JOPLIN CITY COUNCIL
REGULAR MEETING AGENDA
MONDAY, AUGUST 5, 2024
5th FLOOR COUNCIL CHAMBERS
602 S. MAIN ST. JOPLIN MO
6:00 P.M.

This meeting can be viewed live on KGCS-TV channel 21 and regional cable television systems including Sparklight in Joplin; or livestream at http://www.joplinmo.org/182/Video-Multimedia

Persons wishing to address the City Council regarding an item on the agenda should complete a Request to Address Council and give it to the City Clerk prior to the start of the meeting. When your name is called, approach the podium, and state your name clearly for the record. If your request pertains to a Public Hearing item, you do not need to submit a request. You will have five (5) minutes to speak.

PLEASE NOTE: No outside electronic devices are allowed to be used on City equipment without prior City approval. If you have handouts, you must provide 12 copies of the material to the City Clerk.

1. **Call To Order**
   Invocation
   Pledge of Allegiance of the United States of America

2. **Roll Call**

3. **Presentations**

   1. Community Revitalization Program Status Update

      Documents:

      COMMUNITY REVITALIZATION PROGRAM CITY COUNCIL UPDATE 08-05-24.PDF

   2. Public Works Reorganization Planning Update And Request

      Documents:

      PUBLIC WORKS REORGANIZATION PLANNING UPDATE.PDF

4. **Finalization Of Consent Agenda**

5. **Reports And Communications**

   1. News From The Public Information Office

6. **Citizen Requests And Petitions**

   1. Mary Price Requested To Speak On Fiscal Accountability & City Council Responsibility To Citizens

   2. Joshua Shackles Requested To Speak Regarding Reducing Speed On Euclid Ave And Utica Street To 25 MPH

   3. Brian Evans Requested To Speak On Freeman Demolition Proposal And Unequal Treatment Of Joplin Residents

   4. Donna Bray Requested To Speak On Freeman Building Demo

4. Donna Bray Requested To Speak On Freeman Building Demo

7. Public Hearings

1. RESOLUTION NO. 2024-012
   A RESOLUTION granting a Special Use Permit (1st Request) for the operation of a Home Beauty Salon, located at 3502 S Park Ave in the City of Joplin, Newton County, Missouri. (Requested by Jennifer Hicks. Planning and Zoning Commission recommended approval).

   Documents:

   RS2024-012SUMMARY.PDF
   RS2024-012MINUTES.PDF
   RS2024-012 REPORT.PDF
   RS2024-012 APP.PDF
   RS2024-012 MAP.PDF
   RS2024-012.PDF

8. Consent Agenda

1. Minutes Of The July 15, 2024, City Council Meeting

   Documents:

   JULY 15, 2024 MINUTES.PDF

2. COUNCIL BILL NO. 2024-275
   AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with ALLO Communications LLC, a Nebraska limited liability company, for the purpose of leasing a certain land in the area commonly known as 1301 W 2nd Street, Joplin MO to ALLO Communications LLC to use the premises for a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy; authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin.

   Documents:

   CB2024-275.PDF

3. COUNCIL BILL NO. 2024-276
   AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with ALLO Communications LLC, a Nebraska limited liability company, for the purpose of leasing a certain land in the area commonly known as 2749 E 30th Street, Joplin MO to ALLO Communications LLC to use the premises for a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy; authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin.

Documents:

CB2024-276.PDF

4. COUNCIL BILL NO. 2024-507
AN ORDINANCE approving a Petition to Terminate the Northpark Lane Community Improvement District.

Documents:

CB2024-507.PDF

9. Resolutions

1. RESOLUTION NO. 2024-013
A RESOLUTION of the City of Joplin, Missouri, stating the intent to apply for federal assistance from the Recreational Trails Program for the purpose of the City of Joplin Trail Amenities Project in the amount of $147,210.00; and, committing to the match funding of $98,140.00.

Documents:

RESOLUTION 2024-013 SUMMARY SUPPORT FOR RTP GRANT APPLICATION.PDF
RESOLUTION 2024-013 SUPPORT FOR RTP GRANT.PDF

2. RESOLUTION NO. 2024-014
A RESOLUTION approving modifications to the City of Joplin Purchasing Policy.

Documents:

RESOLUTION 2024-014 SUMMARY APPROVAL OF PURCHASING POLICY MODIFICATIONS.PDF
RESOLUTION 2024-014 APPROVING PURCHASING POLICY MODIFICATIONS.PDF
PURCHASING POLICY AUGUST 2024.PDF

10. Ordinances - Emergency

1. COUNCIL BILL NO.2024-132
AN ORDINANCE approving the City of Joplin to enter into a construction agreement with Rosetta Construction in the amount of One Million, Five Hundred Eighty-Eight Thousand, Five Hundred Ninety-Nine and 00/100 DOLLARS ($1,588,599.00) for the Tin Cup Lift Station and Pressure Line Improvement Section 2 (Force Main) and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin, and containing and emergency clause.

Documents:

CB2024-132 SUMMARY - TIN CUP LS PS SECTION 2.PDF
CB2024-132 ORDINANCE - TIN CUP LS PS SECTION 2.PDF
AGREEMENT 2024 - TIN CUP SECTION 2 ROSETTA.PDF
CB 2024-132 EXHIBIT MAP - TIN CUP LIFT STATION PRESSURE LINE IMPROVEMENTS - SECTION 2.PDF
BID SUMMARY TIN CUP LIFT STATION AND PRESSURE LINE SECTION 2.PDF

2. COUNCIL BILL NO. 2024-615
AN ORDINANCE approving the issuance of a Purchase Order to SHI/Microsoft Corporation to cover the annual support payment for the Public Safety and Financial software, as budgeted in the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024, was budgeted and approved for by Council during the budget process and finalized by Council Bill 2023-519 on October 16, 2023; and containing an emergency clause.

Documents:

2024-615 MSEA SUMMARY SHEET.PDF
CB2024-615 MSEA COUNCIL BILL.PDF

11. Ordinances - First Reading

1. COUNCIL BILL NO. 2024-002
AN ORDINANCE re-adopting Chapter 2, Administration, of the Joplin City Code, Section 2-107, "Financial interest disclosure", requiring certain officials and employees of the City of Joplin to file Financial Interest Disclosure Statements as described herein.

Documents:

SUMMARY AND CB NO. 2024-002-07222024144654.PDF

2. COUNCIL BILL NO.2024-126
AN ORDINANCE approving the issuance of a Purchase Order to Armor Equipment (Sourcewell Contract #101221-SCA), in the amount of Three Hundred Twelve Thousand Nine Hundred Thirty-Eight Dollars and 89/100 Cents ($312,938.89) for the purchase of a 2024 800-HDR-ECO Series IV Truck Mounted High Pressure Sewer Cleaner; and, amending the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024 as adopted by Ordinance 2023-158 on October 16, 2023; and, setting a date when this ordinance shall become effective.

Documents:

CB2024-126 JETTER TRUCK REPLACEMENT SUMMARY.PDF
CB2024-126 JETTER TRUCK REPLACEMENT ORDINANCE.PDF
SEWER EQUIPMENT 800 JET QUOTE.PDF
JETTER.PDF

3. COUNCIL BILL NO.2024-130

AN ORDINANCE approving the City of Joplin to enter into a construction agreement with Goins Enterprises, Inc. in the amount of One Million, Seven Hundred Seventy-Seven Thousand, Seven Hundred and 00/100 DOLLARS ($1,777,700.00) for the Tin Cup Lift Station and Pressure Line Improvement Section 1 (Lift Station) and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin, and setting a date when the ordinance shall become effective.

Documents:

CB2024-130 SUMMARY - TIN CUP LS PS SECTION 1.PDF
CB2024-130 ORDINANCE - TIN CUP LS PS SECTION 1.PDF
AGREEMENT 2024 - TIN CUP SECTION 1 GOINS.PDF
CB 2024-130 EXHIBIT MAP - TIN CUP LIFT STATION PRESSURE LINE IMPROVEMENTS - SECTION 1 CONTRACT.PDF
BID SUMMARY TIN CUP LIFT STATION AND PRESSURE LINE SECTION 1.PDF
NICHOLS TO WELLER - RECOMEND AWARD TIN CUP LS AND PS IMP SECTION 1 TO GOINS.PDF

4. COUNCIL BILL NO.2024-131
AN ORDINANCE approving Amendment 1 to Work Authorization AND-15th ST. EXT-001 with OWN, Inc. (formerly Anderson Engineering) in the not to exceed amount of One Hundred Sixty-Five Thousand Four Hundred Ninety-Nine and 00/100 dollars ($165,499.00) for professional engineering services for the East 15th Street Extension project and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin; and setting a date when this Ordinance shall become effective.

Documents:

CB2024-131 SUMMARY SHEET OWN 15TH ST. AMENDMENT.PDF
CB2024-131 COUNCIL ORDINANCE OWN 15TH ST. AMENDMENT.PDF
CB2024-131 AMENDMENT TO WORK AUTHORIZATION FORM OWN.PDF
CB2024-131 MAP-15TH RANGELINE.PDF

5. COUNCIL BILL NO. 2024-277
AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with ALLO Communications LLC, a Nebraska limited liability company, for the purpose of ALLO installing, maintaining, and operating facilities for communications related services including but not limited to wholesale broadband transmission service to Internet Service Providers within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property; authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin; and setting a date when this Ordinance shall become effective.

Documents:

CB2024-277 SUMMARY ALLO ROW AGREEMENT.PDF
NON-EXCLUSIVE PUBLIC ROW LICENSE AGREEMENT - ALLO.PDF
CB2024-277 ORDINANCE ALLO ROW AGREEMENT.PDF

6. COUNCIL BILL NO. 2024-278
AN ORDINANCE approving the First Amendment for Consulting Services "First Amendment" and Work Authorization 3 with Alvarez and Marsal Infrastructure and Capital Projects LLP to provide administrative services for Phase 2 implementing broadband and connectivity solutions in the not to exceed amount of Eight Hundred Thirty-Six Thousand Eight Hundred Ninety-Seven Dollars and No Cents ($836,897.00) and authorizing the City Manager to execute the same by and on behalf of the City of Joplin; amending the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024 as adopted by Ordinance 2023- 158 on October 16, 2023; and, setting a date when this Ordinance shall become effective.

Documents:

CB2024-278 SUMMARY ALVAREZ AND MARSAL FIRST AMENDMENT AND WA3.PDF
RFP.PDF
AMENDMENT NO. 1 - AGREEMENT FOR CONSULTING SERVICES.PDF
ALVAREZ AND MARSAL WORK AUTHORIZATION NO. 3.PDF
ALVAREZ AND MARSAL RFP RESPONSE.PDF
ALVAREZ AND MARSAL CONTRACT DTD JULY 5, 2022.PDF
CB2024-278 ORDINANCE ALVAREZ AND MARSAL FIRST AMENDMENT AND WA3.PDF

7. COUNCIL BILL NO. 2024-279
AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and the Economic Security Corporation to administer all activities and complete the Joplin Homeowners Rehabilitation Program provided through a American Rescue Plan Act (ARPA) Community Revitalization Program; authorizing the City Manager to execute same on behalf of the City of Joplin; and setting a date when this Ordinance shall become effective.

Documents:

CB2024-279 SUMMARY ESC SUBRECIPIENT AGREEMENT.PDF
ESC SUBRECIPIENT AGREEMENT.PDF
CB2024-279 ORDINANCE ESC SUBRECIPIENT AGREEMENT.PDF

8. COUNCIL BILL NO. 2024-280
AN ORDINANCE authorizing the City of Joplin to enter into a Donation Agreement by and between Randal and Shelly Kraft, "Donor", and the City of Joplin, Missouri, "Donee", dealing generally with the donation of certain real property (the old Freeman Hospital) located at 2008 South Sergeant A venue in Joplin, Missouri.

Documents:

SUMMRARY 2024-280.PDF
AGREEMENTCB2024-280.PDF
CB2024-280BILL.PDF

9. COUNCIL BILL NO. 2024-616
AN ORDINANCE approving a contract by and between the City of Joplin and Bentek, LLC, a Florida limited liability company in the not to exceed amount of $50,000 for Benefit Administration SaaS and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin; amending the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024 as adopted by Ordinance 2023-158 on October 16, 2023; and, setting a date when this ordinance shall become effective.

Documents:

2024-616 BENTEK SUMMARY SHEET.PDF
CB2024-616 BENTEK COUNCIL BILL.PDF
072224 - JOPLIN_CITY OF - BENTEK - SAAS_ORDER FORM_BAA - REVISED.PDF
CITY OF JOPLIN - SOLE SOURCE LETTER - BENTEK.PDF

10. COUNCIL BILL NO. 2024-617
AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with Springfield Sign and Graphics Inc., a Missouri Corporation, d/b/a Springfield Sign, for the purpose of completing three wayfinding projects for the not-to-exceed price of Thirty-One Thousand Four Hundred and Thirty-Seven Dollars ($31,437.00) and authorizing the City Manager to execute the same by and on behalf of the City of Joplin.

Documents:

CB 2024-617 ORDINANCE COJ AGREEMENT W SPRINGFIELD SIGN RE CVB WAYFINDING SIGNAGE.PDF
CB 2024-617 SUMMARY COJ AGREEMENT W SPRINGFIELD SIGN RE CVB WAYFINDING SIGNAGE.PDF
2024-RFP-15 JOPLIN WAYFINDING PROJECTS.PDF
SUPPLEMENT 2024-RFP-15 JOPLIN WAYFINDING PROJECTS (2).PDF
BID FORM 2024-RFP-15 WAYFINDING PROJECTS.PDF
BID 3 SPGFLD SIGNS WAYFINDING 062424.PDF
PROJECT 1 CHANGE ORDER.PDF
PROJECT 3 CHANGE ORDER.PDF
SPRINGFIELD SIGN CONSULTING AGREEMENT 071924.PDF

11. COUNCIL BILL NO. 2024-619
AN ORDINANCE approving a CMAR Contract by and between the City of Joplin and Branco Enterprises Inc., for general conditions, terms, and pre-construction services of the Ewert Splash Park Project; authorizing the City Manager to execute said Contract by and on behalf of the City of Joplin.

Documents:

SUMMARY OF CMAR CONTRACT FOR EWERT SPLASH PARK PROJECT.PDF
EXHIBIT A -BRANCO ENTERPRISES CMAR CONTRACT.PDF
COUNCIL BILL NO. 2024-619 CMAR EWERT SPLASH PARK_.PDF
EXHIBIT B- EXISTING CONDITIONS-AERIAL.PDF
EXHIBIT C- CMAR SERVICES SCOPE OF WORK.PDF
EXHIBIT D- PRELIMINARY DESIGN SCHEDULE.PDF
EXHIBIT E-CMAR PROPOSAL FORM.PDF
EXHIBIT F- PROPOSAL MATRIX.PDF
2024-04-22_EPCMARSTEP1RFQ_02304621.PDF
EWERT SPLASH PARK ADDENDUM 1 - CITY RFQ PROJECT OLS-EWERT 23-01.PDF
2024-05-17_EPCMARSTEP2RFP_02304621.PDF
CMAR SUMMARY OF SCORES.PDF
SUMMARY OF FINALIST INTERVIEWS FOR CMAR CONTRACTOR.PDF

12. COUNCIL BILL NO. 2024-620
AN ORDINANCE approving a Memorandum of Understanding by and between the City of Joplin Police Department and Ozark Center for the purpose of integrating a social work program within police department.

Documents:

-SUMMARY ITEM 2024-620 (003).PDF
OZARK CENTER-PSW BUSINESS AGREEMENT.PDF
OZARK CENTER-PSW MOU.PDF
COUNCIL BILL 2024-620 (003).PDF

12. **Ordinances - Second Reading And Third Reading**
13. **Unfinished Business**
14. **New Business**
    1. Set Date For Public Hearing On The Proposed Budget For August 19, 2024.
    2. Set Date For Public Hearing On The Property Tax Levy For August 26, 2024.

Joplin, built on generations of people with grit and determination, is a regional hub at the crossroads of America. Our diverse people and employers thrive because of our healthy lifestyles, exceptional neighborhoods, lifelong learning opportunities and cultural & recreational amenities.

Ad Omnia Parata

Together we are ready for anything.

Notice posted at 12:00 PM on this 1st day of August, 2024 (RSMo 610.020)

Community Revitalization Program Status Update

City of Joplin

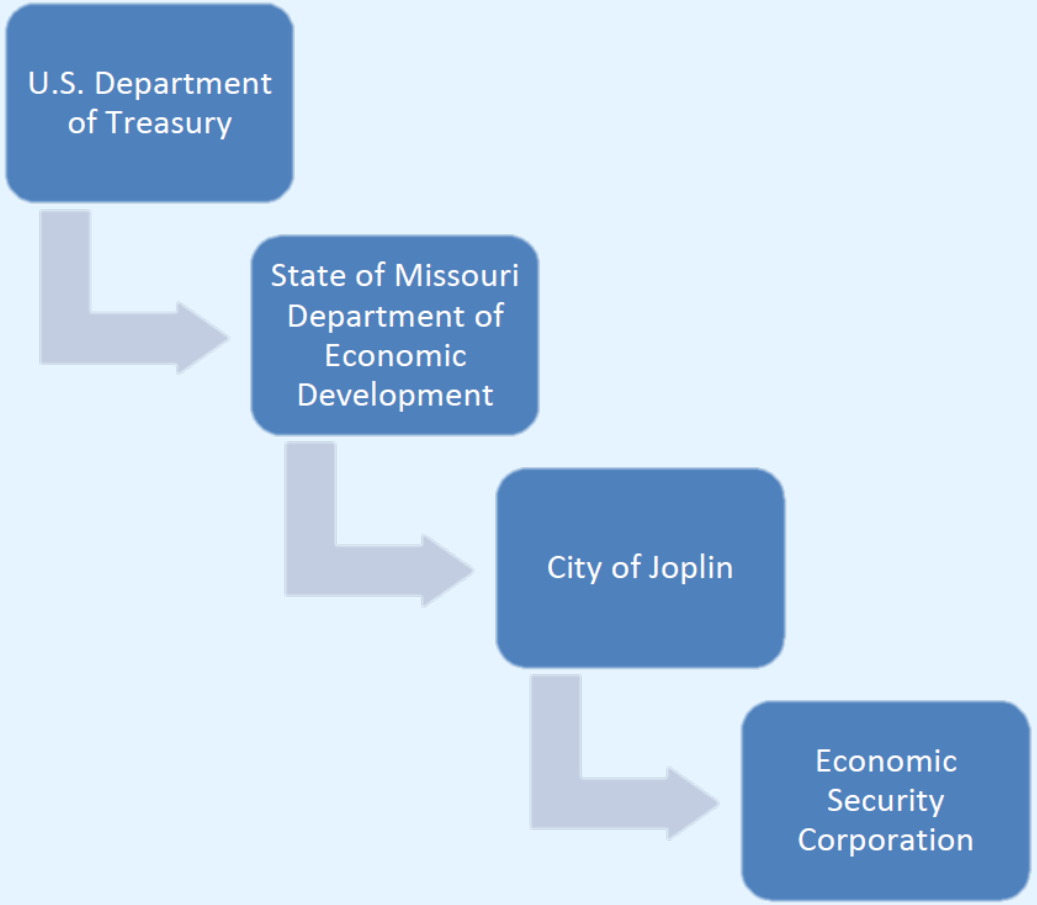
August 5, 2024



Introduction to Joplin Homeowner Rehabilitation Program “JHRP”

The Joplin Homeowner Rehabilitation Program aims to prevent further deterioration of homes, promote property appreciation, reduce vacancy due to disrepair, and decrease code enforcement cases and complaints.

Funding is provided by **ARPA** and will be administered by **Economic Security Corporation (ESC)** of Southwest Area.

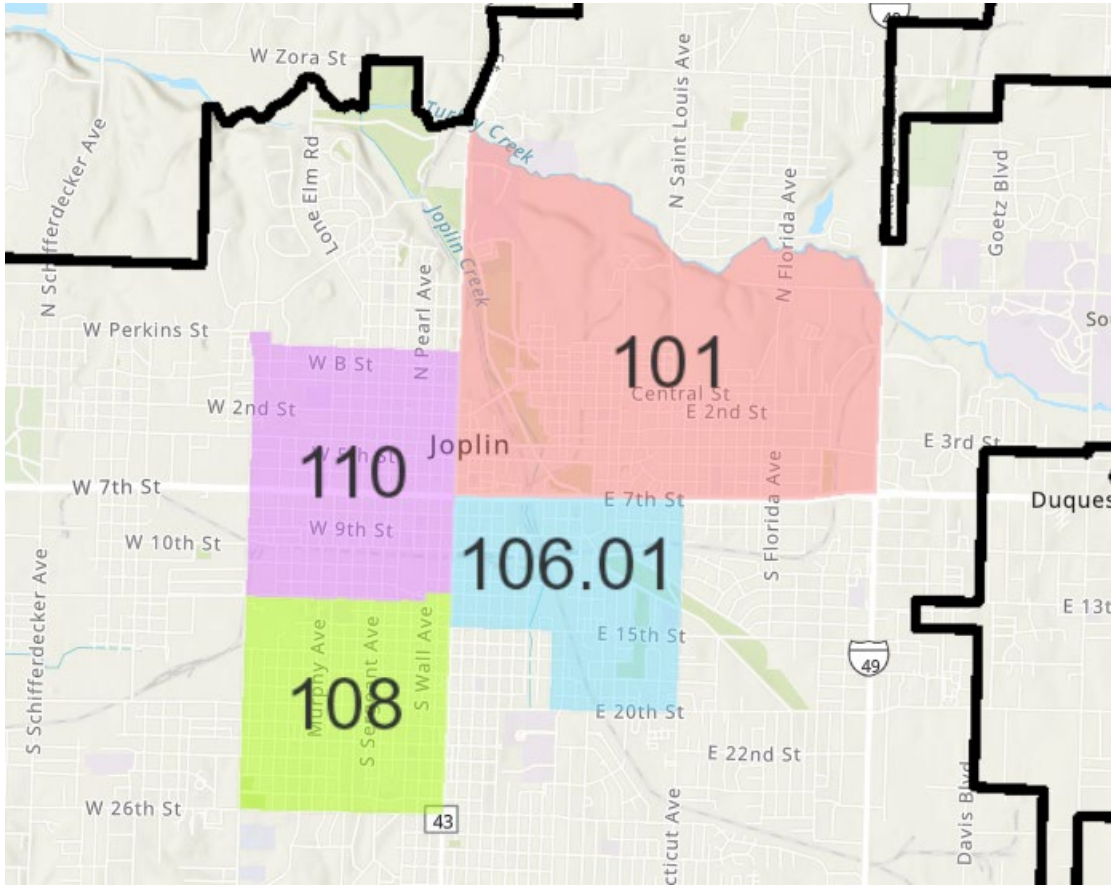


Introduction to Joplin Homeowner Rehabilitation Program "JHRP"

The Program Budget is **$2.35M** and the **maximum allocation per home is up to $25,000** of Program Funding for eligible repairs.

To be eligible for this program, homes must meet the following criteria:

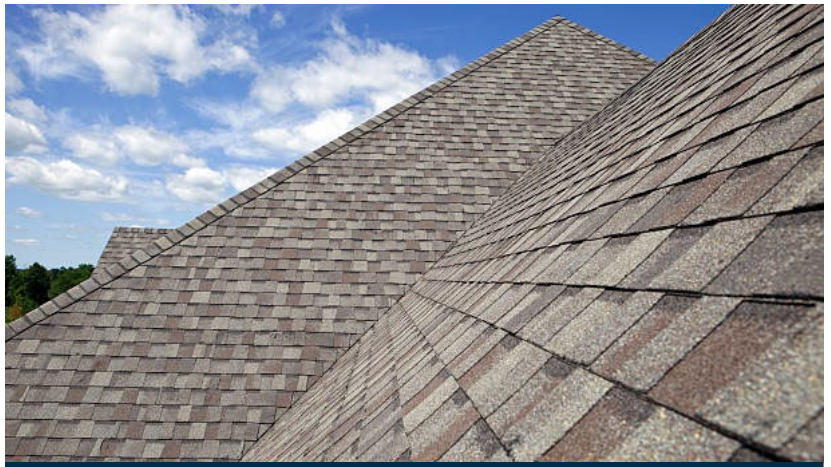
- Must be **owner-occupied single-family dwellings**
- Cannot be manufactured or mobile homes
- Must be located within **one of the four qualified census tracts** (101, 106.1, 108 & 110)



Scope of “JHRP” Program



Windows



Roofs



Siding / Facades



HVAC & Utilities

High Level Process

1. **Conduct Applicant Intake:** ESC will accept applications and review against program eligibility criteria. Once that review is complete, ESC will make an eligibility determination.

2. **Develop Scope of Work:** ESC will work with the homeowner to evaluate the property and develop a scope of work of eligible repairs and an associated cost estimate (up to $25,000).

3. **Perform Repairs:** ESC and owner will agree on scope of work. ESC will select from a list of qualified contractors to perform the selected repairs on the property.

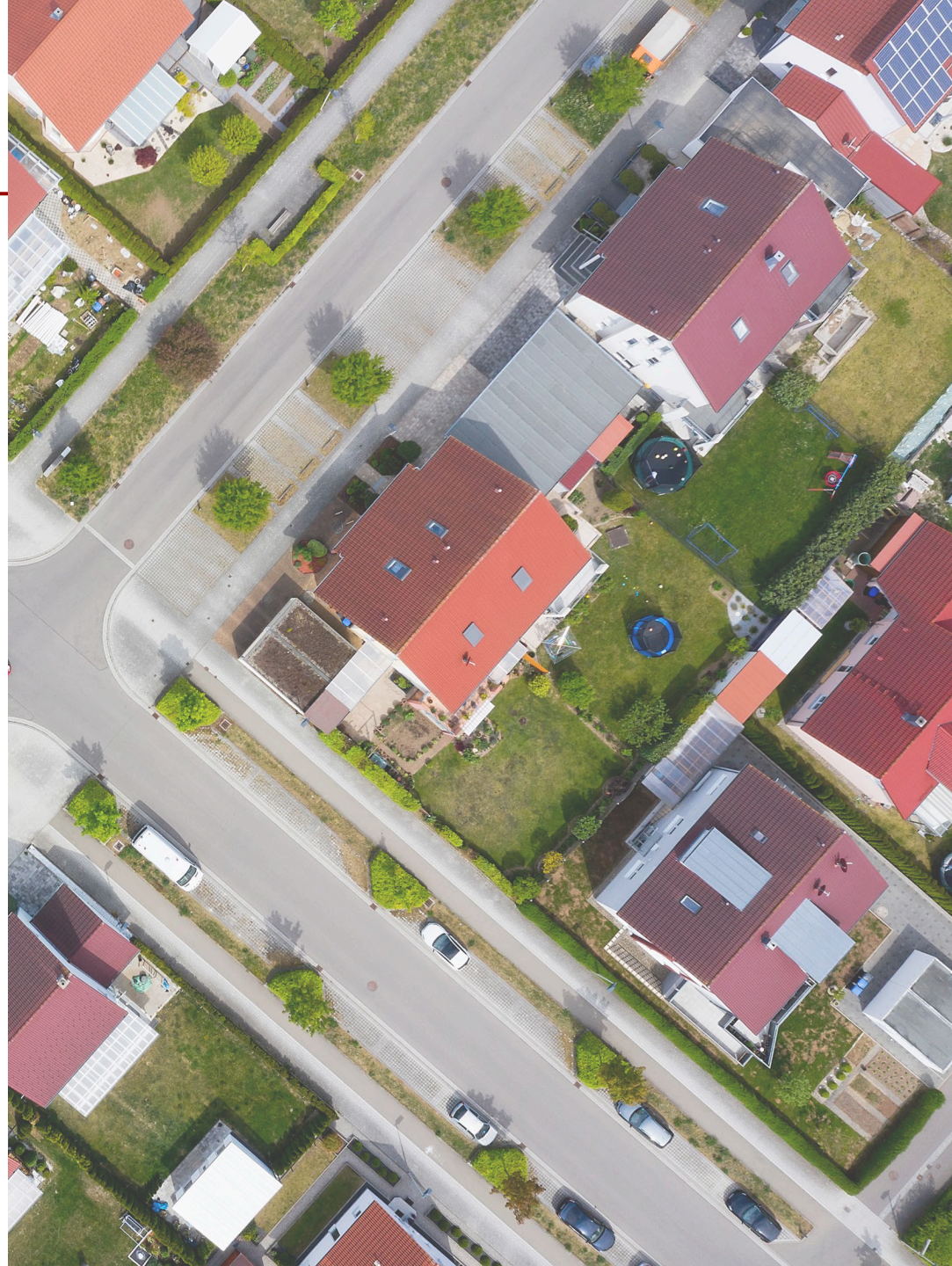
4. **Conduct Property Closeout:** ESC, Contractor, City Building Inspectors and Property Owner will participate in a closeout process to confirm repairs and gather final documentation.

Contact Details & Next Steps

For more information, interested applicants can visit **ESC** during normal office hours, **Monday through Thursday 8:00 am - 5:00 pm**. The office is located at **1924 West 4th Street, Joplin, MO 64801.**

All applications will need to be turned into ESC's office at 1924 West 4th Street, Joplin, MO 64801, either through the mail or in person.

ESC will reach out to **the initial list of interested applicants** that have already contacted the City shortly. For further information, please contact **Curtis Scott** from the ESC's Home Repair Department on **417-781-4437.**



Questions?



PUBLIC WORKS 2024 Reorganization Planning Update and Request

For the City of Joplin

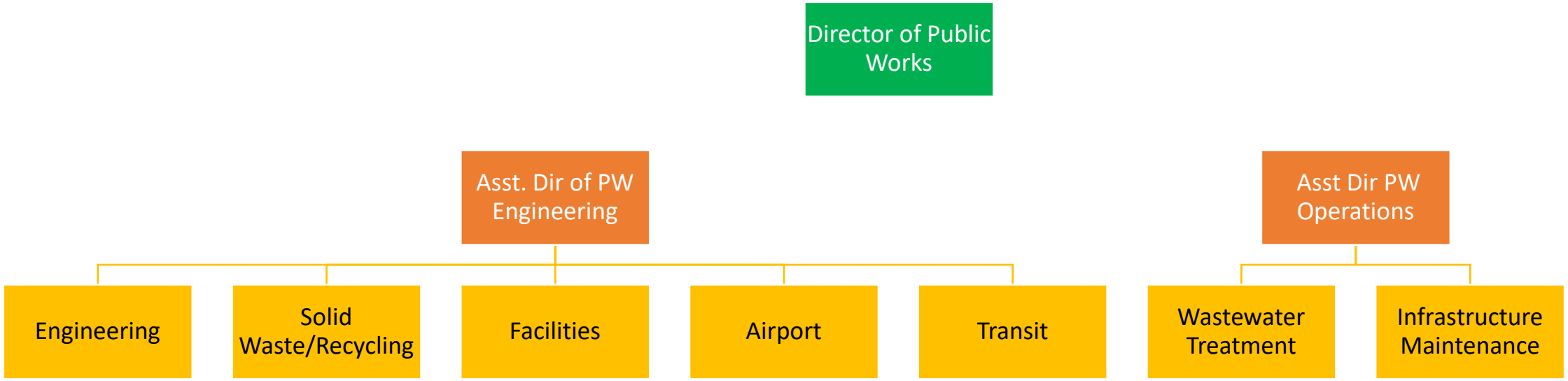
COJ Team | August 5, 2024

Public Works Reorganization Process

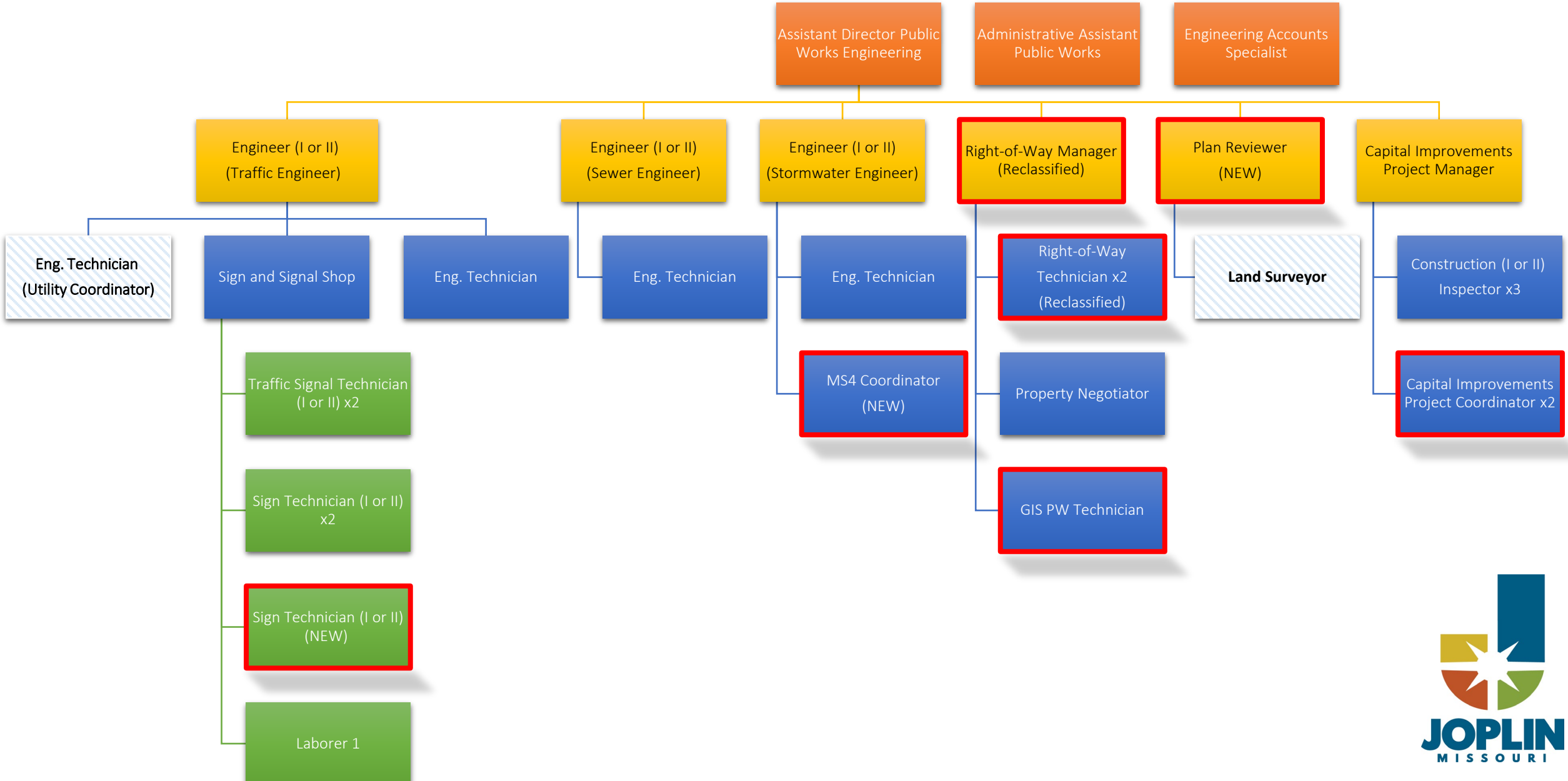
- Public Works reorganization began in 2022
- A Presentation was made to Council in October, 2022
- This is an update on the planning process and positions required for best practices and improved services
- Includes a FY 2024-25 Budget Request for New Positions

