible costs.

3. The City will use the "Request for Funds" forms provided by DED in order to create efficiencies in the process. (see Exhibit C)

4. The Request for Funds forms shall be sent from the City to DED. DED will process the request and provide a copy of the Request for Fund form to OA. OA will create the payment request and initiate the transfer of funds to the City.

5. All approved draws from the State to the City will occur using a wire transfer account currently existing between the two entities. The City Finance Department shall track deposits into that account for appropriate payment to vendors.

## E. REPRESENTATIONS BY THE CITY

The City hereby certifies the following and shall certify compliance with this paragraph upon each request for funding. The City shall document compliance and maintain such documentation to be available to DED for inspection at all reasonable times.

1. The City of Joplin is a home rule city with more than forty-seven thousand but fewer than fifty-two thousand inhabitants and partially located in a county of the first classification with more than one hundred fifteen thousand inhabitants

2. The projects submitted to the state for consideration are eligible for consideration for the RDIP for the reasons set forth in Exhibit A.

3. No projects submitted to the state for consideration for the RDIP are eligible for FEMA Public Assistance and all related appeals regarding eligibility have been exhausted.

4. The CDBG Consolidated Plan and Action Plans provided to the DED describing the use of the Supplemental CDBG funds is complete and accurate and represents to totality of the use of the CDBG funds and therefore may be used as a guide to maintain compliance with the requirements of the RDIP.

5. Any amendments or changes to the CDBG Consolidated Plan or Action Plans shall be shared with the DED using the notification procedures set forth in this Agreement.

6. No projects submitted to the state under the RDIP would result in a duplication of benefits to the City.

7. All approved projects using RDIP funds shall comply with all applicable federal, state and local laws.

8. Procurement for services and contractors shall incorporate free and open competition. The City certifies that its procurement standards for these projects meet or exceed the requirements of State law for state projects.

9. All contracts shall comply with state prevailing wage law.

10. Contracts shall be executed for all projects and shall include appropriate insurance or bonding and contain language that protects and holds harmless the City and State from any claims by third parties resulting from the negligent or intentional action of the contractor.

11. Any acquisition of property to be used for an approved project shall provide proper and reasonable notification to the owner and just compensation shall be made. The City agrees not to use eminent domain without advance written consent by DED.

12. Appropriate accounting shall be established and maintained to track funds obligated to project, funds expended by project and funds remaining for any project and shall be made available to DED or OA upon request.

13. Records and files shall be maintained for each project and must include at a minimum, copies of the procurement materials, a copy of the bid sheets, a copy of the executed contracts, a copy of any engineering or architecture designs, a copy of all invoices received for payment, a copy of proof of payment of all subcontractors, lien waivers, as applicable and any other related documents and shall be made available to DED or OA upon request.

14. In addition to the standards of qualifications, expertise, and experience set forth in the bid documents all contractors paid with RDIP funds shall:
    a. Be required to comply with state law regarding employment of illegal aliens. Be registered to do business in the State of Missouri and be found in Good Standing with the Secretary of State

b. Not be listed on either the state or federal debarred contractor list
c. Not owe any uncontested taxes to the state of Missouri.

## F. DEFAULTS AND REMEDIES

1. In the event that any individual contract is found to not be in compliance with the provisions of this agreement, the cost of that contract shall not be an eligible contract under the provisions of this agreement.

## G. BENEFIT PERIOD

1. All projects shall be completed prior to June 30, 2015. If the City anticipates that any project will not be completed by June 30, 2015, the City must notify DED at the earliest possible opportunity, but in no event later than May 1, 2015.

## H. MISCELLANEOUS PROVISIONS

**1.** Notices. All notices, certificates or other communications required or desired to be given hereunder shall be in writing and shall be deemed duly given when (a) mailed by registered or certified mail, postage prepaid, or (b) sent by overnight delivery or other delivery service which requires written acknowledgment of receipt by the addressee, addressed as follows:

if to the DED, to:

Missouri Department of Economic Development
P.O. Box 118
Jefferson City, Missouri 65102
Attn: Division Director, Business and Community Services

if to the City, to:

City of Joplin
City Hall, Planning, Zoning and Development
602 South Main Street
Joplin, Missouri 64801
Attn: Troy Bolander
Facsimile: 417-625-4738

with a copy of all notices to the City to :

Brian Head

if to the OA, to:

Office of Administration
Division of Facilities Management, Design, and Construction
State of Missouri
301 West High Street, Room 730
Jefferson City, Missouri 65102
Attn: Cathy Brown
Facsimile: 573-751-7277

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when receipted. The DED, OA and the City may from time to time designate, by notice given hereunder to the other, such other address to which subsequent notices, certificates or other communications shall be sent.

2. Amendments. It is anticipated that the Preliminary Project List may be amended from time to time to update costs, to revise project areas, to eliminate projects and to add new projects. Any change made must still meet all eligibility tests and new projects must be approved by DED. This Agreement may only be amended, changed, modified, altered or terminated by a written agreement executed by the DED, OA and the City.

3. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

4. Severability. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

5. Capacity. The signatories to this agreement on behalf of DED, OA and City represent that they have full capacity to sign this agreement and bind their respective parties.

6. Execution in Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

7. Electronic Storage of Documents. The DED, OA and the City agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

*8.* Complete Agreement. All agreements between DED, OA and the City are contained in this Agreement, which contains the complete and exclusive statements of the agreement between the DED, OA and the City, except as the DED, OA and the City may later agree in writing to modify this Agreement.

## I. INTERPRETATION

In this Agreement, unless the context otherwise requires:

1. Headings and notes in brackets are for convenience only and do not alter the interpretation of this Agreement;

2. Words importing the singular include the plural and vice versa;

3. Words importing a gender include all genders;

4. A reference to a paragraph, clause, appendix or schedule is a reference to a paragraph, clause, appendix or schedule of this Agreement;

5. References to any document or agreement include references to such document or agreement as amended, novated, supplemented, varied or replaced from time to time;

6. A reference to a party to this Agreement includes that party's legal successors (including executors and administrators) and permitted assigns; and

7. Words such as "include" or "including" shall not be limiting, but interpreted as "include, without limitation," and "including, without limitation" respectively.

**J. EFFECTIVE DATE.** This agreement shall be in effect from and after _____, 2014.

DEPARTMENT OF ECONOMIC DEVELOPMENT

By:

_____

Mike Downing, CEcD, Director

CITY
By:

_____

Approved as to Form

By:

_____

Nathan Nickolaus, General Counsel

Approved as to Form

By:

_____

Brian Head, City Counselor

OFFICE OF ADMINISTRATION

By:

_____

Doug Nelson, Commissioner

Approved as to Form

By:

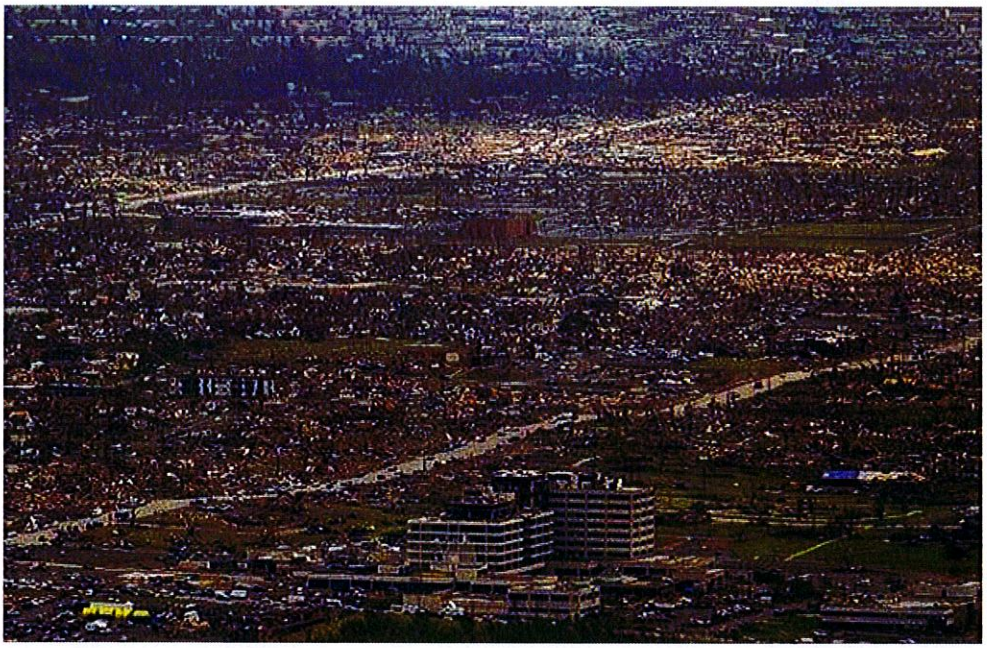
_____

Renee Slusher

# EXHIBIT A - CITY OF JOPLIN, MISSOURI

## REBUILD DAMAGED INFRASTRUCTURE PROGRAM

CCS HCS SB 23



**STORM SEWER SYSTEM:**

The loss of virtually the entire urban forest within the disaster zone has contributed to a substantial increase of both the quantity of stormwater runoff and the amount of sediment being lost across the disaster zone. In order to mitigate these issues, and for the City to comply with the requirements of the NPDES Permit issued by the Missouri Department of Natural Resources, current industry design standards and recognized storm sewer best management practices (BMP's) will be implemented to repair/reconstruct/replace or renovate the storm sewer system within the disaster zone to manage both the increased flow and water quality of the runoff from rainfall events. A combination of channel renovations/repairs, water quality and detention basins, and replacement of existing physical components of the overall conveyance system will be employed to provide the essential storm sewer services within the disaster zone.

The physical components of the storm sewer system, both above and below grade, were substantially impacted by the effects of the tornado and the resulting recovery efforts - the full magnitude of those impacts have yet to be fully identified. Thousands of tons of debris were deposited on the municipal street system which in turn resulted in unknown quantities of sediment and demolition debris being flushed into the conveyance system from the numerous immediate and ensuing rain events that have

followed the disaster. For the system to function properly the sediment and debris must be removed and structural repairs made to those components of the system that have been impacted and damaged.

Initial problem areas have been identified and additional specific storm sewer project details will be identified as part of the initial evaluation and analysis of the selected engineering consultant firms hired to assist the City of Joplin in rebuilding the damaged infrastructure within the disaster zone. The City's in-house knowledge and experience with the storm sewer system pre- and post-event will be incorporated into the process to guide and direct the selection of projects to ensure compliance with the "Rebuild Damaged Infrastructure Program". At this early stage of the process, the City has initially identified the following storm sewer projects for consideration:

**PRELIMINARY STORM SEWER PROJECT LIST:**

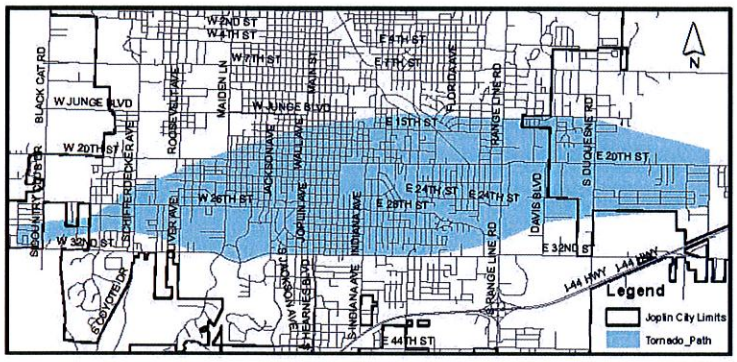
1. Inspection & Evaluation of Storm Sewer System:
   **Project Description**- All elements of the storm sewer collection and conveyance system will be inspected and cleaned of sediment and debris and damaged elements will be identified for renovation, repair, replacement, or reconstruction. This project will establish a detailed engineering assessment of the condition of the entirety of storm sewer system and provide a priority list of the repairs to be accomplished. The overall priorities and the budget will dictate which specific projects will be selected for repair or replacement.

   **Eligibility Statement- Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

   **Proposed Project Timeline** – Consultant Contract in March of 2014, Clean & Video Inspect work order and council approval in February 2014. All work completed in August 2014

   **Estimated Project Cost** –

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $200,000 | $200,000 | | |
| Other Professional Services (Clean & TV inspect) | $350,000 | $350,000 | | |
| | | | | |
| Total | $550,000 | $550,000 | | |




2. Storm Sewer System Repairs:
   **Project Description** – Using the information gathered in Project #1, this project will include the development of detailed plans and specifications and the construction activities to make the repairs to elements of the storm sewer system damaged by the

disaster and ensuing heavy equipment from recovery activities. The overall priorities and the available budget will dictate whether all identified damages will be addressed.

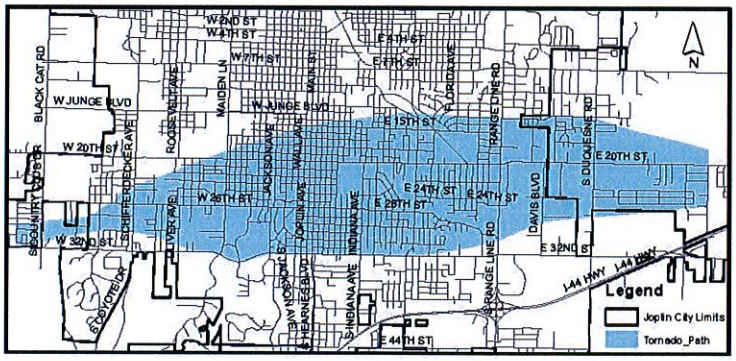
**Eligibility Statement**- This project is an essential component necessary to renovate an essential public commodity which is inter-related to infrastructure which was damaged by a presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in May of 2014, Construction from September 2014 to May 2015.

**Estimated Project Cost** –

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $100,000 | $100,000 | | |
| Construction | $500,000 | $500,000 | | |
| | | | | |
| Total | $600,000 | $600,000 | | |




3. West of Arizona & North of 32nd :

**Project Description** - This project will reconstruct existing channels, inlets and piping, and renovate a large low lying area into a water quality/detention pond in accordance

with current design standards and recognized BMP's. This project will address the increased flows and sediment loads described in the narrative.

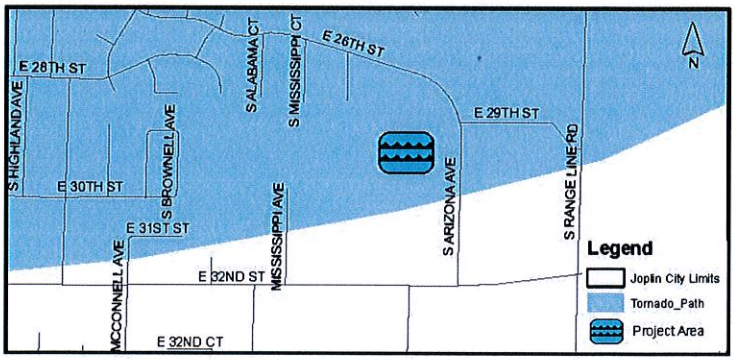
**Eligibility Statement** -
This project is an essential component necessary to renovate an essential public commodity which is inter-related to infrastructure which was damaged by a presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in January of 2014, Construction from August 2014 to May 2015.

