

**MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING** is made and entered into this \_\_\_\_\_ day of November, 2023, by and between the ***CITY OF JACKSON, MISSOURI, a municipal corporation***, hereinafter referred to as the “**City**,” and ***JAOSA, Inc., a Missouri Non-profit Corporation***, hereinafter referred to as “**JAOSA**,” **WITNESSETH:**

**WHEREAS**, the American Rescue Plan Act (“ARPA”) was signed into law providing federal funding relief for American workers, families, industries, and state and local governments; and

**WHEREAS**, the United State Department of Treasury has released a guide on allowed uses of funds and allocated money for state and local governments from the ARPA Fund; and

**WHEREAS**, the City received an allocation from the ARPA Fund; and

**WHEREAS**, under section 602(c)(3) of ARPA, the City may transfer funds to a private non-profit entity for the purpose of meeting ARPA’s goals; and

**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**, the Soccer Park provides important recreational activities for the children of the City; and

**WHEREAS**, the Soccer Park hosts tournaments thereby providing the City with increased economic opportunities through food sales and field rentals; and

**WHEREAS**, JAOSA manages the recreational soccer program; and

**WHEREAS**, the City desires to distribute a portion of its ARPA Fund allocation to JAOSA for the purpose of improving Field 1 by rebuilding the field with a crowned playing surface and installing an irrigation system and Bermuda sod (“Project”).

**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. The City will distribute to JAOSA a one-time payment of \$110,000.00 from the City's allocation of ARPA Funds.

2. JAOSA understands that the allocation of ARPA funds does not constitute an agreement or obligation for the distribution of additional ARPA funds or any other funds from the City.

3. JAOSA agrees to use the funds to improve Field 1 by rebuilding the field with a crowned playing surface and installing an irrigation system and Bermuda sod, so that JAOSA can continue to meet the recreational needs of the children.

4. 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.

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

6. 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.

7. 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.

8. 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.

9. 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       | Each Occurrence  |
|     | \$1,000,000     | 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.

10. 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.

11. 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.

12. 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.

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

14. 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.

15. JAOSA agrees to comply with all applicable federal, state, and local laws, rules and regulations in the receipt and use of this payment, and supply such information to the City upon the City's request.

16. This Memorandum of Understanding contains the entire agreement of the parties and can be altered, amended, or modified only by written instrument executed by both 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.

17. This Memorandum of Understanding shall be governed by and construed in accordance with the laws of the State of Missouri.

18. 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.

19. 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.

20. 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.

**CITY:**

CITY OF JACKSON, MISSOURI

By: \_\_\_\_\_  
Dwain Hahs, Mayor

ATTEST:

\_\_\_\_\_  
Liza Walker, City Clerk

**JAOSA, INC:**

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