JOPLIN
MISSOURI

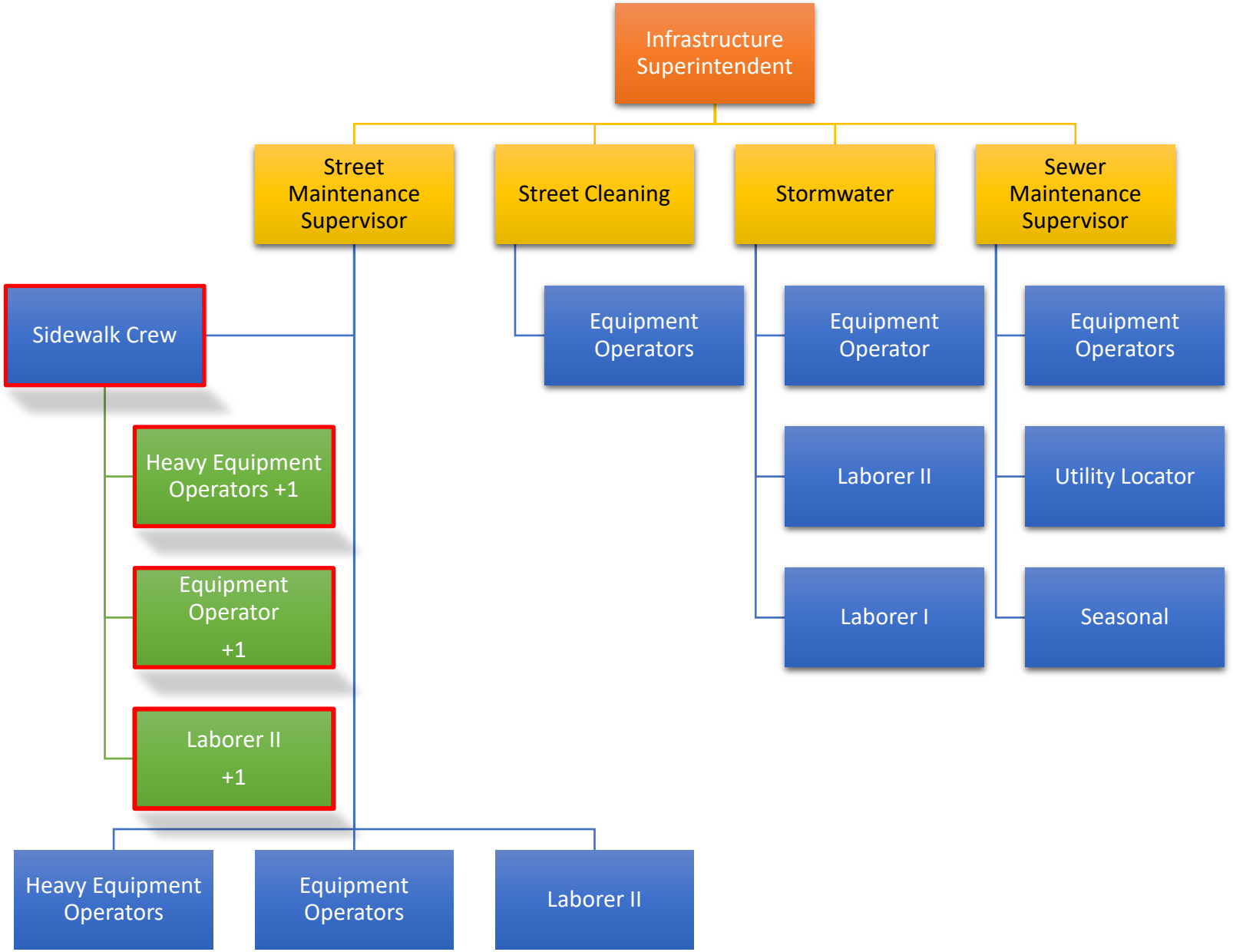
Public Works



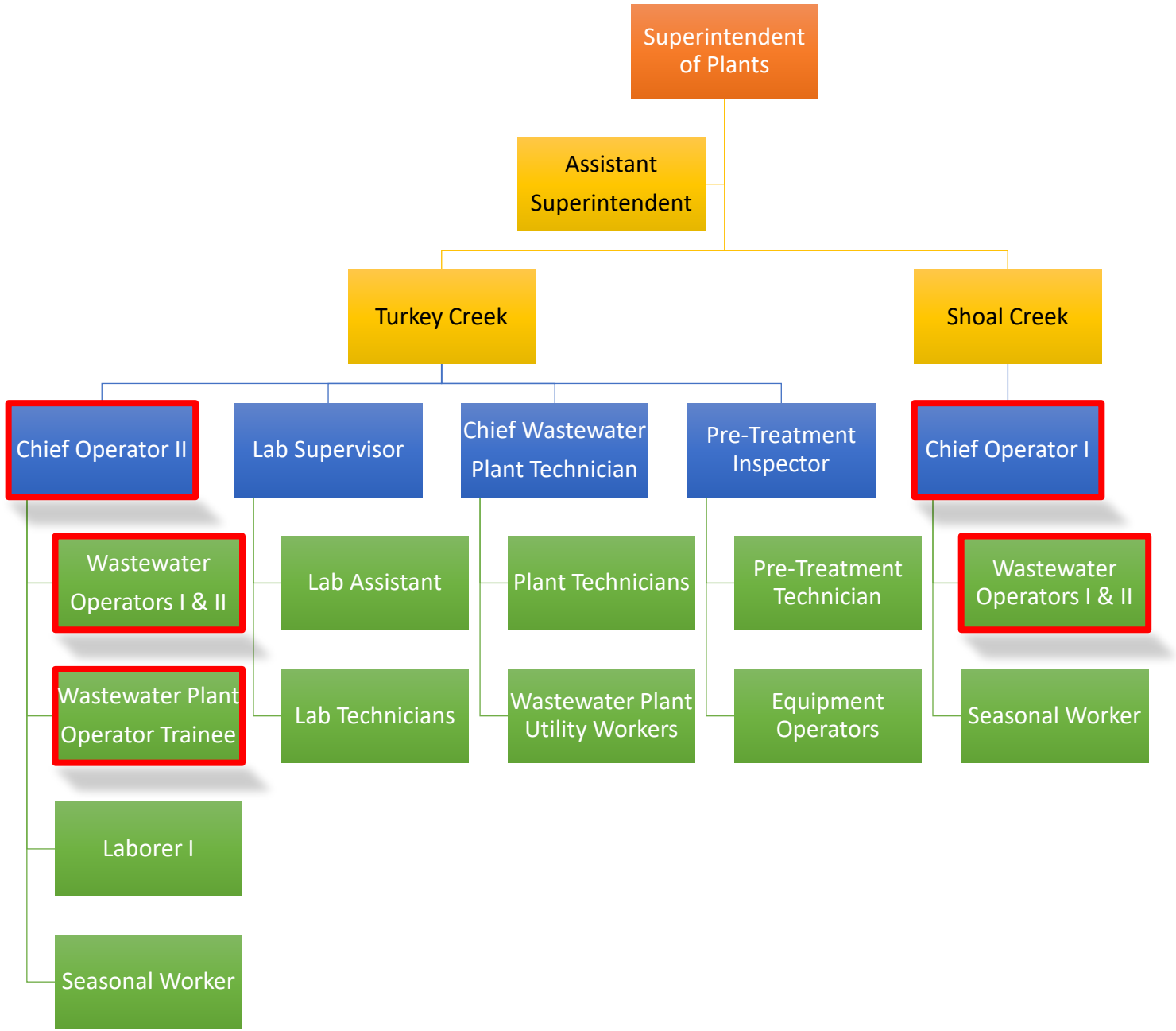
Public Works Engineering



Public Works Operations

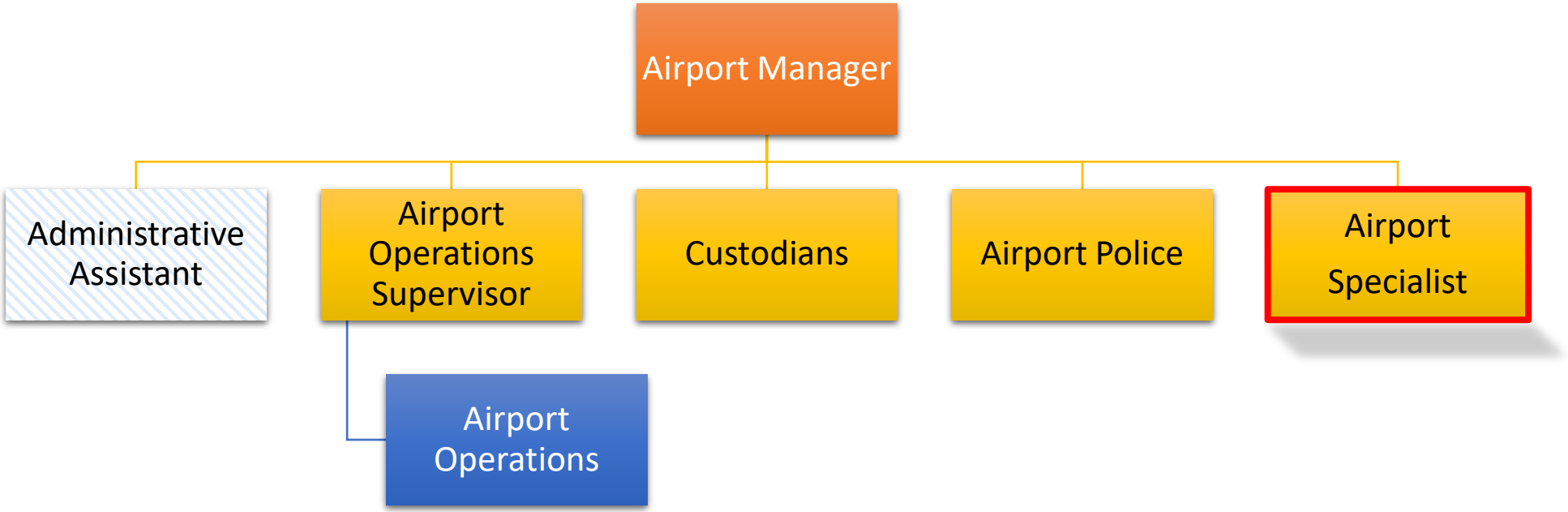


Public Works Operations (Wastewater)

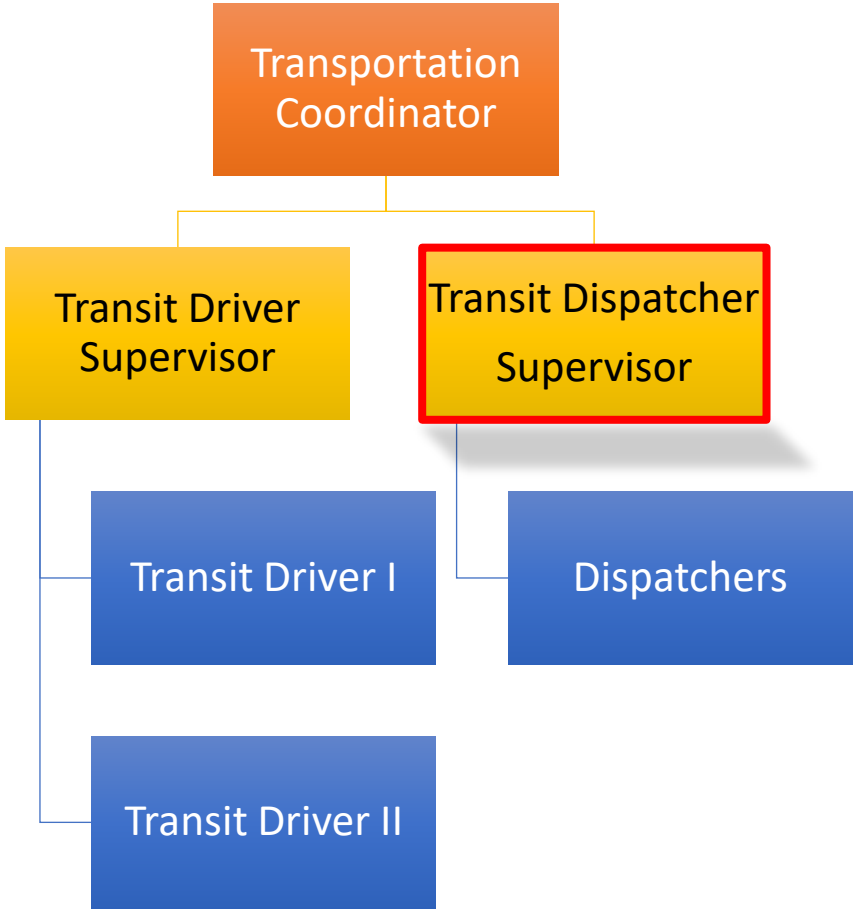


JOPLIN MISSOURI

Public Works Airport (Engineering)



Public Works Transit (Engineering)



2024-2025 Public Works Reorganization Estimated Cost					
Position	**Funding Source**	**Est. Staffing Cost**	**Est. Annual Supplies**	**Est. Total Annual Cost**	**Est. One-Time Capital Cost**
Engineering Plans Reviewer	General Fund	No additional cost-Replacing Land Surveyor Position			
Right-of-Way Manager	TST	$88,515	$5,000	$93,515	$7,000
Right-of-Way Technician	TST	$68,218	$3,000	$71,218	$52,000
Right-of-Way Technican (Reclassify Existing General Fund Engineering Technician)	TST	No additional cost-Reclassifying Existing Position			
Capital Improvements Project Coordinator (2)	CIST	$157,880	$6,000	$163,880	$59,000
WW Plant Operator Trainee	Sewer	No additional cost-Trainee Position			
GIS Technician	General	$-	$-	$-	$-
MS4 Coordinator	Parks/SW Sales Tax	$-	$-	$-	$-
Traffic, Markings, and Sign Technician	TST	$-	$-	$-	$-
Transit Dispatch Supervisor	TST	$-	$-	$-	$-
Airport Specialist (Reclassify Administrative Assistant)	Airport / TST	$-	$-	$-	$-
Heavy Equipment Operator	CIST	$-	$-	$-	
Equipment Operator	CIST	$-	$-	$-	
Equipment Operator	CIST	$-	$-	$-	
Laborer II	CIST	$-	$-	$-	

Questions?



CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
RS 2024-012 – Special Use Permit

MEETING DATE:
August 5, 2024

ORIGINATING DEPARTMENT:
Planning, Development and Neighborhood Services

REVIEWED BY:
Director of Planning, Development & Neighborhood Services – Troy Bolander
Director of Finance – Leslie Haase
City Attorney – Peter Edwards
Assistant City Manager – Tony Robyn
City Manager – Nicholas Edwards

FUNDING SOURCE:
Not applicable for this item.

SUMMARY REQUEST:
Case 026-24: 3502 S Park Ave – Special Use Permit – A request for a Special Use Permit to operate a Home Beauty Salon – Jennifer Hicks

BACKGROUND:
Jennifer Hicks is requesting to build a detached accessory structure in her backyard, which will house a home beauty salon. The building will be required to follow the Joplin Development Code regulations. She will be requesting to operate her business Monday through Friday from 9AM to 6PM. There will be no other employees or assistants.

Due to the costs associated with the new building, Jennifer is requesting a permanent special use permit.

Off-street parking is provided with the existing site. There is a 2-car driveway and a 2-car garage. This will accommodate the required 2 off-street parking requirement for the single-family use, along with 2 additional spaces.

PLANNING & ZONING COMMISSION TESTIMONY:
Ms. Jennifer Hicks represented the case. Dr. Rosenberg asked if the applicant had spoken to the neighbors on either side. Ms. Hicks said that she has a vacant rental to the North of her and Beverly to the South of her. Ms. Hicks stated Beverly is in support of her and wishes her luck. Ms. Hicks said the person to the East is in favor. Ms. Hicks said that the neighbor to the East of her on Finley asked if he could put a gate there to walk over and get his hair done. Mr. Kimble asked about parking. Ms. Hicks said there is a 2-car garage and a driveway that can fit 4 parking spaces.

PUBLIC COMMENT;

Ms. Rhonda Fanning was in opposition of the case. Her and her husband are the trustees for the house North of the applicant. Ms. Fanning stated she was opposed to the neighborhood becoming commercial and was concerned with parking. Ms. Phillips asked to clarify with staff, as she believed there was a difference between commercial and a special use permit. Mr. Bellairs stated that this is not a request for the property to become commercial, and that the special use permit is to allow the salon as a secondary use to the primary function of the property, which is still single-family residential. Mr. Bellairs stated that many home occupations are permitted by right, but when your business may generate traffic or frequent business from customers, the City requires a special use permit to set limitations on the use.

Ms. Fanning asked about signs. Mr. Bellairs explained that the applicant is not requesting a sign at this time, but if they did, they would have to comply with the home occupation standards for signs, which are very conservative and restrictive. Ms. Fanning asked what is and what is not allowed, and how the residents would know. Mr. Bellairs responded and read the conditions set on the special use permit, and reminded the commission that they have the authority to recommend additions/changes to the restrictions. Ms. Blue-Michael stated that she does not believe that this would cause a negative impact on the neighborhood. Dr. Rosenberg stated that if it was not a new building he would not be opposed. Mr. Bellairs stated that the building would still have to meet the residential accessory structure requirements under the development code. Any new building would have to appear subordinate to the primary building, and compatible with a residential use, whether it be a home salon, garage, or a mother-in-law flat.

RECOMMENDATIONS:

Planning & Zoning Commission recommends approval for Case 024-24 (5 in Favor, 1 Opposed, 1 Absent)

ATTACHMENTS

Staff Planning Report
P&Z Commission Minutes
Applicant Materials
Map

Case 026-24: Special Use Permit

3502 S Park Ave – Special Use Permit – A request for a Special Use Permit to operate a Home Beauty Salon – Jennifer Hicks

Jennifer Hicks, 3502 S Park Ave represented the case. Dr. Rosenberg asked if the applicant had spoken to the neighbors on either side. Ms. Hicks said that she has a vacant rental to the North of her and Beverly to the South of her. Ms. Hicks stated Beverly is in support of her and wishes her luck. Ms. Hicks said the person to the East is in favor. Ms. Hicks said that the neighbor to the East of her on Finley asked if he could put a gate there to walk over and get his hair done. Mr. Kimble asked about parking. Ms. Hicks said there is a 2-car garage and a driveway that can fit 4 parking spaces.

Mr. Kimble asked if anyone would like to speak in favor.

Mr. Kimble asked if anyone would like to speak in opposition.

Ms. Rhonda Fanning and her husband James stated that they had not been approached and asked if they approved. Ms. Fanning stated that it was a rental, but they only do 2 years. The property request joins their property. Ms. Rhonda disputed the parking situation. It is a quiet residential area. The driveway is always filled with cars, not with the garage. They have been working at their property for the last 3 months. Ms. Fanning said that there should not be a precedent to put commercial in a residential area. It will devalue their property and make it more unsafe. She does not want to live in a commercial neighborhood. She said there is someone across the street who wanted to turn the home into an Air BnB, and they opposed as well. Ms. Fanning said she does not know how anyone can approve this. There is no alley or access from the West.

Ms. Phillips asked if there is a difference between commercial and a special use permit. Ms. Phillips asked if we have set a precedent for a special use permit for a nail salon.

Mr. Bellairs stated that we have set a precedent. Mr. Bellairs elaborated that we are not changing the zoning of the property. Home occupations are an accessory use to residential. Home occupations are permitted by right, but certain home occupations like a day care or salon that have traffic associated with their hours of operation and how many guests they plan on having so that you can limit how much disturbance there is. There is a difference between allowing something as an accessory use to the primary use still being residential versus bringing something in as a commercial district.

Ms. Fanning asked what if they requested for a commercial sign. Will the residents be notified?

Mr. Bellairs responded there are conditions for the size of the sign. The applicant has not requested any signage but any signage but that if they were to do so it must comply with the sign standards and comply with the sign standards.

Ms. Fanning asked what was allowed. How will the guests be notified?

Mr. Bellairs stated that it must be non-illuminated, no more than 2 square feet and within 10′ of the interest. They cannot put it out by the street to advertise as cars as they drive by, it is more pedestrian oriented. There are more conservative restrictions on how large the sign can be and where it can be placed.

Ms. Fanning asked about on street parking.

Mr. Bellairs stated that on street parking is permitted but that we do look at off street parking, in addition to the 2 parking spaces required for the single-family use. The applicant provided at least 2 spaces. 2 in the driveway and 2 in the garage. That is the intent behind parking provision. However, on street parking is still allowed, the same way that if someone has guests and they need to park in the street they are able to.

Ms. Fanning said it is not the same as if she had guests. She shows up early for her hair appointment. Ms. Fanning there is probably 3 cars waiting because she shows up early for her hair appointment. How can we see what the rules for the special use permit are? This goes to Council on August 5.

Mr. Bellairs stated that if this does pass, he can provide her with the conditions of the special use permit.

Ms. Phillips asked Ms. Fanning if she said they didn′t get notice or they did. Ms. Fanning said they did receive notice from the City but they were not approached by the neighbors. Ms. Fanning said she would have left a note.

Ms. Fanning said the neighbors have Dobermans. She said they barked and asked the neighbor why they were barking. He said it is because they do not know you. She asked how that will affect the customers. She is concerned about it disrupting the quietness of the neighborhood.

Mr. Bellairs said that we have some new Commissioners tonight, and that he can provide the conditions of the special use permit. Mr. Bellairs reminded the commissioners that they can add or remove conditions to the special use permit. Mr. Bellairs proceeded to read the full list of conditions in the staff report.

Dr. Rosenberg stated it is a nice residential area. He would not have a lot of concerns if she was going to use a room in her home. In the application they proposed to build a fairly substantial building in the backyard. Dr. Rosenberg said he would be more for this if it was a room in the house.

Mr. Bellairs said that one of the conditions of the special use permit is to follow all of the regulations under Appendix 29-A of the zoning code. The applicant was informed that the building has to be residential in character an. It would be the same if they built an accessory dwelling unit or detached garage. It has to follow the same residential compatibility standards that any accessory building what have to in terms of outward appearance.

Dr. Rosenberg said he would feel better if the applicant came with letters from the neighboring property owners in favor.

Jennifer Hicks said that the reason for the size of the building is because she is providing a handicap accessible bathroom. She said she has a little barn for lawn mowing storage. There are several people with multiple out buildings. She is not looking to add anything obscene.

Mr. Kimble asked if the property is a rental.

Ms. Fanning, at 2058 S Loma Linda Dr, Loma Linda responded that they purchased the property with the intent of retirement, and they just sold their business in March. They have not used it. They do not allow pets or smokers with their tenants and are very particular. They maintained it for years and it is a big investment. Ms. Fanning said mixing commercial with residential it devalues the property. Ms. Fanning said she is not opposed to a home salon, she might even go there, obviously not now, they have been nice, and she does not know them, but there is not an issue. She just does not like mixing residential with commercial. If the house was on Schifferdecker, she does not think she would oppose it. The last tenants liked it because it was quiet. She did not know about the outbuilding so she does not have an opinion on that, but she will inquire more.

Ms. Klue-Michael said she goes to a massage therapist and her office is at her home location and it is on a cul-de-sac. She has on and off-street parking. There are no issues with the neighbors and no loudness. Kids screaming in the yard are going to be louder. She is not asking to build a cabana she is asking to build a business. Ms. Klue-Michael does not see an issue with the noise or parking.

Ms. Fanning said she has used home businesses as well, but she is not here as a client of customer. She has no problem if you provide a service she is paying for. She is here as a property owner, an investor. She is probably less concerned about the noise. She is more concerned with making it commercial. Ms. Fanning said she would comment on the building in the back, but she does not know enough about that. She imagined that something would need to present something to the City.

Mr. Bellairs stated that the building permit and application will come later. Mr. Bellairs reiterated it was communicated to the applicant that the building cannot look like a commercial building, it must match the house. As far as the 12x20 building they are proposing, we have not received any official documents, but before they can proceed with investing money into the new building, they need the use approved.

Ms. Fanning said her, and her husband may not have any opposition if they had known ahead of time. She said when you read that once you allow this, or you allowed to fudge on that a little bit. They are unaware of what happens. All they know is that they purchased property in the City and what they are told by realtors. They are willing to review if they can get all of that prior to the August meeting. They are concerned with the building in the back since there are no alleys. Will there be a walkthrough? She is still asking if everyone understood what is in the letter?

Ms. Phillips asked Tyler didn't he send like 15 letters. Was Ms. Fanning the only one who responded?

Mr. Bellairs said that Ms. Fanning was the only one who responded. They also include a phone number in the letters to call and ask questions, as we do not expect the recipients to have all of the answers.

Mr. Kimble asked if there was anyone else who wished to speak in opposition of this case.

Mr. Kimble asked if there was a motion for this case.

MS. PHILLIPS MOVED THAT CASE 026-24 BE APPROVED AND FORWARDED TO THE CITY COUNCIL FOR APPROVAL. MS. KLUE-MICHAEL SECONDED THE MOTION. MOTION CARRIED. (5 IN FAVOR, 1 NAY, 1 ABSENT)

Z&P Meeting: July 8, 2024
City Council Meeting: August 5, 2024

JOPLIN
PLANNING, DEVELOPMENT, & NEIGHBORHOOD SERVICES

STAFF PLANNING REPORT
Special Use Permit

CASE 026-24 A request for a Special Use Permit to operate a home beauty salon.

LOCATION 3502 S Park Ave

APPLICANT Jennifer Hicks

EXISTING CONDITIONS

Zoning	Land Use	Property Size
R-1 (Single-Family Residential)	Single Family Home	Approximately 0.35 acres

SITE CONTEXT

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

TRANSPORTATION

Streets with access	Classification	Right-of-way width
S Park Ave	Local	50′

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

No.

UTILITIES Utilities do not need to be extended to the property.

FLOOD PLAIN N/A

STAFF ANALYSIS

IS DEEMED NECESSARY FOR THE PUBLIC CONVENIENCE AT THAT LOCATION.

Jennifer will be able to provide salon services for residents, within the limitations specified in the Special Use Permit. These conditions will restrict the number of visitors and hours of operation as Zoning and Planning Commission and City Council sees necessary, while also providing a service to the neighborhood.

IS SO DESIGNED, LOCATED, AND PROPOSED TO BE OPERATED THAT THE PUBLIC HEALTH, SAFETY, AND WELFARE WILL BE PROTECTED.

Yes, this site will be able to accommodate the expected amount of traffic, and the new building will comply with applicable building and fire regulations.

IS FOUND TO BE GENERALLY COMPATIBLE WITH THE NEIGHBORHOOD IN WHICH IT IS PROPOSED.

This will be an accessory home business. Home businesses with clientele that come and go as part of the use are required to operate with a special use permit, to ensure that this does not become an undue burden on the neighborhood.

WILL COMPLY WITH THE HEIGHT AND AREA REGULATIONS OF THE DISTRICT IN WHICH IT IS LOCATED UNLESS SPECIFICALLY GRANTED.

Yes, the new building that the applicant plans to build will be required to comply with the zoning and planning development codes. These codes restrict the height of the building, emphasize that materials and design match the existing building, and place setbacks and a maximum footprint on the building. The intent of the design standards is to scale the building as accessory to the primary use, which is single-family residential.

OFF-STREET PARKING AND LOADING AREAS WILL BE PROVIDED IN ACCORDANCE WITH THE STANDARDS SET FORTH IN THE ZONING REGULATIONS AND SUCH AREAS WILL BE SCREENED FROM ADJOINING RESIDENTIAL USES AND LOCATED SO AS TO PROTECT SUCH RESIDENTIAL USE FROM ANY INJUIOUS EFFECT.

Off-street parking is provided with the existing site. There is a 2 car driveway and a 2 car garage. This will accommodate the required 2 off-street parking requirement for the single-family use, along with 2 additional spaces.

ADEQUATE UTILITY, DRAINAGE, AND OTHER SUCH NECESSARY FACILITIES HAVE BEEN OR WILL BE PROVIDED.

Utilities are presently in place. No utility or drainage improvements will be necessary.

DISCUSSION

Jennifer Hicks is requesting to build a detached accessory structure in her backyard, which will house a home beauty salon. The building will be required to follow the Joplin Development Code regulations. She will be requesting to operate her business Monday through Friday from 9AM to 6PM. There will be no other employees or assistants.

Due to the costs associated with the new building, Jennifer is requesting a permanent special use permit.

CONDITIONS

1. This Special Use Permit is issued to Jennifer Hicks for the operation of a home beauty salon at 3502 S Park Ave.
2. The term of this permit shall be permanent.
3. There shall be no more than one (1) hair-dressing chair in the residence.
4. There shall be no other assistants.
5. Off-street parking for two (2) vehicles shall be provided.
6. The house of operation shall be restricted to 9:00 a.m. to 6:00 p.m. Monday through Friday.
7. Customers will be taken by appointment only.
8. Signs shall be limited to one non-illuminated sign not more than one (1) by (2) feet set at least ten (10) feet north of the south property line and not more than six (6) feet above grade.
9. Compliance with all provisions of Code of State Regulations, Title 20 – Department of Insurance, Financial Institutions, and Professional Registration, Division 2085 – Board of Cosmetology and Barber Examiners, Division 2090 – State Board of Cosmetology.
10. The compliance with all provisions of the Fire/Safety codes as required by the State Fire Marshal is required.
11. All regulations as stated in Appendix 29-A (Zoning Code) of the Municipal Code shall be followed at all times.
12. Any other conditions set by the City Council of Joplin.

ENCLOSURES

- Applicant Materials
- Map

Special Use Permit Application

Return Form to:
Planner
Joplin City Hall
602 S. Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 1511
Zoning-Planning@JoplinMO.org

Office Use Only 026-24
Case No.: 026-24
Filing Fee: $600.00
Received: 6/7/24
Date Advertised:
Proj. No.: 24-091
Public Hearing Date: 7/8/24

Applicant: Jennifer Hicks Phone No.: 417.622.7521
Address: 3502 S. Park Ave Joplin Email: redkenstylist@hotmail
Owner: Jennifer + Jerelle Hicks Phone No.: 417.622.7521
Address: 3502 S. Park Ave Joplin Email: redkenstylist@hotmail
Location of Property: 3502 S. Park Ave Joplin, MO. 64804
Present Use of Property: Residential
Proposed Use of Property: Mixed-Use
Current Zoning: Residential Acreage: 14,810 SQFT

Surrounding Land Use and Zoning:

	Land Use	Zoning
North	Residential	Residential
South	Residential	Residential
East	Residential	Residential
West	Residential	Residential

Character of the Neighborhood: Established. Busy & friendly enviroment, close to retail establishments

Submission of Documents: The following documents are **required** at time of submission.

Yes	No	
☑	☐	Completed and signed application.
☑	☐	Legal description of the property from a deed or certified survey. Must be legible.
☑	☐	Additional sheet explaining how the above criteria are met. in docx
☑	☐	One copy of the necessary descriptive material related to the intensity and extent of the proposed use, including any traffic conditions that may result; any danger from fire hazards; how the proposed use may affect the character of the surrounding properties; and how the proposed use will benefit the City of Joplin.
☑	☐	One copy of a site plan of the property showing location of off-street parking and any required screening, location of the structure(s) or proposed structure(s), access to the site from public right-of-way, and any other information requested by staff, the Planning & Zoning Commission, or City Council.

Violation of any condition as part of an approved Special Use Permit will cause a complaint to be filed with the Municipal Court and the Permit to be suspended immediately requiring reapplication.

Applications that are incomplete or missing required documents will **not** be processed or scheduled on an agenda to the Planning & Zoning Commission until corrected and resubmitted.

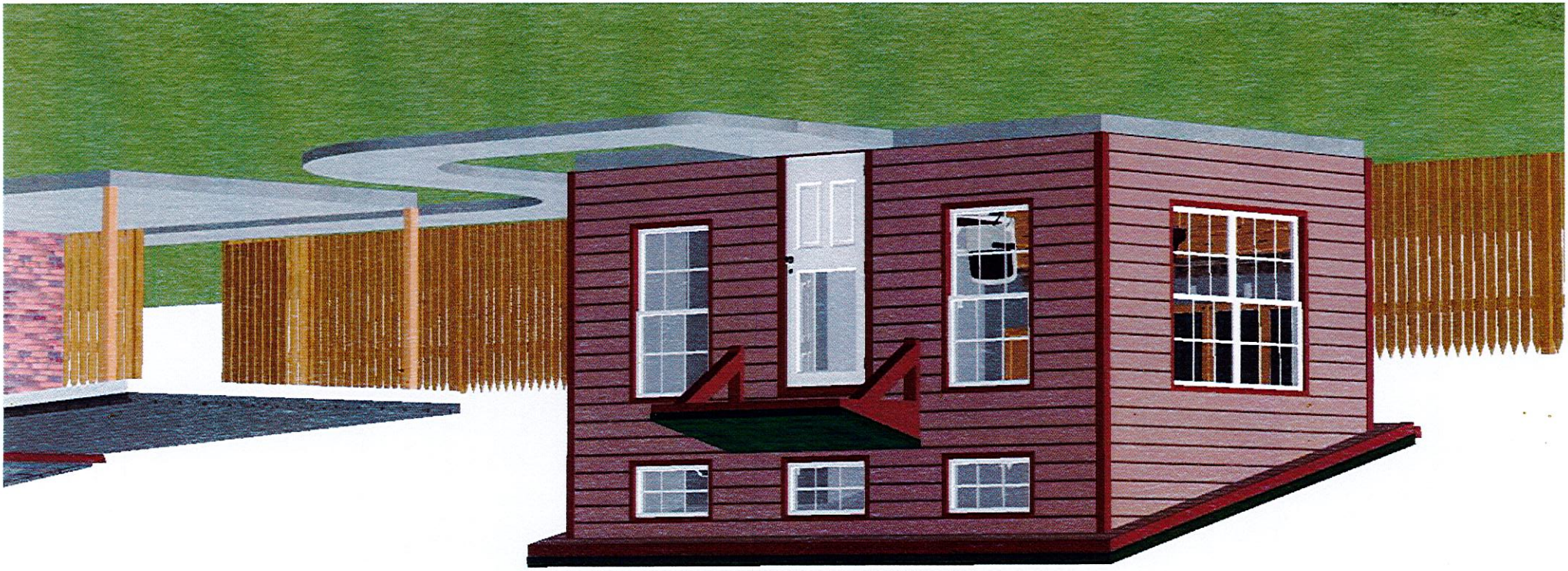
Signature: Jennifer N Hicks **Date:** 6-7-2024

Proposed:

Hours of operation: 9am - 6pm — Mon - Fri
Total Parking Available: 4 spaces
No Employees

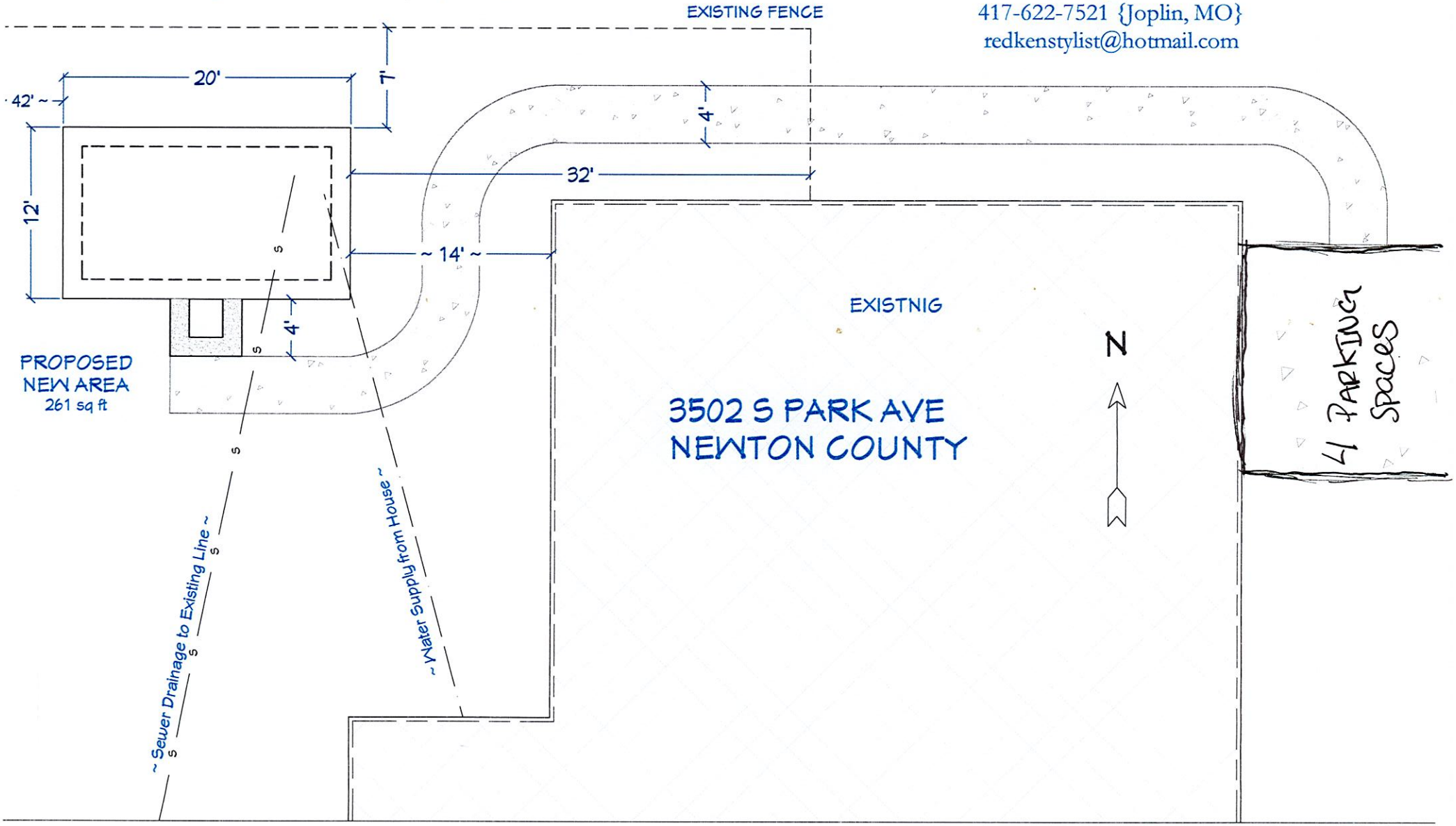
The proposed building of a 12 x 20 salon on my property will allow easier access for clients in my community to be serviced and for future guests. Continuing to bring money into the city of Joplin, both in money spent and taxes paid.