**Estimated Project Cost** –

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $245,000 | $245,000 | | |
| Property Acquisition | $850,000 | $850,000 | | |
| Construction | $1,557,000 | $1,557,000 | | |
| Total | $2,652,000 | $2,652,000 | | |




4. Michigan & Kansas Streets from 26th to 30th:

**Project Description** - This segment of the storm sewer system was adversely impacted due to significant amounts of debris that entered the system and numerous uprooted trees that physically altered the conveyance system when they were toppled or uprooted from the

ground. The existing storm sewer system of inlets, piping, and curb & gutter will be evaluated and reconstructed, and repaired or replaced as deemed necessary.

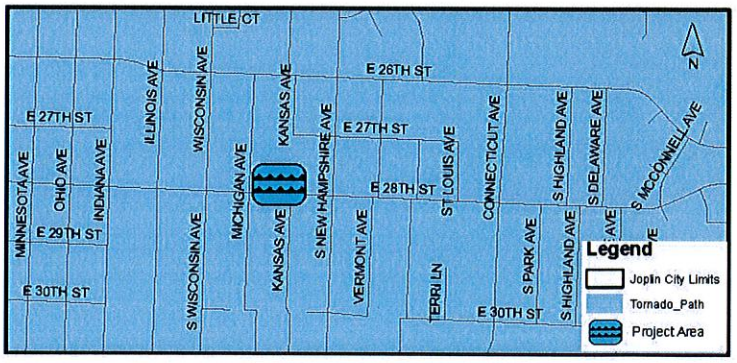
**Eligibility Statement**- This project includes the reconstruction, replacement, repairs, and renovations to existing storm sewer infrastructure that was damaged by the presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in December of 2013, Construction from May 2014 to October 2014.

**Estimated Project Cost** –

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $115,000 | $115,000 | | |
| Property Acquisition | | | | |
| Construction | $585,000 | $585,000 | | |
| Total | $700,000 | $700,000 | | |




5. 15th & Highview Area Drainage System:

**Project Description**- This segment of the storm sewer system was adversely impacted due to significant amounts of debris that entered the system and numerous uprooted trees that physically altered the conveyance system when they were uprooted from the ground. The existing storm sewer system of inlets, piping, and curb & gutter will be evaluated and reconstructed, repaired or replaced as deemed necessary.

**Eligibility Statement-**

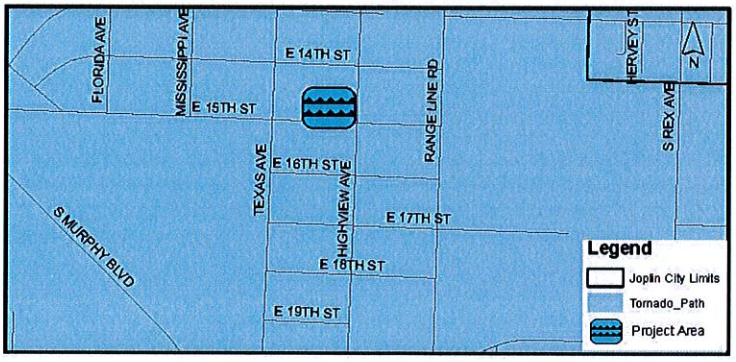
This project includes the reconstruction, replacement, repairs, and renovations to existing storm sewer infrastructure that was damaged by the presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in May of 2014, Construction from September 2014 to March 2015.

**Estimated Project Cost –**

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $60,000 | $60,000 | | |
| Property Acquisition | | | | |
| Construction | $300,000 | $300,000 | | |
| Total | $360,000 | $360,000 | | |




6. 24th & Patterson:

**Project Description** - . This segment of the storm sewer system was adversely impacted due to significant amounts of debris that entered the system and numerous uprooted trees that physically altered the conveyance system when they were uprooted from the ground. The existing storm sewer system of inlets, piping, and curb & gutter will be evaluated and reconstructed, repaired or replaced as deemed necessary.

**Eligibility Statement-**

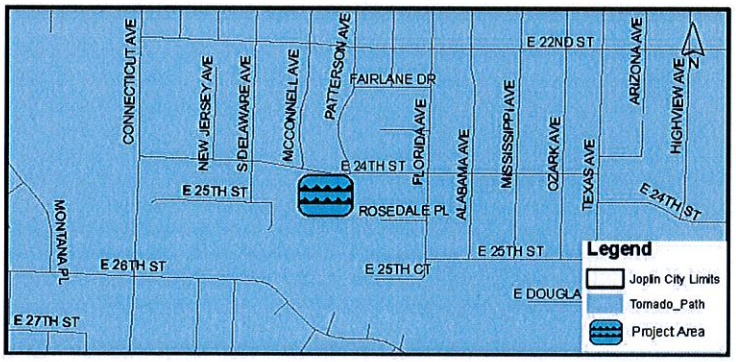
This project includes the reconstruction, replacement, repairs, and renovations to existing storm sewer infrastructure that was damaged by the presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in May of 2014, Construction from September 2014 to January 2015.

**Estimated Project Cost** –

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $15,000 | $15,000 | | |
| Property Acquisition | | | | |
| Construction | $75,000 | $75,000 | | |
| Total | $90,000 | $90,000 | | |




7. Even Avenue to Country Club - South of 29th :

**Project Description**- This segment of the storm sewer system was adversely impacted due to significant amounts of debris that entered the system both during the storm and as a result of the recovery activities. Current design standards and recognized BMP's will be used to reconstruct and repair this segment of the storm sewer system.

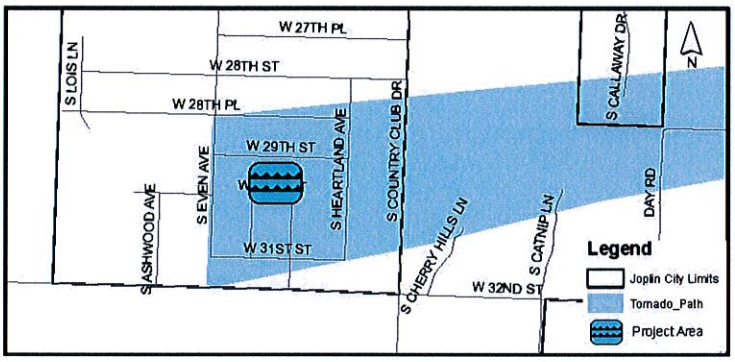
**Eligibility Statement**- This project is an essential component necessary to renovate an essential public commodity which is inter-related to infrastructure which was damaged by a presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in May of 2014, Construction from September 2014 to January 2015.

**Estimated Project Cost** –

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $50,000 | $50,000 | | |
| Property Acquisition | | | | |
| Construction | $250,000 | $250,000 | | |
| Total | $300,000 | $300,000 | | |




8. Pennsylvania & Virginia 31st to 28th:

**Project Description**- This segment of the storm sewer system was adversely impacted due to significant amounts of debris that entered the system and numerous toppled and uprooted trees that physically altered the conveyance system when they were pulled from the ground. The existing storm sewer system of inlets, piping, and curb & gutter will be evaluated and reconstructed, repaired or replaced as deemed necessary.

**Eligibility Statement**-

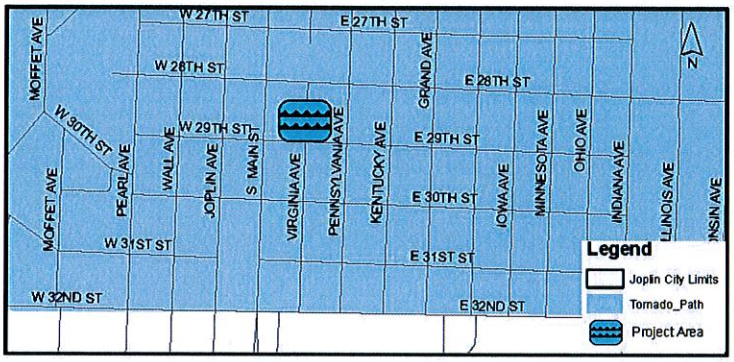
This project includes the reconstruction, replacement, repairs, and renovations to existing storm sewer infrastructure that was damaged by the presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in May of 2014, Construction from October 2014 to April 2015.

**Estimated Project Cost –**

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $80,000 | $80,000 | | |
| Property Acquisition | | | | |
| Construction | $400,000 | $400,000 | | |
| Total | $480,000 | $480,000 | | |




9. Northeast side of Murphy Blvd - South of 15th Street:

**Project Description** – The use of recognized BMP's and current design standards to reconstruct and renovate the existing storm sewer conveyance system will be used to address the increased flow and sediment load in such a manner so as to minimize the impact on downstream properties.

**Eligibility Statement**- This project is an essential component necessary to renovate an essential public commodity which is inter-related to infrastructure which was damaged by a presidentially declared natural disaster.

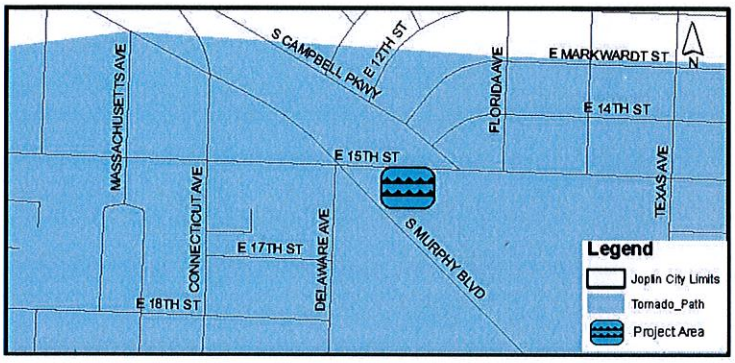
**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in December of 2013, Construction from May 2014 to October 2014.

**Estimated Project Cost –**

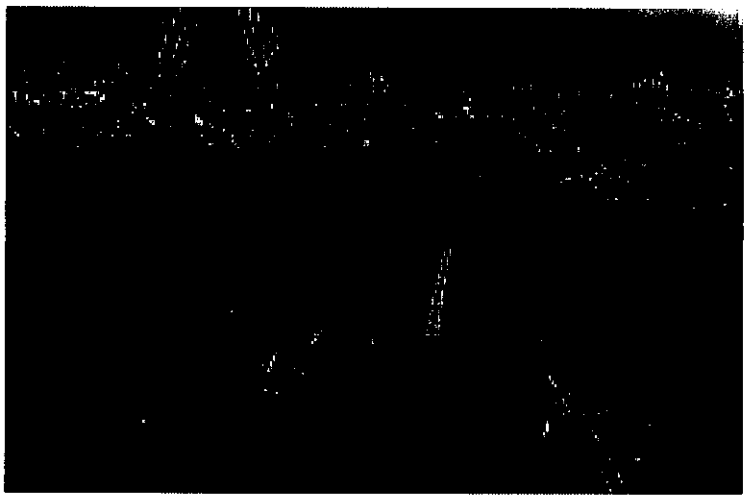
| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| Engineering, Design | $90,000 | $90,000 | | |
| Property Acquisition | | | | |
| Construction | $810,000 | $810,000 | | |
| Total | $900,000 | $900,000 | | |



**SANITARY SEWER SYSTEM:**

The sanitary sewer system was similarly affected in that unknown quantities of sediment and debris has entered the system through missing and open manhole lids and broken service lines to residential and commercial businesses. The tornado uplift removed several hundred manhole lids allowing for innumerable quantities of debris and material to enter the system. The system has to be fully inspected, evaluated for damage, and a plan to renovate and repair the physical components of the system has to be developed as a part of this program.



The proposed project area contains an estimated 450 manholes and over 100,000 linear feet of gravity sanitary sewer collection pipe. Approximately half of the gravity line has already been inspected leaving the estimated 450 manholes and 50,000 to 60,000 linear feet of gravity collection lines remaining to be evaluated. Using information from the previous inspection, as well as the new inspection, a complete list of repairs will be developed that will range anywhere from manhole lid and ring replacement or replacement to renovation and/or repair of damaged lines. The inspection process of the gravity lines will require an initial cleaning to be completed prior to the closed circuit television equipment being inserted into the line.

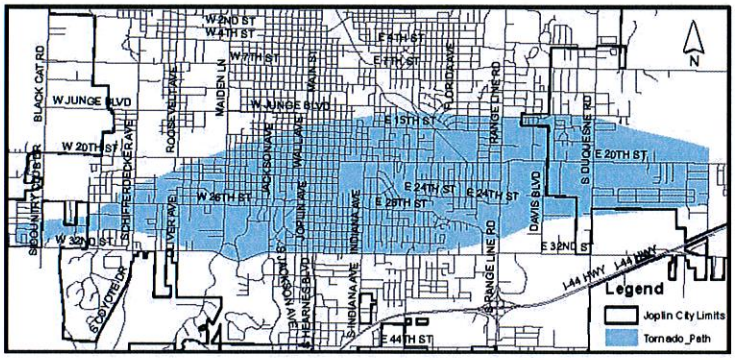
10. Inspection & Evaluation of Sanitary Sewer System:
**Project Description**- Approximately 450 manholes and 50,000 to 60,000 feet of sanitary sewer will be inspected and cleaned of sediment and debris and damaged elements will be identified for repair, renovation, replacement or reconstruction. This project will result in a list of damaged sanitary sewer elements such as manhole lids and rings, and structural elements of the manholes and piping to be repaired, renovated, replaced, or rebuilt.

**Eligibility Statement**- This project is an essential component necessary to renovate an essential public commodity which is inter-related to infrastructure which was damaged by a presidentially declared natural disaster.
**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in March of 2014, Clean & Video Inspect work order and council approval in February 2014. All work completed in August 2014

**Estimated Project Cost –**

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $100,000 | $100,000 | | |
| Other Professional Services (Clean & TV inspect) | $500,000 | $500,000 | | |
| | | | | |
| Total | $600,000 | $600,000 | | |




11. Sanitary Sewer System Repairs:
**Project Description**- Using the information gathered in Project #10, a list of specific projects will be developed for actual repair. The sanitary sewer system will be repaired

and some lines will be replaced, while other lines will be renovated in place. Manholes will also be renovated or replaced as determined by the engineering assessment performed in Project #10. Overall priorities and budget management will dictate the final quantity of repairs to be accomplished.

