



MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this _____ day of _____, 2022, by and between ***CITY OF JACKSON, MISSOURI, a Municipal Corporation***, hereinafter referred to as "**City**," and ***JAOSA, INC., a Missouri Nonprofit Corporation***, hereinafter referred to as "**JAOSA**," **WITNESSETH:**

WHEREAS, the City operates a system of city parks that includes an area designated as a soccer park located on Cotton Meyer Drive in the City; and

WHEREAS, JAOSA desires to construct new soccer fields (the "Project") at a location in the soccer park within the City; and

WHEREAS, the parties acknowledge that no City funds will be expended on the Project; and

WHEREAS, the parties have reached certain agreements and wish to memorialize the agreements between them in writing.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, it is mutually covenanted and agreed as follows:

1. JAOSA has submitted a Park Donation & Memorial Form for the purpose of donating to the City newly constructed soccer fields with an estimated construction cost of \$154,000.00. The Park Donation & Memorial Form is attached hereto and incorporated herein as Exhibit A.

2. The area affected by this Memorandum of Understanding is the current soccer park on Cotton Meyer Drive which is located in the City and is part of the city park system.

3. JAOSA agrees that it is fully responsible for the design, construction, and all costs for the Project.

4. JAOSA agrees that any damage to other areas of the soccer park caused as a result of the Project will be returned to its original condition.

5. JAOSA shall submit all construction plans, site plans, specifications, and drainage plans to the Parks & Recreation Director for review and Building and Planning for approval prior to construction.

6. JAOSA shall hire only competent contractors to perform the work; require the contractor to obtain all permits and licenses; and ensure that all inspections of the contractors' work are performed for the proper completion of the project.

7. JAOSA shall require any contractor working on the Project to submit to the City a certificate of insurance with the following coverages and amounts:

(a) Comprehensive General Liability:

- | | | |
|-----|-----------------|------------------|
| (1) | Bodily Injury | |
| | \$1,000,000 | Each Occurrence |
| | \$2,000,000 | Annual Aggregate |
| (2) | Property Damage | |
| | \$300,000 | Each Occurrence |
| | \$500,000 | Annual Aggregate |

- (b) Personal Injury, with employment exclusion deleted:
\$1,000,000 Annual Aggregate

(c) Comprehensive Automobile Liability:

- | | | |
|-----|-----------------|-----------------|
| (1) | Bodily Injury | |
| | \$1,000,000 | Each Person |
| | \$2,000,000 | Each Accident |
| (2) | Property Damage | |
| | \$300,000 | Each Occurrence |

(d) Contractual Liability Insurance:

- | | | |
|-----|---|-------------------------------------|
| (1) | Bodily Injury
\$1,000,000 | Each Occurrence |
| (2) | Property Damage
\$500,000
\$1,000,000 | Each Occurrence
Annual Aggregate |

(e) Additional Insured Endorsement: An endorsement on the required form supplied by the City naming the City of Jackson as an additional insured

All coverage shall be on an "occurrence" basis and not "claims made" and shall list the City as a certificate holder.

8. Upon completion of the project by JAOSA, the City will be responsible for all future maintenance of the area in the manner that the City determines is appropriate.

9. JAOSA acknowledges that the use and benefit of the Project shall be for the public in general. JAOSA does not, nor do any of its members, obtain special rights or privileges to the area and the area shall be used by the public in such manner as the Park Board of the City determines is appropriate. The parties agree that there shall be no discrimination or limitations on the use of the area based on ethnicity, race, color, creed, or any other discriminatory basis.

10. No provision of this agreement shall constitute a waiver of the City's right to assert a defense based on sovereign immunity, official immunity, or any other immunity available under law.

11. All exhibits attached to the Contract are incorporated herein as if fully set forth.

12. To the fullest extent permitted by law, JAOSA agrees to indemnify, defend and hold harmless the City, its officers, agents, volunteers, lessees, invitees, and employees from and against all suits, claims, damages, losses, and expenses, including but not limited to attorneys'

fees, court costs, or alternative dispute resolution costs arising out of, or related to the project involving an injury to a person or persons, whether bodily injury or other personal injury (including death), or involving an injury or damage to property (including loss of use or diminution in value), but only to the extent that such suits, claims, damages, losses or expenses are caused by the negligence or other wrongdoing of JAOSA, its officers, agents, and volunteers, or anyone directly or indirectly employed or hired by JAOSA or anyone for whose acts JAOSA may be liable, regardless of whether caused in part by the negligence or wrongdoing of the City and any of its agents or employees.

13. This Memorandum of Understanding contains the entire agreement of the parties hereto with respect to the subject matter hereof and can be altered, amended, or modified only by written instrument executed by all such parties. This Memorandum of Understanding sets forth the entire agreement between the parties and no custom, act, forbearance, or words or silence at any time, gratuitous or otherwise, shall impose any additional obligation or liability upon either party or waive or release either party from any default or the performance or fulfillment of any obligation or liability or operate as against either party as a supplement, alteration, amendment, or change of any terms or provisions set forth herein unless set forth in a written instrument duly executed by such party. The failure of either party to exercise any rights or remedies shall not release the other party from its obligations hereunder.

14. This Memorandum of Understanding shall be governed by and construed in accordance with the laws of the State of Missouri and the venue for any dispute between the parties shall be in the Circuit Court of Cape Girardeau County, Missouri.

15. This Memorandum of Understanding shall be binding upon and shall inure to the benefit of the undersigned parties and their respective heirs, legal representatives, distributees, successors, and assigns.

16. Words of any gender used in this Memorandum of Understanding shall be construed to include any other gender, and words in the singular shall include the plural and vice versa, unless the context requires otherwise.

17. In case any one or more of the provisions contained in this Memorandum of Understanding shall for any reason be held invalid, illegal, or unenforceable in any respects, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Memorandum of Understanding shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

18. The rights and remedies provided by this Memorandum of Understanding are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other available remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding as of the day and year first above written.

(LEFT INTENTIONALLY BLANK)

CITY:

CITY OF JACKSON, MISSOURI

By: _____
Dwain Hahs, Mayor

ATTEST:

Liza Walker, City Clerk

JAOSA, INC

By: Anthony R. Koeller
Anthony R. Koeller, President