Concerning the neighborhood, I have had nothing but encouragement and support in my endeavors. This addition will add both value to the community and my property in a manner that maintains its style and tone. By doing so, I aim to create a welcoming and convenient space that caters to the growing demand for beauty services, while also contributing to the local economy. This project aligns with the city's vision for growth and development, and I am confident that it will have a positive impact on the community

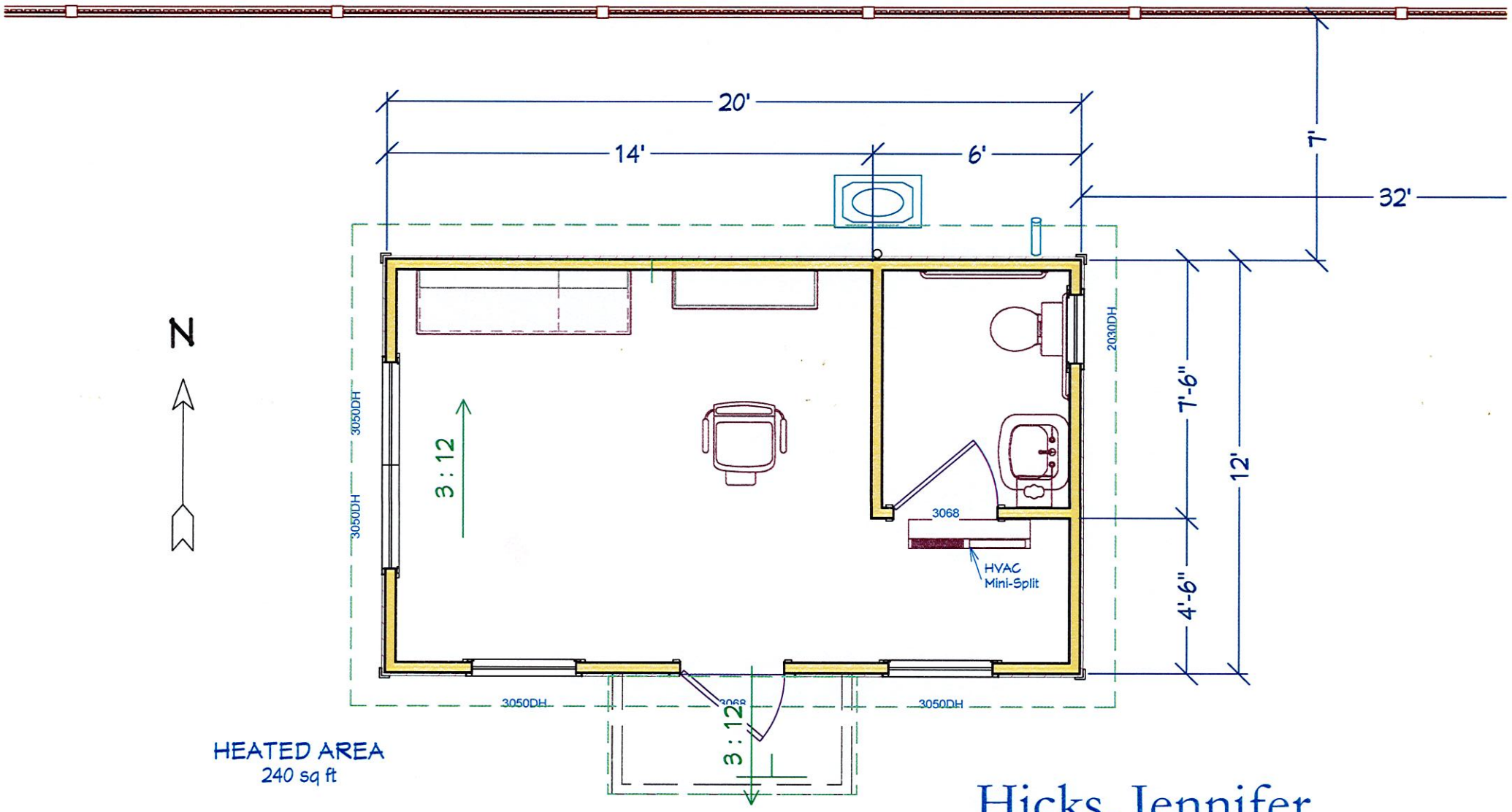


Melody Matthews with Good Will Builders, Inc.
417-626-9663 {6/4/2024 (3:50:31 PM)}
Drawing Scale: 1/6 in = 1 ft {Tabloid (11" x 17")}

Hicks, Jennifer
417-622-7521 {Joplin, MO}
redkenstylist@hotmail.com



Melody Matthews with Good Will Builders, Inc.
417-626-9663 {6/3/2024 (3:27:52 PM)}
Drawing Scale: 1/4 in = 1 ft {Letter (8½" x 11")}



HEATED AREA
240 sq ft

3502 S PARK AVE

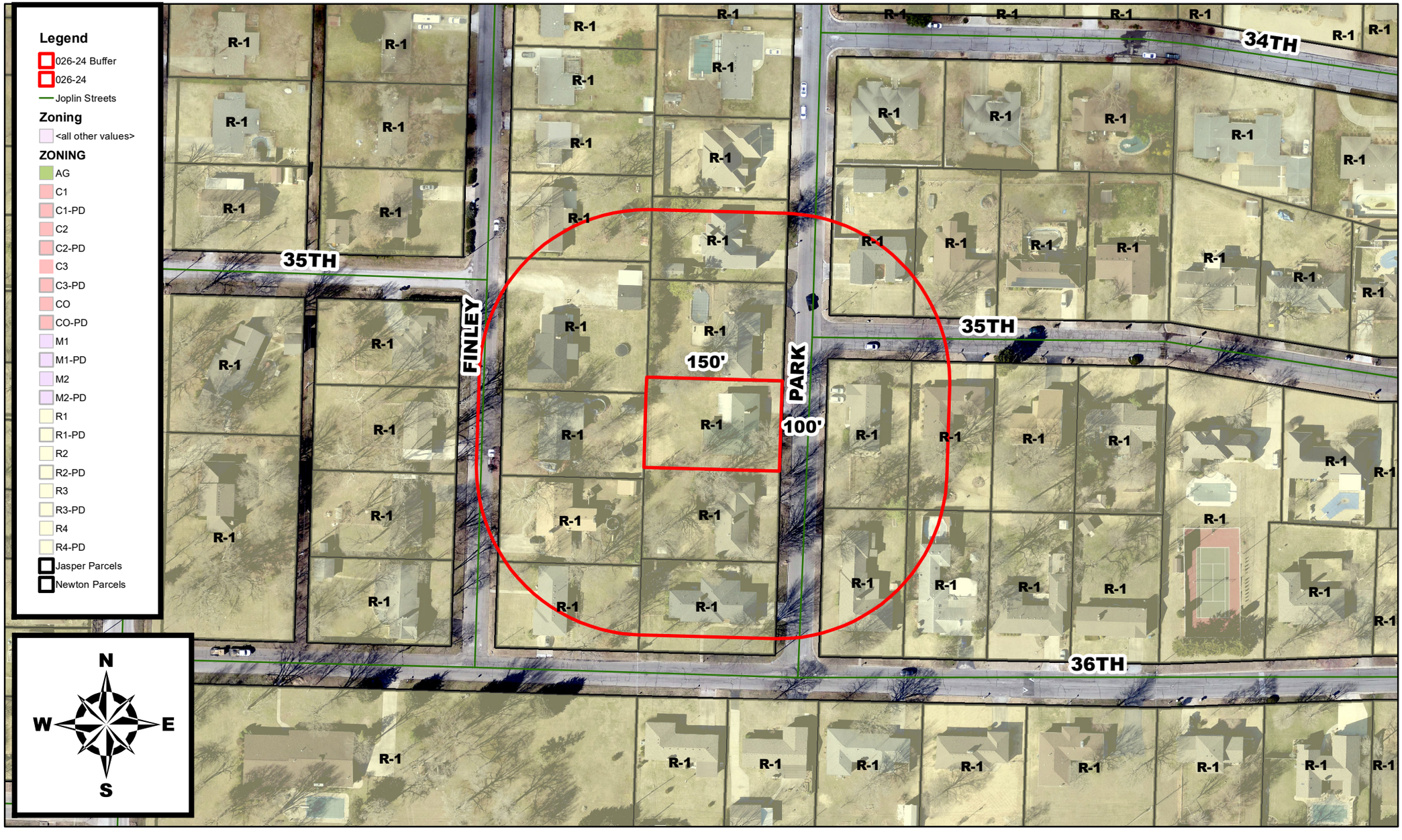
Hicks, Jennifer
417-622-7521 {Joplin, MO}
redkenstylist@hotmail.com

- All of lot number eight (8) in Ruestman Heights plat number four (4) now the city of Joplin Newton County, Missouri, according to the records plat thereof




E 35TH
Build
PARK
S PARK AVE
E 36TH ST
100 ft
POWERED BY esri
2790425.94, 320999.79

Case 026-24: Special Use Permit



3502 S Park Ave – Special Use Permit – A request for a Special Use Permit to operate a Home Beauty Salon – Jennifer Hicks

RESOLUTION NO. 2024-012

A RESOLUTION granting a Special Use Permit (1st Request) for the operation of a Home Beauty Salon, located at 3502 S Park Ave in the City of Joplin, Newton County, Missouri.

WHEREAS, a public hearing was held before the City Council on July 8, 2024, in compliance with said request.

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

That a Special Use Permit be granted to Jennifer Hicks for the operation of a Home Beauty Salon located in the City of Joplin, Missouri, on the following described real estate, to-wit:

All of lot number eight (8) in Ruestman Heights plat number four (4) now the city of Joplin Newton County, Missouri, according to the records plat thereof.

And the said Special Use Permit is hereby issued with the following conditions and made a part thereof:

1. This Special Use Permit is issued to Jennifer Hicks for the operation of a home beauty salon at 3502 S Park Ave.
2. The term of this permit shall be permanent.
3. There shall be no more than one (1) hair-dressing chair in the residence.
4. There shall be no other assistants.
5. Off-street parking for two (2) vehicles shall be provided.
6. The hours of operation shall be restricted to 9:00 a.m. to 6:00 p.m. Monday through Friday.
7. Customers will be taken by appointment only.
8. Signs shall be limited to one non-illuminated sign not more than one (1) by (2) feet set at least ten (10) feet north of the south property line and not more than six (6) feet above grade.
9. Compliance with all provisions of Code of State Regulations, Title 20 – Department of Insurance, Financial Institutions, and Professional Registration, Division 2085 – Board of Cosmetology and Barber Examiners, Division 2090 – State Board of Cosmetology.
10. The compliance with all provisions of the Fire/Safety codes as required by the State Fire Marshal is required.
11. All regulations as stated in Appendix 29-A (Zoning Code) of the Municipal Code shall be followed at all times.
12. Any other conditions set by the City Council of Joplin.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2024, by a _____vote.

_____
Keenan T. Cortez, Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter Edwards, City Attorney

JOPLIN CITY COUNCIL
JULY 15, 2024
MEETING MINUTES

CALL TO ORDER

The June 15, 2024, regular meeting of the Joplin City Council was called to order at 6:00 p.m. by Mayor Keenan Cortez.

INVOCATION was read by City Clerk, Holly Nagy

PLEDGE OF ALLEGIANCE TO THE UNITED STATES OF AMERICA was led by Maya Greencrest, MSSU.

ROLL CALL

Answering Roll Call were Council Members: Joshua Bard, Doris Carlin, Charles Copple, Keenan Cortez, Mark Farnham, Ryan Jackson, Doug Lawson, and Gary Shaw. Also, in attendance were City Manager Nick Edwards and City Attorney Peter Edwards.

Absent: Josh DeTar

Motion by Mr. Lawson, second by Mr. Bard to excuse the absence of Mr. DeTar. Voting in favor were Council Members: Bard, Carlin, Copple, Cortez, Farnham, Jackson, Lawson, and Shaw, 8. Absent: DeTar, 1.

PRESENTATIONS

Joplin Regional Alliance for Healthcare Update

Nick Edwards, City Manager and Travis Stephens, from the Chamber presented.

ALLO Update

Doug Tatman from ALLO presented.

JASCO Radio Update

Mr. Steven Williams and Mr. James Harrison from JASCO presented.

Review Draft Memorial Hall RFQ

Nick Edwards, City Manager presented.

Mr. Phil Stinnett addressed the Council regarding Memorial Hall. Mr. Stinnett suggested getting the American Legion involved with the process. Mr. Stinnett suggested allowing the Legion to lease a small portion of property to build a building for their use.

Discussion ensued regarding the various proposals.

Council is supportive in including the American Legion and bringing this item back before the RFQ is finalized. Mr. Nick Edwards clarified that staff will be asking for two proposals for this project. First proposal including the American Legion. Second proposal for a park at this location.

FINALIZATION OF CONSENT AGENDA

REPORTS AND COMMUNICATIONS

News from the Public Information Office

Missouri Department of Transportation is hosting a public meeting about Forward 44, a study on Interstate 44, inviting citizens to attend and provide their comments. The meeting is from 4:30 to 6 p.m. on Tuesday, July 23, at the Joplin Public Library, 1901 East 20th Street in Joplin.

City officials recognize the importance of this meeting and encourage residents to take this opportunity to hear information about I-44, which runs through our community, and then provide their thoughts to help shape its future.

The public can also provide comments online at modot.org/forward44 through Aug. 21. Forward 44 is a comprehensive environmental study focused on 250 miles of Interstate 44 from the Oklahoma state line to the Route 100 east interchange just outside of St. Louis.

Just a friendly reminder! The City's monthly tree limb and brush drop-off site will be open this Friday, July 19 and Saturday, July 20. It will be open from 8:30 a.m. to 3 p.m. And the weather will be cooler so yardwork won't seem impossible.

The drop-off site is located at 1702 North Schifferdecker Avenue, six-tenths of a mile north of Belle Center Road on the west side of Schifferdecker. This free drop-off service cannot accept leaves, grass clippings, treated wood, railroad ties, or construction debris and it is not intended for commercial tree trimming/removal service providers or contractors.

The Drop Off site is open the third Saturday of the month and the preceding Friday through October.

I know many people think that after the July 4th holiday, summer is almost over—but it's really not! So now's the time to think about how you want to spend some of your free time – or share experiences with your family.

There are still a lot of activities and fun things taking place, so we encourage everyone to be tourists in their home town. This is the week of Downtown Joplin's 3rd Thursday event, and it's the annual Waterfest theme, so it should be fun and maybe a little wet, too!
Joplin Outlaws Baseball Team is back in town for a nine-day home stand at Joe Becker Stadium. There's a different theme for each game, so be sure to check that out.

This Saturday, July 20th, Wildcat Glades Water Fest takes place along Shoal Creek. Brought to you by Wildcat Glades Nature Group, Stealth Creative, Missouri American Water, the Missouri Department of Conservation, and Joplin Parks and Recreation, this event is fun for the whole family. There will be cardboard boat races, shoebox boat races, a rubber duck race, a fishing derby, food trucks, and more than 20 booths from local vendors or organizations.

JoMo Jammin' Music Festival continues this Saturday and next Saturday, hosted by Connect2Culture. This summer music festival celebrates local talent and features two area bands each Saturday. It's held inside the Hall at the Cornell Complex.
Many other organizations offer classes, programs and events.

George Washington Carver National Monument hosts activities year-round, Joplin Arts District sponsors the 1st Thursday Artwalk each month, and Wildcat Glades always has classes and learning opportunities for all ages.

Other options are available through Joplin Parks and Recreation with leagues and programs; MoKan Dragway holds races every weekend and creates excitement with featured guests, and our Public Library definitely can keep everyone in the family busy with their activities, groups and scheduled events. Connect2Culture ignites a passion for arts, culture, and entertainment and does a great job of sharing news about all the arts in our community. Joplin Downtown Alliance sponsors 3rd Thursday, brings Empire Market and its experiences, and continues to offer programs and events that all can enjoy.

CITIZEN REQUESTS AND PETITIONS

Cavanaugh Studyvin spoke regarding the Economic Securities CARS program.

PUBLIC HEARINGS

Public Hearing Procedures were read by City Clerk Holly Nagy

PUBLIC HEARING FOR COUNCIL BILL NO. 2024-507
Mayor Cortez opened the Public Hearing
No one spoke in favor of this item.
No one spoke in opposition of this item.
The Public Hearing was closed.

COUNCIL BILL NO. 2024-507
Mr. Lawson introduced Council Bill No. 2024-507- AN ORDINANCE approving a Petition to Terminate the Northpark Lane Community Improvement District. Motion by Mr. Lawson second by Mr. Copple that Council Bill No. 2024-507 be passed and move to second and third reading. Voting in favor were Council Members: Bard, Carlin, Copple, Cortez, Farnham, Jackson, Lawson, and Shaw, 8. Absent: DeTar, 1.

PUBLIC HEARING FOR CASE NO. 027-24
Mayor Cortez opened the Public Hearing
Morris Glaze spoke in favor of this item.
No one spoke in opposition of this item.
The Public Hearing was closed.

CASE NO. 027-24

Mr. Copple introduced Case No. 027-24. A request to declare property a surplus, property as described below and located at 1201 S Byers Ave, in the City of Joplin, Jasper County, Missouri. (Requested by City of Joplin. Planning and Zoning Commission recommended approval). Motion by Mr. Copple second by Ms. Carlin that Case No. 027-24 be approved. Voting in favor were Council Members: Bard, Carlin, Copple, Cortez, Farnham, Jackson, Lawson, and Shaw, 8. Absent: DeTar, 1.

CONSENT AGENDA

Motion by Mr. Shaw, second by Mr. Copple to approve the Consent Agenda. Voting in favor were Council Members: Bard, Carlin, Copple, Cortez, Farnham, Jackson, Lawson, and Shaw, 8. Absent: DeTar, 1.

Minutes of the July 1, 2024, City Council Meeting

COUNCIL BILL NO. 2024-128 - AN ORDINANCE approving the City of Joplin to enter into an agreement with Emery Sapp and Sons Inc. in the amount of One Million Six Hundred Eleven Thousand Seven Hundred Twenty-Eight and 52/100 dollars ($1,611,728.52) for construction of the Zora Street and Duquesne Road Intersection Improvements project and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin; and setting a date when this Ordinance shall become effective. **Ordinance No. 2024-088.**

COUNCIL BILL NO. 2024-273 - AN ORDINANCE amending Ordinance No. 2022-274, passed by the Council of the City of Joplin, Missouri, August 1, 2022, by removing from District M-2 (Heavy Industrial) and include in District R-2 (Two-Family Residential) property as described below and located at 302 S McKinley Ave. **Ordinance No. 2024-089.**

RESOLUTIONS

ORDINANCES – EMERGENCY

ORDINANCES – FIRST READING

COUNCIL BILL NO. 2024-275

Mr. Lawson introduced Council Bill No. 2024-275 - AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with ALLO Communications LLC, a Nebraska limited liability company, for the purpose of leasing a certain land in the area commonly known as 1301 W 2nd Street, Joplin MO to ALLO Communications LLC to use the premises for a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy; authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin.

Motion by Mr. Lawson, second by Mr. Copple that Council Bill No. 2024-275 be passed on the first reading and advance to second and third. Voting in favor were Council Members: Bard, Carlin, Copple, Cortez, Farnham, Jackson and Lawson, and Shaw 8. Absent: DeTar, 1. The Bill was read as Council Bill No. 2024-275.

COUNCIL BILL NO. 2024-276

Mr. Copple introduced Council Bill No. 2024-276 - AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with ALLO Communications LLC, a Nebraska limited liability company, for the purpose of leasing a certain land in the area commonly known as 2749 E 30th Street, Joplin MO to ALLO Communications LLC to use the premises for a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy; authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin. Motion by Mr. Copple, second by Ms. Carlin that Council Bill No. 2024-276 be passed on the first reading and advance to second and third. Voting in favor were Council Members: Bard, Carlin, Copple, Cortez, Farnham, Jackson and Lawson, and Shaw 8. Absent: DeTar, 1. The Bill was read as Council Bill No. 2024-276.

SECOND AND THIRD READING
UNFINISHED BUSINESS

NEW BUSINESS

Mr. Stinnett addressed Council regarding acting as an advocate for residents and streetlights in area 4.

The meeting was adjourned at 8:13 p.m.

Respectfully,

Holly Nagy
City Clerk

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-275 Ground Lease Agreement with ALLO Communications LLC, a Nebraska limited liability company for the location of a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy.

MEETING DATE
July 15, 2024

ORIGINATING DEPT
Planning & Community Development

ATTACHMENTS
Council Bill 2024-275; Ground Lease Agreement (location 1301 W 2nd Street, Joplin MO) ALLO Communications LLC

REVIEWED BY
Director of Planning, Development & Neighborhood Services: Troy Bolander; Public Works Director: Dan Johnson; Finance Director: Leslie Haase; City Attorney: Peter Edwards; City Manager: Nicholas Edwards

SUMMARY
This Council Bill approves the Ground Lease Agreement for a portion of land located at 1301 W 2nd Street, Joplin MO

BACKGROUND
April 15, 2024 council approved the Development Agreement between City of Joplin and ALLO Missouri, LLC for an amount not to exceed Five Million and 00/100 dollars ($5,000,000).
As part of the detailed design package, site specific requirements for hardened equipment and structures by specific location were established. This allows for the network design to have explicit attention to redundancy and overall system resilience and considering spatial composition of critical facilities. Hardening refers to the resiliency provided through enhanced protective barriers to the network, safeguarding it from technical or physical damage and ensuring uninterrupted internet access.
The City requested 2 Central Offices be placed with a buried fiber ring connecting the facilities providing redundancy of the Network in the event the primary CO is unable to serve the network. The locations of both locations were mutually agreed upon by the ISP and the City prior to the construction of the Network. One location will be on the site of City of Joplin Public Works facility at 1301 W 2nd St with a second location at 2749 E 30th St.

RECOMMENDATION
Staff recommends approval of Council Bill 2024-275, Ground Lease Agreement (Location 1301 W 2nd Street, Joplin MO) with ALLO Communications LLC.

GROUND LEASE AGREEMENT

This Ground Lease Agreement (**Agreement**) is entered into between the City of Joplin (**Landlord**) and ALLO Communications LLC, a Nebraska limited liability company (**Tenant**) as August 6th, 2024 ("**Effective Date**").

The Parties agree:

1. **DESCRIPTION**: Landlord leases to Tenant the area identified on Exhibit A, attached hereto and incorporated herein by reference, consisting of approximately 4,800 square feet at the address commonly known as 1301 W. 2nd Street, Joplin, MO (**Premises**).

2. **TERM**: The initial term of this Agreement (**Initial Term**) shall commence as of the Effective Date and continue until the tenth (10th) anniversary of the Effective Date at which time it shall terminate, unless sooner terminated or renewed as provided herein. Upon providing no fewer than thirty (30) days written notice to Landlord prior to the expiration of the Initial Term or first Renewal Term, as applicable, Tenant shall have the option to extend this Agreement for two (2) additional ten (10) year terms (each, a **Renewal Term**, together with the Initial Term, the **Term**), upon the terms and conditions as stated herein. If Tenant fails to provide a notice of renewal, the Agreement shall renew on a month-to-month basis upon the same terms and conditions as stated herein and shall be terminable at any time, by either party, with thirty (30) days' written notice to the other party.

3. **RENT**: During the Term, Tenant shall pay to Landlord as Rent $500.00 per month, with payment due on the first day of each month, and such Rent shall be prorated for any partial calendar months. For each year of any Renewal Term and commencing on the first day of each year of any such Renewal Term, Rent for the applicable year shall be determined by multiplying the monthly Rent for the immediately preceding year by the lesser of: (a) 1.03, representing a three percent (3%) annual increase; or (b) a number equal to the percentage increase in the CPI over a 12 month period, calculated by using the most recently published CPI and the CPI published 12 months earlier. "CPI" shall mean the Revised Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, for United States City Average, All Items (1982-84 = 100).

4. **USE**: Tenant shall use the Premises for a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy. Tenant shall not, without the written consent of Landlord, use the Premises for any other purpose, which consent shall not be unreasonably conditioned, delayed, or withheld.

5. **CONDITION OF PREMISES**: Landlord makes no warranties as to the condition of the Premises, and Tenant acknowledges it is accepting the Premises in its current and "As Is" condition.

6. **ACCESS; FIBER FACILITIES**. Access to the Premises shall be nonexclusive,

i.e., the access shall be shared with other users, tenants and owners. In addition to Tenant's access rights described herein, Tenant shall also have the right to install and maintain conduit, fiber optic lines, and related facilities (which shall include, but not be limited to, any utilities, *e.g*., electricity, natural gas, or any similar utilities that may be reasonably required to operate the fiber facilities (collectively, **Fiber Facilities**) so as to allow Tenant to utilize its data bunker situated on the Premises. The Fiber Facilities shall be located in existing utility easements to the extent possible, but in any event within fifteen (15) feet of the boundary of the Premises in easements that are nonexclusive. Tenant and Landlord shall mutually agree on the exact placement of the Fiber Facilities prior to installation and Tenant shall be solely responsible for the repair and maintenance of the Fiber Facilities.

7. **TAXES**: At any time, in the event improvements placed on the Premises by Tenant cause an annual tax increase over the taxes due in the year of the Effective Date of this Agreement (**Base Year**), Tenant shall, upon billing by Landlord and Landlord's provision of reasonable supporting documentation demonstrating the applicable increase, reimburse Landlord within twenty (20) days in the amount of the applicable tax increase. The obligations in this Section shall survive termination of this Agreement and Tenant shall remain obligated to pay taxes on improvements as stated herein that have accrued up to the date of termination or expiration of this Agreement.

8. **IMPROVEMENTS BY LANDLORD**: Landlord reserves the right to make improvements, alterations, or additions to the Premises, but shall not materially change the general appearance, location or area of the Premises. Further, Landlord's improvements shall not unreasonably disturb or interfere with Tenant's improvements.

9. **IMPROVEMENTS BY TENANT**: Tenant shall not make any improvements or alterations to the Premises (excluding replacement or rearrangement of personal property within the Premises) without submitting plans and specifications to Landlord and securing Landlord's written consent, which shall not be unreasonably conditioned, delayed, or withheld. Tenant shall pay all costs of improvements and alterations, shall provide evidence of such payment to Landlord upon request, and shall hold Landlord harmless from any costs, liens, or damages. Upon termination or expiration of this Agreement, Tenant shall, at Tenant's sole cost and expense, remove from the Premises all of Tenant's leasehold improvements, including without limitation, interior and exterior signs, trade fixtures and equipment, and other such items that have been installed or placed on the Premises by Tenant, by Tenant's predecessors in interest, or which have been installed or placed therein for the benefit of or on behalf of Tenant or Tenant's predecessors (all of which are hereinafter referred to as "Tenant's Property"), and Tenant shall repair all damage resulting from such removal.

Upon completion and installation of the central office and all associated fiber facilities and utilities, and at Tenant's request, Landlord and Tenant shall execute an addendum to this Lease documenting and approving the placement all Fiber Facilities and any associated improvements.

10. **MAINTENANCE OF PREMISES AND TENANT'S PROPERTY.** Tenant shall, throughout the Term of this Agreement, at its own cost, and without any expense to Landlord, keep and maintain the Premises and Tenant's Property, including all appurtenances, in good,

sanitary and neat order, condition and repair, and, except as specifically provided in this Agreement, restore and rehabilitate its improvements on the Premises that may be destroyed or damaged by fire, casualty, or any other cause whatsoever. This requirement to maintain includes, but is not limited to, snow removal, landscape maintenance, and utilities as required to effectively use the Premises.

11. **UTILITY CHARGES; TENANT GENERATOR**: The only utilities to the Premises shall be electricity and natural gas in Tenant's name and which Tenant shall cause, at Tenant's cost, to be separately metered from the remainder of Landlord's Property. Landlord acknowledges as part of Tenant's use of the Premises, Tenant shall install a generator.

12. **WASTE**: Tenant shall not commit or permit any waste of the Premises, nor any public or private nuisance on the Premises.

13. **INSURANCE**. Tenant shall, during the entire Term, keep in full force and effect, solely, at Tenant's cost and expense, a policy of commercial general liability insurance with respect to the Premises and the activities of Tenant thereon, for which the limits shall not be less than One Million and no/100 Dollars ($1,000,000.00) covering bodily injury, sickness or death and loss of or damage to Premises, naming Landlord as an additional insured and providing that it is the primary coverage for liability on the Premises. Such coverage shall include a broad form general liability endorsement. The policy shall also be endorsed to provide that the additional insured party will be notified of the cancellation or non-renewal at least thirty (30) days before the effective date of such cancellation or non-renewal except in the event of cancellation due to non-payment of premium then a ten (10) days' notice shall be given.

14. **INDEMNIFICATION**. Tenant shall indemnify, protect, defend and hold City and its officers, directors, members, city council, employees and agents (collectively, the "Indemnified Parties" or, individually, an "Indemnified Party") harmless from and against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character to persons or property occurring or allegedly occurring as a result of any acts or omissions of Tenant, its constituent members or partners, their employees, agents, independent contractors, licensees, invitees or others acting by, through or under such indemnifying parties, in connection with its or their activities conducted pursuant to this Agreement and/or in connection with Tenant's use of the Premises.

15. **ASSIGNMENT**: Tenant shall not assign or sublet any portion of the Premises without the prior written consent of Landlord, which shall not be unreasonably conditioned, delayed, or withheld. Any such assignment or subletting without the consent of the Landlord, shall be void and, at the option of the Landlord, Landlord may terminate this Agreement. Notwithstanding anything to the contrary contained herein, Tenant may assign its entire interest under the Agreement or sublet the Premises or any portion thereof to a corporation, partnership, or other legal entity controlling, controlled by or under common control as Tenant, or to any successor to Tenant by purchase, merger, consolidation, reorganization, or sale of substantially all assets without the consent of Landlord.

16. **QUIET ENJOYMENT**: Landlord warrants that Tenant shall have possession and

quiet enjoyment of the Premises for so long as Tenant is in compliance with the terms of this Agreement.

17. **DEFAULT**: Each of the following acts and omissions shall constitute a default and a breach of this Agreement:

a. Voluntary or involuntary bankruptcy, assignment for benefit of creditors, reorganization or rearrangement under the Bankruptcy Act, receivership, dissolution or the commencement of any action or proceeding for dissolution or liquidation of Tenant or Landlord whether instituted by or against Tenant or

Landlord, as applicable, or any other similar action or proceeding.

b. The failure of Tenant to pay the Rent for a period of ten (10) calendar days after Tenant receives written notice of such non-payment.

c. The failure of Tenant or Landlord to comply with any other provision of this Agreement for a period of thirty (30) days after written notice of such failure; provided, however, in the event that such cure shall be reasonably expected to exceed thirty (30) days, Tenant's or Landlord's cure right shall be extended provided that such cure is commenced within thirty (30) days and such cure is diligently pursued.

18. **REMEDIES**: In addition to any other remedies available to the non-defaulting party, upon a default by a party, the non-defaulting party shall have the right to terminate this Agreement immediately by providing written notice to the breaching party.

19. **HOLDING OVER**: If Tenant remains in possession after the termination date without the written consent of Landlord, Tenant shall be deemed to be a trespasser. If Tenant shall have paid, and Landlord shall have accepted, rent in respect to such holding over, Tenant shall be deemed to be occupying the Premises only as a Tenant from month-to-month subject to all the terms of this Agreement except for the rental charged, which during the hold over period shall be at a rate which is the same as the last rental rate.

20. **EFFECT OF SALE**: A sale of the Premises will operate to release Landlord from all obligations pursuant to this Agreement, except liabilities which arose prior to the closing of such sale, and Tenant shall attorn to Landlord's successor in interest.

21. **TERMINATION**: Upon termination of this Agreement, Tenant shall:

a. Deliver possession of the Premises to Landlord in good condition as at the commencement of this Agreement, ordinary wear and tear excepted.

b. Leave undisturbed all non-trade fixtures and improvements.

c. Remove from the Premises all trade fixtures and other personal property of Tenant. Tenant shall, at Tenant's expense, repair any damage to the Premises arising from the removal of such trade fixtures or personal property.

22. **MISCELLANEOUS**:

No term or condition of this Agreement shall be construed to have been waived by Landlord or Tenant, unless Tenant or Landlord shall have secured such waiver from the other party, as applicable.

Each person executing this Agreement on behalf of an entity represents and warrants that they have complete and full authority and capacity to act on behalf of that entity.

The invalidity or unenforceability of any term or condition of this Agreement shall not prejudice the enforceability of any other term or condition.

This Agreement shall not be amended or modified, except by a written instrument executed by both Landlord and Tenant.

Any notice, demand, request, or other instrument which may be or is required to be given under this Agreement shall be delivered in person or sent by United States certified or registered mail, postage prepaid and shall be addressed (a) if to Landlord, at City of Joplin, 602 S. Main Street, Joplin, MO 64801 and (b) if to Tenant, at ALLO Communications LLC, c/o President, 330 S. 21st Street, Lincoln, NE 68510.

Landlord and Tenant represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises. Each of them will indemnify the other against any claim for fees or commissions from anyone other than the Broker.

This Agreement shall be binding upon the successors in interest of the parties.

This Agreement shall be construed and enforced in accordance with the laws of the State of Missouri. EACH PARTY HERETO, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES THE RIGHT TO A TRIAL BY JURY FOR ANY ACTION ARISING FROM, OR RELATED TO, THIS AGREEMENT.

The foregoing constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Agreement on the day first set forth above.

LANDLORD: **City of Joplin**

By:_____
Its:_____

Name: _____
(Please Print)

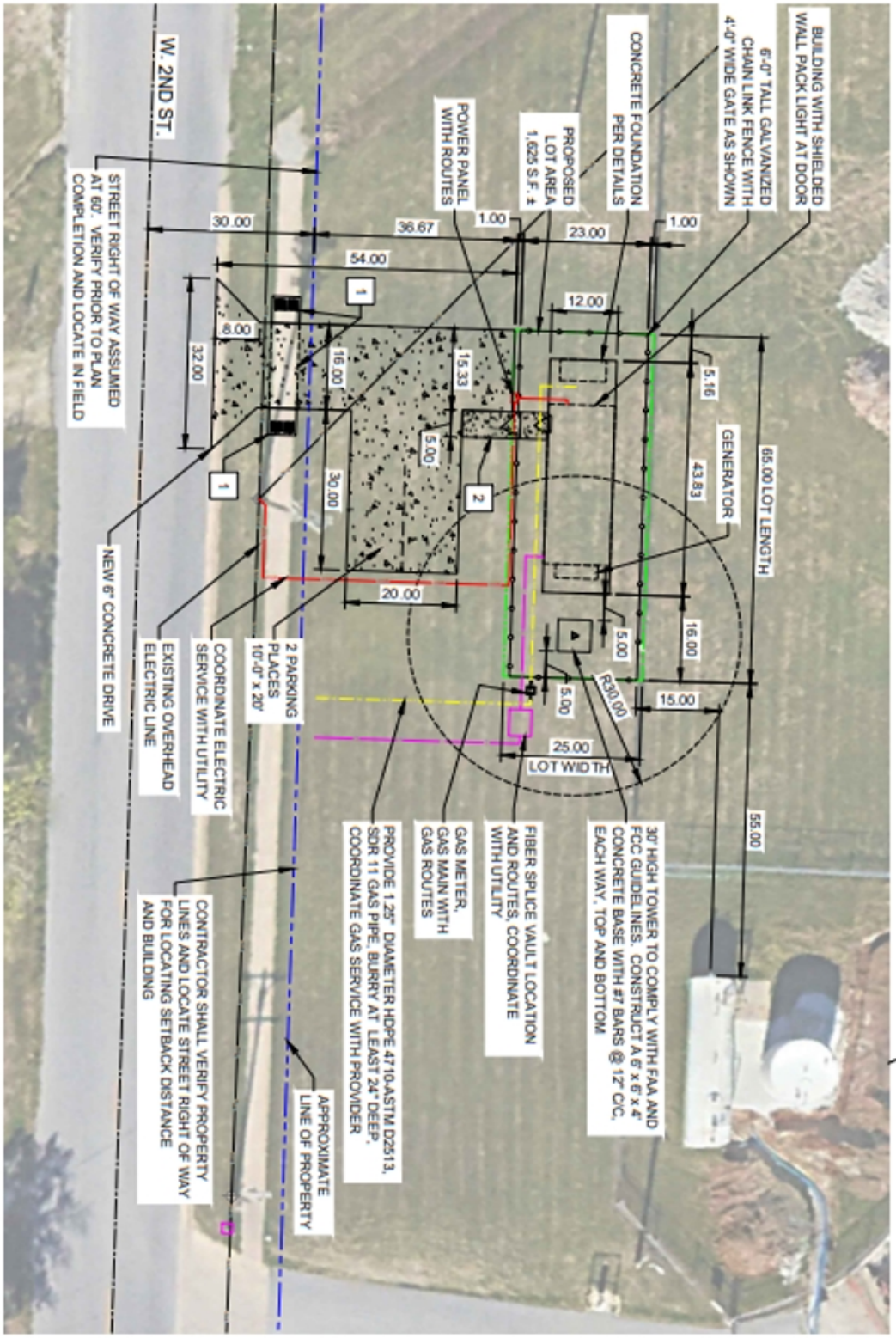
TENANT: **ALLO Communications LLC, a Nebraska limited liability company**

By:_____
Its: President and CEO

Name: Bradley A. Moline

Exhibit A

EXHIBIT A



1 SIDEWALK REMOVAL AND CONSTRUCTION. REMOVE EXISTING SIDEWALK TO NEAREST JOINT BEYOND NEW DRIVE CONCRETE. PLUG ONE PANEL. PROVIDE NEW CONCRETE SIDEWALK TO MATCH EXISTING WIDTH AND THICKNESS. PROVIDE ADA NOTIFICATION PANELS IN SIDEWALK APPROACHES AT EACH SIDE OF NEW DRIVE.

2 6" CONCRETE SIDEWALK. MATCH STOOP AND NEW DRIVE ELEVATIONS AT EACH END.

SITE PLAN

SCALE: 1" = 20'

COUNCIL BILL NO. 2024-275 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with ALLO Communications LLC, a Nebraska limited liability company, for the purpose of leasing a certain land in the area commonly known as 1301 W 2nd Street, Joplin MO to ALLO Communications LLC to use the premises for a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy; authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin.

WHEREAS, in the Smarter Joplin Roadmap expand internet access and improve connectivity was identified as a primary concern in a resident survey; and

WHEREAS, the Broadband Gap Analysis Report identified the specific challenges with connectivity in the city of Joplin including issues with availability, capacity and affordability; and

WHEREAS, the COVID-19 Pandemic has shown that residents need to be connected to be able to work, educate, and receive healthcare from home; and

WHEREAS, for the City of Joplin to remain competitive in the areas of business attraction and retention, transportation, education, health care and other sectors that rely on the exchange of data and information;

WHEREAS, Council Bill 2024-264 approved the Development Agreement with ALLO Missouri, LLC to construct a fiber optic network that is able to offer high quality, fiber optic broadband to substantially all residents, anchor institutions, and business in the City that are accessible using public rights-of-way and similar public easements, ways and extensions and additions thereto.

WHEREAS, this Council Bill deals generally with the placement of a Central Office on city property and the lease of that property from the City to ALLO.

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

Section 1. That the Lease Agreement between the City of Joplin and ALLO Communications LLC, for the leasing of real estate located at 1301 W. 2nd Street, Joplin, Missouri, a true and accurate copy of said Lease Agreement being attached hereto and incorporated herein by reference as Exhibit “A”, be, and the same is, hereby approved.

Section 2. That the City Manager, or his designee, is hereby authorized and directed to execute said Lease Agreement by and on behalf of the City of Joplin, Missouri.

Passed by the Council of the City of Joplin, Missouri, this _____ day of_____, 2024, by a vote of_____.

_____

ATTEST: Keenan T. Cortez, Sr., Mayor

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Council Bill 2024-275

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-276 Ground Lease Agreement with ALLO Communications LLC, a Nebraska limited liability company for the location of a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy.

MEETING DATE
July 15, 2024

ORIGINATING DEPT
Planning & Community Development

ATTACHMENTS
Council Bill 2024-276; Ground Lease Agreement (location 2749 E 30th Street, Joplin MO) ALLO Communications LLC

REVIEWED BY
Director of Planning, Development & Neighborhood Services: Troy Bolander; Public Works Director: Dan Johnson; Finance Director: Leslie Haase; City Attorney: Peter Edwards; City Manager: Nicholas Edwards

SUMMARY
This Council Bill approves the Ground Lease Agreement for a portion of land located at 2749 E. 30th Street, Joplin MO

BACKGROUND
April 15, 2024 council approved the Development Agreement between City of Joplin and ALLO Missouri, LLC for an amount not to exceed Five Million and 00/100 dollars ($5,000,000).
As part of the detailed design package, site specific requirements for hardened equipment and structures by specific location were established. This allows for the network design to have explicit attention to redundancy and overall system resilience and considering spatial composition of critical facilities. Hardening refers to the resiliency provided through enhanced protective barriers to the network, safeguarding it from technical or physical damage and ensuring uninterrupted internet access.
The City requested 2 Central Offices be placed with a buried fiber ring connecting the facilities providing redundancy of the Network in the event the primary CO is unable to serve the network. The locations of both locations were mutually agreed upon by the ISP and the City prior to the construction of the Network. One location will be on the site of City of Joplin Public Works facility at 1301 W 2nd St with a second location at 2749 E. 30th Street.

RECOMMENDATION
Staff recommends approval of Council Bill 2024-276, Ground Lease Agreement (Location 2749 E. 30th Street, Joplin MO) with ALLO Communications LLC.

GROUND LEASE AGREEMENT

This Ground Lease Agreement (**Agreement**) is entered into between the City of Joplin (**Landlord**) and ALLO Missouri, LLC, a Nebraska limited liability company (**Tenant**) as of August 6, 2024 ("Effective Date").

The Parties agree:

1. **DESCRIPTION**: Landlord leases to Tenant the area identified on Exhibit A, attached hereto and incorporated herein by reference, consisting of approximately 2,150 square feet at approximately 2749 E. 30th Street, Joplin, MO (**Premises**).

2. **TERM**: The initial term of this Agreement (**Initial Term**) shall commence as of the Effective Date and continue until the tenth (10th) anniversary of the Effective Date at which time it shall terminate, unless sooner terminated or renewed as provided herein. Upon providing no fewer than thirty (30) days written notice to Landlord prior to the expiration of the Initial Term or first Renewal Term, as applicable, Tenant shall have the option to extend this Agreement for two (2) additional ten (10) year terms (each, a **Renewal Term**, together with the Initial Term, the **Term**), upon the terms and conditions as stated herein. If Tenant fails to provide a notice of renewal, the Agreement shall renew on a month-to-month basis upon the same terms and conditions as stated herein and shall be terminable at any time, by either party, with thirty (30) days' written notice to the other party.