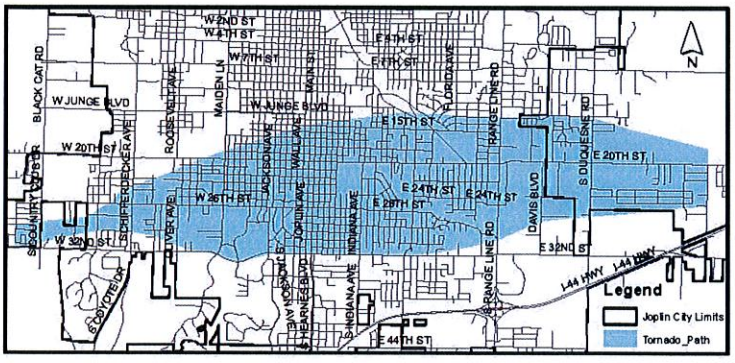
**Eligibility Statement**- This project is an essential component necessary to renovate an essential public commodity which is inter-related to infrastructure which was damaged by a presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in March of 2014, Construction from July 2014 to May 2015.

**Estimated Project Cost** –

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $300,000 | $300,000 | | |
| Construction | $3,000,000 | $3,000,000 | | |
| | | | | |
| Total | $3,300,000 | $3,300,000 | | |



**TRANSPORTATION SYSTEM:**

The recovery efforts required the use of hundreds of dump trucks, track loaders, and excavators to remove the debris from both private property and the public rights-of-way. This heavy equipment, moving over street curbs, storm sewer inlets/boxes, sidewalks, sanitary sewer manholes, and the street surfaces, damaged a major portions of the public infrastructure that had not previously been damaged by the tornado.



Approximately ninety miles of curb & gutter, seven miles of sidewalk, and most streets within the tornado zone will be evaluated for damage. Included in the assessment of the surface elements of the transportation system will be the interrelated components of both the sanitary and storm sewer systems. While the evaluation of the sanitary and storm sewer system will identify specific elements related to those system, all repairs will have to be carefully coordinated with the renovation/repair of the transportation system elements so as to not have one repair adversely impact another.

12. Inspect & Evaluate all Sidewalks, Curb & Gutter, and Pavement Condition:
**Project Description** - Approximately ninety miles of curb & gutter, seven miles of sidewalk, and an estimated 90-lane miles of streets will be evaluated and a detailed damage assessment prepared to identify those portions of the infrastructure that require reconstruction, replacement, renovation, and/or repair.

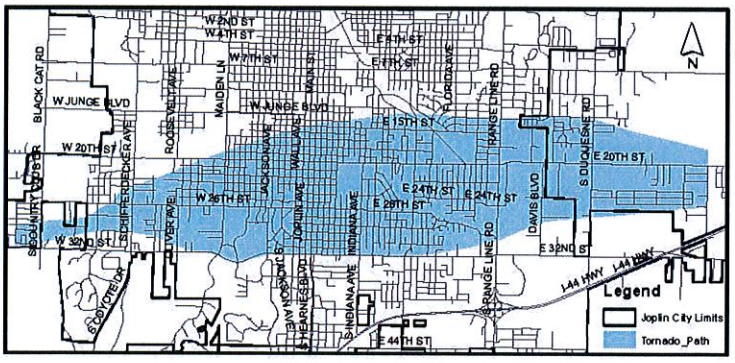
**Eligibility Statement**- This project is an essential component necessary to renovate an essential public commodity which is inter-related to infrastructure which was damaged by a presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in March of 2014, Construction from July 2014 to May 2015.

**Estimated Project Cost –**

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $300,000 | $300,000 | | |
| Construction | | | | |
| | | | | |
| Total | $300,000 | $300,000 | | |




13. Sidewalk, Curb & Gutter and Pavement Repairs:
**Project Description** – Using the information gathered in Project #12, detailed plans and specifications will be developed and construction activities will take place to renovate, reconstruct, replace or repair all sidewalks, curb & gutters, and pavement damaged as a

result of the disaster and recovery activities. Overall priorities (including a primary focus inside the EDR) and budget will dictate the limits of the work performed.

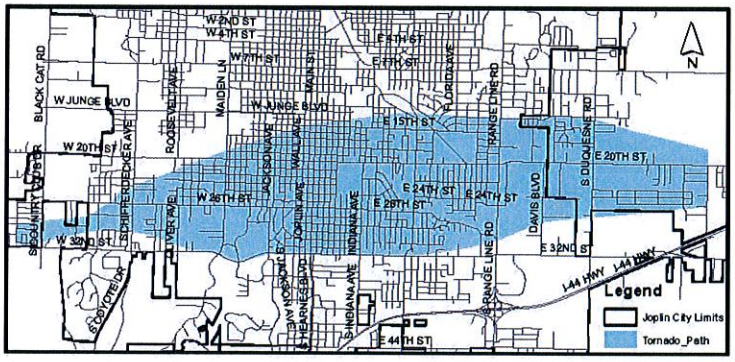
**Eligibility Statement**- This project includes the reconstruction, replacement, repairs, and renovations to existing storm sewer infrastructure that was damaged by the presidentially declared natural disaster.

**Statement Affirming Project is Not Included in CDBG Action Plan** – This project is not in the City of Joplin's CDBG Action Plan.

**Proposed Project Timeline** – Consultant Contract in March of 2014, Construction from July 2014 to May 2015.

**Estimated Project Cost** –

| Activity | Total Estimate of Cost | Rebuild Damaged Infrastructure Funds | Source | Source |
|---|---|---|---|---|
| Engineering, Design | $300,000 | $300,000 | | |
| Construction | $2,868,000 | $2,868,000 | | |
| | | | | |
| Total | $3,168,000 | $3,168,000 | | |




**SUMMARY:**

The "Rebuild Damaged Infrastructure Program", established by CCS HCS SB 23, stipulated that none of the money in the fund should be used to reconstruct, replace, renovate or repair any damaged infrastructure that would be eligible for funding through the offices of HUD with the 2013 supplemental disaster allocation. Given this stipulation, the City has selected a portion of the overall disaster zone

that is ineligible for the use of the HUD funds, and/or projects that would not be eligible for those funds, to receive the awarded state allocation.

**PRELIMINARY PROJECT SUMMARY**

| Project Number | Description of Project | Total Project Cost | RDIP Funds | Other Sources | Other Sources |
|---|---|---|---|---|---|
| 1 | Inspection/Evalualtion of Storm Sewer System | $550,000 | $550,000 | - | - |
| 2 | Storm Sewer System Repairs | $600,000 | $600,000 | - | - |
| 3 | West of Arizona & North of 32nd Street | $2,652,000 | $2,652,000 | - | - |
| 4 | Michigan & Kansas Streets from 26th to 30th | $700,000 | $700,000 | - | - |
| 5 | 15th & Highview Area Drainage System | $360,000 | $360,000 | - | - |
| 6 | 24th & Patterson | $90,000 | $90,000 | - | - |
| 7 | Even Avenue to Country Club | $300,000 | $300,000 | - | - |
| 8 | Pennsylvania & Virginia from 31st to 28th | $480,000 | $480,000 | - | - |
| 9 | Northeast side of Murphey – South of 15th Street | $900,000 | $900,000 | - | - |
| 10 | Inspection & Evaluation of Sanitary Sewer System | $600,000 | $600,000 | - | - |
| 11 | Sanitary Sewer System Repairs | $3,300,000 | $3,300,000 | - | - |
| 12 | Inspection/Evaluation of Sidewalks, Curb & Gutter, Payement | $300,000 | $300,000 | - | - |
| 13 | Sidewalk, Curb & Gutter and Pavement Repairs | $3,168,000 | $3,168,000 | - | - |
| **TOTAL** | | **$14,000,000** | **$14,000,000** | **-** | **-** |

EXHIBIT B

| Project Number | Box 1<br>RDIP Project Title | Box 2<br>RDIP Project Description | Box 3<br>Total RDIP Project Budget | Project Category | Box 4<br>RDIP Budget Details<br>Budget Category | Box 5<br>Amount | Box 6<br>Request for Funds<br>1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | Box 7<br>Remaining Funds | Box 8<br>Total Budget Check | Outside Funding Sources and Amounts | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | | | | A | Engineering | | | | | | | | | | | $0 | | | |
| | | | | B | Inspection | | | | | | | | | | | $0 | | | |
| | | | | C | Construction | | | | | | | | | | | $0 | $0 | | |
| | | | | D | Acquisition | | | | | | | | | | | $0 | | | |
| | | | | E | Other Professional Svs | | | | | | | | | | | $0 | | Total | $0 |
| 2 | | | | A | | | | | | | | | | | | $0 | | | |
| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
| 3 | | | | A | | | | | | | | | | | | $0 | | | |
| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
| 4 | | | | A | | | | | | | | | | | | $0 | | | |
| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
| 5 | | | | A | | | | | | | | | | | | $0 | | | |
| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
| 6 | | | | A | | | | | | | | | | | | $0 | | | |
| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
| 7 | | | | A | | | | | | | | | | | | $0 | | | |
| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
| 8 | | | | A | | | | | | | | | | | | $0 | | | |
| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
| 9 | | | | A | | | | | | | | | | | | $0 | | | |
| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
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| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |
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| | | | | B | | | | | | | | | | | | $0 | | | |
| | | | | C | | | | | | | | | | | | $0 | $0 | | |
| | | | | D | | | | | | | | | | | | $0 | | | |
| | | | | E | | | | | | | | | | | | $0 | | Total | $0 |

EXHIBIT B

EXHIBIT C

**Missouri Department of Economic Development**
**Repair Damaged Infrastructure Project**
**Request for Funds Form (RFF)**

| DED Staff Use Only | |
|---|---|
| Staff: | |
| Check No: | |
| Check Date: | |

RFF# _____
Date _____
Amount of this Request
$0.00

**Grantee Name:** **Project #**

Instructions: Submit the originally signed form to: RDIP Program, ATTN: Sallie Hemenway, Department of Economic Development PO Box 118, Jefferson City, MO 65102. The grantee must keep one copy for their files.

**Section 1: Identification of Program Costs**

| Project Number / Category Letter | AMOUNT | Project Number / Category Letter Additional Space Below | AMOUNT |
|---|---|---|---|
| | $ - | | $ - |
| | $ - | | $ - |
| | $ - | | $ - |
| | $ - | | $ - |
| | $ - | | $ - |
| | $ - | | $ - |
| | $ - | | $ - |
| | $ - | | $ - |
| | $ - | | $ - |
| **Total of all Project Costs** | $ - | *must equal box 1 below* | |

**Section 2: Activity Budget Status Report of Project Totals**

| Number | Description | Total Award | This Request | Previous Funds Requested | Remaining RDIP Funds |
|---|---|---|---|---|---|
| 1 | | | | | $ - |
| 2 | | | | | $ - |
| 3 | | | | | $ - |
| 4 | | | | | $ - |
| 5 | | | | | $ - |
| 6 | | | | | $ - |
| 7 | | | | | $ - |
| 8 | | | | | $ - |
| 9 | | | | | $ - |
| | | | | | $ - |
| | TOTALS | $ - | *1* $ - | *2* $ - | *3* $ - |

**Section 3: Authorized Signatures**

I hereby affirm that the information above is true and correct, and the funds requested will be used according to the conditions of the RDIP grant agreement with the State of Missouri.

Typed name: _____ Signature: _____ Date: _____
Typed name: _____ Signature: _____ Date: _____

Only authorized persons may sign the RFF form, and they must do so in the same manner as the signature card.
Preparer: _____ Phone: _____ Email: _____

**NOTES:**

_____

COUNCIL BILL NO. 2014-117 ORDINANCE NO.

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

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

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

WHEREAS, State of Missouri has appropriated Fourteen Million Dollars and no cents ($14,0000,000.00) in State Revenue to the Rebuild Damaged Infrastructure Program (RDIP) and the Rebuild Damaged Infrastructure Fund to help reconstruct, replace, renovate, or repair infrastructure facilities damaged by the EF-5 tornado.

WHEREAS, the City of Joplin has identified Fourteen Million Dollars and no cents ($14,000,000.00) in infrastructure improvements that will not be funded with other sources.

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

Section 1. That the Rebuild Damaged Infrastructure Program Agreement (attached hereto) by and between the City of Joplin, the Missouri Office of Administration and the Missouri Department of Economic Development is hereby approved.

Section 2. That the Interim City Manager is hereby authorized and directed to execute said Agreement, or agreement substantially similar in form, and other documents necessary to complete the agreement requirements by and on behalf of the City of Joplin, Missouri.

Section 3. This ordinance is an emergency within the meaning of Section 2.12 (6) in that said ordinance provides for public improvement 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: March 17, 2014**
**Council Bill No. 2014-118**

**Item: Project management, construction inspection, and material testing: Maiden Lane 9th Street -32nd Street.**

**Originating Department: Public Works – Engineering**

Attachments: 1) Location Map
2) Council Bill No. 2014-118

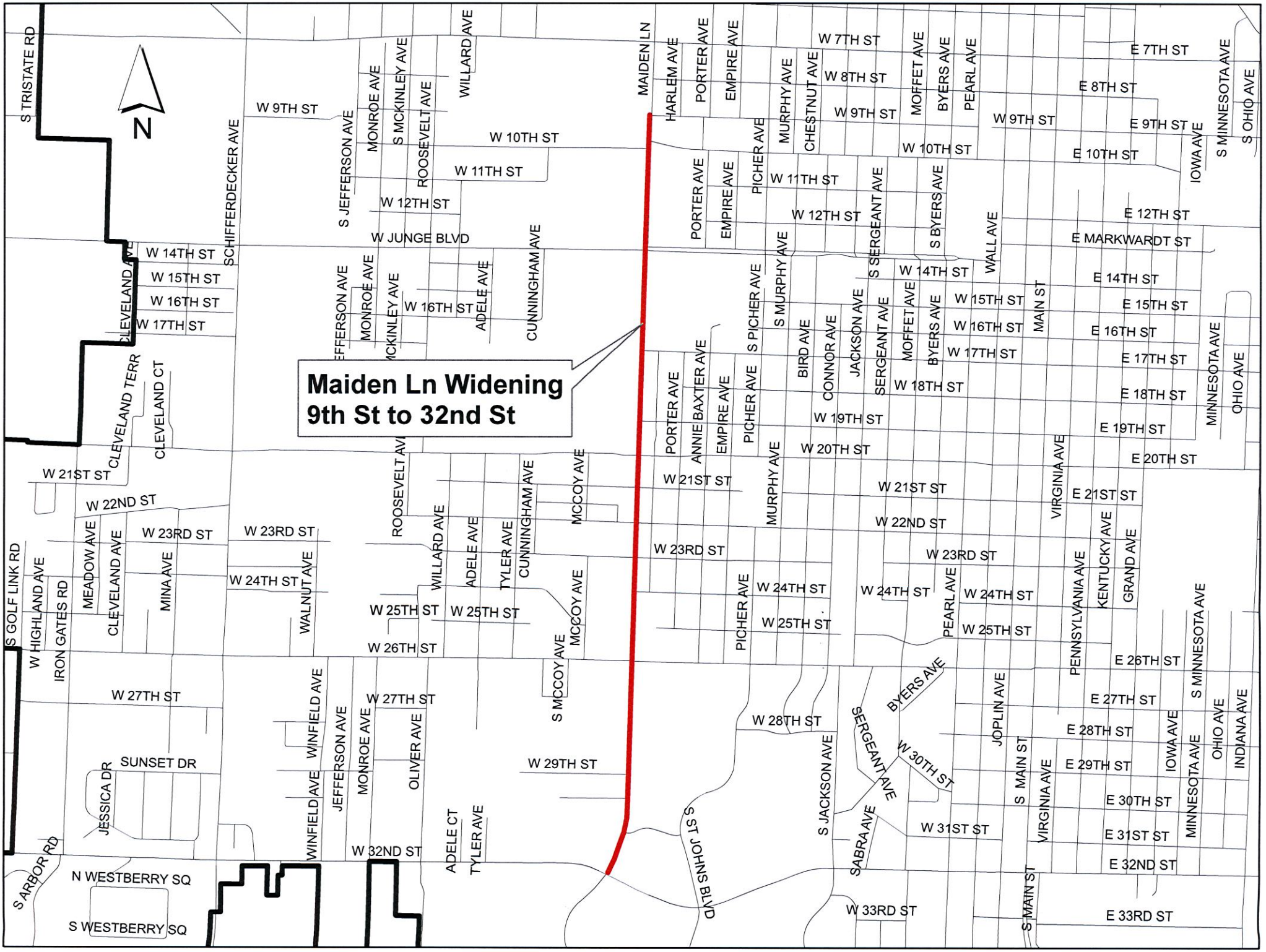
| | |
|---|---|
| Engineering Department: Dave Hunt DWH | Date: 3-10-14 |
| Department Head: Nicholas A. Heatherly T.B. for Nick Heatherly | Date: 3-10-14 |
| Finance Department: Leslie Haase RH | Date: 3-11-14 |
| City Attorney: Brian Head | Date: 3/11/14 |
| Interim City Manager: Samuel L. Anselm | Date: 3/11/14 |

**Recommended Action:** Award of contract to Olsson and Associates for the project management, construction inspection, and material testing for Maiden Lane from 9th Street to 32nd Street for $294,959.20.

**Background:** Maiden Lane was in need of widening from three lanes to five lanes due to the increase in traffic volume and projected regional growth. The widening of Maiden Lane is projected to start in March 2014 and continue through the end of the year. This project is funded by the previously passed 2004 3/8-cent Capital Improvements Sales Tax and recent TIGER grant funding. The cost for construction for this project is $3,853,912.88

**Discussion**. In late 2013 an RFQ was posted for Maiden Lane services including project management, construction inspection, and material testing. Seven firms submitted with Olsson and Associates being selected. In order to complete the widening project it is necessary to hire an engineering firm for the above mentioned functions.

**Recommendation:** Staff recommends entering into a contract with Olsson and Associates for $294,959.20. This is within the engineers estimate.


Maiden Ln Widening
9th St to 32nd St
N
MAIDEN LN
S TRISTATE RD
SCHIFFERDECKER AVE
S JEFFERSON AVE
MONROE AVE
S MCKINLEY AVE
ROOSEVELT AVE
WILLARD AVE
HARLEM AVE
PORTER AVE
EMPIRE AVE
PICHER AVE
MURPHY AVE
CHESTNUT AVE
MOFFET AVE
BYERS AVE
PEARL AVE
S MINNESOTA AVE
S OHIO AVE
IOWA AVE
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CLEVELAND CT
CUNNINGHAM AVE
ADELE AVE
ADELE CT
TYLER AVE
MCCOY AVE
S MCCOY AVE
WALNUT AVE
MINA AVE
MEADOW AVE
W HIGHLAND AVE
S GOLF LINK RD
IRON GATES RD
WINFIELD AVE
JEFFERSON AVE
OLIVER AVE
SUNSET DR
JESSICA DR
S ARBOR RD
N WESTBERRY SQ
S WESTBERRY SQ
ANNIE BAXTER AVE
BIRD AVE
CONNOR AVE
JACKSON AVE
SERGEANT AVE
S SERGEANT AVE
S BYERS AVE
WALL AVE
MAIN ST
S MURPHY AVE
S PICHER AVE
S JACKSON AVE
S MAIN ST
VIRGINIA AVE
PENNSYLVANIA AVE
KENTUCKY AVE
GRAND AVE
JOPLIN AVE
INDIANA AVE
SABRA AVE
S ST JOHNS BLVD

**COUNCIL BILL NO. 2014-118 ORDINANCE NO.**

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.

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

Section 1. That the City enter into an Agreement 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).

Section 2. That the Public Works Director of the City of Joplin, Missouri, is hereby authorized to execute said Agreement for and on behalf of the City of Joplin.

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.

_____
Melodee Colbert Kean, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

I hereby certify that a sufficient amount is available in the Capital Improvement Sales Tax fund, 145-4565-520-8650 Project TG0520.

_____
Leslie Haase, Director of Finance

| CITY | | ENGINEER | |
|---|---|---|---|
| CITY OF JOPLIN<br>602 S. MAIN STREET<br>JOPLIN, MO 64801 | | Name: Olsson Associates<br>Address: 714 Main Street<br>Joplin, MO 64801 | |
| Attention: | | Attention: Jack Schaller | |
| Department: | | Phone: 417-206-9000 | Fax: 417-206-9002 |
| 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:**

Olsson Associates

By: Ronald L. Mersch

Printed Name: Ron Mersch

Title: Office Leader

Date: 3/10/14

**CITY OF JOPLIN, MISSOURI**

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

Date: _____

**MAIDEN LANE IMPROVEMENTS**
**9th STREET TO 32nd STREET**
**JOPLIN, MISSOURI**
**FULL-TIME CONSTRUCTION OBSERVATION AND ADMINSTRATION SERVICES**

**DESCRIPTION OF SERVICES:**

The scope of this work includes the pre-construction preparation, full-time construction observation and administration, materials testing and post-construction documentation for the above referenced project. The estimated fee is based on the construction contract requirements as follows:

> Based on a Notice-to-Proceed date of March 17, 2014 the work will be complete within 300 Calendar Days, on or before January 10, 2015.

**A detailed scope of services is as follows:**

1. Attend a pre-construction conference.
2. Construction Observer(s) to review plans and construction documents and set up appropriate field documentation books.
3. Perform full and part-time construction observation and document the work in progress.
4. Compile a daily diary that documents weather conditions, contractor(s) construction activity, contractor's personnel, equipment utilized, and discovered irregularities in the materials used or quality of work performed.
5. Determine the contractor's compliance with the contract and specifications and reject work and/or materials that are not in compliance.
6. Provide observation and documentation of the project traffic control and detour signage, and communicate deficiencies to the contractor.
7. Provide construction materials testing and reporting in accordance with the testing frequencies outlined in the Missouri Department of Transportation LPA manual, including concrete air, slump and cylinders; soil and base rock proctors and Atterberg limits; aggregate gradations and deleterious substances; soil density testing; aggregate base rock density testing; storm sewer trenches; asphaltic concrete density testing by nuclear gauge; and asphalt content of hot mix asphalt.
8. Perform review of shop drawings and materials submittals and issue back to contractor.
9. Provide Project/Construction Manager oversight throughout construction, including periodic attendance at progress meetings, schedule reviews, dealing with contractor and utility issues, issuance of field orders, work change directives, and change orders, and review and approval of contractor's pay applications.
10. Receive contractor requests for interpretation or clarification on the intent of the contract specifications during construction and issue responses as required. Coordinate with the City, the communication of such responses to the prime contractor.
11. Determine whether or not the contractor is generally adhering to the specifications and plan documents, and schedule through on-going observations.

12. Report to City, giving opinions and suggestions based on the observations regarding defects or deficiencies in the contractor's work and relating to compliance with the contract documents.
13. Provide transportation, equipment, tools and incidentals as necessary to perform the part-time construction observation services.
14. Prior to final walk-through submit to the contractor a list of items observed to require completion or correction.
15. Provide review of final documentation including the final pay estimate, final change order and punch list review.
16. Perform on-site SWPPP inspections weekly and after a ½" rain fall event, coordinate repairs with contractor as required.

**Assumptions**

1. For the construction phase the full-time construction observer's time is estimated at 8-9 hours per day, five days per week, with work on 8 Saturdays in calendar year 2014, with no work on nights, Sunday or holidays.
2. A project manager and associate engineer time estimated at 8 hours each per week average for 42 weeks.
3. Construction observer will confirm quantities with the contractors.
4. All pay estimates and change orders must be approved by the City.
5. One wage rate interview will be performed at four week intervals. Review of payrolls will be performed by Olsson.
6. Olsson estimates that 100 concrete cylinders (4x8) will be cast and broken during construction.
7. Olsson estimates that 2 proctors and 3 Atterberg limits will be performed for the soil and base rock material.

**Exclusions**

1. No time has been included in this fee estimate for surveying associated with utility relocations, setting project control for the contractor prior to construction, staking of temporary easements, or construction staking.
2. No time has been included for Olsson to produce and provide design services of any kind or as-built drawings. As-built drawings will be the contractor's responsibility.
3. No inspections have been identified in association with any correction period that will be included in the construction contract. Those services can be contracted at a later date if requested by the City.

**Maiden Lane**
**City of Joplin, Missouri**
**Estimate of Fee**
**Construction Admin, Observation & Testing During Construction**

OLSSON ASSOCIATES

| | Employee Type | Average Salary | Estimated Hours | Extension |
|---|---|---|---|---|
| **Pre-Construction Phase** | | | | |
| Pre-Construction Meeting | Project Manager | $ 150.00 | 4 | $ 600.00 |
| | Lead Inspector | $ 70.00 | 4 | $ 280.00 |
| | Asst. Engineer | $ 100.00 | 4 | $ 400.00 |
| | Clerical | $ 55.00 | 2 | $ 110.00 |
| Plan & Construction Document Review | Lead Inspector | $ 70.00 | 20 | $ 1,400.00 |
| | Asst. Inspector | $ 55.00 | 8 | $ 440.00 |
| Project Documentation Set-up | Lead Inspector | $ 70.00 | 60 | $ 4,200.00 |
| * Field Books/Project Files/Qty. Checks | Asst. Engineer | $ 100.00 | 10 | $ 1,000.00 |
| Inspection Management | Project Manager | $ 150.00 | 8 | $ 1,200.00 |
| | | **Phase Totals** | **120** | **$ 9,630.00** |
| **Construction Phase** | | | | |
| Daily Observation/Documentation/Coordination, etc. | Lead Inspector | $ 70.00 | 1867 | $ 130,690.00 |
| | Asst. Inspector | $ 55.00 | 756 | $ 41,580.00 |
| Materials Testing | Testing Technician | $ 55.00 | 588 | $ 32,340.00 |
| | Clerical | $ 55.00 | 46 | $ 2,530.00 |
| Shop Drawing & Material Submittal Review | Project Manager | $ 150.00 | 40 | $ 6,000.00 |
| Insp. Mgmt, Mtgs., Reports, Utility Coordination, Contractor | Project Manager | $ 150.00 | 128 | $ 19,200.00 |
| Issues, RFI & Plan Interpretation Response | Asst. Engineer | $ 100.00 | 210 | $ 21,000.00 |
| Clerical - Reports, etc. | Clerical | $ 55.00 | 8 | $ 440.00 |
| | | **Phase Totals** | **3643** | **$ 253,780.00** |
| **Post-Construction Phase** | | | | |
| Punch List & Remedial Work Inspection | Lead inspector | $ 70.00 | 100 | $ 7,000.00 |
| Final Documentation | Project Manager | $ 150.00 | 10 | $ 1,500.00 |
| | Asst. Engineer | $ 100.00 | 20 | $ 2,000.00 |
| | | **Phase Totals** | **130** | **$ 10,500.00** |
| | | **TOTAL DIRECT LABOR** | **3893** | **$ 273,910.00** |
| **F. DIRECT EXPENSES** | | Unit Price | | |
| Inspection Mileage (@$0.56/mi) | 17,945 | $0.56 | | $ 10,049.20 |
| Testing Trip Charges (@ $35/trip) | 155 | $35.00 | | $ 5,425.00 |
| Laboratory Testing | See attachment | $5,375.00 | | $5,375.00 |
| Copies and Mailing | 1 | $200.00 | | $ 200.00 |
| | | **ESTIMATED DIRECT EXPENSES** | | **$ 21,049.20** |
| **TOTAL ESTIMATED FEE - Construction Administration, Observation & Testing** | | | | **$ 294,959.20** |

Assumptions:
Const. Phase - Start 3/17/14; End 01/10/15
300 Calendar Days; 212 Days of Work (includes 8 Saturdays)
No Concrete or Asphalt Plant Inspection Included
Full-time lead inspector
Part-time assist. Inspector & materials tester
No construction drawings available at time of estimate
Materials Testing estimated due to no plans

**Maiden Lane Construction Administration, Observation and Testing**
**City of Joplin, Missouri**
**Estimate of Construction Phase Hours and Vehicle Useage**

OLSSON ASSOCIATES

| Construction Phase | | Start 3/17/2014 | | | | | | | | | End 1/10/2015 | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Subtotal 2013 | Jan | Subtotal 2014 | PHASE TOTALS |
| | Cal Days | 15 | 30 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 31 | 290 | 10 | 10 | 300 |
| | Week Days | 11 | 22 | 22 | 21 | 23 | 21 | 22 | 23 | 20 | 23 | 208 | 7 | 7 | 215 |
| | Est. Working Days | 11 | 21 | 22 | 20 | 22 | 21 | 21 | 23 | 18 | 20 | 199 | 7 | 7 | 206 |
| | Saturdays | 2 | 4 | 5 | 4 | 4 | 5 | 4 | 4 | 5 | 4 | 41 | 1 | 1 | 42 |
| Lead Inspector | Est. Avg. Hrs/Day | 8 | 9 | 9 | 9 | 9 | 9 | 9 | 9 | 9 | 8 | | 5 | | |
| $70.00 | Est. Saturdays Worked | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 0 | 8 | 0 | 0 | 8 |
| | Est. Hours | 88 | 198 | 207 | 189 | 207 | 198 | 198 | 216 | 171 | 160 | 1832 | 35 | 35 | 1867 |
| Asst. Inspector | Est. Avg. Hrs/Day | 0 | 4.5 | 4.5 | 4.5 | 4.5 | 4.5 | 4.5 | 4.5 | 4.5 | 0 | | 0 | | |
| $55.00 | Est. Saturdays Worked | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | Est. Straight Time Hours | 0 | 94.5 | 99 | 90 | 99 | 94.5 | 94.5 | 103.5 | 81 | 0 | 756 | 0 | 0 | 756 |
| | Est. Overtime Hours | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | |
|---|---|---|---|---|
| Project Manager $150.00 | **Calendar Year 2014** | | **Calendar Year 2015** | |
| | Project Manager - 41wks @ 3 hr/wk = | 123 | Project Manager - 1 wk @ 5 hr/wk = | 5 |
| Assist. Engineer $100.00 | Assist. Engineer - 41 wks @ 5 hr/wk = | 205 | Assist. Engineer - 1 wk @ 5 hr/wk = | 5 |