3. **RENT**: During the Term, Tenant shall pay to Landlord as Rent $500.00 per month, with payment due on the first day of each month, and such Rent shall be prorated for any partial calendar months. For each year of any Renewal Term and commencing on the first day of each year of any such Renewal Term, Rent for the applicable year shall be determined by multiplying the monthly Rent for the immediately preceding year by the lesser of: (a) 1.03, representing a three percent (3%) annual increase; or (b) a number equal to the percentage increase in the CPI over a 12 month period, calculated by using the most recently published CPI and the CPI published 12 months earlier. "CPI" shall mean the Revised Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, for United States City Average, All Items (1982-84 = 100).

4. **USE**: Tenant shall use the Premises for a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy. Tenant shall not, without the written consent of Landlord, use the Premises for any other purpose, which consent shall not be unreasonably conditioned, delayed, or withheld.

5. **CONDITION OF PREMISES**: Landlord makes no warranties as to the condition of the Premises, and Tenant acknowledges it is accepting the Premises in its current and "As Is" condition.

6. **ACCESS; FIBER FACILITIES**. Access to the Premises shall be nonexclusive,

i.e., the access shall be shared with other users, tenants and owners. In addition to Tenant's access rights described herein, Tenant shall also have the right to install and maintain conduit, fiber optic lines, and related facilities (which shall include, but not be limited to, any utilities, *e.g*., electricity, natural gas, or any similar utilities that may be reasonably required to operate the fiber facilities (collectively, **Fiber Facilities**) so as to allow Tenant to utilize its data bunker situated on the Premises. The Fiber Facilities shall be located in existing utility easements to the extent possible, but in any event within fifteen (15) feet of the boundary of the Premises in easements that are nonexclusive. Tenant and Landlord shall mutually agree on the exact placement of the Fiber Facilities prior to installation and Tenant shall be solely responsible for the repair and maintenance of the Fiber Facilities.

Landlord will grant Tenant any access and utility easements necessary for the installation of Fiber Facilities to Tenant's data bunker/central office located on the Premises. This obligation shall apply to the parcel containing the Premises, and to any adjacent parcels owned by Landlord.

7. **TAXES**: At any time, in the event improvements placed on the Premises by Tenant cause an annual tax increase over the taxes due in the year of the Effective Date of this Agreement (**Base Year**), Tenant shall, upon billing by Landlord and Landlord's provision of reasonable supporting documentation demonstrating the applicable increase, reimburse Landlord within twenty (20) days in the amount of the applicable tax increase. The obligations in this Section shall survive termination of this Agreement and Tenant shall remain obligated to pay taxes on improvements as stated herein that have accrued up to the date of termination or expiration of this Agreement.

8. **IMPROVEMENTS BY LANDLORD**: Landlord reserves the right to make improvements, alterations, or additions to the Premises, but shall not materially change the general appearance, location or area of the Premises. Further, Landlord's improvements shall not unreasonably disturb or interfere with Tenant's improvements.

9. **IMPROVEMENTS BY TENANT**: Tenant shall not make any improvements or alterations to the Premises (excluding replacement or rearrangement of personal property within the Premises) without submitting plans and specifications to Landlord and securing Landlord's written consent, which shall not be unreasonably conditioned, delayed, or withheld. Tenant shall pay all costs of improvements and alterations, shall provide evidence of such payment to Landlord upon request, and shall hold Landlord harmless from any costs, liens, or damages. Upon termination or expiration of this Agreement, Tenant shall, at Tenant's sole cost and expense, remove from the Premises all of Tenant's leasehold improvements, including without limitation, interior and exterior signs, trade fixtures and equipment, and other such items that have been installed or placed on the Premises by Tenant, by Tenant's predecessors in interest, or which have been installed or placed therein for the benefit of or on behalf of Tenant or Tenant's predecessors (all of which are hereinafter referred to as "Tenant's Property"), and Tenant shall repair all damage resulting from such removal.

Upon completion and installation of the central office and all associated fiber facilities and utilities, and at Tenant's request, Landlord and Tenant shall execute an addendum to this Lease documenting and approving the placement all Fiber Facilities and any associated improvements.

10. **MAINTENANCE OF PREMISES AND TENANT'S PROPERTY.** Tenant shall, throughout the Term of this Agreement, at its own cost, and without any expense to Landlord, keep and maintain the Premises and Tenant's Property, including all appurtenances, in good, sanitary and neat order, condition and repair, and, except as specifically provided in this Agreement, restore and rehabilitate its improvements on the Premises that may be destroyed or damaged by fire, casualty, or any other cause whatsoever. This requirement to maintain includes, but is not limited to, snow removal, landscape maintenance, and utilities as required to effectively use the Premises.

11. **UTILITY CHARGES; TENANT GENERATOR**: The only utilities to the Premises shall be electricity and natural gas in Tenant's name and which Tenant shall cause, at Tenant's cost, to be separately metered from the remainder of Landlord's Property. Landlord acknowledges as part of Tenant's use of the Premises, Tenant shall install a generator.

12. **WASTE**: Tenant shall not commit or permit any waste of the Premises, nor any public or private nuisance on the Premises.

13. **INSURANCE**. Tenant shall, during the entire Term, keep in full force and effect, solely, at Tenant's cost and expense, a policy of commercial general liability insurance with respect to the Premises and the activities of Tenant thereon, for which the limits shall not be less than One Million and no/100 Dollars ($1,000,000.00) covering bodily injury, sickness or death and loss of or damage to Premises, naming Landlord as an additional insured and providing that it is the primary coverage for liability on the Premises. Such coverage shall include a broad form general liability endorsement. The policy shall also be endorsed to provide that the additional insured party will be notified of the cancellation or non-renewal at least thirty (30) days before the effective date of such cancellation or non-renewal except in the event of cancellation due to non-payment of premium then a ten (10) days' notice shall be given.

14. **INDEMNIFICATION**. Tenant shall indemnify, protect, defend and hold City and its officers, directors, members, city council, employees and agents (collectively, the "Indemnified Parties" or, individually, an "Indemnified Party") harmless from and against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character to persons or property occurring or allegedly occurring as a result of any acts or omissions of Tenant, its constituent members or partners, their employees, agents, independent contractors, licensees, invitees or others acting by, through or under such indemnifying parties, in connection with its or their activities conducted pursuant to this Agreement and/or in connection with Tenant's use of the Premises.

15. **ASSIGNMENT**: Tenant shall not assign or sublet any portion of the Premises without the prior written consent of Landlord, which shall not be unreasonably conditioned, delayed, or withheld. Any such assignment or subletting without the consent of Landlord, shall be void and, at the option of Landlord, Landlord may terminate this Agreement. Notwithstanding anything to the contrary contained herein, Tenant may assign its entire interest under the Agreement or sublet the Premises or any portion thereof to a corporation, partnership, or other legal entity controlling, controlled by or under common control as Tenant, or to any successor to

Tenant by purchase, merger, consolidation, reorganization, or sale of substantially all assets without the consent of Landlord.

16. **QUIET ENJOYMENT**: Landlord warrants that Tenant shall have possession and quiet enjoyment of the Premises for so long as Tenant is in compliance with the terms of this Agreement.

17. **DEFAULT**: Each of the following acts and omissions shall constitute a default and a breach of this Agreement:

a. Voluntary or involuntary bankruptcy, assignment for benefit of creditors, reorganization or rearrangement under the Bankruptcy Act, receivership, dissolution or the commencement of any action or proceeding for dissolution or liquidation of Tenant or Landlord whether instituted by or against Tenant or Landlord, as applicable, or any other similar action or proceeding.

b. The failure of Tenant to pay the Rent for a period of ten (10) calendar days after Tenant receives written notice of such non-payment.

c. The failure of Tenant or Landlord to comply with any other provision of this Agreement for a period of thirty (30) days after written notice of such failure; provided, however, in the event that such cure shall be reasonably expected to exceed thirty (30) days, Tenant's or Landlord's cure right shall be extended provided that such cure is commenced within thirty (30) days and such cure is diligently pursued.

18. **REMEDIES**: In addition to any other remedies available to the non-defaulting party, upon a default by a party, the non-defaulting party shall have the right to terminate this Agreement immediately by providing written notice to the breaching party.

19. **HOLDING OVER**: If Tenant remains in possession after the termination date without the written consent of Landlord, Tenant shall be deemed to be a trespasser. If Tenant shall have paid, and Landlord shall have accepted, rent in respect to such holding over, Tenant shall be deemed to be occupying the Premises only as a Tenant from month-to-month subject to all the terms of this Agreement except for the rental charged, which during the hold over period shall be at a rate which is the same as the last rental rate.

20. **EFFECT OF SALE**: A sale of the Premises will operate to release Landlord from all obligations pursuant to this Agreement, except liabilities which arose prior to the closing of such sale, and Tenant shall attorn to Landlord's successor in interest.

21. **TERMINATION**: Upon termination of this Agreement, Tenant shall:

a. Deliver possession of the Premises to Landlord in good condition as at the commencement of this Agreement, ordinary wear and tear excepted.

b. Leave undisturbed all non-trade fixtures and improvements.

c. Remove from the Premises all trade fixtures and other personal property of Tenant. Tenant shall, at Tenant's expense, repair any damage to the Premises arising from the removal of such trade fixtures or personal property.

22. **MISCELLANEOUS**:

No term or condition of this Agreement shall be construed to have been waived by Landlord or Tenant, unless Tenant or Landlord shall have secured such waiver from the other party, as applicable.

Each person executing this Agreement on behalf of an entity represents and warrants that they have complete and full authority and capacity to act on behalf of that entity.

The invalidity or unenforceability of any term or condition of this Agreement shall not prejudice the enforceability of any other term or condition.

This Agreement shall not be amended or modified, except by a written instrument executed by both Landlord and Tenant.

Any notice, demand, request, or other instrument which may be or is required to be given under this Agreement shall be delivered in person or sent by United States certified or registered mail, postage prepaid and shall be addressed (a) if to Landlord, at City of Joplin, 602 S. Main Street, Joplin, MO 64801 and (b) if to Tenant, at ALLO Communications LLC, c/o President, 330 S. 21st Street, Lincoln, NE 68510.

Landlord and Tenant represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises. Each of them will indemnify the other against any claim for fees or commissions from anyone other than the Broker.

This Agreement shall be binding upon the successors in interest of the parties.

This Agreement shall be construed and enforced in accordance with the laws of the State of Missouri. EACH PARTY HERETO, TO THE FULLEST EXTENT PERMITTED BY LAW, WAIVES THE RIGHT TO A TRIAL BY JURY FOR ANY ACTION ARISING FROM, OR RELATED TO, THIS AGREEMENT.

The foregoing constitutes the entire agreement between the parties.

IN WITNESS WHEREOF, the Landlord and Tenant have executed this Agreement on the day first set forth above.

LANDLORD: **City of Joplin**

By:_____
Its:_____

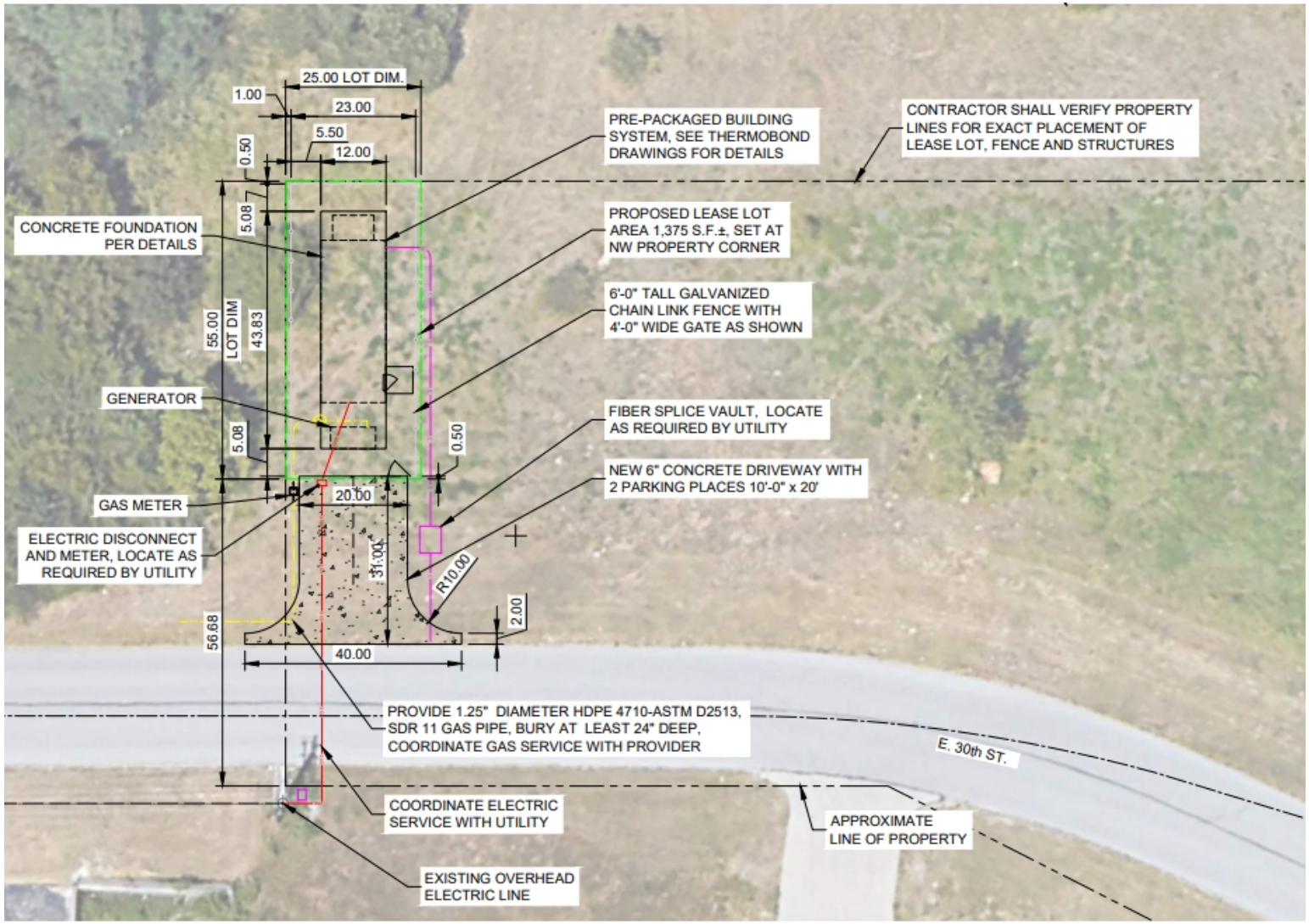
Name:_____
(Please Print)

TENANT: **ALLO Missouri, LLC, a Nebraska limited liability company**

By:_____
Its: President and CEO

Name: Bradley A. Moline

EXHIBIT A
The Premise



NORTH

SITE PLAN

SCALE: 1" = 20'

COUNCIL BILL NO. 2024-276 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with ALLO Communications LLC, a Nebraska limited liability company, for the purpose of leasing a certain land in the area commonly known as 2749 E 30th Street, Joplin MO to ALLO Communications LLC to use the premises for a central office and/or data bunker, which is a building for utilities, computers and a generator using electricity, but without any temporary or permanent occupancy; authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin.

WHEREAS, in the Smarter Joplin Roadmap expand internet access and improve connectivity was identified as a primary concern in a resident survey; and

WHEREAS, the Broadband Gap Analysis Report identified the specific challenges with connectivity in the city of Joplin including issues with availability, capacity and affordability; and

WHEREAS, the COVID-19 Pandemic has shown that residents need to be connected to be able to work, educate, and receive healthcare from home; and

WHEREAS, for the City of Joplin to remain competitive in the areas of business attraction and retention, transportation, education, health care and other sectors that rely on the exchange of data and information;

WHEREAS, Council Bill 2024-264 approved the Development Agreement with ALLO Missouri, LLC to construct a fiber optic network that is able to offer high quality, fiber optic broadband to substantially all residents, anchor institutions, and business in the City that are accessible using public rights-of-way and similar public easements, ways and extensions and additions thereto.

WHEREAS, this Council Bill deals generally with the placement of a Central Office on city property and the lease of that property from the City to ALLO.

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

Section 1. That the Lease Agreement between the City of Joplin and ALLO Communications LLC, for the leasing of real estate located at 2749 E. 30th Street, Joplin, Missouri, a true and accurate copy of said Lease Agreement being attached hereto and incorporated herein by reference as Exhibit “A”, be, and the same is, hereby approved.

Section 2. That the City Manager, or his designee, is hereby authorized and directed to execute said Lease Agreement by and on behalf of the City of Joplin, Missouri.

Passed by the Council of the City of Joplin, Missouri, this _____ day of_____, 2024, by a vote of_____.

_____

ATTEST: Keenan T. Cortez, Sr., Mayor

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Council Bill 2024-276

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-507 – Approving the Termination of the Northpark Lane Community Improvement District (CID)

MEETING DATE
July 15, 2024

ORIGINATING DEPT
Finance

ATTACHMENTS
CB 2024-507 Ordinance; Exhibit "A" Petition to Terminate Northpark Lane Community Improvement District

REVIEWED BY
Department Head: Leslie Haase; Director of Community Development & Neighborhood Improvements: Troy Bolander; City Attorney: Peter Edwards; City Manager: Nick Edwards

SUMMARY
This Council Bill approves the termination of the Northpark Lane Community Improvement District (CID).

BACKGROUND
In June of 2014, the Northpark Mall owners submitted a petition to the City to form a community improvement district (CID) in order to make $10 million in improvements to the mall property. This was the first Community Improvement District in Joplin. A CID is a commonly used financing tool to fund public improvements. This District was a separate political subdivision governed by a board of directors, appointed by the Mayor, with the consent of the City Council. Additionally, the City appointed an ex-officio representative to attend meetings of the Board.

The District added a 1% sales tax within the district to fund the improvements, which was for the installation of new parking lot lighting, the demolition and construction of the existing parking lot, construction of a portion of a walking trail which connected with the trail from MSSU to the mall, and landscaping enhancements. The CID issued bonds in order to make the improvements at the onset. The bonds were not an obligation of the City of Joplin. When formed, the additional sales tax was required to end at the ***earlier*** of the repayment of the debt or twenty years from the effective date.

In 2018, bonds were issued and sold to reimburse the mall owner for the cost of the completion of the CID project. Approximately ten years later, the CID is now able to pay off the bonds and satisfy the balance of the CID's financial obligations. Pursuant to the petition creating the CID, the CID is to be terminated once the CID's financial obligations are satisfied. As such, the property owner has submitted the Petition to Terminate the Northpark Lane Community Improvement District to the City. Upon the termination of the District becoming effective and recognized by the Missouri Department of Revenue, the CID 1% sales and use tax collected within the CID will be discontinued.

Additionally, it is anticipated the District will have some remaining net assets that must be used according to and following the CID Act. A cooperative agreement will be developed in the coming months between the District and the City setting forth how the funds will be used.

FUNDING SOURCE
Not applicable for this item.

RECOMMENDATION
Staff recommends approval of this council bill on first reading.

EXHIBIT "A"

PETITION TO TERMINATE

THE NORTHPARK LANE COMMUNITY IMPROVEMENT DISTRICT

Petition to Terminate a Community Improvement District Pursuant to Sections 67.1401-67.1571 of the Revised Statutes of Missouri, as Amended

City of Joplin, Missouri

2024

EXHIBITS

EXHIBIT A DISTRICT LEGAL DESCRIPTION

EXHIBIT B DISTRICT BOUNDARY MAP

PETITION TO TERMINATE
THE NORTHPARK LANE
COMMUNITY IMPROVEMENT DISTRICT

This Petition ("Petition") to terminate a Community Improvement District within a certain limited portion of the City of Joplin, Missouri (the "City"), is hereby submitted to the City in accordance with the Community Improvement District Act as set forth in Sections 67.1401 through 67.1571 of the Revised Statutes of Missouri, as amended (the "Act").

As set forth herein, the entity signing this Petition in accordance with the Act (the "Petitioner") requests that the governing body of the City (the "City Council") hold a public hearing and approve the Petition and terminate the Community Improvement District prior to the expiration of its term as described herein and in accordance with the Act.

1. DISTRICT TO BE TERMINATED

A. Name of District

The name of the District to be terminated is the Northpark Lane Community Improvement District (the "District"), created and established by the City Council's approval and adoption of Ordinance No. 2014-090, on or about June 16, 2014 (the "Ordinance").

B. Legal Description

The District includes all of the real property (the "District Property") legally described on Exhibit A attached hereto and made a part hereof.

C. Boundary Map

A map illustrating the boundaries of the District is attached hereto and made a part hereof as Exhibit B (the "District Boundary Map").

D. District Obligations

Pursuant to that certain Trust Indenture dated October 1, 2018 (the "Trust Indenture") and that certain Development Agreement dated August 13, 2014 (as amended, the "Development Agreement") the District was entitled to reimbursement of select improvements and services through the issuance of a series of Bonds (as defined in the Trust Indenture). The District has accomplished its goals under the Development Agreement and Trust Indenture and now desires to redeem and satisfy the Bonds in full. Upon redemption and satisfaction of the Bonds, the Board of Directors of the District shall transfer any and all remaining District revenues in the manner provided by the Act and this Petition.

2. PETITIONER

Based on the tax records of the Jasper County Assessor (the "Assessor") as of the date of filing this Petition, Petitioner:

(a) collectively owns more than fifty percent (50%) by assessed value of the District Property; and

(b) represents more than fifty percent (50%) per capita of all owners of the District Property.

3. PLAN FOR DISSOLUTION

The District shall be dissolved in accordance with the following plan:

- The City Council shall hold a public hearing, following proper notice, to consider termination of the District.
- The City Council shall pass an order (i) terminating all agreements entered into between the City and the District, if any, (ii) approving this Petition, and (iii) officially terminating the District.
- The City Clerk shall provide a copy of such ordinance to the Department of Economic Development.

4. DISTRIBUTION OF ASSETS

Section 67.1481 of the Act requires that upon termination of the District, every effort should be made by the City for the assets of the District to be distributed in a manner to benefit the real property which was formerly a part of the District. Consistent therewith, the assets of the District shall be distributed to the City promptly following the last date the District receives sales and use tax revenue payments from the Missouri Department of Revenue, to be used in the offset of certain improvements and services included within the District.

There are no outstanding claims or causes of action pending against the District, the District's liabilities do not exceed its assets, the District owns no personal or real property and the District is not insolvent, in receivership or under the jurisdiction of any bankruptcy court.

As of June 26, 2024, the District had assets of approximately $650,000.00. The District may receive additional revenue during its current and future fiscal years until the Missouri Department of Revenue ceases collection and remittance of the District sales and use taxes. The District anticipates that its final administrative costs and the costs associated with termination of the District will be approximately $510,000.00, and the District does not anticipate holding any reserves. Accordingly, the District anticipates net assets of approximately $140,000.00 upon termination of the District, which shall be distributed to the City to be used pursuant to the CID Act.

5. REQUEST TO TERMINATE DISTRICT

By execution and submission of this Petition, the Petitioner requests that the City Council hold a public hearing in accordance with Section 67.1481 of the Act and adopt an ordinance to terminate the District as set out in this Petition and in accordance with the Act and this Petition.

6. NOTICE TO PETITIONER

The signature of the undersigned may not be withdrawn later than seven (7) days after this Petition is filed with the City Clerk of the City.

[Remainder of Page Intentionally Left Blank.]

Signature Page for Petition to Terminate the
Northpark Lane Community Improvement District

The undersigned requests that the City Council of the City of Joplin, Missouri, terminate the Northpark Lane Community Improvement District according to the preceding Petition and authorize the termination of the District.

Name of Owner:	Northpark Mall/Joplin, LLC
Owner's Telephone Number:	423-855-0001
Owner's Mailing Address:	2030 Hamilton Place Boulevard Chattanooga, TN 37421-6000
Name of Signer:	Jeffery V. Curry
Basis of Legal Authority to Sign:	Chief Legal Officer of CBL Holdings I, Inc., the sole general partner of CBL & Associates Limited Partnership, the sole member and chief manager of the Owner
Signer's Telephone Number:	(423) 490-8642
Signer's Mailing Address:	2030 Hamilton Place Boulevard Chattanooga, TN 37421-6000

Entity Type: Delaware limited liability company

The map, parcel number and assessed value of each tract of real property within the District owned: The District contains all or a limited portion of the following parcels:

Address	Parcel I.D.	Assessed Value (2023)
201 N. Northpark Lane	20300600000004001	1,233,530
Northpark Lane	20300600000004902	23,940
Northpark Lane	20300600000004903	34,680
S. Range Line Road	20300600000010000	5,838,560
137 N. Range Line Road	20300600000010002	213,820
101 N. Range Line Road	20300600000001002	757,120
111 N. Range Line Road	20300600000010003	90,350
101 N. Range Line Road	20300600000010004	1,016,620
JOP	20300600000010005	501,620
209 N. Range Line Road	20300600000010006	318,550

[Signature and Notary Page to Follow]

Signature Page for Petition to Terminate the Northpark Lane Community Improvement District

By executing this Petition, the undersigned represents and warrants that he/she has received a copy of this Petition and its exhibits, has read this Petition and its exhibits, is authorized to execute this Petition on behalf of the property owner named immediately above, and authorizes this signature page to be attached to the original of this Petition to be filed in the Office of the City Clerk. The undersigned also acknowledges that his signature may not be withdrawn later than seven days after this Petition is filed with the City Clerk.

NORTHPARK MALL/JOPLIN, LLC,
a Delaware limited liability company

By: CBL & Associates Limited Partnership,
its sole member and chief manager

By: CBL Holdings I, Inc., its sole general partner

By: _____
Name: Jeffery V. Curry
Title: Chief Legal Officer

Date: June 28, 2024

STATE OF Tennessee)
) **SS.**
COUNTY OF Hamilton)

On this 28th day of June, 2024, before me personally appeared Jeffery V. Curry, the Chief Legal Officer of CBL Holdings I, Inc., the sole general partner of CBL & Associates Limited Partnership, the sole member and chief manager of Northpark Mall/Joplin, LLC, to me personally known to be the individual described in and who executed the foregoing instrument by authority of the members of Northpark Mall/Joplin, LLC, and acknowledged that he/she executed the same as the free act and deed of said Northpark Mall/Joplin, LLC.

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

_____
Notary Public
Tina R. Smith

My Commission Expires:

My Commission Expires July 30, 2025

TINA R. SMITH
STATE OF TENNESSEE
NOTARY PUBLIC
HAMILTON COUNTY

EXHIBIT A
DISTRICT LEGAL DESCRIPTION
THE NORTHPARK LANE COMMUNITY IMPROVEMENT DISTRICT

THE SAME TRACT AS DESCRIBED IN THE NEWTON COUNTY ABSTRACT & TITLE CO. TITLE COMMITMENT NUMBER 16978 WITH AN EFFECTIVE DATE OF AUGUST 25, 2003.

TRACT 1 (FEE PARCEL)
COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 27 NORTH, RANGE 33 WEST; THENCE SOUTH 89°35'00" WEST, 35.00 FEET; THENCE SOUTH 00°28'00" EAST, 1235.97 FEET TO THE NORTHERLY RIGHT-OF-WAY OF THIRD STREET, FOR A POINT OF BEGINNING; THENCE ALONG SAID RIGHT-OF-WAY, SOUTH 88°58'56" WEST, 142.99 FEET; THENCE SOUTH 88°43'42" WEST, 614.00 FEET; THENCE SOUTH 89°39'42" WEST, 500.00 FEET TO THE EASTERLY RIGHT-OF-WAY OF US ROUTE 71 (RANGELINE ROAD); THENCE ALONG SAID RIGHT-OF-WAY, NORTH 00°05'16" WEST, 541.61 FEET; THENCE LEAVING THE RIGHT-OF-WAY, SOUTH 89°43'43" EAST, 220.00 FEET; THENCE NORTH 00°05'16" WEST, 435.60 FEET; THENCE NORTH 89°43'43" WEST, 200.00 FEET TO THE AFOREMENTIONED RIGHT-OF-WAY; THENCE NORTH 00°05'16" WEST, 277.16 FEET; THENCE NORTH 06°06'19" EAST, 182.39 FEET; THENCE NORTH 00°05'16" WEST, 563.59 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF TURKEY CREEK BLVD.; THENCE NORTH 89°37'20" EAST, 654.91 FEET; THENCE 261.91 FEET ALONG A 585.00 FOOT RADIUS CURVE TO THE RIGHT, WHOSE CHORD BEARS SOUTH 77°09'34" EAST, 259.57 FEET; THENCE 40.49 FEET ALONG A 257.28 FOOT RADIUS CURVE TO THE RIGHT, WHOSE CHORD BEARS SOUTH 60°10'55" EAST, 40.45 FEET; THENCE SOUTH 57°13'46" EAST, 44.06 FEET; THENCE 350.49 FEET ALONG A 652.00 FOOT RADIUS CURVE TO THE LEFT WHOSE CHORD BEARS SOUTH 73°55'23" EAST, 375.11 FEET; THENCE NORTH 89°57'31" EAST, 282.06 FEET; THENCE 409.12 FEET ALONG A 270.00 FOOT RADIUS CURVE TO THE RIGHT, WHOSE CHORD BEARS SOUTH 46°37'58" EAST, 371.09 FEET TO THE WEST RIGHT-OF-WAY OF NORTHPARK LANE; THENCE SOUTH 00°55'55" WEST, 51.85 FEET; THENCE SOUTH 00°27'17" WEST, 60.00 FEET; THENCE LEAVING SAID RIGHT-OF-WAY SOUTH 89°31'52" WEST, 680.58 FEET; THENCE SOUTH 00°11'34" EAST, 166.37 FEET; THENCE SOUTH 00°28'00" EAST, 272.78 FEET; THENCE SOUTH 45°25'05" EAST, 332.19 FEET; THENCE SOUTH 44°37'24" WEST, 331.97 FEET; THENCE SOUTH 00°28'00" EAST, 493.46 FEET TO THE POINT OF BEGINNING. CONTAINING 50.82 ACRES MORE OR LESS. BEARINGS BASE ON RECORD BEARING ALONG THE SECOND COURSE FROM THE POINT OF COMMENCEMENT. CONDITIONS AND MONUMENTS ARE AS SHOWN ON ANDERSON ENGINEERING INC. DRAWING NUMBER JOP 100-814.

And also including the following described property:

THE SAME TRACT AS DESCRIBED IN THE NEWTON COUNTY ABSTRACT & TITLE CO. TITLE COMMITMENT NUMBER 16978 WITH AN EFFECTIVE DATE OF AUGUST 5, 2003.

ALL OF LOTS 1, 2 AND 3 IN NORTHPARK HOLLYWOOD SUBDIVISION IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF, FORMERLY DESCRIBED AS:

COMMENCING AT THE CENTER OF SAID SECTION 6; THENCE NORTH 01°40'28" EAST, 226.58 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 88°22'40" WEST, 625.40 FEET; THENCE NORTH 03°00'28" EAST, 52.41 FEET; THENCE 353.39 FEET ALONG A 329.98 FOOT RADIUS CURVE TO THE LEFT WHOSE CHORD BEARS NORTH 31°25'27" WEST, 336.74 FEET; THENCE NORTH 28°56'32" EAST, 400.08 FEET; THENCE SOUTH 88°22'39" EAST, 624.77 FEET; THENCE SOUTH 01°40'28" WEST, 690.11 FEET TO THE POINT OF BEGINNING. CONTAINING 11.00 ACRES MORE OR LESS.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 6; THENCE ALONG THE EAST LINE OF NORTHWEST FRACTIONAL QUARTER OF SAID SECTION 6, NORTH 01°40'28" EAST, 226.58 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID EAST LINE OF THE NORTHWEST FRACTIONAL QUARTER, NORTH 88°22'40" WEST, 625.40 FEET TO THE EAST RIGHT-OF-WAY LINE OF TURKEY CREEK BOULEVARD; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE, NORTH 03°00'28" EAST, 52.41 FEET; THENCE CONTINUING ALONG SAID EAST RIGHT-OF-WAY LINE, 353.39 FEET ALONG A 329.98 FOOT RADIUS CURVE TO THE LEFT WHOSE CHORD BEARS NORTH 31°25'27" WEST, 336.74 FEET; THENCE LEAVING SAID RIGHT-OF-WAY LINE, NORTH 28°56'32" EAST, 400.08 FEET; THENCE SOUTH 88°22'39" EAST, 624.77 FEET TO THE EAST LINE OF THE NORTHWEST FRACTIONAL QUARTER OF SAID SECTION 7; THENCE ALONG SAID EAST LINE OF THE NORTHWEST FRACTIONAL QUARTER, SOUTH 01°40'28" WEST, 690.11 FEET TO THE POINT OF BEGINNING. CONTAINING 11.00 ACRES MORE OR LESS. ALL LYING IN THE NORTHWEST FRACTIONAL QUARTER OF SECTION 6, TOWNSHIP 27 NORTH, RANGE 32 WEST, IN THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI. BEARINGS BASED ON GRID NORTH OF THE MISSOURI COORDINATE SYSTEM OF 1983, WEST ZONE. CONDITIONS AND MONUMENTS AS SHOWN ON ANDERSON ENGINEERING, INC. DRAWING NUMBER JOP 100-767.

And also including the following described property:

TRACT 1:

A TRACT OF LAND LOCATED IN THE WEST ONE-HALF (W1/2) OF SECTION 6, TOWNSHIP 27 NORTH, RANGE 32 WEST, JOPLIN, JASPER COUNTY, MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT AN AXLE FOUND (IRON PIN RECORD) AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 6, THENCE SOUTH 89°35'00" WEST 35.00 FEET, THENCE NORTH 00°11'00" WEST 166.59 FEET TO A POINT BEING THE NORTHWEST CORNER OF THE TRACT, SAID POINT BEING ALSO THE POINT OF BEGINNING, THENCE NORTH 89°33'12" EAST 660.58 FEET TO THE NORTHEAST CORNER OF THE TRACT, THENCE SOUTH 00°29'14" EAST 560.15 FEET TO A POINT, THENCE SOUTH 89°36'26" WEST 165.00 FEET, THENCE SOUTH 00°29'14" EAST 165.00 FEET, THENCE SOUTH 89°36'26" WEST, 212.11 FEET, THENCE NORTH 45°23'34" WEST, 403.27 FEET TO THE CENTERLINE OF VACATED NORTH PARK LANE, THENCE ALONG SAID CENTERLINE, NORTH 00°25'00" WEST 272.77 FEET, THENCE CONTINUING ALONG SAID CENTERLINE, NORTH 00°11'00" WEST 166.59 FEET TO THE POINT OF BEGINNING.

TRACT 2:
NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS AND ACCESS TO AN FROM PUBLIC RIGHTS-OF-WAY, FOR PARKING FOR THE CIRCULATION OF VEHICLES, FOR ACCESS TO CERTAIN UTILITY FACILITIES TO AND AS DELINEATED AND DEFINE BY CONSTRUCTION, OPERATION AND RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 18, 1985 IN BOOK 1303 AT PAGE 101, AS ASSIGNED TO METROPOLITAN LIFE INSURANCE COMPANY IN RECIPROCAL EASEMENT AGREEMENT, ASSIGNMENT AND ASSUMPTION AGREEMENT FILED MAY 22, 1990 AT 2:35 P.M. IN BOOK 1375 AT PAGE 356, AND AMENDMENT NO. 1 FILED NOVEMBER 12, 1996 AT 11:39 A.M. IN BOOK 1516 AT PAGE 2321, AS MODIFIED BY AFFIDAVIT FILED JANUARY 28, 2997 AT 2:11 P.M. IN BOOK 1522 AT PAGE 313 AND AS CORRECTED BY INSTRUMENT FILED JUNE 24, 1997 AT 8:01 A M. IN BOOK 1533 AT PAGE 1585, AND METROPOLITAN AGREEMENT RELATING TO AMENDMENT NO. 1, FILED JUNE 24, 1997 AT 8:03 A.M. IN BOOK 1533 AT PAGE 1612, ASSIGNMENT AND ASSUMPTION OF RECIPROCAL EASEMENT AGREEMENT FILED JULY 10, 1998 AT 12:57 P.M. IN BOOK 1568 AT PAGE 952, ASSIGNMENT FILED OCTOBER 20, 1998 AT 4:01 P.M. IN BOOK 1578 AT PAGE 1344, ASSIGNMENT FILED DECEMBER 31, 1998 AT 1:23 P.M. IN BOOK 1586 AT PAGE 211, AND ASSIGNMENT FILED DECEMBER 4, 2001 AT 3:34:15 P.M. IN BOOK 1897 AT PAGE 530.