**Estimate of Mileage**

**Pre-Construction Phase**
5 trips = → **650**

| Construction Phases | | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Subtotal 2013 | Jan | Subtotal 2014 | PHASE TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Lead Inspector | Avg. Mi/Day | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 15 | | 10 | | |
| | Days Used | 11 | 22 | 23 | 21 | 23 | 22 | 22 | 24 | 19 | 20 | 207 | 7 | 7 | 214 |
| | Est. Miles | 165 | 330 | 345 | 315 | 345 | 330 | 330 | 360 | 285 | 300 | 3105 | 70 | 70 | **3175** |
| | Commute | 300 | 600 | 600 | 600 | 600 | 600 | 600 | 600 | 600 | 600 | 5700 | 150 | 150 | **5850** |
| Asst. Inspector | Avg. Mi/Day | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | | 0 | | |
| | Days Used | 11 | 21 | 22 | 20 | 22 | 21 | 21 | 23 | 18 | 20 | 199 | 0 | 0 | 199 |
| | Est. Miles | 110 | 210 | 220 | 200 | 220 | 210 | 210 | 230 | 180 | 200 | 1990 | 0 | 0 | **1990** |
| Project Manager | Est. Miles | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 300 | 260 | 260 | **560** |
| Assist. Engineer | Est. Miles | 260 | 520 | 520 | 520 | 520 | 520 | 520 | 520 | 520 | 520 | 4940 | 130 | 130 | **5070** |

**Post-Construction Phase**
5 trips → **650**

**17945**

**Maiden Lane**
**City of Joplin, Missouri**
**Construction Materials Testing**

OLSSON ASSOCIATES

| CONCRETE ITEMS | | Assumptions (Slump, Air, Temp., Cylinders) | | | | | |
|---|---|---|---|---|---|---|---|
| Item | Est. Cu Yd | Est. # of Tests | Tech Hrs. per Test | Est. Tech Hrs. | Est. # of Cylinders | Trip Charge | Est. Clerical Hrs. for Reports |
| 8" Conc. Pvmt Repair | 104 | 4 | 4 | 16 | 8 | 4 | 1 |
| Curb & Gutter | 1085 | 20 | 4 | 80 | 20 | 20 | 5 |
| 6" Drives | 65 | 4 | 4 | 16 | 8 | 4 | 1 |
| 8" Drives | 418 | 8 | 4 | 32 | 16 | 8 | 2 |
| 8" Conc. Gutter | 68 | 3 | 4 | 12 | 8 | 3 | 0.75 |
| Type 'O' Integral Curb | 2 | 1 | 4 | 4 | | 1 | 0.25 |
| 4" Sidewalk | 1095 | 10 | 4 | 40 | 20 | 10 | 2.5 |
| Poured Conc. Wall | 19 | 3 | 4 | 12 | 8 | 3 | 0.75 |
| ADA Ramps | 160 | 15 | 4 | 60 | 8 | 15 | 3.25 |
| Class B Signal Pole Bases | 26 | 2 | 4 | 8 | 4 | 2 | 0.5 |
| **Totals** | 3042 | 70 | | 280 | 100 | 70 | 17 |

| ASPHALTIC CONCRETE | | Assumptions (Gradations, AC Content, In-Place Densities & Cores) | | | | | |
|---|---|---|---|---|---|---|---|
| Item | Est. Tons | Est. # of Gradations | Est. Days of Production w/AC Contents | | | Trip Charge | Est. Clerical Hrs. for Reports |
| Asphaltic Concrete Base | 6078 | 12 | 12 | | | 12 | 6 |
| Asphaltic Concrete Surface | 7725 | 16 | 8 | | | 8 | 8 |
| | Totals | 28 | 20 | | | 20 | 14 |
| | | Est. # of Site Visits | Tech Hrs. per Site Visit | Est. Tech Hrs. | | Trip Charge | Est. Clerical Hrs. for Reports |
| Asphalt Base Compaction | By Nuke | 12 | 6 | 72 | | 12 | 3 |
| Asphalt Surface Compaction | By Nuke | 8 | 8 | 64 | | 8 | 2 |
| | **Totals** | 20 | | 136 | | 20 | 5 |

| SOILS | | Assumptions (In-Place Moisture/Density & Proctors) | | | | | |
|---|---|---|---|---|---|---|---|
| Item | Linear Grading | Est. # of Site Visits | Tech Hrs. per Site Visit | Est. Tech Hrs. | | Trip Charges | Est. Clerical Hrs. for Reports |
| Subgrade Compaction | 5.5 Sta. | 20 | 4 | 80 | | 18 | 5 |
| Assume 2 Proctors Throughout Construction | | | | | | | |

| AGGREGATES | | Assumptions (Gradations, Deleterious, Compaction) | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Item | Est. Tons | Est. # of Gradation Tests | Est. Deleterious Tests | Est. # of PI's | Moisture & Density | Est. Tech Hrs. for M&D | Est. Trip Charges | Est. Clerical Hrs. for Reports |
| 4" Aggregate Base | 977 | 1 | | 1 | 4 per day | 20 | 6 | 1 |
| 2" Aggregate Base | 230 | | | | 4 per day | 12 | 3 | 1 |
| Crushed Stone Backfill | 400 | | | | | | | |
| 8" Crushed Stone Base | 9000 | 1 | | 1 | 4 per day | 60 | 16 | 2.25 |
| FA - Concrete | 1300 | 1 | | | | | 1 | 0.25 |
| CA - Concrete | 2600 | 1 | 1 | | | | | 0.25 |
| Bedding Aggregate - TBD | | 1 | | | | | 1 | 0.25 |
| **TOTALS** | 14507 | 5 | 1 | 2 | | 92 | 27 | 5 |

| RECAP OF TESTING | Units | Unit Cost | Est. Total Cost |
|---|---|---|---|
| Estimated Testing Tech Hrs. | 588 | $ 55.00 | $ 32,340.00 |
| Estimated Clerical Hours | 46 | $ 55.00 | $ 2,530.00 |
| Trip Charges | 155 | $ 35.00 | $ 5,425.00 |
| Concrete Cylnders | 100 | $ 15.00 | $ 1,500.00 |
| Proctors | 2 | $ 140.00 | $ 280.00 |
| Atterberg Limits | 3 | $ 80.00 | $ 240.00 |
| Deleterious | 1 | $ 55.00 | $ 55.00 |
| Oil Content | 20 | $ 165.00 | $ 3,300.00 |
| **Summary** | | | |
| Testing & Clerical Labor | | | $ 34,870.00 |
| Trip Charges | | | $ 5,425.00 |
| Laboratory Testing | | | $ 5,375.00 |
| **ESTIMATED TOTAL TESTING FEES** | | | **$ 45,670.00** |

City of **JOPLIN** City Council Agenda Item

**Requested Council Meeting Date: March 17, 2014**
**Council Bill No. 2014-119**
**Item: Tiger Grant Reporting through completion anticipated to be year end 2015.**
**Originating Department: Public Works – Engineering**

Attachments: Council Bill No. 2014-119

| | |
|---|---|
| Engineering Department: Dave Hunt DwH | Date: 3-10-14 |
| Department Head: Nicholas A. Heatherly T.B. for Nick Heatherly | Date: 3-10-14 |
| Finance Department: Leslie Haase LH | Date: 3-11-14 |
| City Attorney: Brian Head | Date: 3-11-14 |
| Interim City Manager: Samuel L. Anselm | Date: 3/11/14 |

**Recommended Action:** Award of contract to Olsson and Associates: TIGER grant reporting in the amount of $24,000.00

**Background:** In 2012, the City of Joplin was the recipient of a TIGER grant through the Federal Highway Administration. This grant provided 12 Million dollars to offset the city's CIP program and add additional projects. A requirement of this grant is quarterly and yearly reporting until all funds are expended.

**Discussion**. The City of Joplin has consultants pre-selected on an on-call basis for transportation projects. The city has hired Olsson and Associates through their on call service on an individual basis for the last two quarterly reports and one year end report with great results. This contract will carry out reporting through the end of necessary TIGER grant reporting sessions anticipated to be year end 2015.

**Recommendation:** Staff recommends entering into a contract with Olsson and Associates in the amount of $24,000.00. This is within the engineers estimate.

**COUNCIL BILL NO. 2014-119 ORDINANCE NO.**

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.

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

Section 1. That the City enter into an Agreement 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).

Section 2. That the Public Works Director of the City of Joplin, Missouri, is hereby authorized to execute said Agreement for and on behalf of the City of Joplin.

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 | | ENGINEER | |
|---|---|---|---|
| CITY OF JOPLIN<br>602 S. MAIN STREET<br>JOPLIN, MO 64801 | | Name: Olsson Associates<br>Address: 714 Main Street<br>Joplin, MO 64801 | |
| Attention: | | Attention: Jack Schaller | |
| Department: | | Phone: 417-206-9000 | Fax: 417-206-9002 |
| 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:**

Olsson Associates

By: Ronald L. Mersch

Printed Name: Ron Mersch

Title: Office Leader

Date: 3/10/14

**CITY OF JOPLIN, MISSOURI**

By:

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

Date:

**TIGER Grant Projects Reporting**
**City of Joplin, Missouri**
**Estimate of Fee**

OLSSON ASSOCIATES

| | Employee Type | Average Salary | Estimated Hours | Extension |
|---|---|---|---|---|
| **Construction Phase** | | | | |
| Reporting/Documentation/Coordination, etc. | Project Manager | $ 150.00 | 160 | $ 24,000.00 |
| | | **Phase Totals** | **160** | **$ 24,000.00** |
| | | **TOTAL DIRECT LABOR** | **160** | **$ 24,000.00** |
| **TOTAL ESTIMATED FEE - Construction Phase Reporting** | | | | **$ 24,000.00** |

Assumptions:
8 reporting periods, 2 full days per period, plus 2 days float

City of **Joplin** City Council Agenda Item

**Requested Council Meeting Date: March 17, 2014**

**ITEM: COUNCIL BILL NO. 2014-605**

**ORIGINATING DEPARTMENT: FIRE DEPARTMENT**
**ATTACHMENTS: Council Bill No. 2014-605, Bid Tabulation**

| | |
|---|---|
| **FIRE CHIEF MITCH RANDLES:** MDR | **DATE:** 3/11/2014 |
| **CITY MANAGER SAM ANSELM** | **DATE:** 3/6/14 |
| **CITY ATTORNEY BRIAN HEAD:** | **DATE:** 3-11-2014 |
| **FINANCE DIRECTOR LESLIE HAASE** | **DATE:** 3-11-14 |

**BACKGROUND:** In 2006 the Citizens of Joplin passed the ½ cent public safety tax. Part of this tax initiative was the construction of a Fire and Police training facility which would allow the initial and ongoing training of public safety personnel. Part of the equipment which was included in the tax and construction of the training center was outdoor gas-fired live burn training props. The props are needed to place public safety personnel in safe and controlled real-life situations which closely mimic uncontrolled events they will encounter during emergency responses.

**DISCUSSION:**
In February 2014, bids were taken for Outdoor propane live burn training props. Two bids were received from experienced fire prop providers.

These props will include heavy duty training props which duplicate, a fully involved mid-sized passenger car fire, a commercial dumpster fire, a flammable liquid burn pan to simulate a burning flammable liquid spill and a large Christmas tree style prop to simulate a hazardous material pipe fire.

The city did receive two bids for these items one bid from Bullex was determined to not meet the bid requirements set by the department and therefore the bid was determined be non-conforming. It was determined that the second bidder FireBlast training props did meet or exceed all bid requirements and was the best and lowest bidder.

**RECOMMENDATION:**
Staff recommends approval of this Council Bill on an emergency basis.

COUNCIL BILL NO. 2014-605 ORDINANCE NO.

AN ORDINANCE authorizing and approving the City of Joplin to purchase Outdoor gas burn props from FireBlast, for the amount of One Hundred Fifty Seven Thousand, Three hundred and sixty-three Dollars, Zero Cents ($157,363.00); authorizing the City Manager to execute a Purchase Order by and on behalf of the City of Joplin; and, containing an emergency clause.

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

Section 1. To purchase Outdoor gas burn props from FireBlast, for the amount of One Hundred Fifty Seven Thousand, Three hundred and sixty-three Dollars, and Zero Cents ($157,363.00) be and the same is, hereby approved.

Section 2. That the City Manager is hereby authorized and directed to execute said Purchase Order by and on behalf of the City of Joplin, Missouri.

Section 3. That this Ordinance, dealing generally with public safety and a current expenditure of the City of Joplin, is an emergency within the meaning of Section 2.12(1)(3) of the Home Rule Charter of the City of Joplin, Missouri, and, as such, shall be in full force and effect immediately from and after its adoption and approval.

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

_____
Melodee Colbert-Keen, Mayor

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

I hereby certify that a sufficient amount is available in the Building Acquisitions Fund – Account No. 001-6275-510-8005, to pay the amounts called for on the basis of the lowest and best bid received by the Fire Department.

_____
Leslie Haase, Finance Director

# SECOND
# &
# THIRD
# READING

City of Joplin City Council Agenda Item

**REQUESTED COUNCIL MEETING DATE:** March 10, 2014

**ITEM:** Council Bill No. 2014-011 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 actions in connection with the project and the execution of the Performance Agreement.

**ORIGINATING DEPARTMENT:** Legal Department

**ATTACHMENTS:** Council Bill No. 2014-011; Exhibit (Agreement)

| | | |
|---|---|---|
| **DEPARTMENT HEAD:** | Brian W. Head | **DATE:** 3-6-14 |
| **INTERIM CITY MANAGER:** | Sam Anselm | **DATE:** 3/6/14 |
| **FINANCE DIRECTOR:** | Leslie Haase | **DATE:** 3-6-14 |
| **PUBLIC WORKS:** | Nick Heatherly | **DATE:** |
| **PLANNING/C.D.** | Troy Bolander T.B. | **DATE:** 3-6-14 |

**INTRODUCTION:**

This Council Bill approves a Performance Agreement between the City and Joplin Mo (3502 Enterprise) LLC a/k/a Insight Real Estate for the issuance of Chapter 100 Industrial Revenue Bonds and the Construction of warehouse space.

**DISCUSSION:**

Pursuant to the terms of the Agreement a company known as Insight Real Estate will build and lease a 230,000 sq. ft. warehouse to Cott on the existing Cott site. The new facility will be constructed on the east side of the existing structure, and more to the south than the existing structure; with truck aprons on the front. The company currently warehouses across the street. This new facility will improve efficiency of the Cott operation and is configured for better flow of raw materials and customer bound products.

Cliffstar, the predecessor to Cott, came to Joplin 1993 and was purchased by Cott about two years ago. Cott is a multi-national beverage firm and has spent the last eighteen (18) months determining the best utilization of its existing facilities and the Cliffstar facilities. Cott has determined that Joplin can be a key part of its operation with construction of the warehouse to achieve efficiencies noted above. The overall project is $8.2 Million Dollars. Chapter 100 Bonds provide two (2) tax abatements; the first is a sales tax abatement, and the second is the real property abatement. This Agreement provides that the real estate tax abatement is one hundred percent (100%) for the first six (6) years; then reducing in twenty percent (20%) increments each year before fully coming onto the tax rolls in year 11.

The Agreement requires the company to maintain no less than 114 jobs. Presently they employ

133. If the number of employees falls below the 114 on its test date (each Oct), then it will be retested in April the following year. If it does not then meet the minimum, it must pay the pro-rata portion of taxes related to current employment vs. the minimum. If the total employment is below the required threshold for two (2) years in a row, the abatement is terminated.

It is important to note that the new structure will be in the Joplin School District while the existing facility is in the Webb City District since the boundary between Joplin and Webb City Schools runs through the Cott property. At the end of the abatement period, the taxes on the new facility will go to the Joplin School District.

Additional documents will be forthcoming at future meetings in order to issue the bonds.

**RECOMMENDATION**:

Staff recommends approval of this Council Bill on First Reading.

BWH:ab
attachments

COUNCIL BILL NO. 2014-011 ORDINANCE NO. _____

AN ORDINANCE of the City of Joplin, Missouri, 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 actions in connection with the project and the execution of the Performance Agreement.

WHEREAS, the City of Joplin, Missouri, a Home Rule Charter city and political subdivision of the State of Missouri (the "City"), is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and the City's Charter (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in Section 100.010 of the Revised Statutes of Missouri, as amended) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing, office industries and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, the City Council hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City and within the public purposes of the Act that the City enter into a Performance Agreement in substantially the form presented to the City Council (a copy of which shall be filed in the records of the City) for the construction of a 231,350 square foot warehouse/distribution center (with construction of the facility, excluding the real property on which it is constructed, being the "Project") to be leased by the City to Joplin MO (3502 Enterprise) LLC (hereinafter, together with its wholly owned affiliates, referred to as the "Company") and sub-leased by the Company to Cott Corporation (hereinafter, together with its wholly owned affiliates, referred to as "Cott"), in the City of Joplin, Missouri; and

WHEREAS, Section 100.050 of the Act requires the City to prepare a plan in connection with any industrial development project undertaken pursuant to the Act; and

WHEREAS, a Plan for Industrial Development Project (the "Plan") for the Project has been prepared in the form of **Exhibit A** attached hereto; and

WHEREAS, notice of the City's consideration of the Plan has been given in the manner required by the Act, and the City Council has fairly and duly considered all comments submitted to the City Council regarding the proposed Plan; and

WHEREAS, the City anticipates future consideration by the City Council of an ordinance authorizing the issuance of its industrial development revenue bonds for the Project; and

WHEREAS, the City Council further finds and determines that it is necessary and desirable in connection with the approval of the Plan and the execution of the Performance Agreement that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

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

Section 1. **Approval of the Plan and Authorization for the Project.** The City Council hereby approves the Plan for an Industrial Development Project as described on **Exhibit A** attached hereto.

Section 2. **Authorization of Performance Agreement.** The City is hereby authorized to enter into the Performance Agreement between the City and the Company related to the development of the Project.

Section 3. **Execution of Documents.** The Mayor is hereby authorized and directed to execute the Performance Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized and directed to attest to and affix the seal of the City to the Performance Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 4. **Further Authority.** The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Performance Agreement. The Mayor is hereby authorized to execute all documents on behalf of the City as may be required to carry out and comply with the intent of this Ordinance and the Performance Agreement.

Section 5. **Effective Date.** This Ordinance shall take effect and be in full force and effect after its adoption by the City Council and approval by the Mayor.

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

_____
Melodee Colbert-Kean, Mayor

(Seal)

ATTEST:

_____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian W. Head, City Attorney

**EXHIBIT A**

**PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT
FOR JOPLIN MO (3502 ENTERPRISE) LLC, as Lessee, AND COTT CORPORATION AND
COTT BEVERAGE, INC., as Sub-Lessee**

**PERFORMANCE AGREEMENT**

**Dated as of April ___, 2014**

**BY AND BETWEEN**

**JOPLIN MO (3502 ENTERPRISE) LLC**

**AND**

**CITY OF JOPLIN, MISSOURI**

## PERFORMANCE AGREEMENT

**THIS PERFORMANCE AGREEMENT**, dated as of April ___, 2014, as from time to time amended and supplemented in accordance with the provisions hereof (this "**Agreement**"), is by and between the City of Joplin, Missouri, a municipal corporation duly organized and existing under the laws of the State of Missouri (the "**City**"), and Joplin MO (3502 Enterprise) LLC, an Illinois limited liability company qualified to business in the State of Missouri (hereinafter, together with its wholly owned affiliates, referred to as the "**Company**");

### RECITALS:

**WHEREAS**, the City is authorized by Sections 100.010 to 100.210, RSMo, as amended, and Article VI Section 27(b) of the Missouri Constitution (the "**Act**"), to purchase, construct, extend and improve certain facilities for commercial, industrial, warehousing and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for said projects, and to issue revenue bonds for the purpose of paying the cost of any such facilities; and

**WHEREAS**, pursuant to the Act, the City Council of the City expects to issue its Taxable Industrial Revenue Bonds (the "**Bonds**"), in the principal amount of not to exceed $8,200,000 for the purpose of constructing an approximately 231,350 square foot warehouse/distribution center (the "**New Construction,**" with the New Construction, together with any additions, alterations, replacements, substitutions thereto now or hereafter acquired and installed within the facility located on the hereinafter defined Project Site being referred to herein as the "**Project**"), on certain real estate in Joplin, Missouri (the "**Project Site**"), and authorizing the City to lease the New Construction to the Company pursuant to a Lease Agreement to be entered into by and between the City, as lessor, and the Company, as lessee, at the time the Bonds are issued (the "**Lease Agreement**"); and

**WHEREAS,** it is expected that the Company will sublease the New Construction and all or a portion of the Project Site to Cott Corporation ("**Cott**");

**WHEREAS**, the Company filed with the City a Development Plan, together with all revisions (the "**Development Plan**"), providing for the acquisition and installation of the New Construction; and

**WHEREAS**, pursuant to the foregoing, the City desires to enter into this Agreement with the Company in consideration of the Company's desire to cause the acquisition, installation, construction, and equipping of the Project as more fully described in the Lease Agreement and the Development Plan upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Company hereby represent, covenant and agree as follows:

## ARTICLE I

## DEFINITIONS

**Section 1.1. Definitions of Words and Terms.** In addition to the word and terms defined in the Recitals, the following words and terms as used herein shall have the following meanings:

**"Adjacent Cott Property"** means certain real property adjacent to the Project Site which is owned by Cott and on which prior to the date hereof Cott conducted and will conduct certain of its operations in the City, as further described as the "Adjacent Cott Property" in Exhibit A.

**"Agreement"** means this Performance Agreement between the City and the Company, as from time to time amended and supplemented in accordance with the provisions hereof.

**"Annual Jobs Report"** means the Annual Jobs Report required to be filed by the Company by **Section 4.4** hereof. Each Annual Jobs Report shall be certified by Cott.

**"Average Wage"** means $47,368 per year calculated as follows: for the year of determination, the sum of: (a) base wages paid, plus (b) incentive and bonuses awarded to those persons which are engaged in the Jobs hereunder, divided by the average number of Jobs maintained at the Project Site and Adjacent Cott Property for such year.

**"Average Benefits"** means $6,500 in insurance and retirement benefits per job per year calculated as follows: for the year of determination, the total amount of insurance and retirement benefits paid by Cott to persons who are engaged in Jobs hereunder divided by the average number of Jobs maintained at the Project Site and Adjacent Cott Property for such year.

**"County"** means Jasper County, Missouri.

**"Event of Default"** means any Event of Default as provided in **Section 6.1** hereof.

**"Grant"** or **"Grants"** means payments in lieu of taxes made by the Company to the City pursuant to **Section 3.1** of this Agreement.

**"Job"** means a full-time position with Cott of not less than 30 hours per week at the Project Site and Adjacent Cott Property. Positions filled by workers who are not directly employed by Cott do not qualify as "Jobs" for purposes of this definition; provided, however that workers who are employed by a third party company at the Project Site or Adjacent Cott Property pursuant to a written agreement with Cott during an employee's probationary period shall qualify as a "Job" for purposes of this definition; provided, further, that workers performing less than 30 hours per week but not less than 20 hours per week shall constitute one-half of a "Job" for purposes of this definition; provided, further, that such workers who are employed by a Related Taxpayer shall qualify as a "Job" for purposes of this definition.

**"Lease Agreement"** means the Lease Agreement to be entered into by and between the City and the Company at the time of issuance of the Bonds.

**"New Construction"** means the Project located on the Project Site which is transferred to, or acquired by or on behalf of, the City, with the proceeds of the Bonds as more fully described in the Lease Agreement and in Exhibit B attached hereto. The New Construction includes the Project but excludes the Project Site.

**"Penalty Payments"** means the penalty payments provided for in **Article III** hereof.

**"Project"** means the construction of the New Construction at the Project Site to provide for a warehousing/distribution facility in Joplin, Jasper County, Missouri, as more fully described in the Lease Agreement. The Project does not include the Project Site.

**"Project Costs"** means all costs and expenses of every nature relating to the construction of the New Construction.

**"Project Site"** means all of the real estate described as the "Project Site" in Exhibit A as the attached hereto and by this reference made a part hereof.

**"Related Taxpayer"** means (i) a corporation, partnership, trust or association controlled by Cott; or (ii) a corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of Cott or a Related Taxpayer. For the purposes of this definition, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing more than fifty percent of the total combined voting power of all classes of stock entitled to vote; "control of a partnership or association" shall mean ownership of more than fifty percent of the capital or profits interest in such partnership or association; and "control of a trust" shall mean ownership, directly or indirectly, of more than fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the U.S. Internal Revenue Code.

**"Replacement New Construction"** means property located on the Project Site which is purchased, acquired and installed by the Company to replace New Construction which has become, as certified in writing by the Company to the City, inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary or otherwise no longer useful to the Company in its operations conducted on the Project Site.

**"Required Number of Jobs"** means 114 Jobs beginning on October 15, 2014 and each October 15 thereafter through the then remaining term of this Agreement.

**"School District"** means Joplin R-VIII School District (Jasper County, Missouri, Code No. 049-148).

**"Test Date"** means October 15 of each year, beginning on October 15, 2014, and ending on October 15, 2024.

## ARTICLE II

## ISSUANCE OF BONDS

**Section 2.1. Issuance of the Bonds**. As described herein, the City intends to issue the Bonds under the Act for the purposes of paying the Project Costs. In connection with the issuance of the Bonds, the City shall acquire title to the New Construction. By virtue of the City's holding of title to the New Construction, the City expects the New Construction to be exempt from real property ad valorem taxes under Missouri law. The Bonds will have a final maturity no later than 2024. Company is responsible for all costs of issuance of the bonds, including attorneys' fees and underwriting fees. The Bond documents shall contain such terms and conditions as are acceptable to the Company and the City. The Bonds shall be secured solely by the Project and the Lease Agreement, and the City shall have no liability to make payments with respect to the Bonds except from payments made under the Lease and other Bond documents and related transaction documents (other than the Penalty Payments described herein). Other than the security interest in the Project granted pursuant to the Bond documents, the City may not encumber, pledge or grant any lien or security interest in the Project. Unless otherwise specified in writing by the Company at the time the Bonds are issued, when all principal and interest due on the Bonds shall have been paid in full, the Company or its permitted successors and assigns shall purchase the Project for $1,000.

**Section 2.2. Timing of Issuance**. The City and the Company recognize and agree that the conditions precedent to the issuance of the Bonds are not fully within the control of the City or the Company. The City shall not be responsible to the Company for any obligations related to the conditions precedent set forth in this Section in the event said conditions precedent are not satisfied.

The issuance of the Bonds shall be subject to the legislative approval of the City Council of the City and the finalization, execution and delivery of the documents related to the issuance of the Bonds in a form satisfactory to the parties thereto.

The Company and City agree that as of the date of this Agreement the Company has prepared, and the City has approved, a plan for the Project meeting the requirements of Section 100.050, RSMo, as amended (the "Plan"), which is a necessary precondition to the issuance of the Bonds.

## ARTICLE III

## REAL PROPERTY TAX EXEMPTION; PENALTY PAYMENTS

**Section 3.1. Real Property Tax Exemption**. So long as the City owns title to the New Construction, the City expects the New Construction to be exempt from ad valorem taxes on real property. The first year of the exemption period shall begin on January 1 following the year in which the New Construction is transferred to the City, concurrently with the issuance of the Bonds (the "Tax Exemption Period"), and will continue for 10 full calendar years after the New Construction is transferred to the City unless sooner terminated as provided herein. Any

Replacement New Construction shall be exempt from ad valorem taxes on real property for the remaining Tax Exemption Period for the New Construction so replaced. Notwithstanding any other provision of this Agreement to the contrary, the last year of the Tax Exemption Period shall be 2024. The Company shall pay, or cause to be paid, to the City the Grants for the Project in the amounts, and on the dates set forth, on **Exhibit C** hereto. The Grants shall be distributed by the City to each of the taxing districts in which the Project is located proportionately based on their respective then current tax levies compared to the then current total tax levies of all such taxing districts, as provided in Section 100.050, RSMo. Because the goal of the City in providing tax abatement for the New Construction is allowing Cott to maintain competitive unit pricing in order to retain and grow market share, the Company agrees that the economic benefits of the abatement of ad valorem taxes as provided for herein will be passed on to Cott.

**Section 3.2. Penalty Payments Upon Non-Performance.**

(a) The Company covenants that Cott will maintain the Required Number of Jobs at the Average Wage and the Average Benefits at the Project Site and Adjacent Cott Property for so long as this Agreement is in effect. The Company further covenants that the Required Number of Jobs shall have not less than the Average Wage and the Average Benefits for so long as this Agreement is in effect.