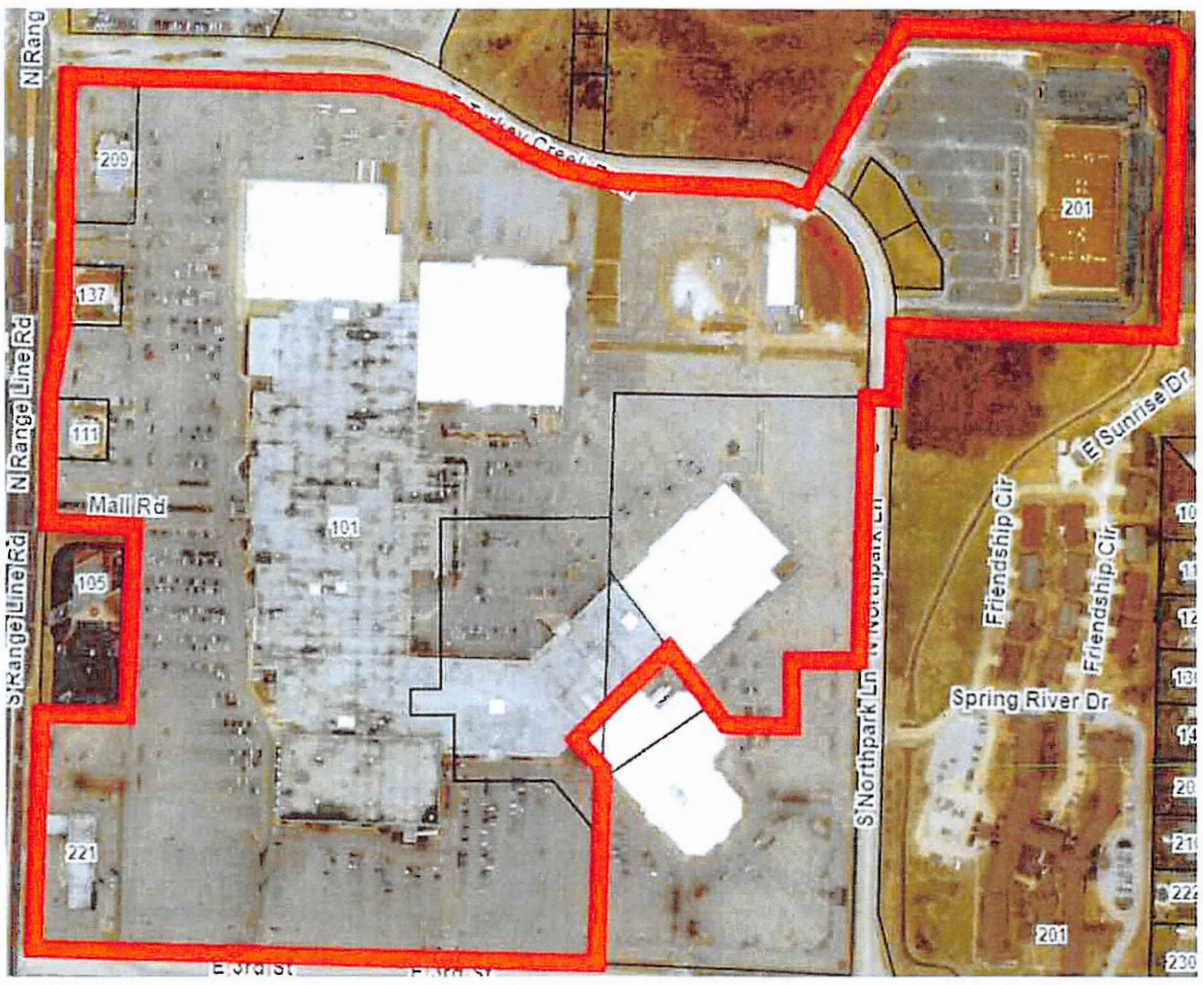
Less and except the following described property:

A TRACT OF LAND LOCATED IN THE WEST ONE-HALF (W½) OF SECTION 6, TOWNSHIP 27 NORTH, RANGE 32 WEST, JOPLIN, JASPER COUNTY, MISSOURI, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 79.40 FEET NORTH AND 35.00 FEET WEST OF A STONE FOUND AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER (NE¼) OF THE SOUTHWEST QUARTER (SW¼) OF SAID SECTION 6;
THENCE NORTH 00°25'00" WEST, 493.48 FEET, ALONG THE CENTERLINE OF VACATED NORTHPARK LANE TO A (P.I.);
THENCE NORTH 44°36'26" EAST, 332.00 FEET TO A (P.I.);
THENCE SOUTH 45°23'34" EAST, 71.00 FEET TO A (P.I.);
THENCE NORTH 89°36'26" EAST, 212.11 FEET TO A (P.I.);
THENCE NORTH 00°29'14" WEST, 165.00 FEET TO A (P.I.);
THENCE NORTH 89°36'26" EAST, 165.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY OF PROPOSED NORTHPARK LANE;
THENCE ALONG SAID RIGHT-OF-WAY, SOUTH 00°29'14" EAST, 861.46 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY OF THIRD STREET;
THENCE ALONG SAID RIGHT-OF-WAY, SOUTH 89°35'56" WEST, 344.997 FEET TO A (P.I.);
THENCE NORTH 86°28'47" WEST, 288.686 FEET TO A (P.I.);
THENCE SOUTH 87°16'24" WEST, 30.036 FEET TO THE POINT OF BEGINNING, CONTAINING 10.81 ACRES MORE OR LESS, (INCLUDING A PORTION OF VACATED NORTHPARK LANE).

BASIS OF BEARINGS ASSUMED NORTH AZIMUTH.
(RANGE LINE ASSUMED DUE NORTH/SOUTH).

EXHIBIT B
DISTRICT BOUNDARY MAP



COUNCIL BILL NO. 2024-507 **ORDINANCE NO.**

AN ORDINANCE approving a Petition to Terminate the Northpark Lane Community Improvement District.

WHEREAS, Sections 67.1401 to 67.1571 RSMo, as amended (the "CID Act"), authorize the governing body of any city, upon presentation of a proper petition requesting the termination of a Community Improvement District, to adopt an ordinance approving the termination of a Community Improvement District; and

WHEREAS, the City of Joplin, Missouri (the "City") is a charter city and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the Northpark Lane Community Improvement District (the "District") was established pursuant to Joplin City Ordinance No. 2014-90 on or about June 16, 2014 ("2014 Ordinance"), a copy of which is included as Exhibit B to the Petition, as hereinafter defined; and

WHEREAS, on June 28, 2024, property owners within the District, collectively owning one hundred percent (100%) by assessed value of the real property and one hundred percent (100%) per capita of all owners of real property within the District filed with the City Clerk a petition for the termination of the District pursuant to the CID Act (the "Petition"), said Petition recites the following facts:

(a) The Petitioners are requesting the City Council terminate the District; and

(b) The District has accomplished its goals under that certain Trust Indenture dated October 1, 2018 and Development Agreement dated August 13, 2014, and now desires to redeem and satisfy any and all bonds issued under said documents for the purpose of reimbursing the District; and

(c) There are no outstanding claims or causes of action pending against the District, the District's liabilities do not exceed its assets, the District owns no personal or real property, and the District is not insolvent, in receivership or under the jurisdiction of any bankruptcy court; and

(d) As of June 26, 2024, the District had assets of approximately $650,000.00. The District may receive additional revenue during its current and future fiscal years until the Missouri Department of Revenue ceases collection and remittance of the District sales and use taxes. The District anticipates that its final administrative costs and the costs associated with termination of the District will be approximately $510,000.00, and the District does not anticipate holding any reserves. Accordingly, the District anticipates net assets of approximately $140,000.00 upon termination of the District, which shall be distributed pursuant to provisions of the CID Act and the Cooperation Agreement; and

WHEREAS, the City Clerk verified that the Petition substantially complies with the CID Act, submitted the verified Petition to the City Council and set a public hearing with all proper notice being given in accordance with the CID Act or other applicable law; and

WHEREAS, none of the signatures of the signers of the Petition were withdrawn within seven (7) days after the Petition was filed with the City Clerk; and

WHEREAS, all the real property included in the District is entirely located within the City of Joplin; and

WHEREAS, on July 15, 2024, the City Council held a public hearing at which all persons interested in the termination of the District were allowed an opportunity to speak; and

WHEREAS, the City Council having considered the evidence and testimony given at the public hearing, desires to approve the Petition to terminate the District and make such other findings as necessary.

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

Section 1. All terms used in this Ordinance shall be construed as defined in the CID Act and the Petition.

Section 2. The City Clerk has verified the Petition substantially complies with all submission requirements of the CID Act.

Section 3. The termination of the District is hereby approved, as discussed and requested in the Petition, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference. The District includes the contiguous tracts of real estate as described and shown in the attached Petition. The District shall promptly notify the Missouri Department of Revenue of the approval of this Ordinance and the District shall request that Missouri Department of Revenue discontinue collection of the 1% sales and CID taxes.

Section 4. The City shall enter into a "Cooperation Agreement" which is reasonably acceptable to the City Manager, Finance Director and District within sixty (60) days of the adoption of this Ordinance in order to facilitate the distribution of excess funds held by the District upon the satisfaction of all CID financial obligations, with such distribution to be made in accordance with the CID Act.

Section 5. The effective date of the termination of the District shall be the earlier to occur of: (1) the disbursement of all funds held for disbursement pursuant to the Cooperation Agreement; or (2) October 31, 2024.

Section 6. The City Manager, City Clerk and any other appropriate City officials are hereby

authorized to take any action as may be deemed necessary or convenient to carry out and comply with the intent of this Ordinance and to execute and deliver for and on behalf of the City all certificates, instruments or other documents as may be necessary, desirable, convenient or proper to perform all matters herein authorized.

Section 7. It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Section 8. This Ordinance shall become effective immediately upon approval by the City Council and execution of the Ordinance by the Mayor.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2024.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Resolution 2024-013 – Approval for the intent to apply for a $147,210.00 Recreational Trails Program Grant and committing to the matching portion of the project

MEETING DATE
August 5, 2024

ORIGINATING DEPT
Finance

ATTACHMENTS
Resolution 2024-013

REVIEWED BY
Department Head: Leslie Haase; Parks Director: Paul Bloomberg; City Attorney: Peter Edwards; City Manager: Nick Edwards

SUMMARY
This Resolution grants approval to apply for the Recreational Trails Program and committing to the matching portion of the project in the amount of $98,140.00.

BACKGROUND
The City of Joplin applied for the Recreational Trails Program for the City of Joplin Trail Amenities Project. This project includes the construction of 80 concrete pads for the installation of 80 ADA compliant park benches, 48 bicycle racks, 8 bicycle repair stations and 21 trail/park trailway signs along approximately 18 miles of public trails in 12 various parks including Cunningham Park, Mercy Park, Wildcat Park, McIndoe Park, Tin Cup Trail, Grand Falls Trail, Landreth Park, Parr Hill Park, Senator Ron Richard Memorial Park, Humphrey Park, Leonard Park, and Mohaska Park. The State recently requested the City complete this Resolution for the grant application.

This grant is a 60%/40% grant, with $147,210 being requested through the grant while the City will match $98,140 through the parks and stormwater sales tax. This is a current project of that tax and will allow the City to expand this project.

FUNDING SOURCE
The Parks and Stormwater Sales Tax Fund will provide the grant match for this project, if awarded.

RECOMMENDATION
Staff recommends approval of this resolution.

RESOLUTION NO. 2024-013

A RESOLUTION of the City of Joplin, Missouri, stating the intent to apply for federal assistance from the Recreational Trails Program for the purpose of the City of Joplin Trail Amenities Project in the amount of $147,210.00; and, committing to the match funding of $98,140.00.

WHEREAS, the Recreational Trails Program grant requires a prescribed grant funding assurance resolution; and,

WHEREAS, the City Council of Joplin, Missouri, desires to apply for federal assistance from the Recreational Trails Program for the purpose of the City of Joplin Trail Amenities Project.

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

Section 1. That the Finance Director of the City of Joplin, Missouri is authorized to sign the application for federal assistance and any other official project documents that are necessary to obtain such assistance, including any agreements, contracts or other documents that are required by the State of Missouri or the Federal Highway Administration.

Section 2. That the City of Joplin, Missouri, currently has the written commitment for the forty percent (40%) matching share for the project elements that are identified in the application and will allocate the necessary funds to complete the project.

Section 3. In the event a grant is awarded, the City of Joplin, Missouri, will commit the necessary financial resources to operate and maintain the completed project in a safe and attractive manner for public access for a minimum of twenty-five (25) years.

Section 4. In the event a grant is awarded, the City of Joplin, Missouri, is prepared to complete the project within the time period identified on the signed project agreement.

Section 5. In the event a grant is awarded, the City of Joplin, Missouri, will comply with all rules and regulations of the Recreational Trails Program, applicable Executive Orders, all state laws that govern the grant applicant during the performance of the project, and stewardship requirements after the project is completed.

Section 6. That this Resolution shall be in full force and effect from and after the date of its passage and approval.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Joplin, Missouri to be affixed this 5th day of August 2024.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Resolution 2024-014 – Approval of modifications to the City of Joplin Purchasing Policy

MEETING DATE
August 5, 2024

ORIGINATING DEPT
Finance

ATTACHMENTS
Resolution 2024-014; City of Joplin Purchasing Policy

REVIEWED BY
Department Head: Leslie Haase; City Attorney: Peter Edwards; City Manager: Nick Edwards

SUMMARY
This Resolution approves modifications to the City of Joplin purchasing policy.

BACKGROUND
This resolution approves one change to the current purchasing policy.

- This change modifies the policy to include the federal requirement to review the status of a vendor for suspension or debarment prior to the renewal of any annual contract.

RECOMMENDATION
Staff recommends approval of this resolution.

RESOLUTION NO. 2024-014

A RESOLUTION approving modifications to the City of Joplin Purchasing Policy.

WHEREAS, the City of Joplin desires to add required federal language about reviewing the status of a vendor for suspension or debarment before renewing annual contracts.

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

Section 1. That the City of Joplin Purchasing Policy will be modified to add the federal requirement to review the status of a vendor for suspension or debarment before renewing any annual contract; and,

Section 2. That this Resolution shall be in full force and effect from and after the date of its passage and approval.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Joplin, Missouri to be affixed this 5th day of August 2024.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

CITY OF JOPLIN

PURCHASING AND PROCUREMENT

POLICIES AND PROCEDURES

EFFECTIVE AUGUST 5, 2024

CITY OF JOPLIN, MISSOURI
PURCHASING POLICIES AND PROCEDURES
TABLE OF CONTENTS

DESCRIPTION	PAGE NUMBER
Purpose and Objectives	3
General Provisions	4
Purchase Order and Bidding Requirements	8
Purchasing Procedures	13
Construction Project Delivery Methods and Procedures	21
Forms-Index	25

CITY OF JOPLIN, MISSOURI
Purchasing Policies and Procedures
Effective March 20, 2023

PURPOSE AND OBJECTIVES

These policies and procedures relating to the purchase of goods and/or services have been instituted to ensure that all employees of the City of Joplin follow practices which:

*assure the community that goods and/or services are procured in a manner consistent and compliant with the provisions of Federal law, State law, the City Charter, the City Code, and with generally accepted accounting principles;
*assure that the City is obtaining the best goods and/or services possible, which meet the required standards at the most reasonable cost;
*establish and maintain the highest level of accountability, fairness, and integrity.

These policies and procedures have been prepared pursuant to Article IV, Sections 4.03 and 4.04 of the Joplin City Charter and Article V, Division 2 of the Joplin City Code to achieve the following objectives:

*to clearly establish that compliance with proper purchasing practices is the responsibility of all employees;
*to vest the Finance Department with the responsibility for the establishment of and for monitoring compliance with proper accounting practices and internal control guidelines which maintain the highest levels of safety, quality, and integrity in the purchasing process;
*to procure supplies, materials, equipment, and contractual services for the City at the most appropriate cost and the best quality consistent with the goods and/or services required;
*to, at all times, exercise positive financial accountability in the expenditure of City funds;
*to ensure the fair and equitable treatment of all persons, in any capacity, who participate in the City's purchasing process.

GENERAL PROVISIONS

A. Definitions

A purchase order serves as the official order form and legal document for the City of Joplin.

B. Purchasing Authority

The City utilizes a decentralized purchasing function. Decentralized purchasing means the City's department heads are responsible for monitoring the purchasing activities of their departments. The Finance Department is physically responsible for the preparation of actual purchase orders, but the individual departments ensure compliance with purchasing laws and regulations, such as securing both informal and formal bids.

C. Selection of Vendors or Contractors

Vendors and contractors are selected on the basis of their ability to provide the requested goods and/or services at the lowest and best price. The lowest and best price is considered to be that price which meets all the specifications and quality requirements of the bid proposal within the lowest price range, which may or may not be the lowest price offered. In making the selection, the City will consider the following factors:

*price;
*quality of goods and/or services to be provided;
*on-going maintenance, warranties, and post-purchase support;
*prior experience with the vendor or contractor;
*ability to satisfactorily meet all of the City's specifications and requirements;
*any other factors reasonably related to the overall cost to the City upon purchase and use of the goods and/or services being requested.

Conflict of Interest and Ethical Conduct: Pursuant to Section 15.09 of the Home Rule Charter, and, pursuant to Section 2-50 of the Code of Ordinances of the City of Joplin, no council person, officer, or employee of the City shall have a financial interest, direct or indirect, in any contract with the City or any office, department, board or agency thereof, or be financially interested, directly or indirectly, in the sale or lease to the City of any land, materials, supplies, equipment or services. **No council person, officer, or employee of the City shall accept gifts or gratuities on an individual basis from any vendor or potential vendor of the City.** Any violation of this section shall render the contract, agreement, undertaking or sale void, and any officer or employee so violating this section shall thereby forfeit his office, position, or employment.

D. Acceptable Preferences

Products Manufactured in the United States: Preference is given to vendors who offer products manufactured, assembled, or produced in the United States, if the quality and price are comparable with all other goods and/or services offered for purchase.

Every contract for capital construction of improvements in excess of $10,000 will contain a provision requiring the contractor to use products manufactured, assembled, or produced in the United States in the performance of the contract, if the quality and price are comparable with other available goods.

Post Consumer Products: Preference will be given to vendors or contractors who offer products which contain post consumer recyclable material if the quality and price are comparable with other available goods.

Federally Provided Funds: All federal requirements will be followed when purchasing goods and/or services with federally provided funds. Before placing an order with a vendor, each department will verify that the vendor is not debarred or suspended by the federal government on the web page. The web page address is **www.sam.gov**. The issuing department will verify that the prevailing wage is paid to all workers on construction contracts.

State of Missouri Vendors: Preference will be given to vendors or contractors who produce, manufacture, or market goods and/or services within the State of Missouri, if the quality and price are comparable with all other goods and/or services offered to the City and all other factors to be considered in the bid award process are equal.

Local Vendors:

1. Preference will be given to vendors or contractors who produce, manufacture, or market goods and/or services within the defined radius as described below, if the quality and price are comparable with all other goods and/or services offered to the City and all other factors to be considered in the bid award process are equal. When a formal written bid or proposal is not required, local vendors may be given an opportunity to match prices offered by non-local vendors, as long as the products are equal as to specifications and quality requirements.

2. A vendor or contractor is considered to be local if their principal place of business is located within a radius of twenty-five (25) miles from Joplin City Hall, with the majority of its primary business operations, including but not limited to, production, operation, purchasing, billing, marketing, management, administration and ownership, occurring within said radius. “Local” shall not include the following:

    (a) Those businesses with only a local post office box; or
    (b) Those businesses with a sales presence in the said radius, but no physical business location within the said radius; or
    (c) Home based businesses that merely take orders for products shipped from out-of-town to their customers.

3. When bids or proposals are received from both local and non-local vendors or contractors, the local bidder may be given preference in the awarding of the bid provided that its bid meets all other specification, quality, and service requirements in the following instances:

(a) If a local bidder is within three (3%) percent of the lowest bid from a non-local bidder on a bid or proposal from $3,000.00 up to $1,000,000.00, and within two (2%) percent on such bid or proposal from $1,000,000.00 up to $3,000,000.00, and within one (1%) percent on such bid or proposal from $3,000,000.00 to $5,000,000.00.

(b) The local purchasing preference policy shall not apply in the following instances:
    (1) When purchases and or contracts are funded in whole or in part by federal funds.
    (2) When such preference is in conflict with any applicable state or federal laws, rules or regulations.
    (3) When construction projects are financed with public assistance, including but not limited to, tax increment financing, Chapter 100 bonds, Chapter 353 redevelopment projects and enterprise zone redevelopment.

(c) In the event that a general/prime contractor wishes a bid to be considered local, such contractor must either be local as defined above and at least 51% of the value of the total work to be performed as set forth in the bid price must be accomplished by the general/prime contractor or subcontractors considered local pursuant to this policy as defined above; or, utilize subcontractors considered local who will perform at least sixty percent (60%) of the value of the total work to be performed as set forth in the bid. The general/prime contractor will be required to document this information and provide it with the bid in order for the bid to be considered under the local vendor preference policy.

E. Commodity Buying

Departments are encouraged to plan ongoing purchases of goods and/or services in a manner to take advantage of price discounts for quantity purchases of items, such as the following:

*Office and Stationary Supplies
*Janitorial and Paper Supplies

F. Encumbrance Accounting and Budgetary Control

Encumbrance accounting is employed as a practical means of controlling spending. Encumbrances are used to indicate that some unspent funds have been committed by means of purchase orders or executory contracts, and so are NOT available for new spending. Encumbrances are used to reflect committed, but unspent resources, thereby indicating the true balance of resources available for new spending.

The first step in the purchasing process is the preparation and approval of a budget. The budget establishes the levels of available funding and how the funds may be spent. Through the automated financial accounting system, all purchase requisitions and orders will be encumbered against available funds in the department's budget. Encumbrance accounting assists the City in maintaining proper budgetary control to assure that actual expenditures do not exceed annual appropriation levels. Monies committed through the issuance of

a purchase requisition will be deducted from individual budget accounts to indicate the level of funding still available for appropriation by the department.

PURCHASE ORDER AND BIDDING REQUIREMENTS

To ensure that goods and/or services are purchased from the vendor/contractor, who can provide the best product at the lowest and best price to the City, the bidding practices set forth in this section are to be followed by **ALL** City employees. ***It is not acceptable to divide or split quantities to be purchased with the intent of evading or circumventing the bidding requirements established under these policies.***

A. General Overview

1. Selection of Lowest and Best Bidder: See General Provisions Section C for determination of selection of lowest and best bidder.
2. Vendor Bid Lists: the Finance Department will maintain the official vendor bid list. Departments will have on-line computer access to the current vendor bid list. A vendor must contact the Purchasing Clerk in the Finance Department to be placed on the official vendor bid list for the City.

B. Formal Sealed Bids

When Required: A formal sealed bid is required when:

*it is estimated that the total cost will ***exceed $15,000;***
*the goods and/or services required are to be purchased with state or federal funds and the use of those funds require a formal bid process;
*the City Council, the City Manager, or the Director of Finance determines it is within the best interests of the City to seek formal bids/proposals.

Advertising of Formal Bids: All formal requests for bids or proposals must be advertised no less than fifteen (15) days prior to the date on which sealed proposals or bids will be opened. Advertising must be accomplished in such a manner as to allow interested bidders a sufficient length of time to prepare a complete and meaningful response to the bid document. The advertisement methods to be employed are as follows:

*a legal advertisement in a local newspaper, whose general circulation is within the City limits, for a period of at least one-day;
*delivery by mail, fax, or e-mail of the official notice to all vendors or contractors who have requested to be placed on the City's bid list for goods and/or services of the nature being solicited.

Additional Approval: If the bid price exceeds $100,000 or the purchase requires the completion of a signed contractual agreement with the vendor for performance of services, formal adoption by the City Council is also required.

C. Motor Vehicle and Rolling Stock Bids

Motor vehicles and rolling stock may be purchased by sending email specifications to any authorized Chevrolet, Ford, or Dodge dealership in the State of Missouri and requesting responses in no less than three (3) days. The dealership must be in good standing with the State. If a conforming bid is received by the specified date and time that is within the budgeted amount for the motor vehicle or rolling stock item, a purchase order may be immediately issued for the purchase.

If more than one conforming bid is received, the department will choose the lowest and best bid, which can include factors such as price, delivery time and delivery location as examples. The department will document the lowest and best bid, which shall be forwarded to the Finance Department for review ***prior*** to placement of the order. If a conforming bid is more than the budgeted amount for the item, a budget amendment will be required ***prior*** to placement of the order.

D. Informal Written Quotations

When Required: An informal written quotation from at least three (3) vendors is required for all purchases with an estimated price of ***less than $15,000 but more than $3,000.***

E. Informal Telephone Quotations

When Required: An informal telephone quotation from at least three (3) vendors is required for all purchases with an estimated price of ***less than $3,000 but more than $1,000.***

F. Discretionary Purchases

Goods and/or services whose value does ***not exceed $1,000*** may be purchased without obtaining bids or quotations at the discretion of the department head. A purchase requisition is required for ***ALL*** goods and/or services, which require a purchase order. A detailed listing of exempt goods and/or services is itemized in the purchasing procedure section of this policy. Vendors will be instructed that the City will not be responsible for payment if any item is sold or delivered without the presence of a purchase order. No individual will be authorized to purchase or contract for goods and/or services as an agent of the City without presenting a purchase order document at the time an order is placed.

G. Emergency Purchases (under $200)

An exception to the above policy will be granted for purchases of materials valued at less than $200 from local vendors. While a formal purchase order is not required, the individual receiving merchandise from a local vendor will be required to provide that vendor with an authorized Field Purchase Order (Local Purchase Order). This Field Order can be printed at the Department and authorized by the appropriate supervisory personnel. One copy is to be provided to the local vendor at the time of sale or delivery; one copy is to be forwarded to Finance; and one copy is to be retained by the department. These pre-

numbered forms can be issued without first being reviewed by the Finance Department.

These Field Orders may also be used for emergency purchases of up to $500 with the department heads' approval and a written explanation of the nature of the emergency provided to Finance. This will allow for materials to be purchased at times when it is impossible for a department to obtain a formal purchase order from the Finance Department. ***All local vendors will be informed that the City will not be financially responsible for the purchase of any goods and/or services by ANY City employee without the presentation of a valid Field Order.***

H. Bid Prices

Bid prices obtained from a vendor for goods or services ***may*** be used for up to, but not longer than, one year from the bid date as long as there is no variation in the price or the goods or services provided. This minimizes the cost of bidding, while ensuring the lowest price is obtained.

I. Exceptions to Purchasing and Bidding Requirements

Goods and/or services are exempt from the formal bid or informal quotation process if:

*The goods and/or services are only available through a single source. Written documentation of this exception, with the requisition number, must be forwarded to the Finance Department by the department.
*The goods being purchased are not new.
*The goods and/or services are available only from suppliers whose prices are set by governmental regulations, such as utility services.
*The goods and/or services being sought must be compatible with goods already owned or services already being provided to the City or with supplier warranty agreements.
*The goods and/or services are being purchased through a cooperative agreement with other governmental agencies.
*The goods and/or services are being purchased through BuyBoard Purchasing Cooperative.
*The goods and/or services may be obtained through the State of Missouri's cooperative procurement agreement, as long as it can be documented that the items purchased cannot be obtained from a local vendor at a lower price and that the State Division of Purchasing can provide documented evidence of the competitive bidding procedure followed for the specific items being purchased.

J. Monthly Blanket Purchase Orders

Blanket purchase orders are used for vendors with whom repetitive or standing orders are frequently placed. A blanket purchase order is valid for a six-month period. A separate blanket requisition must be completed for the items charged to each operating expense (expenditure) account. The standard requisition procedures are the same.

K. Bid Protests

Any actual or prospective bidder, offerer, or contractor, who is aggrieved in connection with the solicitation of bids or the award of a contract, may protest to the Director of Finance. The protestee shall present, in writing, the basis upon which the solicitation or award is contested, and, such protest must be presented within ten (10) days after the bid opening. Compliance with this bid protest procedure shall be a condition precedent to any legal action.

L. Resolution of Bid Protests

All bid protests shall be referred to the City Purchasing Committee, which shall consist of the Director of Finance or his designee and the City Attorney or his designee. The City Purchasing Committee shall undertake such investigation as, in their mind, is necessary to rule on such bid protest, and, shall make a written recommendation to the City Manager within ten (10) days of such written protest. The City Manager shall then modify, approve or disapprove such recommendation, which decision shall be communicated in writing to the protestee, and shall be final. No appeal shall be taken from the decision of the City Manager except as provided by Chapter 536, RSMo.

M. Suspension or Debarment

The official list of all suspended or debarred contractors for the federal government is Sam.gov, in addition to the official state website. Employees should verify if a vendor is suspended or debarred with both agencies. Prior to renewing annual contracts, employees must verify the vendor is not suspended or debarred.

The Purchasing Committee shall have the authority to suspend or to bar a person from consideration for bid awards. A suspension may be for up to six (6) months; a debarment may be from six (6) months to two (2) years in length. Notice of suspension or debarment shall be given by Certified Mail.

The following are causes for suspension or debarment:

1. Conviction within the last ten (10) years for the commission of a criminal offense as incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
2. Conviction within the last ten (10) years under state or federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a contractor.
3. Being suspended or debarred from bidding upon federal or state contracts.
4. Breach within the last two (2) years of a contractual relationship with the City of Joplin, which, in the Committee's opinion, is so serious as to justify suspension or debarment.

A contractor who is suspended or debarred may appeal in writing to the City Manager, whose decision shall be final. No appeal shall be taken from the decision of the City Manager except as provided by Chapter 536, RSMo.

N. Policy Violations

Violation of these policies and procedures by any city employee shall result in corrective action being taken, which is pursuant to Section Eight of the City of Joplin Employee Rules and Regulations Manual.

PURCHASING PROCEDURES

All purchases for goods and/or services to be paid from City funds require the issuance of a properly authorized and executed City purchase order ***prior*** to placement of an order and acceptance of delivery. The purchase order serves as a contractual agreement between the City and the vendor, which guarantees payment and provides City staff with the authorization to procure goods and/or services in the name of the City. Without an approved purchase order, City employees are not authorized to arrange for the purchase of goods and/or services on behalf of the City and the City, in turn, assumes no responsibility for payment to the vendor for items delivered.

A. General Overview

1. New vendors are established through the Finance Department. When a department needs a new vendor to be established, they will complete the ***Request for New Vendor*** form and forward it to the Finance Department. The Finance Department will send a "New Vendor Package" to the requested vendor. The vendor will be required to provide the City with an address, a tax identification number, a current W-9 form, a telephone number, a contact name, an order address, and a payment address. If the vendor is a local vendor, they will also be required to have a current City of Joplin business license and all required documents associated with a business license.

Once the "New Vendor Package" information is returned to the Finance Department from the vendor, the vendor will be established in the computer system. An ***Approved Vendor*** listing will be sent to the department to confirm the set up of the new vendor.

B. Purchase Order Requisition

Departments will complete an on-line purchase requisition to initiate all purchases. The on-line requisition will contain the following information:

*name and address of supplier or contractor;
*vendor number;
*detailed description of goods and/or services being requested;
*quantities, unit prices and extended prices for goods and/or services being requested;
*anticipated delivery date;
*street address where goods and/or services are to be delivered;
*budget account against which expenditure is to be encumbered (***account codes are assigned based on the appropriate classification of expense rather than the availability of unappropriated funds);***
*approval of department head or his approved designee.

On-line requisitions will be approved on-line by the appropriate supervisor, department head, City Manager, and/or Finance Department based on the type and amount of the purchase. Requisitions being

processed for which sufficient funds are not available or for items not appropriated through the annual City budget will not be allowed. One or more of the following must be forwarded to Finance before the requisition can be resubmitted:

*a budget transfer request signed by the Department Head.
*a budget amendment request signed by the Department Head and the Director of Finance. The City Manager, or his designee, must also approve amendment requests in excess of $3,000. Amendment requests in excess of $10,000 must have the formal approval of the City Council prior to issuance of a purchase order. ***All*** budget amendments under $10,000 will be considered for approval by the City Council at the end of the budget year.
*a memo from the Department Head and approved by the City Manager authorizing the purchase of capital outlay items not included in the City's approved budget. Formal Council approval of additional capital equipment or improvement projects is required when the cost exceeds $50,000.
*formal adoption by the City Council, if the bid price exceeds $100,000 and is not appropriated in the budget or the purchase requires the completion of a signed contractual agreement with the vendor for performance of services.

C. Formal Sealed Bids

Preparation and Issuance of Formal Bid Document: With the assistance of the Finance Department, each City department will be responsible for the preparation and issuance of all formal bid documents involving the procurement of goods and/or services which are to be purchased from available funds appropriated in their annual departmental budget. Where a formal sealed bid is to be issued, the following procedures will apply:

1) Departments will prepare a detailed ***Bid Specification*** form which provides:
*a complete description of the item(s) to be purchased in sufficient detail to allow the vendor to determine the City's minimum requirements;
*any conditions with which the vendor must comply in order to be awarded the bid or to perform on the contract;
*any applicable quantities, performance levels, warranty periods or on-going service expectations which are to be provided;
*a description of any equipment to be offered for trade-in with sufficient detail to allow the vendor to provide an accurate trade-in allowance quote;
*a designated space following each specification requirement for the vendor to note their ability or inability to meet the conditions listed and propose an alternative or substitute for the department's consideration;
*a statement indicating that the vendor must comply with federal regulations, federal procurement policy, and the

Davis-Bacon Act if federal funds are being used for the purchase.

2) Departments will prepare a ***Bid Proposal Response*** form to be completed by the vendor, which is required to contain the following:
   *detailed description of item(s) being bid or proposed (make, model, quantity, warranty periods, etc.);
   *bid pricing information (bid price must be quoted F.O.B. Joplin);
   *estimated date of delivery or performance;
   *date of bid submission;
   *company name and home office address;
   *name and phone number of company representative to contact;
   *signature of company representative.

3) Departments will forward both the ***Bid Specification*** and the ***Bid Proposal Response*** forms to the Finance Department for completion of the Bid Document Package along with:
   *name, title, telephone number, and fax number of the staff member assigned as bid contact person;
   *location and address from where bid documents may be obtained;
   *desired bid opening date and time (must be at least 30 days following submission of bid documents to Finance Department and will be contingent on publication date of legal advertisement);
   *budget account to be charged and anticipated cost of item being bid;
   *disclosure of any possible related parties.

4) The Finance Department will review the documents provided and verify that sufficient unencumbered funds are available in the department's budget. Bids for capital equipment or projects will be compared with the listing of approved items included in the adopted annual budget. If sufficient monies are not available for the purchase or if the item does not appear on the approved listing of capital equipment or projects, the bid documents will be returned to the department.

5) If sufficient funds are available and the item has been approved for purchase in the adopted budget, a bid number will be assigned. The Finance Department will prepare a ***Bid Cover Sheet***, an ***Instructions to Bidders*** form, and a ***Notice to Bidders*** form to complete the formal bid document package. The bid instructions must set out the following information and conditions:
   *the specified date, time, and place of the formal opening of sealed bids;
   *all sealed bids are marked clearly with the bid number and the description of the item being bid;
   *the City reserves the right to accept all or any portion of the goods and/or services being requested from any one vendor;

*the City reserves the right to select the lowest and best bidder based on full consideration of all factors, preferences, and conditions deemed applicable by the City of Joplin;
*the City reserves the right to reject all bids at any time.

6) The Finance Department will ensure that all advertising requirements are satisfied.

7) The completed bid document, with the ***Bid Tabulation*** form, will be returned to the department contact person, who is responsible for distributing the information to all interested parties. Departments must send the notice of formal sealed bid to ***ALL*** vendors, in the specific item category on the official vendor bid list, which is maintained by the Finance Department. The contact person will forward the entire package to any vendor requesting a copy of the bid package.

Awarding of Formal Bids: At the date and time specified, all sealed bids received will be opened in the department issuing the bid with at least two City staff members present. A ***Bid Tabulation*** form is to be completed immediately upon opening of the vendor proposals. The department will then review the bids received to determine which bid offers the lowest and best price while meeting all the specification and quality requirements desired. If the department's recommendation is the lowest bid received, an on-line purchase requisition should be completed and approved by the department head. The original bid tabulation form, with the requisition number, will be forwarded to the Finance Department.

If the recommendation is to award the bid to a vendor other than to the one supplying the lowest bid price, the department head will send a written recommendation which provides justification for the award to the City Attorney and to the Finance Department. This recommendation will be reviewed and approved by the City Attorney, prior to issuance of a purchase requisition, to ensure that adequate justification is provided in case an unsuccessful vendor files an appeal.

D. Informal Written Quotations

Solicitation of Written Quotations: Departments will prepare a written memorandum describing the goods and/or services being requested. The department is responsible for providing this information to no less than three (3) vendors who will be given sufficient time to respond in writing with a bid proposal. No legal advertisement is required but departments are encouraged to provide the specification memorandum to all vendors named on the City's bid list. It is the department's responsibility, prior to the solicitation of quotations, to ensure that sufficient unencumbered funds are available in the department's approved budget and that all capital-related items are included on the approved capital outlay listing. Vendors submitting quotations must respond in writing, by e-mail, or via facsimile directly to the department soliciting the quotation.

Acceptance of Written Quotation: Upon receipt of all solicited quotations, the department will review the information provided and determine which vendor has offered the lowest and best price which meets all of the conditions and specifications desired. When the successful vendor has been selected, an on-line purchase requisition is completed and approved by the department head. The original specification memorandum and the completed bid tabulation form, with the requisition number, will be forwarded to the Finance Department. If the selected vendor is not the one offering the lowest price, a written justification must be attached.

E. Informal Telephone Quotations

Solicitation of Telephone Quotations: Departments will be responsible for contacting no less than three vendors and providing them with a detailed description of the goods and/or services desired. No legal advertisement is required but departments are encouraged to contact all vendors named on the City's bid list. It is the department's responsibility, prior to the solicitation of quotations, to ensure that sufficient unencumbered funds are available in the department's approved budget and that all capital-related items are included on the approved capital outlay listing. Vendors may respond by telephone, by e-mail or via facsimile directly to the department soliciting the quotation.

Acceptance of Telephone Quotations: Upon receipt of all solicited quotations, the department will review the information provided and determine which vendor has offered the lowest and best price which meets all of the conditions and specifications desired. When the successful vendor has been selected, an on-line purchase requisition is completed and approved by the department head. The original ***Telephone Quotation Tabulation*** form, with the requisition number, will be forwarded to the Finance Department. If the selected vendor is not the one offering the lowest price, a written justification must be attached.

F. Authorized Purchase Order

The approved purchase requisition will be sent on-line to the Finance Department. The Finance Department will review all requisitions for completeness; accuracy of budget account number assignment; availability of sufficient unencumbered funds in the department's budget; and compliance with City bidding and purchasing policies. Requisitions for capital equipment or projects will also be compared with the approved listing contained in the annual adopted City budget. Once this review is completed and no exceptions are discovered, the Finance Department will proceed with the issuance of a purchase order. Before distribution, the Purchasing Clerk will sign all purchase orders. The signature of the Director of Finance, or his designee, will also be required on all purchase orders over $3,000. Since the purchase order document constitutes a contract between the City and the supplier or contractor, vendors are to be instructed that shipment or delivery is not authorized unless they have received an approved Purchase Order document either by mail or via facsimile.

Purchase orders will be printed and distributed daily by the Finance Department. The Purchase Order will be distributed in the following manner:

*Original Copy – Vendor
*Copy 1 – Accounts Payable
*Copy 2 – Department

The Finance Department will be responsible for all matters related to proper accounting practices in the area of purchasing. If a purchase requisition has exceptions, the Finance Department will send it back via on-line access to the department for additional/different information.

G. Field Purchase Orders (Local Purchase Orders)

For goods and/or services purchased from ***local*** vendors with a value of less than $200, departments may use a ***Field Purchase Order*** (Local Purchase Order) form in place of a formal Purchase Order. The Field Purchase Order is a pre-printed, pre-numbered triplicate form. The Field Purchase Order requires the same information as a purchase requisition, but may be approved by either the department head or a department supervisor designated by the department head. The form will print at the department and will require an authorized signature. A City employee may take the Field Purchase Order to the vendor to pick up the requested items. The vendor will retain one copy as authorization to bill the City for the goods and/or services, the department will retain one copy, and one copy will be forwarded to the Finance Department by the department. The City employee will attach any shipping documents, delivery tickets or invoice copies to the Finance Department's copy of the Field Purchase Order and will initial the F.P.O. indicating receipt of the items.

H. Blanket Purchase Orders

Blanket purchase requisitions are completed the same as regular purchase requisitions. Blanket orders are issued for items needed on a recurring basis. Blanket orders will be valid for six months. A separate blanket requisition must be completed for the items charged to each operating expense (expenditure) account. For example, a separate blanket purchase order is required for paint supplies and hardware supplies.