(b) In the event that Cott fails to maintain the Required Number of Jobs at the Average Wage and the Average Benefits at the Project Site and the Adjacent Cott Property measured by determining the number of Jobs on each Test Date, then the number of Jobs shall be verified by the Company and certified by Cott on the following April 15. If the number of Jobs is still below the Required Number of Jobs at the Average Wage and the Average Benefits, then the Company shall be required to pay a pro-rata portion of real property taxes abated in the test year, based on the employment numbers. For example, if the number of Jobs at the Average Wage and the Average Benefits certified on November 1, 2015 and April 1, 2016 is 100, it would represent 87.8% of 114, so a payment of 12.2% of the real property taxes abated in 2015 would be due (the "Penalty Payment"). Should the number of Jobs fall below the Required Number of Jobs at the Average Wage and the Average Benefits for two straight years, the Company will pay the Penalty Payment for the applicable test years, and tax abatement under this Agreement will be terminated upon a notice of default from the City to the Company as provided in **Article VI** hereof.

(c) In the event Penalty Payments are required by **Section 3.2(b)** hereof, the Company covenants and agrees to make the Penalty Payments to the City on or before May 1 of the year after each such calendar year in which Cott fails to maintain the Required Number of Jobs at the Average Wage and the Average Benefits, commencing May 1, 2015 and to and including May 1, 2025. All such Penalty Payments shall be made to the City which shall transfer and allocate the same pursuant to Section 100.050 of the Revised Statutes of Missouri, as amended. In no event will the total amount of the Grants and the Penalty Payments exceed the amount of property taxes payable for the New Construction assuming the New Construction is subject to ad valorem property taxes.

**Section 3.3. Obligation to Effect Tax Abatement.** The City shall take all actions within its control to obtain and/or maintain in effect the exemption referred to in **Section 3.1**

above, including any filing required with any governmental authorities; provided, however, the City shall not be liable for any failure of any other governmental taxing authority to recognize the exemption provided herein.

**Section 3.4. Other Property Taxes in Connection with the New Construction; Credits.** The real property tax exemption provided by the City's ownership of the New Construction is expected to apply to all interests in the New Construction during the period it is owned by the City. If any property taxes are levied by or on behalf of the City or any other taxing jurisdiction against any interest in the New Construction during the period the City owns the New Construction (including, without limitation, any taxes levied against the Company's rights in the Lease Agreement), the amount of tax payments related to such levy or levies which are paid by the Company and received by the City or any other taxing jurisdiction shall be credited against and reduce on a pro rata basis the amount of the Grants or Penalty Payments the Company is obligated to pay pursuant to this Agreement. The Company or Cott shall be responsible for any taxes related to (a) any interest in the New Construction which the Company or Cott owns in their own name or granted to the Company or Cott other than pursuant to the Lease Agreement, (b) the Project Site or (c) the Adjacent Cott Property.

**Section 3.5. [reserved].**

**Section 3.6. Sales Tax Exemption**. It is the intent of the parties hereto that the purchase of construction materials related to the New Construction shall be exempt from any sales taxes imposed by any governmental authority by virtue of the City's ownership of the Project. The City shall cooperate in obtaining the necessary sales tax certificate in the form required by the Company. The Company shall be responsible for any taxes levied or assessed by the Missouri Department of Revenue in relation to this New Construction.

**Section 3.7. Company's Right To Protest Taxes.** Notwithstanding any other provision of this Agreement to the contrary, nothing in this Agreement shall be construed to limit or in any way restrict the availability of any provision of Missouri law which confers upon the Company the right to appeal, protest or otherwise contest any property tax valuation, assessment, classification or similar action. The City agrees to cooperate with the Company in any such appeal, protest or contest.

**Section 3.8. Cessation of Operations at the Project**. If for any reason Cott ceases operation at the Project Site or the Adjacent Cott Property during the term of this Agreement, the Company shall make a Penalty Payment to the City equal to 100% of the amounts that would otherwise be payable to each taxing jurisdiction if the Project were not otherwise exempt from taxation on or before December 31 in the year in which the Cott ceases operation and on each December 31 thereafter for each year in which the Project is, on January 1 of such year, still titled in the name of the City, and Cott has ceased operations. Within 30 days of the date of receipt of such Penalty Payment, the City shall divide each Penalty Payment among the taxing jurisdictions within the City in proportion to the amount of the then current ad valorem tax levy of each taxing jurisdiction.

"Ceases operations" or "cessation of operations" means the failure of Cott to employ an average of at least 90 Jobs at the Average Wage and the Average Benefits at the Project and the

Adjacent Cott Property for a period of 6 consecutive months; provided, however, that if such failure is due to a casualty at the Project, such failure shall not constitute the "cessation of operations" provided that Cott promptly commences the reconstruction of the Project and diligently pursues such reconstruction and such reconstruction is completed within 9 months of the casualty event. In the event of such a casualty, the period of time for calculating compliance with the requirements under **Section 3.1** and any amounts due under **Section 3.2** shall exclude the period from the date of the casualty until 6 months after the reconstruction of the Project is complete.

**Section 3.9. No Abatement on Special Assessments, Licenses or Fees.** The City and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project. The Company hereby agrees to make payments with respect to all special assessments, licenses and fees which would otherwise be due with respect to the Project if such Project was not owned by the City.

## ARTICLE IV

## COVENANTS, REPRESENTATIONS AND AGREEMENTS OF THE COMPANY

**Section 4.1. Inspection.** The Company agrees that the City and its duly authorized agents shall have the right at reasonable times (during business hours), subject to at least 48 hours advance written notice and to the Company's usual business proprietary, safety and security requirements, to enter upon the Project Site to examine and inspect the Project and the records of the Company which demonstrate compliance with this Agreement. At or prior to the issuance of the Bonds the Company will cause Cott to certify its acceptance of this provision.

**Section 4.2. Compliance with Laws.** To the best of the Company's knowledge, the Project is and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project, including all applicable building and zoning, health, environmental and safety ordinances and laws.

**Section 4.3. Purchase, Construction, Improvement, Equipping and Operation.** The Project will be acquired, constructed, improved, equipped and operated in a manner which is consistent with the description of the Project herein and in the Lease Agreement. In the event the Project is constructed in a manner which the City determines, in its reasonable discretion, is materially inconsistent with the description of the Project contained herein and in the Lease Agreement and in the presentation to the City Council of the City, the City reserves the right to declare an Event of Default in accordance with **Section 6.1** hereof.

The Project will be constructed entirely within the boundaries of the School District and will be completed by December 1, 2014.

**Section 4.4. Annual Jobs Reports.** The Company shall file with the City annually, commencing on November 1, 2014, and continuing on each November 1 thereafter while this Agreement remains in effect, a report stating the number of Jobs at the Project Site and the

Adjacent Cott Property and Average Wages and Average Benefits with respect to such jobs in such form reasonably satisfactory to the City. Such reports will be certified by Cott.

**Section 4.5. City Approvals**. The City intends that the approval of the Project granted by the City pursuant to this Agreement shall not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval required by law, nor does any approval by the City pursuant to this Agreement constitute approval of the quality, structural soundness or safety of any portion of the Project. The City will not unreasonably withhold any consent or approval required by any City ordinance, code, regulation or any other governmental approval required by law related to the Project; *provided that* nothing herein shall be construed to obligate the City, acting as a party hereto, to grant permits or other approvals the City would not be obligated to grant, acting as a political subdivision, absent this Agreement.

**Section 4.6. General**. The Company represents, warrants and covenants that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(a) The Company is a corporation duly organized, validly existing and in good standing in the State of Illinois and qualified to do business in Missouri;

(b) The Company has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) There are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Company which would impair its ability to perform under this Agreement or its financial condition; and

(d) The Company has obtained (or will, prior to the commencement of construction or operation obtain) and shall maintain all required government permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project.

**Section 4.7. Survival of Covenants**. All warranties, representations, covenants and agreements of the Company contained herein shall survive termination of this Agreement for any reason.

**Section 4.8. Indemnification of City**. The Company shall indemnify, defend and save the City and its officials, officers, employees and agents, including members of the City Council, harmless from and against all claims, demands, costs, liabilities, damages or reasonable expenses, including reasonable attorneys' fees, by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done in, on or about, the Project during the term of the Lease Agreement or this Agreement, and against and from all claims, demands, costs, liabilities, damages or reasonable expenses, including reasonable attorneys' fees, arising during the term of the Lease Agreement or this Agreement from (a) any condition of the Project, (b) any breach or default on the part of the Company in the performance of any of its obligations under this Agreement or the Lease Agreement, or any action requested

of the City by the Company pursuant to the Lease Agreement or this Agreement, (c) any contract entered into in connection with the acquisition, construction, furnishing and equipping of the Project, (d) any act of negligence of the Company or of any of its agents, contractors, servants, employees or licensees, (e) any act of negligence of any permitted assignee or sublessee of the Company, or of any agents, contractors, servants, employees or licensees of any permitted assignee or sublessee of the Company; (f) obtaining any applicable state and local sales and use tax exemptions for materials or goods that become part of the Project, and (g) any violation of Section 107.170 of the Revised Statutes of Missouri, as amended.

## ARTICLE V

## SALE AND ASSIGNMENT

The benefits granted by the City to the Company pursuant to this Agreement shall belong solely to the Company, and such benefits shall not be transferred (other than to Cott or an entity controlled by or under common control with or controlling Cott, so long as such entity has a net worth at the time of such assignment at least equal to the net worth of the Company at the date of such assignment), assigned, pledged or in any other manner hypothecated without the express written consent of the City; but nothing herein shall preclude the Company from assigning or pledging its interest in the Project so long as Cott continues to occupy the Project and otherwise remains responsible for its undertakings herein.

## ARTICLE VI

## DEFAULT AND REMEDIES

**Section 6.1. Events of Default**. If any one or more of the following events shall occur and be continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder (certain performance standards defined in **Section 3.2** above which result in a penalty payment for failure to meet the defined standards shall not be declared to constitute an Event of Default so long as said penalty payments are made in accordance with the terms of this Agreement):

(a) the Company shall fail to perform any of its obligations hereunder for (i) a period of 30 days (or such longer period as the City and the Company may agree in writing) following written notice to the Company from the City of such failure which notice shall include a specific description of the Company's failure hereunder), or (ii) if such failure is not subject to cure within such 30 days, the Company shall have failed to initiate action to cure such default and shall pursue such action diligently;

(b) the Company shall breach any material covenant contained herein and continuance of such breach for a period of 30 days (or such longer period as the City and the Company may agree in writing) after there has been given to the Company by the City a written notice specifying such breach and requiring it to be remedied; provided, that if such breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied, such breach shall not constitute an event of default if the Company shall promptly

upon receipt of such notice commence the curing of such breach and shall thereafter prosecute and complete the same with due diligence and dispatch;

(c) failure of Cott to retain the Required Number of Jobs at the Average Wage and the Average Benefits at the Project Site and Adjacent Cott Property for two straight years as provided in **Section 3.2**; or

(d) any representation of the Company contained herein shall prove to be materially false or erroneous and shall not be corrected or brought into compliance within 30 days (or such longer period as the City and the Company may agree in writing) after there has been given to the Company by the City a written notice specifying such false or erroneous representation and requiring it to be remedied; provided, that if such default cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an event of default if the Company shall promptly upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch.

**Section 6.2. Remedies on Default**. Except as otherwise provided in this Agreement, upon an Event of Default hereunder, this Agreement may be terminated by written notice to the Company from the City. Upon such termination, the Company shall make Penalty Payments (i) for the prior test year as provided in **Section 3.2(b)**, (ii) to the payees set forth in **Section 3.2(b)** equal to the pro rata amount of Penalty Payments payable pursuant to such **Section 3.2(b)** hereof from January 1 through the effective date of termination, and (iii) to the City the pro rata amount of taxes that would be due for the remaining portion of the year assuming the Project was placed on the tax rolls effective on the date of termination through December 31 which, within 30 days of the date of receipt by the City and after reduction for administrative costs of the County as provided by **Section 3.5**, the City shall divide among the taxing jurisdictions levying ad valorem taxes within the City in proportion to the amount of the then current ad valorem tax levy of each taxing jurisdiction.

Upon any termination of this Agreement the Company agrees to pay interest and penalties on all amounts due hereunder to the same extent as if such payments were taxes under Missouri law.

**Section 6.3. Interest on Late Payments.** Any amounts due hereunder which are not paid when due shall bear interest at the interest rate of 10% per annum from the date such payment was first due.

**Section 6.4. Failure of the City to Perform its Obligations.** In the event the City shall fail to perform any of its obligations hereunder for (i) a period of 30 days (or such longer period as the Company and the City may agree in writing) following written notice to the City from the Company of such failure which notice shall include a specific description of the City's failure hereunder), or (ii) if such failure is not subject to cure within such 30 days, the City shall have failed to initiate action to cure such default and shall pursue such action diligently; the Company may declare that the City is in default under this Agreement and may pursue any legal remedy available to it to enforce this Agreement.

## ARTICLE VII

## TERM OF AGREEMENT

This Agreement shall become effective upon execution, and subject to earlier termination pursuant to the provisions of this Agreement (including particularly the following paragraph and **Article VI** hereof), shall have an initial term commencing as of the date of this Agreement and terminating on December 31, 2024 (the "Stated Expiration Date"). This Agreement shall automatically terminate prior to the Stated Expiration Date in the event the Bonds (or any bonds issued to refund the Bonds) are no longer outstanding.

## ARTICLE VIII

## MISCELLANEOUS PROVISIONS

**Section 8.1. Mutual Assistance**. The City and the Company agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent. In addition, if legislation is proposed by or in any governmental body having jurisdiction over the Project which would have the effect of limiting the ability of the City to issue the Bonds to finance the Project, the City agrees to use its best efforts to issue the Bonds prior to the effective date of any such legislation.

**Section 8.2. Severability**. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and enforceability of the other provisions hereof shall not be affected thereby.

**Section 8.3. Governing Law**. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

**Section 8.4. Execution in Counterparts**. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 8.5. Waiver**. The City and the Company acknowledge and agree that the amounts payable hereunder shall constitute payments due the City under the Lease Agreement executed in connection with the Bonds. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against either or both Company in any bankruptcy court.

**Section 8.6. Employee Verification.** The Company will comply with and satisfy the requirements of Section 285.530.2, RSMo., as amended, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement.

The Company shall provide such affidavits and documentation to the City on or before November 1 of each year during the term of this Agreement, beginning November 1, 2014, and also upon execution of this Agreement.

**Section 8.7. Entire Agreement**. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the City and the Company with respect to the subject matter hereof.

**Section 8.8. Notices**. Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier; or (d) registered or certified mail, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch.

**Section 8.9 Electronic Storage of Documents.** The City and the Company agree that the transaction described herein may be conducted and related documents may be stored by electronic means.