I. Exempt Goods and/or Services

Some goods and/or services, because of their nature, may be purchased without the prior issuance of an authorized Purchase Order or Field Purchase Order. These items include:

*Travel expenses or reimbursements
*Mileage reimbursements
*Petty Cash expenditures ($30 limit)
*Dues and memberships
*Publications and subscriptions (unless a P.O. will substitute for prepayment)
*Fees; Permits and legal advertisements
*Payroll withholding remittances
*Postage and delivery fees

*Utility charges and services
*Rentals and leases
*Insurance premiums
*Legal settlements

These items will be paid with an authorized ***Check Request*** form or ***Travel Expense*** form. The department head must approve the Check Request Form and/or Travel Request Form. Check Requests and Travel Expense forms must have appropriate supporting documentation attached. Check Requests will not be required for any exempt ***invoiced*** item, such as utility charges and legal advertisements. The appropriate supervisor or department head must approve the original invoice that is exempt from a purchase order before payment will be processed. A duplicate copy of the invoice will be retained in the Finance Department pending the return of the original approved invoice.

J. Cancellation of Purchase Orders

Purchase Orders may be issued with an anticipated delivery or completion date of no more than ***one year*** following the date of issuance. Any unexpended funds remaining open against the Purchase Order will be automatically canceled thirty (30) days after the delivery or completion date, unless the department requests in writing that the time period be extended. However, at no time may this time period be extended beyond one year of the date of issuance. In the event of a multi-year project, a purchase order will be issued based on the portion of that project expected to be completed during the year.

K. Receiving of Goods and/or Services

Upon receipt of goods and/or the completion of services, the department will verify receipt of the quantity of items received. The ***department*** will use the on-line computer to receive the goods and/or services. If partial delivery is made, partial receipt of the items must be made on the computer by the department. Receipt is made on the computer the same day that the goods and/or services are physically received at the department. The department must verify receipt of all items received by the unit of measure indicated. This will ensure that the City does not pay for items not received. Do ***NOT*** receive in the quantity ordered, if that is not the actual quantity received. For example, if two boxes of pens were ordered but only one box is received, only one box should be received in the computer by the department. The receiving tickets will print in the Finance Department. The Finance Department will match the receiving ticket with the invoice, before payment is processed.

L. Invoice Processing

Each department is authorizing payment to the vendor through the purchase requisition and receiving processes. Thus, all invoices will be sent directly to the Finance Department. Invoices will be matched to the purchase order and the receiving ticket by Accounts Payable prior to payment processing. Invoices will be paid according to each vendor's terms. If a vendor does not specify payment terms, the City will assume terms of net thirty (30) days. Vendors will be notified that invoices must be sent directly to the Finance Department. If a department

inadvertently receives an invoice, send it to Finance with a note so the vendor can be notified of the proper mailing address.

M. Policy and Procedure Revisions

Any revisions or modifications to the purchasing and procurement policies and procedures will be made by the Finance Department and approved by the City Manager and/or the City Council.

CONSTRUCTION PROJECT DELIVERY METHODS

There are different construction project delivery methods available to municipalities. Typically, the City will follow the Design-Bid-Build method, which is also known as the traditional "low-bidder" model. However, currently State Statute also allows municipalities to utilize the Construction Manager-at-Risk (CMAR) method in certain defined circumstances, as long as municipalities follow the steps set forth in State Statute.

The City of Joplin recognizes the overall construction project goal is to complete the project at the lowest construction cost with the highest quality in the shortest period of time. With this goal in mind, city staff will evaluate and choose the best construction project delivery method to follow prior to beginning the project.

CONSTRUCTION MANAGER AT RISK (CMAR):

Definitions: A construction manager is the legal entity that proposes to enter into a construction management-at-risk contract. Construction manager-at-risk is a sole proprietorship, partnership, corporation or other legal entity that assumes the risk for the construction, rehabilitation, alteration, or repair of a project at the contracted price as a general contractor and provides consultation to the City regarding construction during and after the design of the project.

Eligible Projects for CMAR: Under Missouri State Statute 67.5050, the City may use the CMAR method in the following circumstances:

*For civil works projects such as roads, streets, bridges, utilities, water supply projects, water plants, wastewater plants, water distribution and wastewater conveyance facilities, airport runways and taxiways, storm drainage and flood control projects, or transit projects commonly designed by professional engineers in excess of two million dollars ($2,000,000.00) and noncivil works projects such as buildings, site improvements, and other structures, habitable or not, commonly designed by architects in excess of three million dollars ($3,000,000.00).

Construction Manager-At-Risk Procedures:

1. Prior to selecting a construction manager-at-risk, the City shall first select an engineer or architect through the demonstrated competence and qualifications process. The engineer or architect shall prepare the construction documents for the project and shall comply with all applicable state laws. The engineer or architect selected for the project shall not also serve in any manner as the construction manager-at-risk.
2. At least one week prior to publishing the request for qualifications for the CMAR, the City shall publicly disclose at

a regular City Council meeting the intent to utilize the construction manager-at-risk method, along with the specified selection criteria to be used in the RFQ document.

3. The City shall contract for, independently of the construction manager-at-risk, any required inspection services, testing of construction materials, or engineering necessary for the acceptance of the project by the City.
4. The CMAR shall be selected in a two-step process as follows:

   Step One:

   a. A request for qualifications shall be issued that includes general information on the project site, project scope, schedule, selection criteria, and the time, place and method for the receipt of the qualifications, and any other information that may assist the City in the selection of the best construction manager-at-risk.
   b. The selection criteria shall be stated in the request for proposals or qualifications. The selection criteria will include the construction manager's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager-at-risk.
   c. The City shall publish the request for proposals in the local newspaper once a week for two consecutive weeks prior to opening the proposals or qualifications.
   d. The City shall receive, publicly open, and read aloud the names of the responding construction managers.
   e. Within forty-five (45) days after the due date of the request for proposals or qualification submissions, the City shall evaluate and rank each proposal or qualification in relation to the criteria set forth in the request.

   Step Two:

   a. The City may request no more than five construction managers, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions prescribed by the City.
   b. At this stage, qualifications shall account for forty-five percent (45%) of the evaluation and cost shall account for fifty-five percent (55%) of the evaluation.
   c. The City shall receive, publicly open and read aloud the names of the responding construction managers.
   d. Within forty-five (45) days after the due date of the step two proposals, the City shall evaluate and rank each proposal or qualification in relation to the criteria set forth in this step.
   e. The City shall interview at least two of the top construction managers as part of the final selection.

5. The construction manager that submits the proposal that offers the best value for the City based on the published selection criteria and on the ranking evaluation shall be selected as the number one respondent.
6. The City, or its representative, shall negotiate a contract with the selected construction manager. If the City is unable to negotiate a satisfactory contract with the selected construction manager, the City or its representative, shall formally and in writing, end negotiations with that construction manager and begin negotiations with the next highest ranked construction manager. The negotiations shall result in a guaranteed maximum price (GMP) for the project.
7. The selected CMAR shall publicly advertise as set forth in Missouri State Statute, Chapter 50, and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A CMAR may seek to perform portions of the work itself if the CMAR submits its sealed bid or sealed proposal for those portions of the work in the same manner as all other trade contractors or subcontractors. All sealed bids or proposals shall be submitted at the time and location as specified in the advertisement for bids or proposals and shall be publicly opened and the identity of each bidder and their bid amount shall be read aloud. The City also has the right to restrict the CMAR from submitting bids to perform any portion of the work being bid.
8. The CMAR and the City, or its representative, shall review all trade contractor, subcontractor, or CMAR bids or proposals in a manner that does not disclose the contents of the bid during the selection process to any person not involved with the project. If the CMAR submitted bids or proposals, the City, or its representative, shall determine if the CMAR's bid offers the best value for the project. After all proposals have been evaluated and clarified, the award of all subcontracts shall be made public.
9. If the CMAR reviews, evaluates and recommends to the City a bid from a trade contractor or subcontractor, but the City requires another bid be accepted, the City shall compensate the CMAR by a change in price, time or guaranteed maximum cost for any additional cost and risk incurred by the change.
10. If a selected trade contractor or subcontractor materially defaults in the performance of its work or fails to execute after being selected, the CMAR may itself, without advertising, fulfill the contract requirements or select a replacement to fulfill the contract requirements.
11. The penal sums of the performance and payment bonds delivered to the City shall each be in an amount equal to the fixed contract amount or guaranteed maximum price (GMP).

The CMAR shall deliver the bonds not later than the tenth day after City Council approval of the contract.

INDEX

Sample RFPs and Bid Tabulation Forms

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-132 – Construction Agreement with Rosetta Construction for the Tin Cup Lift Station and Pressure Line Improvement Section 2 (Force Main).

MEETING DATE
August 5th, 2024

ORIGINATING DEPT
Public Works - Engineering

ATTACHMENTS
CB2024-132 Ordinance, Agreement, Exhibit Map, Bid Summary

REVIEWED BY
Director of Public Works, Daniel Johnson; Director of Finance, Leslie Haase; City Attorney, Peter Edwards; Assistant City Manager, Tony Robyn; City Manager, Nicholas Edwards

SUMMARY
This Council Bill approves a construction agreement between the City of Joplin and Rosetta Construction for the Tin Cup Lift Station and Pressure Line Improvement Section 2 (Force Main) in the amount of One Million, Five Hundred Eighty-Eight Thousand, Five Hundred Ninety-Nine and 00/100 DOLLARS ($1,588,599.00).

BACKGROUND
On June 3, 2024, Council approved a Work Authorization with AMA prepare bid documents for upgrades to the Tin Cup Lift Station and the installation of the eastern half of a 24-inch diameter parallel force main between the Tin Cup and Filmore Bridge lift stations. These upgrades were recommended in the 2020 Wastewater Facility Plan to increase the pumping capacity of the Tin Cup Lift Station, to reduce the frequency of sanitary sewer overflows along Glendale Road, and to renew the reliability of the force main. The attached Exhibit map shows the length of new parallel force main piping to be installed under this contract; the remainder of the force main between McClelland Park and the Filmore Bridge Lift Station will be handled in a future project.

The project was advertised on June 29th, 2024; bids were opened on July 23, 2024, in accordance with the City's procurement policy. Three bids were received for this Section of the work; Rosetta Construction submitted the lowest bid, which was below the engineer's estimate. See the attached Summary of Bids for reference.

FUNDING SOURCE
This is included in the FY 2024 Budget in the Sanitary Sewer Fund

RECOMMENDATION
Staff recommends approval of this Council Bill on an Emergency basis, being an Ordinance dealing with a public improvement, it is considered an emergency within the meaning of Section 2.12(6) of the HOME RULE CHARTER of the City of Joplin, Missouri, and as such, this Ordinance shall become effective immediately upon its passage. Specifically this is an emergency basis to get the contractor to get supplies for repairs in a timely manner.

COUNCIL BILL NO. 2024-132 **ORDINANCE NO**

AN ORDINANCE approving the City of Joplin to enter into a construction agreement with Rosetta Construction in the amount of One Million, Five Hundred Eighty-Eight Thousand, Five Hundred Ninety-Nine and 00/100 DOLLARS ($1,588,599.00) for the Tin Cup Lift Station and Pressure Line Improvement Section 2 (Force Main) and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin, and containing and emergency clause.

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

Section 1. That the agreement by and between the City of Joplin and Rosetta Construction in the amount of One Million, Five Hundred Eighty-Eight Thousand, Five Hundred Ninety-Nine and 00/100 DOLLARS ($1,588,599.00), a true and accurate copy of said construction agreement and being attached hereto; be and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri, or his designee, is hereby authorized and directed to execute said agreement, or agreement in substantially similar form, by and on behalf of the City of Joplin.

Section 3. That upon the final approval and acceptance of the contractor's work under said contract, in substantial conformance with the attached agreement, in writing to the Director of Public Works and his certification to the effect to the Director of Finance, the contractor shall be paid from the Sanitary Sewer.

Section 4. That the City of Joplin hereby declares that this Ordinance, being an Ordinance dealing with a public improvement, is considered an emergency within the meaning of Section 2.12(6) of the HOME RULE CHARTER of the City of Joplin, Missouri, and as such, this Ordinance shall become effective immediately upon its passage. Specifically this is an emergency basis to get contractor to get supplies for repairs in a timely manner.

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

_____, 2024 by a _____ vote.

_____

ATTEST: Keenan T. Cortez, Mayor

_____

Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

COUNCIL BILL 2024-132

I hereby certify that a sufficient amount is available in the Sanitary Sewer Fund to pay the amounts called for on the basis of the bids received.

_____
Leslie Haase, Director of Finance

AGREEMENT
BETWEEN
CITY OF JOPLIN AND
ROSETTA CONSTRUCTION, LLC

CITY		CONTRACTOR	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Rosetta Construction, LLC	
		Address: P.O. Box 14024 SPRINGFIELD, MO 65814	
Attention:		Attention: Victor Rosetta	
Department:		Phone: 417-886-2094	Fax:
Phone:	Fax:		

THIS AGREEMENT made and entered into this ____ day of _____, 20____, by the parties identified above.

WITNESSETH: That whereas, the Contractor has become the lowest responsible bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

Tin Cup Lift Station and Pressure Line Improvements – Section 2 Only

The City and Contractor agree to the following:

1. Manner and Time for Completion. The Contractor will furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the contract documents and any applicable City ordinances and state and federal laws within 365 calendar days from the date Contractor is ordered to proceed, which order shall be issued by the Director of Public Works within 30 days after the date of this contract. Section 1 work from Point A to Point B shall be completed within 180 calendar days.

2. Prevailing Wages. All labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri. At any time, the contractor is found to not have paid prevailing wages, the contractor shall forfeit as a penalty to the city one hundred dollars for each underpaid worker employed, for each calendar day, or portion thereof such worker is paid less than the said stipulated rates for any work done under this contract.

3. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and

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

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

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

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

As of January 1, 2024, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation.... Statutory coverage per RSMo 287.010 et seq

Employer's Liability..... $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys' fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Owner's and Contractor's Protective Liability Insurance to protect the City, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

(1) Be a separate policy with the named insured being: The City of Joplin, and

(2) Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Builders Risk Insurance for contracts involving unoccupied structures. The Contractor shall secure All Risk Builder's Risk Insurance. Unless specifically authorized by the City, the amount of such insurance shall not be less than the total contract price.

f. Subcontracts. In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

g. Notice. The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policy as specified in subparagraph (d), and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

h. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

4. Performance, Labor, and Materials Payment Bond: The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of One Million Five Hundred Eighty-Eight Thousand, Five Hundred Ninety-Nine & 00/100 DOLLARS ($1,588,599.00) (full amount of contract) conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance and payment of labor and material suppliers, the City shall deem the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

5. Certification Regarding Disbarment, Eligibility, Indictments, Convictions or Civil Judgements for all Federal Aid Projects: By signing and submitting the bid, the president or authorized official of the bidder, under penalty of perjury under the laws of the USA, shall certify that, except as noted in the exceptions, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor or any position involving the administration of federal funds:
(Reference can be made to "The System for Award Management" website as a helpful resource).

a. Is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

b. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years.

c. Does not have a proposed debarment or suspension pending.

d. Has not been indicted, convicted or had a civil judgment rendered against any of the listed parties by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

5.1 If there are any exceptions, the bidder shall submit the exceptions on company letterhead, signed by the bidder and inserted inside the bid submitted. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, the bidder shall indicate to whom it applies, the

initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

5.2 By signing the contract, the contractor shall further certify that all related subcontracts of $25,000 shall comply with this requirement. This includes all subcontractors, material suppliers and vendors.

6. Contractor's responsibility for subcontractors. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

7. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor 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 Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor 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 Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

8. Liquidated Damages. Time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to complete the work within the time specified in the contract, or within such extra time as may be allowed in accordance with City of Joplin Standard Specifications, Division 0000, General Requirements and Provisions, Section 0400.19, (http://mo-joplin.civicplus.com/DocumentCenter/View/3460) Contractor (or surety) shall be liable to the City in the amount of $1000.00 per day for each and every calendar day that the contract remains uncompleted after the time allowed for completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City.

9. Termination. The City reserves the right to terminate this contract by giving at least five (5) days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract.

10. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 8, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

11. Termination for Convenience of City. The City shall have the right at any time by written notice to Contractor to terminate and cancel this contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Contractor.

12. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices shall be provided by Contractor during construction.

13. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor 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.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

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

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this agreement.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

14. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

15. Payment. The City will pay the Contractor in accordance with the rate set forth in the contract documents on file in the Public Works Department and by this reference made a part hereof, which shall constitute full and complete compensation for the Contractor's work provided hereunder. Such compensation will be paid in progress payments (less five (5) percent retainage), as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and agreement by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. If the City or the architect or engineer determines that a higher rate of retainage is required to ensure performance of the contract, the City may withhold up to ten (10) percent retainage until the work is fully completed and accepted by the City.

16. Contract Documents. The contract documents shall consist of the following:

a. This Contract
b. All Change Orders
c. Bid Plans and Specifications
d. City of Joplin Standard Specifications (Latest Revised Edition)
e. Special Conditions & Provisions

f. Bid Form
g. Statement of Bidder's Qualifications
h. Acknowledgment
i. Performance Bond
h. Payment and Material Bond
k. Instructions to Bidders
l. Non-collusion Affidavit
m. Notice to Proceed

Notice to Contractors: This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein. The Contractor agrees to perform all of the work described in the contract documents and to comply with the terms and conditions defined therein for a total sum of One Million Five Hundred Eighty-Eight Thousand, Five Hundred Ninety-Nine & 00/100 DOLLARS ($1,588,599.00), said amount being subject to any approved addenda or change order.

17. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

18. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Joplin, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of R.S.Mo. Section 105.450 et seq. shall not be violated.

19. Assignment. The Contractor 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 Contractor 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 and the bond surety. 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.

20. Nondiscrimination. The Contractor 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, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

a. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

21. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a. If the Contractor 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 351.570 R.S.Mo.

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.

22. 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 Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full 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.

23. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative and will be retained for three years after the expiration of this Contract.

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

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

26. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

27. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

28. 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 Contractor is associated with a business entity, Contractor 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, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

29. City Benefits. The Contractor 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.

30. Occupational License: The Contractor 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 Contractor. No contract will be executed by the City until this occupational license has been obtained and that the Contractor is current on any City taxes is verified.

31. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus $100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

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

33. 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.

34. Remedies. Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breech thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

35. 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 adjudicated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

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

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 therefor.

_____

Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____

Peter Edwards, City Attorney

CONTRACTOR: ROSETTA CONSTRUCTION, LLC

By: _____

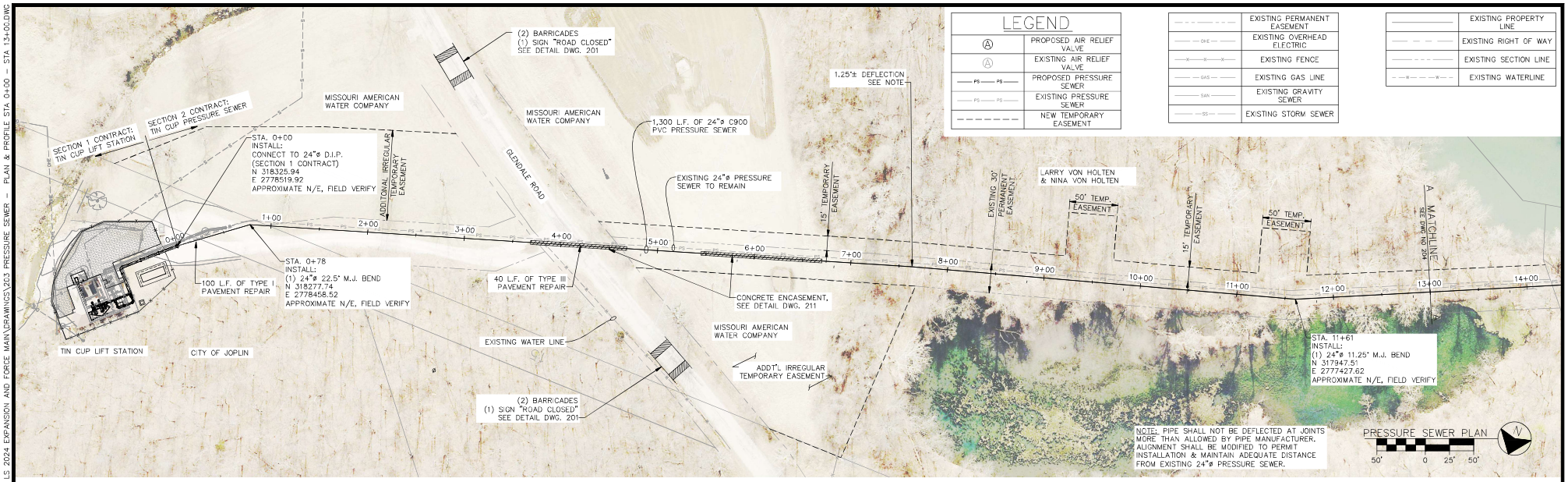
Printed Name: _____

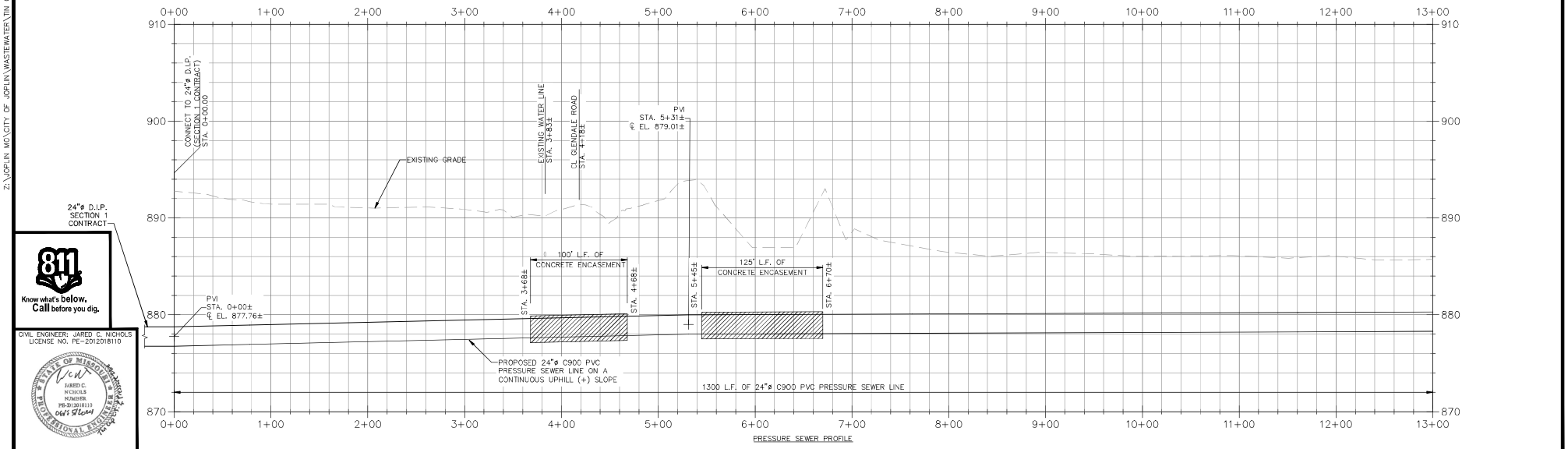
Title: _____

CITY OF JOPLIN, MISSOURI

By: _____

Daniel Johnson, P.E.
Public Works Director





Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

CERTIFICATE OF AUTHORITY MISSOURI NO. 000427

REV DATE:	REVISION:		
		DWN BY:	CSJ
		CKD BY:	JTB
		APD BY:	JCN
		DATE:	06/25/2024

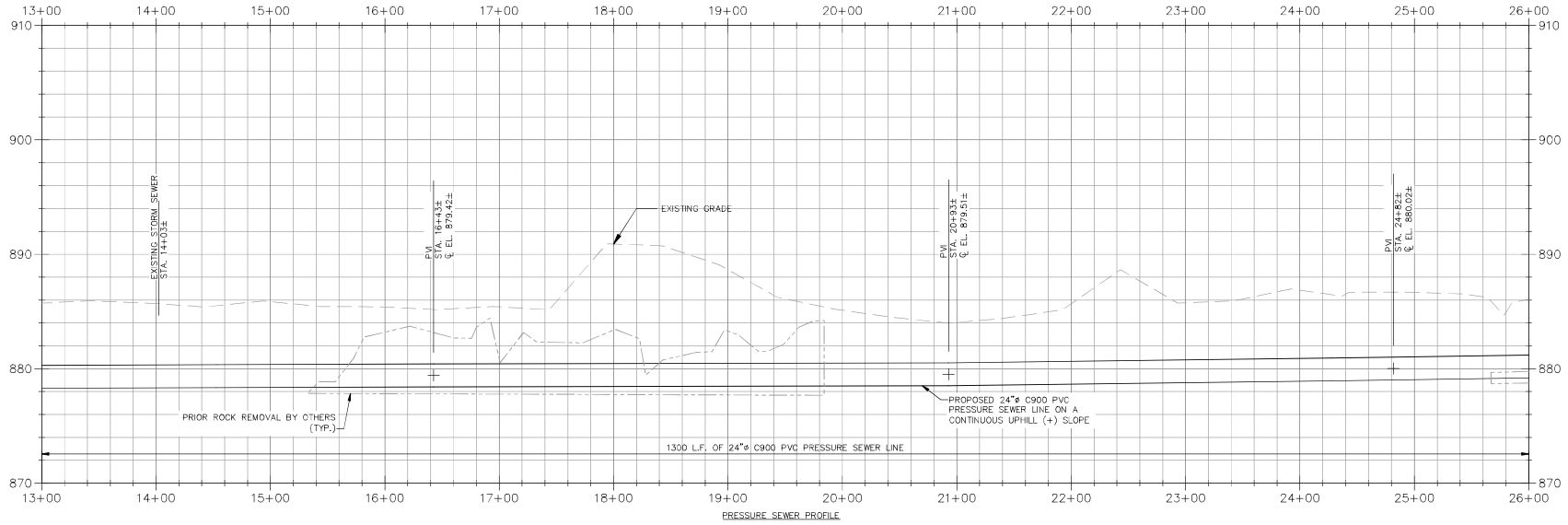
TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
PRESSURE SEWER
PLAN & PROFILE STA 0+00 - STA 13+00

DWG. NO. 203

Z:\JOP-IN MO\CITY OF JOPLIN\WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN\DRAWINGS\203 PRESSURE SEWER - PLAN & PROFILE STA 0+00 - STA 13+00.DWG

Z:\JOPLIN MO\CITY OF JOPLIN\WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN\DRAWINGS\204 PRESSURE SEWER - PLAN & PROFILE STA 13+00 - STA 26+00.DWG





PRESSURE SEWER PROFILE

811 Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

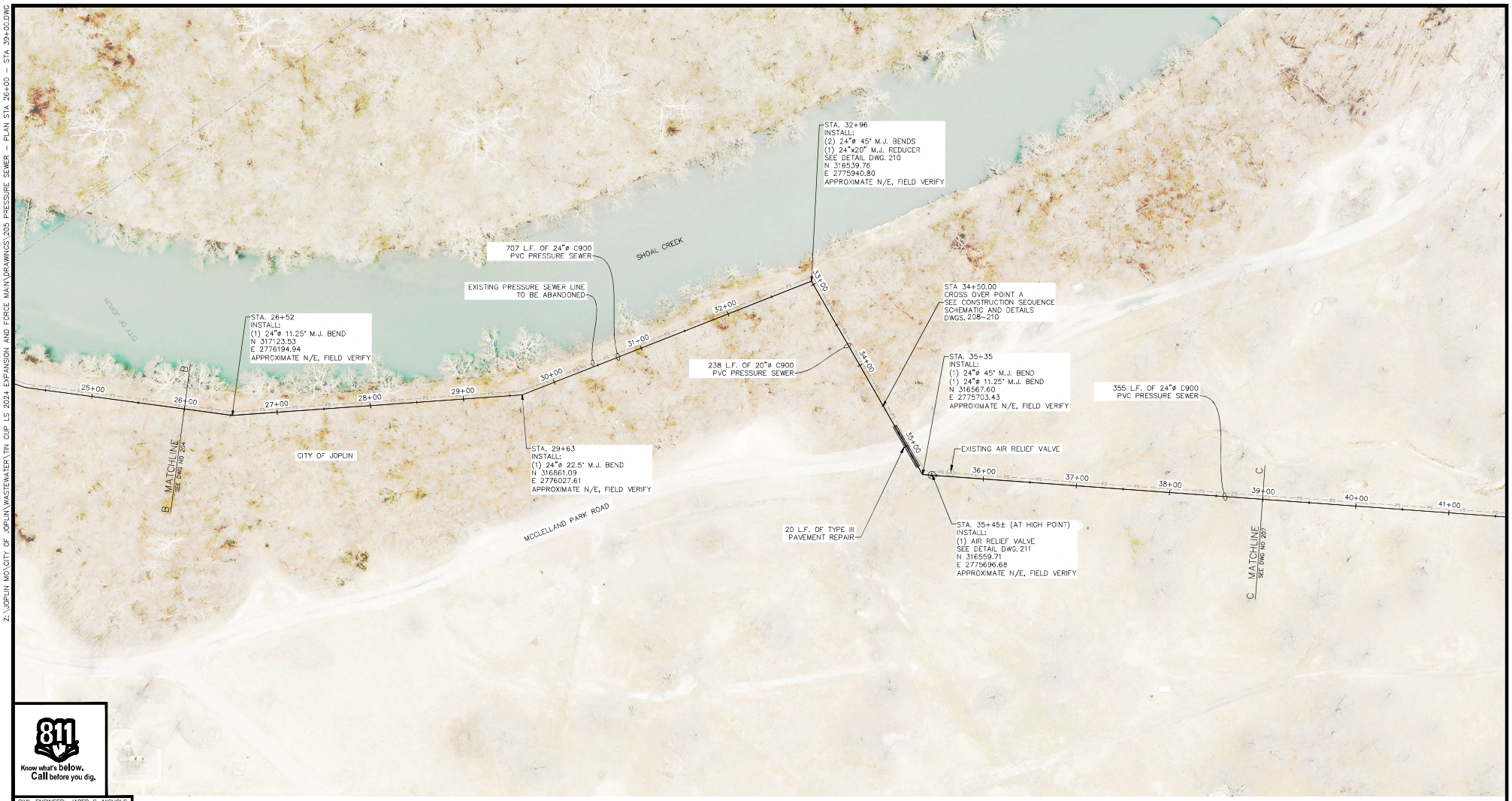
ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

CERTIFICATE OF AUTHORITY MISSOURI NO. 000427

REV DATE:	REVISION:		
		DWN BY:	CSJ
		CKD BY:	JTB
		APD BY:	JCN
		DATE:	06/25/2024

TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
PRESSURE SEWER
PLAN & PROFILE STA 13+00 - STA 26+00

DWG. NO. 204



Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

CERTIFICATE OF AUTHORITY
MISSOURI NO. 000427

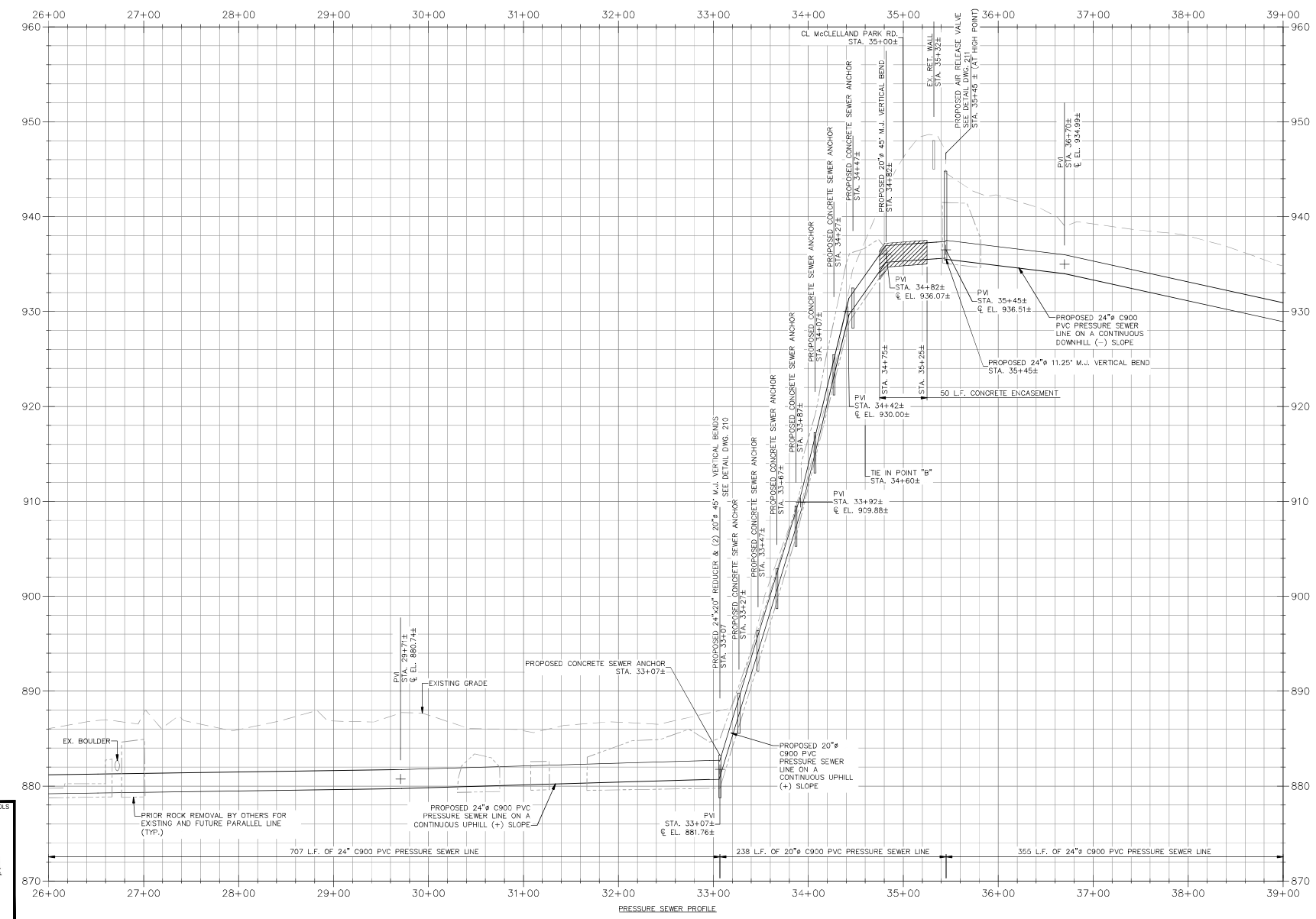
REV DATE:	REVISION:	DWN BY:	CSJ
		CKD BY:	JTB
		APD BY:	JCN
		DATE:	06/25/2024

TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
PRESSURE SEWER
PLAN STA 26+00 - STA 39+00

DWG. NO. 205

Z:\JOPLIN MO\CITY OF JOPLIN\WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN\DRAWINGS\205 PRESSURE SEWER - PLAN STA 26+00 - STA 39+00.DWG

Z:\JOPLIN MO\CITY OF JOPLIN WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN DRAWINGS\206 PRESSURE SEWER - PROFILE STA 26+00 - STA 39+00.DWG



PRESSURE SEWER PROFILE

NOTE: FOR PLAN VIEW STA. 26+00 TO STA. 39+00, SEE DWG. 205

811 Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

JARED C. NICHOLS NUMBER PE-2012018110 DATE 6/25/24

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

CERTIFICATE OF AUTHORITY
MISSOURI NO. 000427

REV DATE:	REVISION:

DWN BY:	CSJ
CKD BY:	JTB
APD BY:	JCN
DATE:	06/25/2024

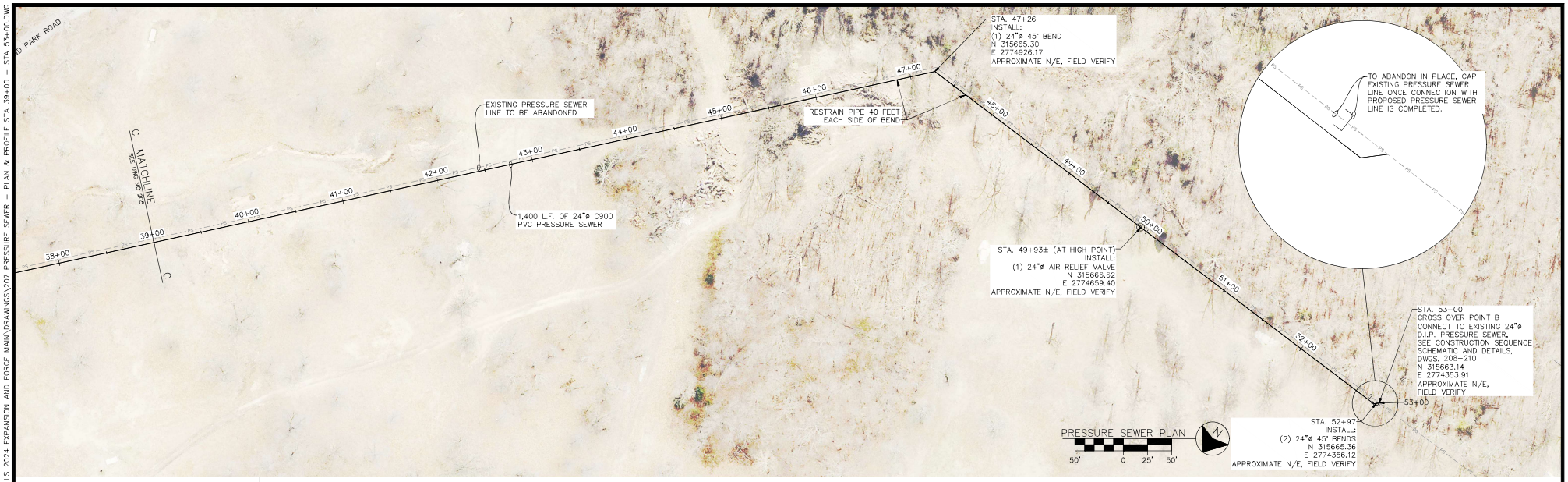
TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS

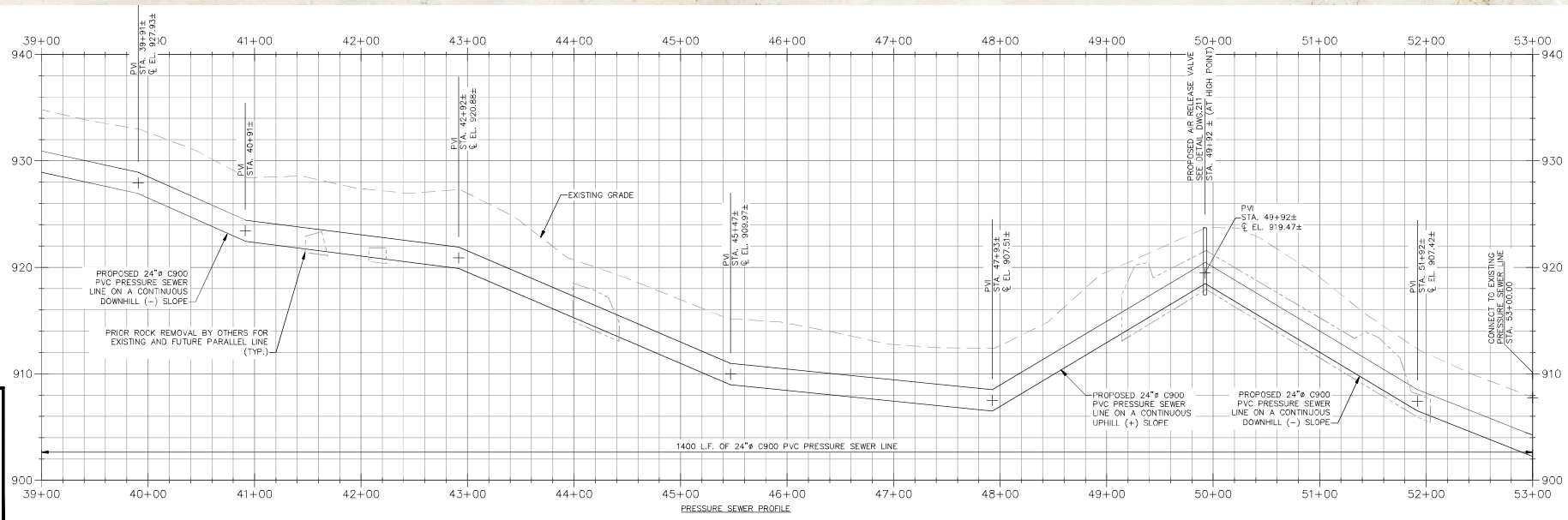
PRESSURE SEWER

PROFILE STA 26+00 - STA 39+00

DWG. NO. 206

Z:\JOPLIN MO\CITY OF JOPLIN\WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN\DRAWINGS\207 PRESSURE SEWER - PLAN & PROFILE STA 39+00 - STA 53+00.DWG





811 Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

STATE OF MISSOURI — JARED C. NICHOLS — NUMBER PE-2012018110 — 06/25/2024 — PROFESSIONAL ENGINEER

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

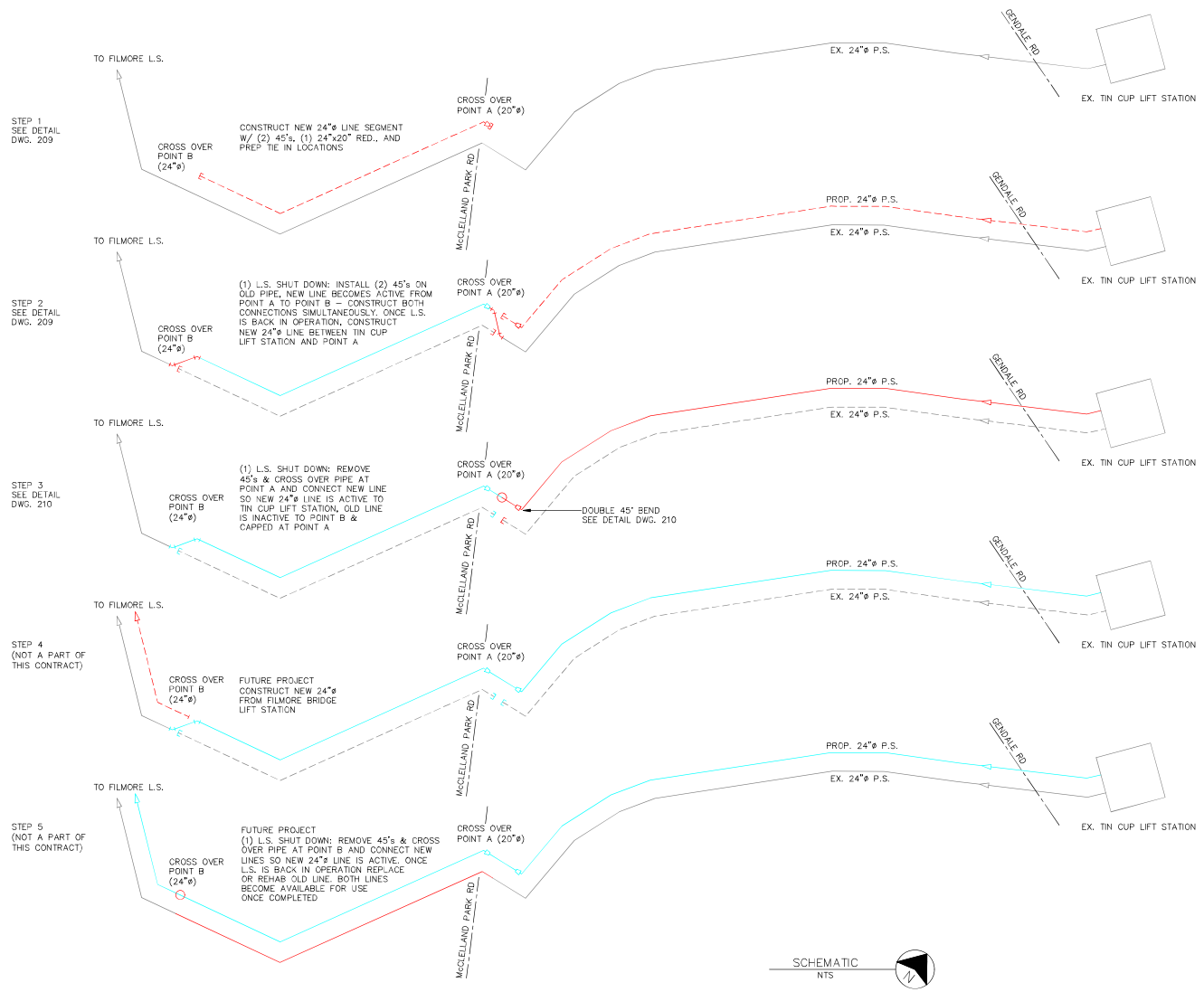
CERTIFICATE OF AUTHORITY
MISSOURI NO. 000427

REV DATE:	REVISION:	DWN BY:	CSJ
		CKD BY:	JTB
		APD BY:	JCN
		DATE:	06/25/2024

TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
PRESSURE SEWER
PLAN & PROFILE STA 39+00 - STA 52+00

DWG. NO. 207

Z:\JOPLIN MO\CITY OF JOPLIN\WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN\DRAWINGS\208 PRESSURE SEWER - CONSTRUCTION SEQUENCE SCHEMATIC.DWG



GENERAL NOTES:

A. THIS GENERAL CONSTRUCTION SEQUENCE IS PROVIDED FOR THE CONTRACTORS USE. NOT ALL PIPING, FITTINGS, BLOCKING, AND WORK IS IDENTIFIED ON THIS DRAWING. THE SCHEDULE BELOW ONLY LISTS MAJOR ITEMS REQUIRED FOR EACH STEP.

B. OTHER CONSTRUCTION SEQUENCE OPTIONS PRESENTED BY THE CONTRACTOR WILL BE EVALUATED BY THE ENGINEER AND CITY. COMPLETION OF THE LINE SEGMENT FROM POINT A TO POINT B IS PRIORITY.

C. LIFT STATION SHUT DOWN MUST BE COORDINATED WITH THE CITY AND MUST BE COMPLETED EARLY IN THE MORNING DURING DRY WEATHER. THE LIFT STATION CAN BE SHUT DOWN FOR APPROXIMATELY 2 HRS.

D. EACH SECTION OF PIPING WILL BE PRESSURE TESTED PRIOR TO BEING PLACED IN SERVICE.

CONSTRUCTION NOTES:

1. ALL AREAS OF CONSTRUCTION IN THE PARK (BETWEEN PT A AND PT B) SHALL BE PROTECTED BY 4' HIGH ORANGE CONSTRUCTION FENCING. THIS INCLUDES EXCAVATION, STORAGE, HAUL ROUTES, AND STAGING AREAS.

2. NO CONSTRUCTION IN THE PARK SHALL BE ONGOING DURING 09/27/2024 – 09/29/2024. PARK SHALL BE PRESENTABLE FOR FRISBEE GOLF TOURNAMENT WITH CONSTRUCTION FENCING REMOVED AND ALL TRENCHES BACKFILLED.

3. ALL PERMANENT DUCTILE IRON PIPE FITTINGS SHALL BE GLASS LINED – SEE SPECIFICATION SECTION 33 05 31. CROSS OVER FITTINGS AND PIPE THAT IS TEMPORARY MAY BE EITHER GLASS LINED OR CEMENT MORTAR LINED.

LEGEND

	EXISTING PRESSURE SEWER
	TO BE INSTALLED IN THIS STEP
	INSTALLED IN A PRIOR STEP

811 Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

STATE OF MISSOURI — JARED C. NICHOLS NUMBER PE-2012018110 — PROFESSIONAL ENGINEER

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

CERTIFICATE OF AUTHORITY
MISSOURI NO. 000427

REV DATE:	REVISION:		
		DWN BY:	CSJ
		CKD BY:	JTB
		APD BY:	JCN
		DATE:	06/25/2024

TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
PRESSURE SEWER - CONSTRUCTION SEQUENCE SCHEMATIC

DWG. NO.
208

BID SUMMARY

PROJECT: Tin Cup Lift Station and Pressure Line Improvement Section 2 Force Main

DATE OF BID OPENING: July 23, 2024, at 11:00 AM

CONTRACTOR	BID
D & E Plumbing & Heating, Inc.	$2,464,990.00
Goins Enterprises, Inc.	$1,969,650.00
Rosetta Construction, LLC	$1,588,599.00
Engineer's Estimate	$2,500,000.00

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-615: AN ORDINANCE approving a Purchase Order to be issued to SHI/Microsoft Corporation to cover the annual support payment for the Public Safety and Financial software and related systems.

MEETING DATE
August 5, 2024

ORIGINATING DEPT
Information Technology

ATTACHMENTS
CB2024-615 Ordinance

REVIEWED BY
Dept. Head: Mark Morris; City Attorney: Peter Edwards; Finance Director: Leslie Haase; City Manager: Nick Edwards

SUMMARY
This Council Bill authorizes the City to renew an agreement with Microsoft for the annual payment of our Enterprise Software and various Microsoft Specific software licensing and approves issuance of a purchase order for same. This payment represents year 2 of 3 payments and is identical to last year. Staff began discussions with Microsoft in April. Due to the change in user count, city staff had to wait for a determination from Microsoft regarding any value or renewal changes. City staff did not receive the final renewal pricing until July 9, 2024, and the contract expires on July 31, 2024. While this council bill meets the requirements for an emergency ordinance under Section 2.12(3) of the City Charter because it is an appropriation for a current expense of the city, these other exigent circumstances necessitate fast tracking this Council Bill.

BACKGROUND
The licensed base of computers for the City of Joplin is now 550 units. The Agreement covers the entire desktop professional platform for each computer. This is the Windows Operating System, Microsoft Office 365, and Core Client Access license (also known as CAL). Annually, the City of Joplin and Microsoft will participate in a "true up" process to determine the number of licenses to be covered and renewed. The number of seats/licenses has increased from 538 last year.

FUNDING SOURCE
Currently, this item is a budgeted expense in the IT Dept Software Acct #001-2501-500-21.10

RECOMMENDATION
Staff recommends adoption of this Council Bill on an emergency basis.

COUNCIL BILL NO. 2024-615 ORDINANCE NO.

AN ORDINANCE approving the issuance of a Purchase Order to SHI/Microsoft Corporation to cover the annual support payment for the Public Safety and Financial software, as budgeted in the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024, was budgeted and approved for by Council during the budget process and finalized by Council Bill 2023-519 on October 16, 2023; and containing an emergency clause.

WHEREAS, in the FY2023-2024 budget process, Council approved and budgeted funds to cover the annual support payment for technical activities.

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

Section 1. That a Purchase Order issued to SHI/Microsoft Corporation for the amount of Two Hundred Twenty-Five Thousand, Three Hundred Ninety-two Dollars, Fourteen Cents ($225,392.14), covering the annual fee for the Enterprise software licensing for the Public Safety and Financial software and related systems, be and the same is, hereby approved.

Section 2. That the City hereby declares this Ordinance, being an ordinance dealing generally with payment of current city government expenses, to be an emergency within the meaning of Section 2.12(3) of the HOME RULE CHARTER of the City of Joplin, Missouri, and as such, this Ordinance shall become effective immediately upon its passage.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2024, by a vote of _____.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill No. 2024-002 – (Re-adoption of Code of Ethics Ordinance)

MEETING DATE
August 5, 2024

REVIEWED BY:
Peter Edwards, City Attorney; Leslie Haase, Finance Director; Holly Nagy, City Clerk; Nick Edwards, City Manager.

SUMMARY:

This Council Bill re-adopts Chapter 2, Administration, of the Joplin City Code, Section 2-107, "Financial interest disclosure", which requires certain officials and employees of the City of Joplin to file Financial Interest Disclosure Statements.

BACKGROUND:

Each year by September 15th, it is necessary to re-adopt our Code of Ethics for the Council, and certain City employees in order to "opt out" of the provisions of Section 105.485.2.

A certified copy of this Council Bill will be forwarded to the Missouri Ethics Commission prior to September 15, 2024.

RECOMMENDATION:

Staff recommends this Council Bill be placed on First Reading.

ATTACHMENTS:
Council Bill No. 2024-002

PCE:ab

COUNCIL BILL NO. 2024-002 ORDINANCE NO.

AN ORDINANCE re-adopting Chapter 2, Administration, of the Joplin City Code, Section 2-107, "Financial interest disclosure", requiring certain officials and employees of the City of Joplin to file Financial Interest Disclosure Statements as described herein.

WHEREAS, Missouri Statute Section 105.483, RSMo. (2023), requires certain financial interest disclosures by certain officials and employees of the City of Joplin; and

WHEREAS, the City of Joplin has an Ethics Code for its Council, as codified in Section 2-50, "Code of ethics", and the Charter of the City of Joplin provides certain ethical mandates and prohibitions for officials and employees of the City of Joplin; and

WHEREAS, pursuant to the provisions of Section 105.485.4, RSMo. (2023), the Council desires to establish its own method of disclosing potential conflicts of interest and substantial interests of its officials and certain employees, thus excluding itself from the provisions of Section 105.485.2, RSMo (2023); and

WHEREAS, on the 21st day of August, 2023, the Council of the City of Joplin, Missouri, re-enacted and adopted Section 2-107, "Financial interest disclosure", requiring certain officials and employees of the City of Joplin to file Financial Interest Disclosure Statements as described therein; and,

WHEREAS, the Missouri Ethics Commission requires each affected municipality to re-adopt the Financial Interest Disclosure Ordinance by September 15, 2024.

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

Section 1. That Section 2-107, "Financial interest disclosure" be re-adopted so that it shall continue to read as follows:

"Section 2-107. Financial interest disclosure.

(a) Conflicts of interest.

(1) All elected and appointed officials as well as employees of the City of Joplin shall comply with Section 105.454 of the Missouri Revised Statutes on conflicts of interest as well as any other state law, or ordinance of the City of Joplin governing official conduct.

(2) Any member of the city council who has a "substantial or private interest" in any measure, bill, order or ordinance proposed or pending before the city council, must disclose that interest to the city clerk, and such disclosure shall be recorded in the appropriate journal of the city council. Substantial or private interest is defined as ownership by the individual, his spouse, or his dependent children, whether singularly or collectively, directly or indirectly of:

a. Ten percent (10%) or more of any business entity; or

b. An interest having a value of Ten Thousand Dollars ($10,000.00) or more; or

c. The receipt of a salary, gratuity, or other compensation or remuneration of Five Thousand Dollars ($5,000.00) or more, per year, from an individual, partnership, organization, or association within any calendar year.

(b) Disclosure reports.

(1) Each City Council Person, the City Manager, the City Purchasing Agent, or the Director of Finance, if no such Purchasing Agent is appointed, and the full-time City Attorney, shall disclose the following information by May 1, if any such transaction occurred during the previous calendar year:

a. For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of Five Hundred Dollars ($500.00), if any, that such person had with the City of Joplin, other than compensation received as an employee or payment of any tax, fee, or penalty due to the City of Joplin, and other than transfers for no consideration to the City of Joplin;

b. The date and the identities of the parties to each transaction know to the person with a total value in excess of Five Hundred Dollars ($500.00), if any, that any business entity in which such person had a substantial interest, had with the City of Joplin, other than payment of any tax, fee or penalty due to the City of Joplin or transactions involving payment for providing utility service to the City of Joplin, and other than transfers for no consideration to the City of Joplin.

(2) The City Manager, and the City Purchasing Agent, or the Director of Finance if no such purchasing agent is appointed, and the full-time City Attorney, also shall disclose by May 1, for the previous calendar year, the following information:

a. The name and address of each of the employers of such person from whom income of One Thousand Dollars ($1,000.00) or more was received during the year covered by the statement;

b. The name and address of each sole proprietorship that he owned; the name, address and general nature of the business conducted of each general partnership and joint venture in which he was a partner or co-participant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the Secretary of State; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent (10%) or more of any class of the outstanding stock or limited partnership units; and the name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned two percent (2%) or more of any class of outstanding stock, limited partnership units or other equity interests;

c. The name and address of each corporation for which such person served in the capacity of a director, officer or receiver.

(c) Filing of reports.

(1) The financial interest statements shall be filed at the following times, but no person is required to file more than one financial interest statement in any calendar year:

a. Every person required to file a financial interest statement shall file the statement annually not later than May 1, and the statement shall cover the calendar year ending the immediately preceding December 31; provided that any member of the City Council may supplement the financial interest statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial interest statement;

b. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment.

(2) Financial disclosure reports giving the financial information required in subsection (b) shall be filed with the City Clerk's office and the Missouri Ethics Commission. The reports shall be available for public inspection and copying during normal business hours."

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2024, by a vote of _____.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-126 – Issuance of a Purchase Order with Armor Equipment (Sourcewell Contract #101221-SCA) for purchase of 2024 800-HPR-ECO Series IV Truck Mounted High Pressure Sewer Cleaner.

MEETING DATE
August 5, 2024

ORIGINATING DEPT
Public Works - Operations

ATTACHMENTS
CB2024-126, Ordinance, Sales Quote from Armor Equipment, Sourcewell Contract #101221-SCA, Purchase Photos

REVIEWED BY
Director of Public Works, Daniel Johnson; Director of Finance, Leslie Haase; City Attorney, Peter Edwards; Assistant City Manager, Tony Robyn; City Manager, Nicholas Edwards

SUMMARY
This Council Bill approves the issuance of a Purchase Order to Armor Equipment (Sourcewell Contract #101221-SCA), in the amount of Three Hundred Twelve Thousand Nine Hundred Thirty-Eight and 89/100 DOLLARS ($312,938.89) for the purchase of a 2024 800-HPR-ECO Series IV Truck Mounted High Pressure Sewer Cleaner.

BACKGROUND
The Sewer Maintenance Division of Public Works has historically relied on Rodder trucks to unclog sewer mains. In early summer, the division's 2007 model year Rodder truck suffered a complete engine failure resulting in the need to replace the vehicle. Rodder trucks are no longer the industry standard for unclogging sanitary sewers, due to the tendency to damage older pipes. The industry has moved to Jetter trucks, which utilize high pressure water jets to break up clogs and to perform routine cleaning. The Sourcewell Contract #101221-SCA was utilized to find a suitable replacement vehicle that will meet the needs of the division. This vehicle will be slightly smaller than our primary Jetter truck. It will also be four-wheel drive, which will allow crews to traverse rough terrain to service remote manholes and sewer lines that are currently difficult to access.

FUNDING SOURCE
This Council Bill includes a budget amendment to the sewer fund for the purchase of this item.

RECOMMENDATION
Staff recommends approval of this Council Bill on first reading.

COUNCIL BILL NO. 2024-126 **ORDINANCE NO**

AN ORDINANCE approving the issuance of a Purchase Order to Armor Equipment (Sourcewell Contract #101221-SCA), in the amount of Three Hundred Twelve Thousand Nine Hundred Thirty-Eight Dollars and 89/100 Cents ($312,938.89) for the purchase of a 2024 800-HDR-ECO Series IV Truck Mounted High Pressure Sewer Cleaner; and, amending the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024 as adopted by Ordinance 2023-158 on October 16, 2023; and, setting a date when this ordinance shall become effective.

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

Section 1. That a Purchase Order be issued to Armor Equipment (Sourcewell Contract #101221-SCA) in the amount of Three Hundred Twelve Thousand Nine Hundred Thirty-Eight Dollars and 89/100 Cents ($312,938.89), be and the same is, hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri, or his designee, is hereby authorized and directed to execute said purchase order, or purchase order in substantially similar form, by and on behalf of the City of Joplin.

Section 3. That fiscal year 2023-2024 budgeted appropriations as adopted by Ordinance 2023-158 be amended by increasing appropriations by the total amount of Three Hundred Twelve Thousand Nine Hundred Thirty-Nine Dollars and No Cents ($312,939.00).

Section 4. That the Director of Finance is hereby directed to make all necessary entries on the City records to show the increase in appropriations.

Section 5. That this Council Bill shall have an effective date of August 20th, 2024.

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

_____, 2024 by a _____ vote.

_____

ATTEST: Keenan T. Cortez, Mayor

_____

Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

Serving Illinois, Missouri, Kansas, Nebraska, and Iowa

Armor Equipment

April 26, 2024

Payment Terms:

Distributor: Armor Equipment

Salesman: John Krejci

End User: Joplin, MO

Address: 2nd Street

City, State, Zip: Joplin, Missouri

Phone: 417-624-0820

Contact: Scott Buffer

Email:sbuffer@joplinmo.gov

800-HPR-ECO SERIES IV Truck Mounted High Pressure Sewer Cleaner

Rear Compartment Options:

- Giant 65 GPM @ 2000 PSI w/30 Min Run Dry Capability
- Hydrostatic Drive Via Trans Power PTO
- Lighted NEMA 4 Control Panel
- Tachometer / Hour Meter
- Air Purge Valve
- Recirculation System at Highway Speed
- Painted Steel Shroud Enclosure w/3 Roll-Up Doors
- 80,000 BTU Compartment Heater
- Midship Water Manifold System
- Consolidated Water Drain System

Hose Reel & Hose Option:

- Telescoping & Rotating Safety Reel w/700' Capacity of 1" Hose

Tank & Fill:

- 1500 Gallon Duraprolene™ (Black) Water Tank w/10 Year Warranty
- 2.5" Fill System

Truck:

- Mounting to Approved Chassis
- Mudflaps & Aluminum Side Skirting
- Bumper / Hitch Receiver
- Aluminum Underbody Toolboxes (2) Per Side, (1) Rear
- D.O.T. Approved LED Lighting

Nozzles & Accessories:

- 10' Leader Hose
- BB Hose Guide
- Tri-Star (Chisel Point) Nozzle
- DD (High Flow) Nozzle
- Finned Nozzle Extension
- Nozzle Rack
- 25' Fill Hose
- Washdown Gun w/25' Ext. Hose
- Upstream Pulley Guide
- Paper Operator / Owner Manual

PRICE OF SELECTED OPTIONS:	$67,591.00
SOURCEWELL DISCOUNT 3%	($6,709.98)
FREIGHT:	$2,000.00
TOTAL:	**$312,938.89**

STANDARD OPTIONS:	LIST PRICE	QTY	TOTAL
REAR COMPARTMENT OPTIONS:			
UPGRADE WATER SYSTEM TO GIANT 80 GPM @ 2500 PSI PLUNGER STYLE TRIPLEX WATER PUMP W/30 MIN RUN DRY CAPABILITY	$12,825.00	1	$12,825.00
WASHDOWN SYSTEM W/50' RETRACTABLE HOSE REEL (ACCESS THROUGH REAR DOOR)	$1,644.00	1	$1,644.00
ELECTRIC OVERHEAD CANOPY - 8' EXTENSION	$7,524.00	1	$7,524.00
HOSE REEL AND HOSE OPTIONS:			
SEWER HOSE (1" I.D. X 2500 PSI OPERATING PRESSURE) PER FT.	$5.54	600	$3,324.00
AUTOMATIC LEVELWIND WITH HYDRAULIC UP/DOWN ACTION	$8,301.00	1	$8,301.00
DIGITAL 'SMART COUNTER' FOOTAGE METER ±3% ACCURACY	$3,667.00	1	$3,667.00
TANK & FILL OPTIONS:			
FILL HOSE STORAGE RACK	$261.00	1	$261.00
TANK ACCESS LADDER	$1,069.00	1	$1,069.00
ELECTRICAL & LIGHTING:			
LED FLOOD LIGHT (FACTORY STANDARD)	$557.00	1	$557.00
LED STROBE LIGHT (FACTORY STANDARD)	$650.00	1	$650.00
LED ARROW STICK (FACTORY STANDARD)	$1,321.00	1	$1,321.00
(4) WORK FLOOD LIGHT PACKAGE – (2) REAR MOUNTED ABOVE SHROUD DOOR, (1) DRIVERS SIDE MOUNTED ABOVE WATER PUMP DOOR, (1) PASSENGER SIDE MOUNTED ABOVE WATER MANIFOLD DOOR, SWITCH ON CAB BOX	$1,998.00	1	$1,998.00

WIRELESS REMOTE PENDANT CONTROL (WITH HOSE REEL PAYOUT/RETREIVE, THROTTLE UP/DOWN, WATER ON/OFF, WATER PRESSURE UP/DOWN, HOSE REEL SPEED UP/DOWN, WATER PRESSURE DISPLAY, AND KILL SWITCH)	$8,947.00	1	$8,947.00
TRUCK MOUNTING AND TOOL STORAGE OPTIONS:			
REAR BACK UP CAMERA W/7 INCH COLOR MONITOR MOUNTED IN CAB	$1,375.00	1	$1,375.00
REAR DOOR ACCESS – ADD STEP TO REAR BUMPER AND GRAB HANDLE NEAR REAR SHROUD DOOR	$184.00	1	$184.00
MANUALS & TRAINING:			
TRAINING - SEWER UNIVERSITY (DIXON, IL / 2 DAY) **INCLUDES HOTELS & MEALS** INCLUDED BY ARMOR	$1,250.00		$0.00
NOZZLES & ACCESSORIES:			
PATRIOT II ROOT CUTTER KIT (RING & ADJ. ROLLER SKIDS, 4" TO 15" SAWS)	$3,297.00	1	$3,297.00
SPECIAL ITEMS:			
FULL NOZ-TEQ NOZZLE KIT FLUSHING, GREASE MAINT, ROOT PREVENTION	$10,647.00	1	$10,647.00
			$0.00

SIGNATURE DATE






566YKA

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-130 Construction Agreement with Goins Enterprises, Inc. for the Tin Cup Lift Station and Pressure Line Improvement Section 1 (Lift Station).

MEETING DATE
August 5th, 2024

ORIGINATING DEPT
Public Works - Engineering

ATTACHMENTS
CB2024-130 Ordinance, Agreement, Exhibit Map, Bid Summary, Letter of Recommendation

REVIEWED BY
Director of Public Works, Daniel Johnson; Director of Finance, Leslie Haase; City Attorney, Peter Edwards; Assistant City Manager, Tony Robyn; City Manager, Nicholas Edwards

SUMMARY
This Council Bill approves a construction agreement between the City of Joplin and Goins Enterprises, Inc. for the Tin Cup Lift Station and Pressure Line Improvement Section 1 (Lift Station) in the amount of One Million, Seven Hundred Seventy-Seven Thousand, Seven Hundred and 00/100 DOLLARS ($1,777,700.00).

BACKGROUND
On June 3, 2024, Council approved a Work Authorization with AMA prepare bid documents for upgrades to the Tin Cup Lift Station and the installation of the eastern half of a 24-inch diameter parallel force main between the Tin Cup and Filmore Bridge lift stations. These upgrades were recommended in the 2020 Wastewater Facility Plan to increase the pumping capacity of the Tin Cup Lift Station, to reduce the frequency of sanitary sewer overflows along Glendale Road, and to renew the reliability of the force main.

The project was advertised on June 29th, 2024; bids were opened on July 23, 2024, in accordance with the City's procurement policy. Two bids were received for this Section of the work; Goins Enterprises submitted the lowest bid, which was below the engineer's estimate. See the attached Summary of Bids for reference.

FUNDING SOURCE
This is included in the FY 2024 Budget in the Sanitary Sewer Fund

RECOMMENDATION
Staff recommend approval of this Council Bill on first reading.

COUNCIL BILL NO. 2024-130 **ORDINANCE NO**

AN ORDINANCE approving the City of Joplin to enter into a construction agreement with Goins Enterprises, Inc. in the amount of One Million, Seven Hundred Seventy-Seven Thousand, Seven Hundred and 00/100 DOLLARS ($1,777,700.00) for the Tin Cup Lift Station and Pressure Line Improvement Section 1 (Lift Station) and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin, and setting a date when the ordinance shall become effective.

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

Section 1. That the agreement by and between the City of Joplin and Goins Enterprise, Inc. in the amount of One Million, Seven Hundred Seventy-Seven Thousand, Seven Hundred and 00/100 DOLLARS ($1,777,700.00), a true and accurate copy of said construction agreement and being attached hereto; be and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri, or his designee, is hereby authorized and directed to execute said agreement, or agreement in substantially similar form, by and on behalf of the City of Joplin.

Section 3. That upon the final approval and acceptance of the contractor's work under said contract, in substantial conformance with the attached agreement, in writing to the Director of Public Works and his certification to the effect to the Director of Finance, the contractor shall be paid from the Sanitary Sewer.

Section 4. That this Council Bill shall have an effective date of August 20th, 2024.

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

_____, 2024 by a _____ vote.

_____

ATTEST: Keenan T. Cortez, Mayor

_____

Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

COUNCIL BILL 2024-130

I hereby certify that a sufficient amount is available in the Sanitary Sewer fund to pay the amounts called for on the basis of the bids received.

_____

Leslie Haase, Director of Finance

AGREEMENT
BETWEEN
CITY OF JOPLIN AND
GOINS ENTERPRISES, INC.

CITY		CONTRACTOR	
CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801		Name: Goins Enterprises, Inc. Address: 3255 N. County Lane 252 Joplin, MO 64801	
Attention:		Attention: Josh Flager	
Department:		Phone: 417-659-6082	Fax:
Phone:	Fax:		

THIS AGREEMENT made and entered into this ____ day of _____, 20____, by the parties identified above.

WITNESSETH: That whereas, the Contractor has become the lowest responsible bidder for furnishing the supervision, labor, tools, equipment, materials and supplies and for constructing the following City improvements:

Tin Cup Lift Station and Pressure Line Improvements, Section 1 only

The City and Contractor agree to the following:

1. Manner and Time for Completion. The Contractor will furnish all supervision, labor, tools, equipment, materials and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the contract documents and any applicable City ordinances and state and federal laws within 365 calendar days from the date Contractor is ordered to proceed, which order shall be issued by the Director of Public Works within 30 days after the date of this contract.

2. Prevailing Wages. All labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri. At any time, the contractor is found to not have paid prevailing wages, the contractor shall forfeit as a penalty to the city one hundred dollars for each underpaid worker employed, for each calendar day, or portion thereof such worker is paid less than the said stipulated rates for any work done under this contract.

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

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

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

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

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

As of January 1, 2024, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation…. Statutory coverage per RSMo 287.010 et seq

Employer's Liability……. $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys' fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Owner's and Contractor's Protective Liability Insurance to protect the City, its agents, servants and employees from claims which may arise from the performance of this Contract, with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

The Owner's and Contractor's Protective Liability Insurance must:

(1) Be a separate policy with the named insured being: The City of Joplin, and

(2) Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Builders Risk Insurance for contracts involving unoccupied structures. The Contractor shall secure All Risk Builder's Risk Insurance. Unless specifically authorized by the City, the amount of such insurance shall not be less than the total contract price.

f. Subcontracts. In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

g. Notice. The Contractor and/or subcontractor shall furnish the City prior to beginning the work, the policy as specified in subparagraph (d), and satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

h. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

4. Performance, Labor, and Materials Payment Bond: The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of **One Million Seven Hundred Seventy-Seven Thousand Seven Hundred & 00/100 DOLLARS ($1,777,700.00)** (full amount of contract) conditioned upon the full and faithful performance of all major terms and conditions of this contract and payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance and payment of labor and material suppliers, the City shall deem the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

5. Certification Regarding Disbarment, Eligibility, Indictments, Convictions or Civil Judgements for all Federal Aid Projects: By signing and submitting the bid, the president or authorized official of the bidder, under penalty of perjury under the laws of the USA, shall certify that, except as noted in the exceptions, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor or any position involving the administration of federal funds:
(Reference can be made to "The System for Award Management" website as a helpful resource).

a. Is not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

b. Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years.

c. Does not have a proposed debarment or suspension pending.

d. Has not been indicted, convicted or had a civil judgment rendered against any of the listed parties by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

5.1 If there are any exceptions, the bidder shall submit the exceptions on company letterhead, signed by the bidder and inserted inside the bid submitted. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, the bidder shall indicate to whom it applies, the

initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

5.2 By signing the contract, the contractor shall further certify that all related subcontracts of $25,000 shall comply with this requirement. This includes all subcontractors, material suppliers and vendors.

6. Contractor's responsibility for subcontractors. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City or between any subcontractors.

7. General Independent Contractor Clause. This agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor 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 Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor 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 Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

8. Liquidated Damages. Time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to complete the work within the time specified in the contract, or within such extra time as may be allowed in accordance with City of Joplin Standard Specifications, Division 0000, General Requirements and Provisions, Section 0400.19, (http://mo-joplin.civicplus.com/DocumentCenter/View/3460) Contractor (or surety) shall be liable to the City in the amount of $1000.00 per day for each and every calendar day that the contract remains uncompleted after the time allowed for completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City.

9. Termination. The City reserves the right to terminate this contract by giving at least five (5) days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract.

10. City's Right to Proceed. In the event this contract is terminated pursuant to Paragraph 8, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

11. Termination for Convenience of City. The City shall have the right at any time by written notice to Contractor to terminate and cancel this contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable by Contractor.

12. Guards and Lights. The Contractor agrees that during the performance of said work, adequate barricades, guards and warning signs, lights or devices consistent with the requirements contained in the Manual on Uniform Traffic Control Devices shall be provided by Contractor during construction.

13. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor 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.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

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

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this agreement.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

14. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

15. Payment. The City will pay the Contractor in accordance with the rate set forth in the contract documents on file in the Public Works Department and by this reference made a part hereof, which shall constitute full and complete compensation for the Contractor's work provided hereunder. Such compensation will be paid in progress payments (less five (5) percent retainage), as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and agreement by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. If the City or the architect or engineer determines that a higher rate of retainage is required to ensure performance of the contract, the City may withhold up to ten (10) percent retainage until the work is fully completed and accepted by the City.

16. Contract Documents. The contract documents shall consist of the following:

a. This Contract
b. All Change Orders
c. Bid Plans and Specifications
d. City of Joplin Standard Specifications (Latest Revised Edition)
e. Special Conditions & Provisions

f. Bid Form
g. Statement of Bidder's Qualifications
h. Acknowledgment
i. Performance Bond
h. Payment and Material Bond
k. Instructions to Bidders
l. Non-collusion Affidavit
m. Notice to Proceed

Notice to Contractors: This contract, together with the other documents enumerated in this paragraph, forms the contract between the parties. These documents are as fully a part of the contract as if attached hereto or repeated herein. The Contractor agrees to perform all of the work described in the contract documents and to comply with the terms and conditions defined therein for a total sum of **One Million Seven Hundred Seventy-Seven Thousand Seven Hundred & 00/100 DOLLARS ($1,777,700.00)** dollars, said amount being subject to any approved addenda or change order.

17. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

18. Conflict of Interest. In accepting this contract, Contractor certifies that no member or officer of its firm or corporation is an officer or employee of the City of Joplin, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest, direct or indirect, in this contract. All applicable federal regulations and provisions of R.S.Mo. Section 105.450 et seq. shall not be violated.

19. Assignment. The Contractor 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 Contractor 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 and the bond surety. 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.

20. Nondiscrimination. The Contractor 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, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

a. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

21. Nonresident/Foreign Contractors. The Contractor shall procure and maintain during the life of this contract:

a. If the Contractor 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 351.570 R.S.Mo.

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.

22. 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 Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full 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.

23. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative and will be retained for three years after the expiration of this Contract.

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

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

26. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

27. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract, and the Contractor shall take appropriate steps to assure compliance.

28. 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 Contractor is associated with a business entity, Contractor 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, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

29. City Benefits. The Contractor 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.

30. Occupational License: The Contractor 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 Contractor. No contract will be executed by the City until this occupational license has been obtained and that the Contractor is current on any City taxes is verified.

31. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus $100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

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

33. 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.

34. Remedies. Except as may be otherwise found in the contract documents, all claims, disputes, counter-claims, and other matters in question between the Owner and Contractor arising out of or related to this agreement or the breech thereof, will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the state in which the Owner is located.

35. 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 adjudicated, venue shall be proper only in the Circuit Court of Jasper County, Missouri.

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

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 therefor.

_____

Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____

Peter Edwards, City Attorney

CONTRACTOR: GOINS ENTERPRISES, INC.