**THIS PERFORMANCE AGREEMENT** is dated the date first above written.

**CITY OF JOPLIN, MISSOURI**

By:_____
Melodee Colbert-Kean, Mayor

(SEAL)

ATTEST:

By: _____
Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

_____
Brian Head, City Attorney

**THIS PERFORMANCE AGREEMENT** is dated the date first above written.

**JOPLIN MO (3502 ENTERPRISE) LLC**

By:_____
Name:_____
Title:_____

**EXHIBIT A**

**Description of the Project Site**

**Description of the Adjacent Cott Property**

## EXHIBIT B

## Description of the New Construction

The proposed improvement is the construction of a 231,350 square foot warehouse/distribution center. The building will be 350' X 661' with column spacing at 50' X 50'. The building will have 24 dock doors, 1 oversized drive in ramp, and have 30' clear height to accommodate storage and potentially racking. The overall site will be able to accommodate a minimum of 56 onsite trailer parking positions.

## EXHIBIT C

**Grant Payments**

| YEAR | AMOUNT |
|---|---|
| 2021 | $33,185 |
| 2022 | 66,370 |
| 2023 | 102,541 |
| 2024 | 136,722 |

**PLAN FOR INDUSTRIAL DEVELOPMENT PROJECT**
**FOR JOPLIN MO (3502 ENTERPRISE) LLC, as Lessee, AND COTT CORPORATION AND COTT BEVERAGE, INC., as Sub-Lessee**

**1. Background and Description of the Project.** InSite Real Estate, LLC ("InSite") is a developer, owner and operator of income-producing real estate throughout the United States. Based in suburban Chicago, Illinois, InSite owns over 11 million square feet of industrial, retail and office space serving home to over 250 tenants. InSite, through its subsidiary Joplin MO (3502 Enterprise) LLC, proposed to develop a new 231,350 square foot warehouse for Cott Beverages. Cott Corporation ("Cott") is one of the world's largest producers of beverages on behalf of retailers, brand owners and distributors. Cott produces multiple types of beverages in a variety of packaging formats and sizes, including carbonated soft drinks, 100% shelf stable juice and juice-based products, clear, still and sparkling flavored waters, energy products, new age beverages, and ready-to-drink teas, as well as alcoholic beverages for brand owners.

In 1986, Cott became a publicly traded company with listings on the Toronto and Montreal stock exchanges and six years later, Cott shares began trading in the United States on the NASDAQ exchange. Throughout the 1990s and early 2000s, Cott made a series of acquisitions including Vess Beverages and Concord Beverages (with its well-known Vintage brand) in the US, and moved into the United Kingdom with the purchases of Benjamin Shaw & Sons Ltd. and Hero Drinks Group. Cott later entered Mexico with a joint venture that established manufacturing and marketing capabilities in that country.

On August 17, 2010, Cott acquired privately held Cliffstar Corporation ("Cliffstar"), the leading private label manufacturer of shelf stable juices. Cliffstar operates a manufacturing plant and warehouses in Joplin, Missouri, and subsequent to the Cott/Cliffstar acquisition, the facility now operates under the Cott Beverages name.

Cliffstar Corporation began over 100 years ago, when Meyer Star settled in the Dunkirk-Fredonia area in New York State. As an innovator in the rapidly growing grape industry, Meyer Star produced Star Wine in the heart of this Chautauqua County grape belt. From those beginnings, Cliffstar evolved in the early 1970s and now produces shelf stable juices, teas, sports drinks, fitness waters, and vitamin waters.

In the 1970s the Star family added juices to their product portfolio with a packaging concept that was a true innovation at that time – using PET plastic resin for juice packaging instead of glass. Over the subsequent years, Cliffstar's growth in private label juices quickly eclipsed sales of older products and Cliffstar recreated itself as North America's largest private label juice producer.

In addition to serving thousands of private label lines with more than 145 blends of juices, Cott's Cliffstar subsidiary presses most of its own grapes, cranberries, and prunes to ensure consistent quality, flavor, and color in all its beverages.

The Cott Joplin plant and area activities currently employ approximately 129 to133 area residents.

The proposed improvement is the construction of a 231,350 square foot warehouse/distribution center. The building will be 350' X 661' with column spacing at 50' X 50'. The building will have 24 dock doors, 1 oversized drive in ramp, and have 30' clear height to accommodate storage and potentially racking. The overall site will be able to accommodate a minimum of 56 onsite trailer parking positions and is constructed on approximately 14.5 acres of land. Construction of the warehouse/distribution center is referred to herein as the "New Construction." The real property where the New Construction will be located is referred to herein as the "Existing Real Property." The New Construction and the Existing Real Property are referred to collectively herein as the "Project."

This new facility is necessary for the long-term business success of the Cott-Cliffstar Joplin, MO operation, providing better operational efficiencies. The new facility will be designed in a manner that – while only 9,000 square feet larger than current warehouse space – provides warehousing efficiencies that create incremental warehousing capabilities beyond what 9,000 square feet normally provides, as well as faster loading / unloading benefits that optimize productivity and speed to delivery. However, construction costs for new facilities come at a much higher overall cost than older facilities, which have lower economic basis and cheaper rents. Moreover, site development costs at this property are much higher than normal. To offset the higher cost for new construction and site work, incentives are necessary to make the New Construction economically compelling. Without this New Construction moving forward, the Existing Real Property will remain in its undeveloped condition for years to come, adding no benefit to the community or to its owner.

The New Construction is also projected to allow Cott to maintain the number of jobs at its facilities in Joplin at 129 to 133. The granting of the Chapter 100 incentive will require that at least 114 full time positions to be maintained by Cott during the time the incentive is in place or the incentive level will be reduced and/or eliminated depending on timing and the number of jobs retained.

The New Construction will be used for raw materials and full goods that are currently being warehoused in multiple warehouses that are leased by Cott, totaling approximately 220,000 square feet. The New Construction will be 231,350 square feet.

Proposed completion of the New Construction is October, 2014.

**2. Estimate of the Cost of the New Construction.** The projected cost of the New Construction is approximately $8,200,000.

The New Construction will have a furniture, fixtures and equipment (FF&E) package ranging from $400,000 to $900,000. Insite will use a local general contractor and subcontractors during the construction process. If Cott decides to invest in additional equipment in the new warehouse it could add seven figures to this estimate. If they decide to install racking in the new facility it would add an additional $500,000 to this estimate. For the purposes of the cost/benefit analysis, the amount of the FF&E package is assumed to be $650,000. The FF&E and other personal property associated with the Project will not be subject to tax abatement.

**3. Source of Funds to be Expended for the New Construction.** The source of funds to be expended for the New Construction will be proceeds of the sale of taxable industrial development revenue bonds (the "Bonds") to be issued by the City of Joplin, Missouri (the "City") to Joplin MO (3502 Enterprise) LLC. The Bonds shall be issued upon such terms, in such amounts and at such time as shall be satisfactory to the City and InSite and Joplin MO (3502 Enterprise) LLC.

**4. Statement of the Terms Upon Which the New Construction is to be Leased and Otherwise Disposed of by the City.** The New Construction will be leased by the City to Joplin MO (3502 Enterprise) LLC in accordance with the terms of a lease agreement (the "Lease") for lease payments equal to the principal and interest on the Bonds. Joplin MO (3502 Enterprise) LLC will have the option to purchase the New Construction at the termination of the Lease. The Bonds will be payable solely from the revenues derived by the City from the Lease or other disposition of the New Construction and the Bonds will not be an indebtedness or general obligation, debt or liability of the City. The Lease will be for a term ending in the final year of tax abatement for the New Construction. It is anticipated that Joplin MO (3502 Enterprise) LLC will sublease the New Construction to Cott and lease the Existing Real

Property to Cott. The Existing Real Property will not be subject to lease by the City but will continue to be owned by Joplin MO (3502 Enterprise) LLC.

**5. Affected Taxing Jurisdictions:**

- State of Missouri
- Jasper County
- Sheltered Facilities
- Mental Health
- Joplin R-8 School District
- Joplin Road District
- City of Joplin
- Surtax

**6. Equalized Assessed Valuation.** The estimated equalized assessed valuation of the New Construction after development (January 1, 2015) is $2,702,720. The estimated equalized assessed valuation of personal property associated with the Project after development (January 1, 2015) is $184,148. The estimated equalized assessed valuation of the Existing Real Property is $71,498. The estimated equalized assessed valuation of the Existing Real Property associated with the Project after development (January 1, 2015) is $73,643.

**7. Cost-Benefit Analysis.** Attached hereto as **Exhibit 1** is an analysis of the costs and benefits of the Project on each taxing district. The projections therein are estimates based on numerous assumptions (as described in **Exhibit 1**). The actual revenues generated from the Project may be different from those shown in the exhibits.

**8. Payments in Lieu of Taxes.** Joplin MO (3502 Enterprise) LLC will be required to make annual payments in lieu of taxes on the New Construction for the years 7-10 in which tax abatement is in place as set forth in **Exhibit 1** in the chart entitled **"Projected PILOT Amount – Real Property Improvements."** In years 1-6 of the tax abatement, no Payments in Lieu of Taxes will be required. In years 7-10 of the tax abatement, the Payments in Lieu of Taxes will be based on the estimated value of the New Construction, phased in at 20% of such estimated value in each of those years (e.g. 20% of the value in year 7, 40% of the value in year 8, 60% of the value in year 9 and 80% of the value in year 10). In year 11, the lease will be terminated, the Bonds should be paid and the New Construction will be subject to full assessment of taxes.

**Project Assumptions**

- Initial year taxes assessed — 2014
- Appraised value of commercial property — $ 8,423,430
  - Appraised value of real property — 223,430
  - Appraised value of real property improvements — 8,200,000
- Appraised value of personal property — $ 650,000
- Bi-annual growth rate of appraised value of commercial property — 3.0%
- Annual growth rate of appraised value of personal property — 0.0%
- Assessed value as a percentage of appraised value (commercial) — 32.0%
- Assessed value as a percentage of appraised value (personal) — 33.33%
- Assessed value of commercial property — $ 2,695,498
  - Assessed value of real property — 71,498
  - Assessed value of real property improvements — 2,624,000
- Terms of abatement:

Commercial property

| | |
|---|---|
| Years 2015-2020 | 100% |
| Year 2021 | 80% |
| Year 2022 | 60% |
| Year 2023 | 40% |
| Year 2024 | 20% |
| Year 2025 | 0% |

| Year | Recovery Period in Years | | | | | |
|---|---|---|---|---|---|---|
| | 3 | 5 | 7 | 10 | 15 | 20 |
| 0 | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% |
| 1 | 75.00% | 85.00% | 89.29% | 92.50% | 95.00% | 96.25% |
| 2 | 37.50% | 59.50% | 70.16% | 78.62% | 85.50% | 89.03% |
| 3 | 12.50% | 41.65% | 55.13% | 66.83% | 76.95% | 82.35% |
| 4 | 5.00% | 24.99% | 42.88% | 56.81% | 69.25% | 76.18% |
| 5 | 5.00% | 10.00% | 30.63% | 48.07% | 62.32% | 70.46% |
| 6 | 5.00% | 10.00% | 18.38% | 39.33% | 56.09% | 65.18% |
| 7 | 5.00% | 10.00% | 10.00% | 30.59% | 50.19% | 60.29% |
| 8 | 5.00% | 10.00% | 10.00% | 21.85% | 44.29% | 55.77% |
| 9 | 5.00% | 10.00% | 10.00% | 15.00% | 38.38% | 51.31% |
| 10 | 5.00% | 10.00% | 10.00% | 15.00% | 32.48% | 46.85% |
| 11 | 5.00% | 10.00% | 10.00% | 15.00% | 26.57% | 42.38% |
| 12 | 5.00% | 10.00% | 10.00% | 15.00% | 20.67% | 37.92% |
| 13 | 5.00% | 10.00% | 10.00% | 15.00% | 15.00% | 33.46% |
| 14 | 5.00% | 10.00% | 10.00% | 15.00% | 15.00% | 29.00% |
| 15 | 5.00% | 10.00% | 10.00% | 15.00% | 15.00% | 24.54% |
| 16 | 5.00% | 10.00% | 10.00% | 15.00% | 15.00% | 20.08% |
| 17 | 5.00% | 10.00% | 10.00% | 15.00% | 15.00% | 20.00% |

City of Joplin

OFFICE OF THE CITY ATTORNEY

602 S. Main Street • Joplin, MO 64801 • (417) 624-0820

*Fax Number 417-625-4713*

***Brian W. Head - City Attorney Ext. 225***
***Peter C. Edwards - Assistant City Attorney Ext. 227***

March 10, 2014

Mr. Dan Hillenbrand
Chairman, President and CEO
Able Manufacturing and Assembly, LLC
Joplin, MO 64801

Dear Mr. Hillenbrand:

The members of the Joplin City Council recognize that Able Manufacturing & Assembly, LLC has been a longstanding member of the business community, providing good jobs and benefits for our residents for many years. The members also recognize and appreciate that the Hillenbrand family has owned Able for thirty years and has made significant investments in the company in terms of facility, equipment and staff over that time; investments that continue today.

City Council members believe that good economic development involves creating and sustaining a positive business climate for all firms by providing essential City services at the highest level. In addition, the Council members believe in supporting individual companies, with those incentives within the City's purview, when there is the opportunity to maintain and attract quality jobs that enhance the economic base of our community.

It is the understanding of the Council members that Able Manufacturing has continued its efforts to adjust to changing market conditions in the midst of a nationwide recession over the past several years. However, with the national and specific market sectors in which Able is engaged recovering, Able leadership sees the immediate opportunity to maintain more than 260 jobs currently at its facilities, with an estimated annual payroll of more than $11,500,000, and, in addition, add an additional 40+ jobs in next two years with a payroll of more than $1,500,000.

To fully pursue the immediate market opportunities, the Council members understand that Able anticipates investing more than $2,500,000 over the next twelve months for new equipment and facility upgrades. Able is now seeking assistance from the City for that new investment, in the form of an intermediate-term, low-interest loan to help maximize the positive impact of the investment and allow the company to move forward with the planned project to retain and create jobs.

Mr. Dan Hillenbrand
Chairman, President and CEO
Able Manufacturing and Assembly, LLC

March 10, 2014

This letter expresses the interest and intent of the City to offer Able such a loan from the City's UDAG Program funds in an amount not to exceed one-half of the planned project investment or $1,200,000, whichever is less. Upon a vote to approve the issuance of this letter of intent, the Council directs City staff to work with Able on specific terms and conditions and to perform all due diligence needed to assure City funds will be used in a manner that enables Able to be successful while protecting the interests of the City and its residents. The Council directs all such work to be completed and a final recommendation on such loan to be brought back to Council no later than April 7, 2014.

This letter is not a final commitment to Able for any loan or other incentive; but expresses the sincere interest and intent of the Council to support the company's efforts by proceeding with the usual incentive review process.

Signed upon Approval by the City Council by:

_____ _____

Melodee Colbert-Kean, Mayor

Samuel L. Anselm, Interim City Manager

Approved by Council vote of ____ yea; ____nay; on this date of March____, 2014.

Signed: _____

Barbara L. Hogelin,
Joplin City Clerk