By: _____

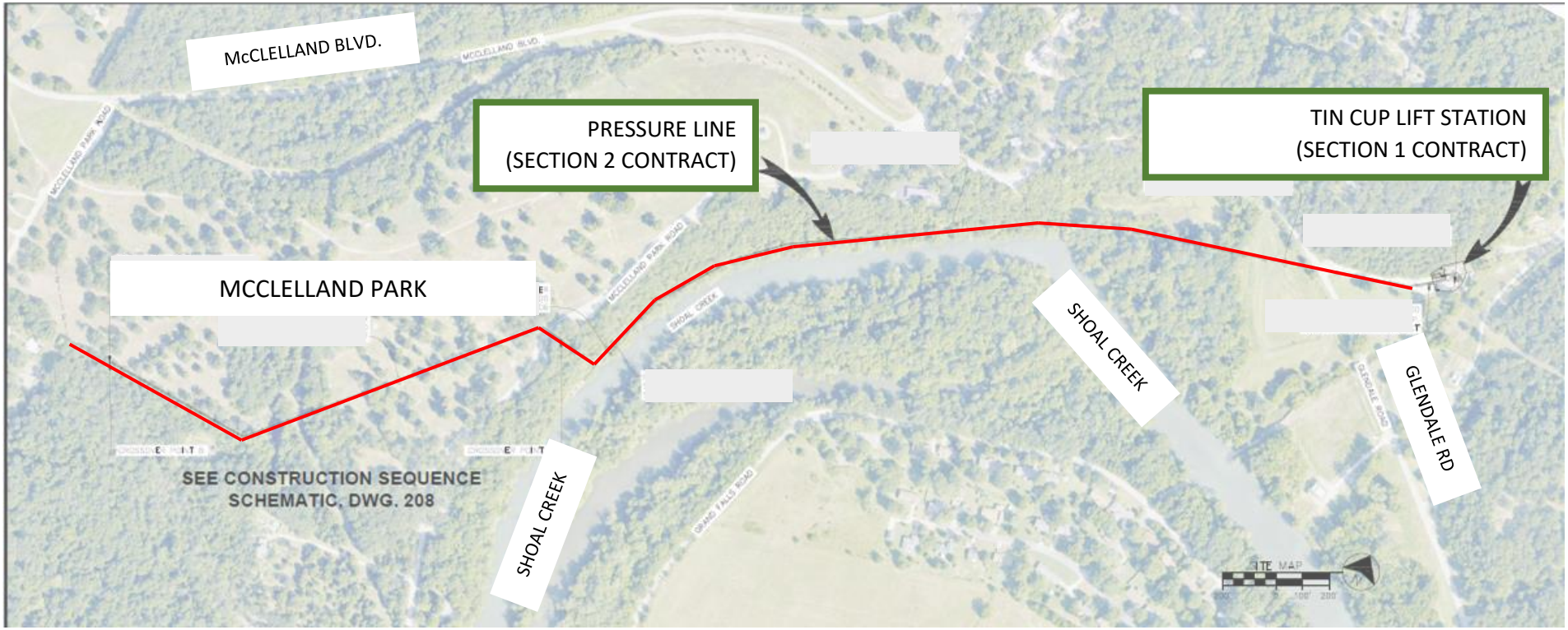
Printed Name: _____

Title: _____

CITY OF JOPLIN, MISSOURI

By: _____

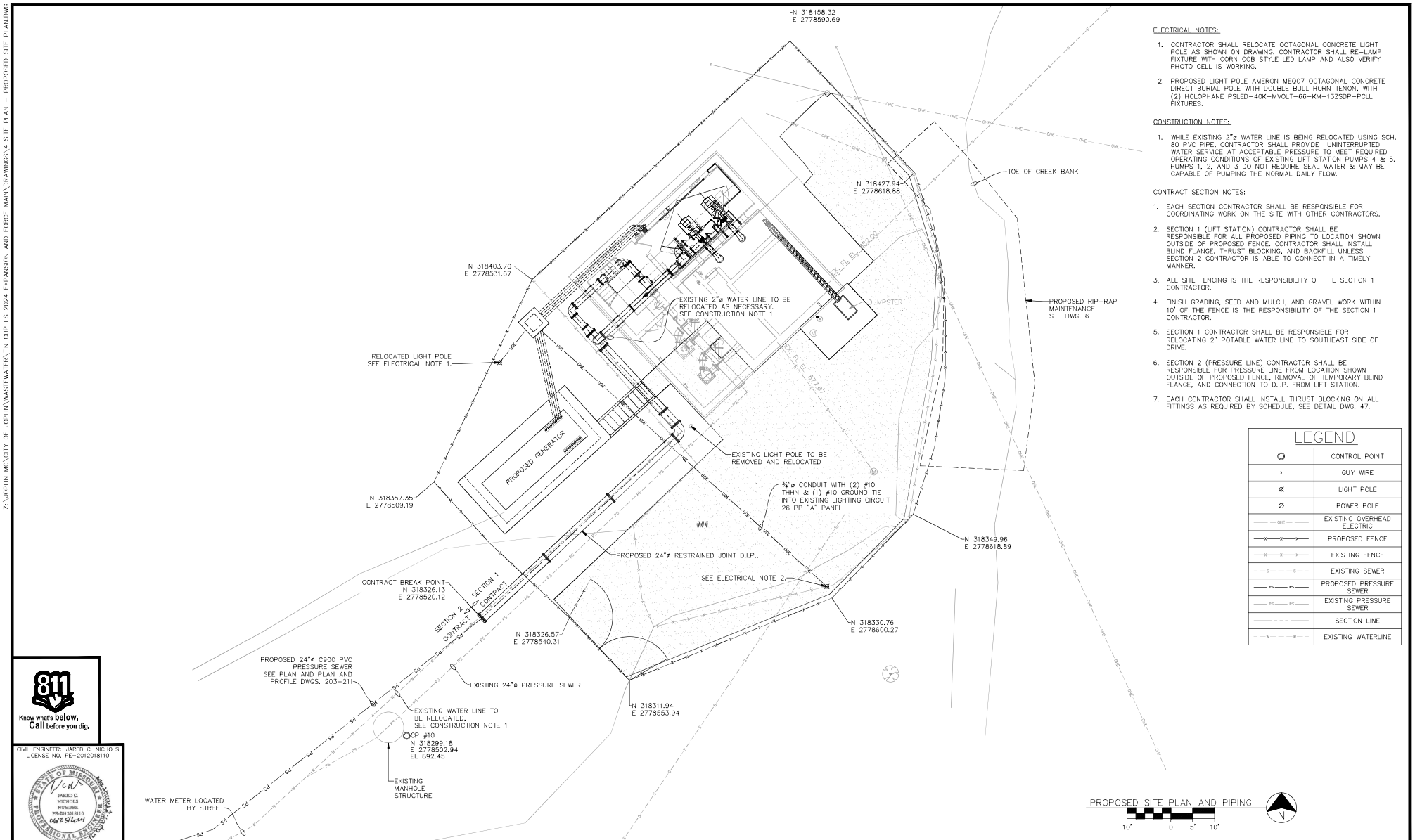
Daniel Johnson, P.E.
Public Works Director



CB 2024-130 Exhibit Map –

Tin Cup Lift Station & Pressure Line Improvements - Section 1 Contract

Z:\JOPLIN MO\CITY OF JOPLIN\WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN\DRAWINGS\4 SITE PLAN - PROPOSED SITE PLAN.DWG



ELECTRICAL NOTES:

1. CONTRACTOR SHALL RELOCATE OCTAGONAL CONCRETE LIGHT POLE AS SHOWN ON DRAWING. CONTRACTOR SHALL RE-LAMP FIXTURE WITH CORN COB STYLE LED LAMP AND ALSO VERIFY PHOTO CELL IS WORKING.
2. PROPOSED LIGHT POLE AMERON ME007 OCTAGONAL CONCRETE DIRECT BURIAL POLE WITH DOUBLE BULL HORN TENON, WITH (2) HOLOPHANE PSLED-40K-MVOLT-66-KM-13ZSDP-PCLL FIXTURES.

CONSTRUCTION NOTES:

1. WHILE EXISTING 2"ø WATER LINE IS BEING RELOCATED USING SCH. 80 PVC PIPE, CONTRACTOR SHALL PROVIDE UNINTERRUPTED WATER SERVICE AT ACCEPTABLE PRESSURE TO MEET REQUIRED OPERATING CONDITIONS OF EXISTING LIFT STATION PUMPS 4 & 5. PUMPS 1, 2, AND 3 DO NOT REQUIRE SEAL WATER & MAY BE CAPABLE OF PUMPING THE NORMAL DAILY FLOW.

CONTRACT SECTION NOTES:

1. EACH SECTION CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING WORK ON THE SITE WITH OTHER CONTRACTORS.
2. SECTION 1 (LIFT STATION) CONTRACTOR SHALL BE RESPONSIBLE FOR ALL PROPOSED PIPING TO LOCATION SHOWN OUTSIDE OF PROPOSED FENCE. CONTRACTOR SHALL INSTALL BLIND FLANGE, THRUST BLOCKING, AND BACKFILL UNLESS SECTION 2 CONTRACTOR IS ABLE TO CONNECT IN A TIMELY MANNER.
3. ALL SITE FENCING IS THE RESPONSIBILITY OF THE SECTION 1 CONTRACTOR.
4. FINISH GRADING, SEED AND MULCH, AND GRAVEL WORK WITHIN 10' OF THE FENCE IS THE RESPONSIBILITY OF THE SECTION 1 CONTRACTOR.
5. SECTION 1 CONTRACTOR SHALL BE RESPONSIBLE FOR RELOCATING 2" POTABLE WATER LINE TO SOUTHEAST SIDE OF DRIVE.
6. SECTION 2 (PRESSURE LINE) CONTRACTOR SHALL BE RESPONSIBLE FOR PRESSURE LINE FROM LOCATION SHOWN OUTSIDE OF PROPOSED FENCE, REMOVAL OF TEMPORARY BLIND FLANGE, AND CONNECTION TO D.I.P. FROM LIFT STATION.
7. EACH CONTRACTOR SHALL INSTALL THRUST BLOCKING ON ALL FITTINGS AS REQUIRED BY SCHEDULE, SEE DETAIL DWG. 47.

LEGEND

○	CONTROL POINT
›	GUY WIRE
⊠	LIGHT POLE
Ø	POWER POLE
—OHE—	EXISTING OVERHEAD ELECTRIC
—X—X—	PROPOSED FENCE
—X—X—	EXISTING FENCE
—S—S—	EXISTING SEWER
—PS—PS—	PROPOSED PRESSURE SEWER
—PS—PS—	EXISTING PRESSURE SEWER
	SECTION LINE
—W—W—	EXISTING WATERLINE

811 Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

STATE OF MISSOURI — JARED C. NICHOLS — NUMBER PE-2012018110 — PROFESSIONAL ENGINEER

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

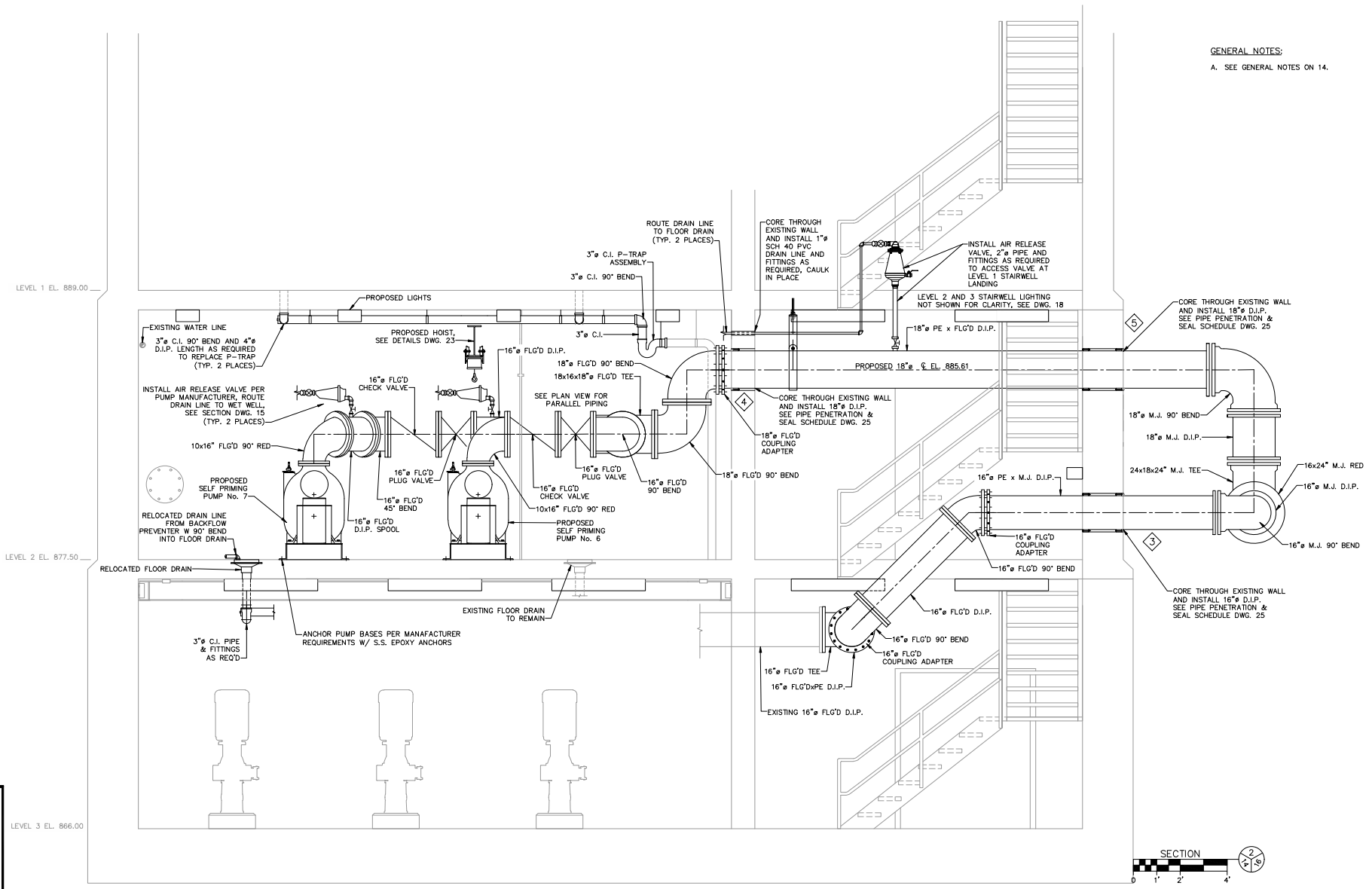
CERTIFICATE OF AUTHORITY
MISSOURI NO. 000427

REV DATE:	REVISION:		
		DWN BY:	CSJ
		CKD BY:	JTB
		APD BY:	JCN
		DATE:	06/25/2024

TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
SITE PLAN
PROPOSED SITE PLAN

DWG. NO. 4

Z:\JOPLIN MO\CITY OF JOPLIN\WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN\DRAWINGS\16 PROPOSED SELF PRIMING PUMPS - SECTION.DWG



GENERAL NOTES:

A. SEE GENERAL NOTES ON 14.

Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

JARED C. NICHOLS NUMBER PE-2012018110 DATE 6/25/24

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

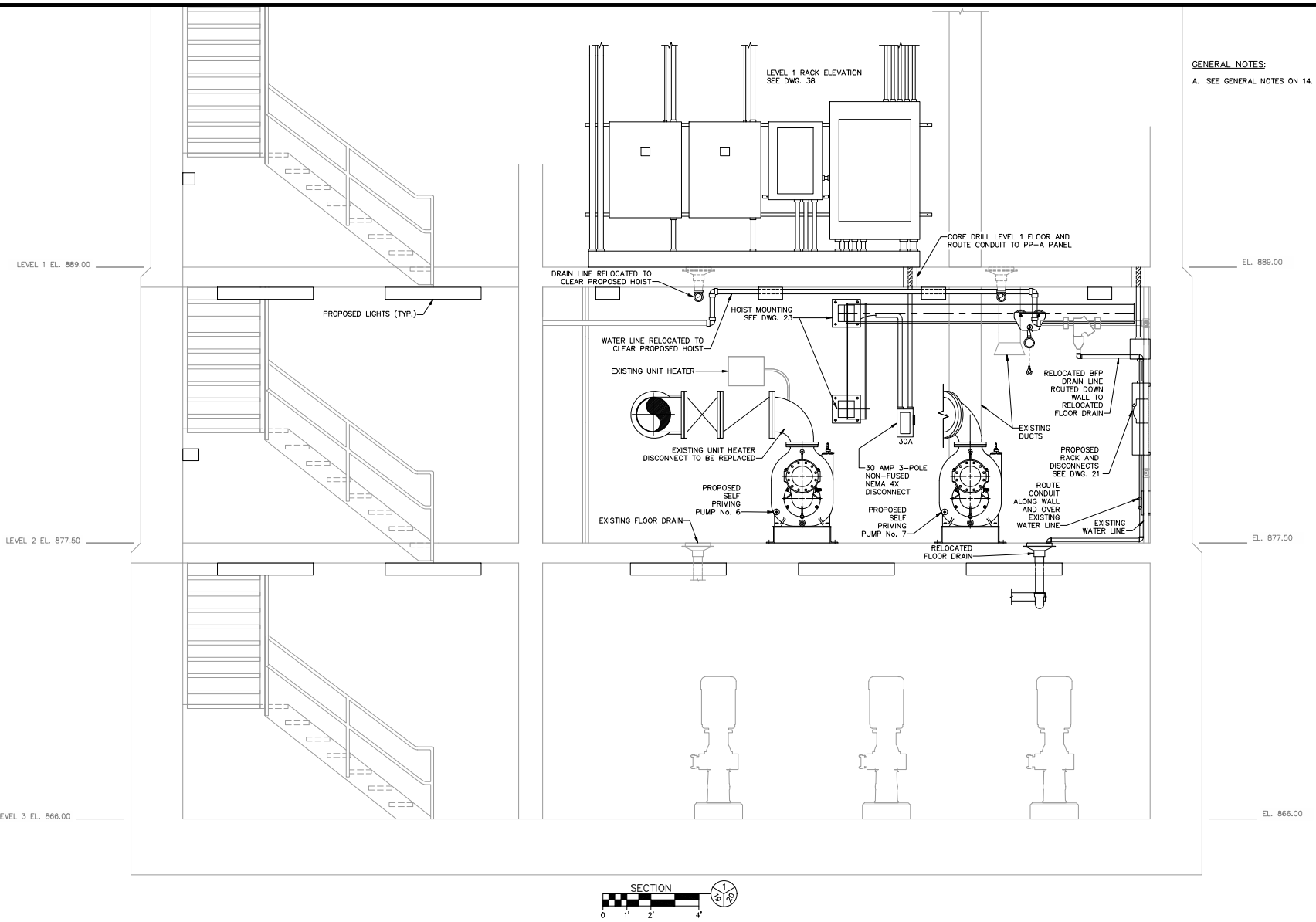
CERTIFICATE OF AUTHORITY MISSOURI NO. 000427

REV DATE:	REVISION:		
		DWN BY:	CSJ
		CKD BY:	JTB
		APD BY:	JCN
		DATE:	06/25/2024

TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
PROPOSED SELF PRIMING PUMPS
SECTION

DWG. NO. 16

Z:\JOPLIN MO\CITY OF JOPLIN\WASTEWATER\TIN CUP LS 2024 EXPANSION AND FORCE MAIN\DRAWINGS\20 PROPOSED SELF PRIMING PUMPS - ELECTRICAL SECTION.DWG



SECTION 1/20

0 1' 2' 4'

GENERAL NOTES:

A. SEE GENERAL NOTES ON 14.

811 Know what's below. Call before you dig.

CIVIL ENGINEER: JARED C. NICHOLS
LICENSE NO. PE-2012018110

STATE OF MISSOURI — JARED C. NICHOLS NUMBER PE-2012018110 — DATE SIGNED — PROFESSIONAL ENGINEER

CITY OF Joplin

CITY OF JOPLIN, MISSOURI
DEPT OF PUBLIC WORKS
DIVISION OF ENGINEERING

ALLGEIER, MARTIN and ASSOCIATES, INC.
CONSULTING ENGINEERS and SURVEYORS
7231 EAST 24th STREET JOPLIN, MISSOURI 64804 (417) 680-7200

THIS DRAWING IS A DOCUMENT OF SERVICE AND IS THE PROPERTY OF ALLGEIER, MARTIN and ASSOCIATES, INC. THIS DOCUMENT SHALL NOT BE USED ON THIS OR OTHER PROJECTS WITHOUT THE WRITTEN CONSENT OF ALLGEIER, MARTIN and ASSOCIATES, INC.

CERTIFICATE OF AUTHORITY
MISSOURI NO. 000427

REV DATE:	REVISION:		
		DWN BY:	CSJ
		CKD BY:	JTB
		APD BY:	JCN
		DATE:	06/25/2024

TIN CUP LIFT STATION & PRESSURE LINE IMPROVEMENTS
PROPOSED SELF PRIMING PUMPS
ELECTRICAL SECTION

DWG. NO. 20

BID SUMMARY

PROJECT: Tin Cup Lift Station and Pressure Line Improvement Section 1 Lift Station

DATE OF BID OPENING: July 23, 2024, at 11:00 AM

CONTRACTOR	BID
G & G Construction Company, Inc.	$1,895,200.41
Goins Enterprises, Inc.	$1,777,700.00
Engineer's Estimate	$2,300,000.00

ALLGEIER, MARTIN and ASSOCIATES, INC.
Consulting Engineers

July 24, 2024

Mr. Chad Weller, PLS
Assistant Director of Public Works for Operations
City of Joplin
602 S. Main Street
Joplin, MO 64801

Re: Joplin, Missouri
Tin Cup Lift Station and Pressure Line Improvements – Section 1

Dear Mr. Weller:

We have reviewed the bids received July 23rd, 2024 for construction of the referenced project, and subsequently prepared a bid tabulation. It is our recommendation that the City award the construction contract for Section 1 to Goins Enterprises. Inc. in the amount of $1,777,700.00 for the referenced project.

A copy of the bid tabulation and Notice of Award for the work have been included for your review and use. If the City concurs with this recommendation, please fully execute and return the Notice of Award to me. A copy of Goins Bid and Bid Bond have also been included with this letter for your records.

Once the Notice of Award document is received back by our office, we will submit Contract Documents to the Contractor for execution.

Please contact me if you have any questions.

Sincerely,

ALLGEIER, MARTIN and ASSOCIATES, INC.

Jared Nichols, P.E.
Vice President

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-131 Amendment 1 to Work Authorization AND-15th ST. EXT-001 with OWN, Inc. (formerly Anderson Engineering) for professional engineering services for the East 15th Street Extension project.

MEETING DATE
August 5th, 2024

ORIGINATING DEPT
Public Works-Engineering

ATTACHMENTS
Council Bill 2024-131; Ordinance; Amendment 1 to Work Auth. AND-15th ST. EXT-001; Location Map

REVIEWED BY
Director of Public Works, Daniel Johnson; Director of Finance, Leslie Haase; City Attorney, Peter Edwards; Assistant City Manager, Tony Robyn; City Manager, Nicholas Edwards

SUMMARY
This Council Bill authorizes the City Manager or his designee to approve an Amendment to Work Authorization AND-15th ST. EXT-001 with OWN in the not to exceed amount of One Hundred Sixty-Five Thousand Four Hundred Ninety-Nine and 00/100 dollars ($165,499.00) for professional engineering services for the East 15th Street Extension project.

BACKGROUND
On January 10, 2005, the City Council adopted Ordinance No. 2005-006 approving the 1717 Market Place Tax Increment Financing Plan. Funds generated in the district were to be used on various infrastructure improvements including the 17th Street extension and a signalized intersection at 17th & Range Line. Also included in the required improvements was extending 15th Street from Range Line Road approximately two blocks east. In 2018, the developer approached the City, requesting that the City provide project management for the 15th Street Extension. The options to manage the project were presented to Council, with Council providing direction to staff. The City Manager met with the City Attorney, Finance, Zoning & Planning, and Public Works to discuss the request. Staff agreed to manage the project. The amendment to the Market Place 1717 TIF Plan was approved by City Council on May 21, 2018; Ordinance 2018-063.

On February 4, 2019, City Council approved an agreement and work authorization AND-15th ST Ext-001 with Anderson Engineering to provide professional engineering consultant services for this project.

On January 21, 2020, City Council approved a Cost Share Agreement with the Missouri Highways and Transportation Commission for improvements at the intersection of 15th Street and Range Line Road, with MoDOT paying 50% of the project costs incurred within the MoDOT Right of Way, in the not to exceed amount of $457,443.00.

On May 18, 2020, City Council approved work authorization AND-15th St. Ext.-002 with Anderson Engineering for professional engineering consultant services for the design of the project within MoDOT Right-of Way.

This amendment is for additional costs related to the construction phase services required for the project, including contract administration, construction inspection, materials testing, construction staking, and project closeout with MoDOT including closing documentation, field checks and MoDOT clearances. The fees submitted by OWN have been reviewed by City staff and found to be within industry standards.

FUNDING SOURCE

This item is included in the FY 2024 Budget in the Infrastructure Improvements Fund, to be reimbursed by the 1717 Marketplace TIF.

RECOMMENDATION

Staff recommend approval of this Council Bill on first reading.

COUNCIL BILL NO. 2024-131 ORDINANCE NO.

AN ORDINANCE approving Amendment 1 to Work Authorization AND-15th ST. EXT-001 with OWN, Inc. (formerly Anderson Engineering) in the not to exceed amount of One Hundred Sixty-Five Thousand Four Hundred Ninety-Nine and 00/100 dollars ($165,499.00) for professional engineering services for the East 15th Street Extension project and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin; and setting a date when this Ordinance shall become effective.

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

Section 1. That the Amendment 1 to Work Authorization AND-15th ST. EXT-001 with OWN, Inc. (formerly Anderson Engineering) in the not to exceed amount of One Hundred Sixty-Five Thousand Four Hundred Ninety-Nine and 00/100 dollars ($165,499.00) for professional engineering services for the East 15th Street Extension project, for the City of Joplin, a true and accurate copy of said agreement being attached hereto and incorporated herein, be, and the same, is hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri, or his designee, is hereby authorized and directed to execute said agreement, or agreement in substantially similar form, by and on behalf of the City of Joplin with OWN, Inc.

Section 3. That upon the final approval and acceptance of the consultant's work under said contract, in substantial conformance with the attached exhibits, in writing by the Director of Public Works and his certification to the effect to the Director of Finance, the consultant shall be paid from the Infrastructure Improvements fund.

Section 4. That this Council Bill shall have an effective date of August 20, 2024.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of_____, 2024, by a vote of_____.

_____

ATTEST: Keenan T. Cortez Mayor

_____

Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____

Peter C. Edwards, City Attorney

Council Bill 2024-131

I hereby certify that a sufficient amount is available in the Infrastructure Improvements Fund to pay the amounts called for on the basis of the negotiated fee.

_____

Leslie Haase, Director of Finance

CITY		ENGINEER	
CITY OF JOPLIN **602 S. MAIN STREET** **JOPLIN, MO 64801**		Name: OWN, Inc. Address: 811 E. 3rd St., Joplin, MO 64801	
Attention: Dan Johnson, P.E.		Attention: Andrew Eckhart, P.E.	
Department: Public Works - Engineering		Phone: (417) 782-7399	Fax: 417) 782-7398
Phone: (417) 624-0820	Fax:	15th & Range Line Engineering Services	

AMENDMENT _001_ TO WORK AUTHORIZATION NUMBER __AND-15th ST Ext - 001____

TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES

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

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

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

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

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

5. **Payment**.

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

b. **Total compensation not to exceed**. It is expressly understood that in no event will the total additional compensation and reimbursement for the Scope of Work described in this Amendment be paid to the Engineer under the terms of Work Authorization Number ___**AND-15th ST Ext - 001**_____ exceed the sum of __**One Hundred Sixty-Five Thousand Four Hundred Ninety-Nine and 00/100**__ Dollars ($__**165,499.00**__).

6. **Insurance**. Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to maintain adequate insurance coverage at all times during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

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

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

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

As of January 1, 2024, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation…. Statutory coverage per RSMo 287.010 et seq.
Employer's Liability……. $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Engineer agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorney's fees of Engineer, its employees, officers or agents. Engineer agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of $1,000,000.00. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all of this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

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

REVIEWED FOR APPROVAL

_____
Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

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

_____
Leslie Haase, Director of Finance

APPROVED AS TO FORM

_____
Peter Edwards, City Attorney

Engineer: OWN, Inc.

By: _____

Printed Name: Andrew Eckhart

Title: Executive Vice President

Date: July 26, 2024

By: _____
Daniel Johnson, P.E.
Public Works Director

Date: _____

Engineering Services Agreement

Article 1 of the Agreement is supplemented to include the following agreement of the parties. Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES *All deliverables referred to in the agreement shall also be provided in an electronic format to be specified by the City.*

A1.01 *Conceptual Phase*

A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.

If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions. Options will be discussed and agreed to by Engineer at scoping meeting.

~~2. Identify potential solution(s) to meet Owner's Project requirements, as needed.~~

~~3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~

~~4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~

~~5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project-related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~

~~6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~

7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.

~~8. Prepare a conceptual report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by~~

~~Owner, a tabulation of other items and services included within the definition of Total Project Costs.~~

9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.

~~10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."~~

~~11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.~~

~~12. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.~~

~~13. Perform or provide the following other Study and Report Phase tasks or deliverables:~~

- ~~Preliminary Plans to be amended as necessary to comply with MoDOT standards, specifications and contract deliverables.~~
- ~~Preliminary Signal and Lighting Layout as required by MoDOT to gain approval before beginning final design.~~
- ~~Right of Way Plans to be amended as necessary to comply with MoDOT standards, specifications and contract deliverables.~~
- ~~Final Plans and PS&E documents to be amended as necessary to comply with MoDOT standards, specifications and contract documents.~~
- ~~Additional sidewalk design necessary to fill in the sidewalk gap and meet ADA standards.~~

~~14. Furnish 6 review copies of the Report and any other Study and Report Phase deliverables to Owner by the due date and review by phone or in person with Owner.~~

~~15. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish 6 copies of the revised Report and any other Study and Report Phase deliverables to the Owner by the agreed upon due date.~~

~~B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.~~

C. Billing/Payment Processing Options

1. Request for payment may be submitted at appropriate intervals during the contract. Application for payment must include a detailed breakdown of deliverables completed as well as specific tasks or percentages of specific tasks

completed. Payment schedule will be at the approval of the city.

Each invoice must have a cover sheet which summarizes the contract's overall status, showing the following content:

- *original amount; net additions; revised total contract amount; previously invoiced amount; current payment due; balance to finish;*
- *Engineer may choose to utilize the City's or the AIA's Certification for Payment document, or similar approved document.*

Within the pages of the invoice, the Engineer must also include the following information, grouped by project phase or task:

- *For each Staff: name, along with hours worked by date*
- *Sub-totals, as appropriate*

2. Deliverables option as determined by engineering staff on a project by project basis. Example: 30 percent – Preliminary plans, 60 percent Right of Way plans, 90 percent Final plans and bid documents, 100 percent project completion.

~~*A1.02 Preliminary Design Phase - (30 percent plans)*~~

~~A. Proceed with Preliminary Design Phase after the completion of the Conceptual phase which includes: Acceptance by Owner of the Conceptual Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design, and Indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner.~~

~~1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.~~

~~2. Include on plans, property lines, structure locations, ownership names and contact information.~~

~~3. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Conceptual Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.~~

~~4. Provide necessary field surveys, topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities as defined by Section A1.03 "Utility Requirements" and Section A1.04 "Survey Services"~~

~~5. Visit the Site as needed to prepare the Preliminary Design Phase documents.~~

6. ~~Advise Owner if additional reports, data, information, or services of the types described are necessary and assist Owner in obtaining such reports, data, information, or services.~~

7. ~~Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.~~

8. ~~Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.~~

9. ~~Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions, supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.~~

10. ~~Development communication plan for project: considering the use of door hangers, letters, public meetings, changeable message boards.~~

11. ~~Furnish 6 review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner by established due date, and review them with Owner. Owner shall submit to Engineer any comments regarding the furnished items.~~

12. ~~Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner 6 copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables by the specified due date.~~

13. ~~Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.~~

~~A1.03 *Utility Requirements*~~

~~A. Make notification to utilities during conceptual phase of preliminary design process. Communication to be made in a specific, documented format. (As detailed in item D).~~

~~B. Based on specific utility feedback, and field observation, identify potential high expense utility relocation issues.~~

~~C. Prepare and present plan for city review, detailing significant utility conflicts, proposed pothole locations, and associated costs for verifying existing utilities. Potholing process to include horizontal and vertical alignment and depth details. Details will be included in 30 percent plan completion, final right of way plans, and final construction plans. Necessary corrective action to address incomplete or inaccurate details may be subject to errors and omissions insurance claim.~~

~~D. Submit utility report at 30 percent submittal and close out of project. Utility report to include representatives contacted, meeting dates, and a summary of discussions, requests, observations and/or concerns. (See City of Joplin utility notification form)~~

~~*A1.04 Surveying Services – General*~~

~~A. Control Survey~~

~~All horizontal control for the project will be based on the Missouri State Plane Coordinate System of 1983, West Zone.~~
~~All vertical control for the project will be based on the North American Vertical Datum of 1988 (NAVD 88) provided by NOAA's National Geodetic Survey (NGS).~~

~~Control points and temporary bench marks will be set inter-visible and in strategic locations along the project route so as to be conveniently used during all phases of the project, including construction.~~

~~B. Engineering Survey~~

~~Provide topographic engineering survey for the length of the project to facilitate design. Provide a survey of all existing surface and sub-surface utilities in the project corridor.~~

~~C. Property Boundary Survey/Right-of-way Survey/Easements~~

~~Provide a boundary survey or surveys to locate the existing Right-of-Way/Easements for the length of the project, the adjacent property lines of the parcels along the project, and all existing easements of record encumbering each property that will affect the project. Consultant will be responsible for ordering title work for each parcel along the project route and procuring existing right-of-way documents and/or right-of- way plans.~~

~~D. Right-of-way and Easement Description Preparation~~

~~Upon final approval of the Right-of-Way/Project Plans consultant will provide descriptions and exhibit drawings for all property right acquisitions including, but not limited to: right-of-way takings, permanent easements and temporary easements.~~

E. Right-of-way and Easement Staking

~~During the property negotiation phase of the project it may be necessary to stake the proposed right-of-way and/or easement locations to assist the right-of-way agent.~~
~~Upon request, the consultant will temporarily stake the proposed right-of-way/easement locations with wooden lathe to allow the property owner to visually inspect the location of such.~~

~~Pre-Construction Phase – On projects that will require the relocation of existing utilities prior to the award of the construction contract the consultant shall temporarily stake the location of the Right-of-Way and/or easements at points predetermined by Owner. This service will be provided one (1) time as a part of the contract. Any additional staking, if required by utility contractors due to the destruction of the temporary stakes, will be done at the advertised hourly rate and billed back to the utility contractor who is found to be responsible for removing the original stakes.~~

~~F. Existing United States Public Land Survey System Corners~~
~~All existing USPLSS corners that may/will be removed or altered as a result of this project must be referenced and re-established according to 20 CSR 2030-17.020 and 20 CSR 2030-17.030.~~

~~G. Survey Records~~

~~Consultant shall provide to Owner originals or copies of all survey records relevant to the project. These records shall include, but are not limited to: survey notes, research records, computations, calculations and drawings.~~

~~H. Other Services~~

~~Services not covered by A through F that are determined in the scoping meeting to be necessary for completion of the project.~~

~~*A1.05 Right of Way Plan Phase – 60 percent plans*~~

~~A. Determine parcels and parcel ownership information to be included on right of way plans.~~

~~B. Determine parcel size.~~

~~C. Prepare R.O.W. plan tabulation sheet.~~

~~D. Prepare R.O.W. plan sheets showing easement and right of way takings.~~

~~E. Furnish 6 review copies of the Right of Way Plan Phase documents, opinion of probable Right of Way Cost, and any other Right of Way Plan Phase deliverables to Owner by established due date, and review them with Owner. Owner shall submit to Engineer any comments regarding the furnished items.~~

~~F. Revise the Right of Way Plan Phase documents, opinion of probable Right of Way Cost, and any other Right of Way Plan Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner 6 copies of the revised Right of Way Plan Phase documents, revised opinion of probable Right of Way Cost, and any other deliverables by the specified due date.~~

~~G. Engineer's services under the Right of Way Plan Phase will be considered complete on the date when Engineer has delivered to Owner the revised Right of Way Plan Phase documents, revised opinion of probable Right of Way Cost, and any other Right of Way Plan Phase deliverables.~~

A1.06 *Final Design Phase*

A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and/or any other Right of Way plan documents, subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.

2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.

3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.

4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.

5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.

6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.

7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.

8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.

9. Contract shall include contractor provided changeable message signs to communication construction information.

10. Furnish for review by Owner, its legal counsel, and other advisors, 6 copies of the final drawings and Specifications, assembled drafts of other construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other final design Phase deliverables, by the established due date, with the Final Design Phase, and review them with Owner. Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.

B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

~~C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts.~~

A1.07 Bidding Phase

A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:

1. Advertise for and obtain bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.

2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.

3. Provide information or assistance needed by Owner in the course of any review of proposals with prospective contractors.

4. If Federal funding is involved, set up prequalification's for contractor. This includes researching all applicable debarment & qualified contractor's lists & providing this documentation in the project file

5. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.

6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents

7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.

B. The Bidding Phase will be considered complete upon commencement of the Construction Phase.

A1.08 Construction Phase

A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:

1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned below. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.

2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer (unless provided by the city), and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth

3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified.

4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.

5. *Electronic Transmittal Protocols:* Consultant shall follow City of Joplin protocols shown below.

6. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the

Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations.
Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.

7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.

8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.

9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:

   a) Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

   b) The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility

for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.

11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.

12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

13. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.

14. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.

    a) Identify discrepancy
    b) Contractor submits pricing
    c) Cost analysis by Project Manager
    d) Submit Conceptual Plan to MoDOT and FHWA, if applicable
    e) Receive conceptual approval from both agencies and give contract Notice to Proceed
    f) Change in work complete, submit official change Order with Justification and copy of conceptual to MoDOT and FHWA if applicable (justification provided by City Project Manager)
    g) After signatures on Change order are complete, notify the contractor.

15. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.

16. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information

given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

17. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.

18. *Inspections and Tests:*

    a) Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.

    b) As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.

    c) Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

19. *Change Proposals and Claims:*

    a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal.

    b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.

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

    a) Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-

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

b) By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement.

21. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.

22. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.

23. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables:

24. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may

recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form of the acceptance identified in MoDOT's LPA Manual, that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.

25. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

26. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract, then Construction Phase services may be rendered at different times in respect to the separate contracts. Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative Services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.09 *Post-Construction Phase*

A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:

1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.

2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.

3. Full payment of the final invoice will not be considered until the consultant has electronically furnished the following documents:

   a) The city's semi-final inspection letter stating the date of semi-final inspection and listing those who were present.
   b) The city's final acceptance letter showing the number of working days or calendar days charged, completion date and the amount of liquidated

damages, if any.

c) A final list of acceptance testers used on the project and a certification stating:

"The results of the tests or acceptance samples indicate that material incorporated in the construction work and the construction operations controlled by sampling and testing were in reasonably close conformity with the approved plans and specifications, and such results compare favorably with the results of independent assurance sampling and testing."

Any deviations from the specifications must be explained along with the reason for acceptance.

"All field tests were performed in conformity with the governing specifications and the results were in reasonably close conformity with the specifications." Explain any deviations and why the work was accepted.

"The project was constructed substantially in conformity with the plans and specifications for the project."

d) Contractor certification and city recommendation:

Showing the final DBE participation on the project including the DBEs used, the type of work performed, and the dollar amount paid to each DBE.

The city's recommendation regarding the contractor's fulfillment of the DBE requirements. The consultant shall also provide written documentation from each DBE that they were paid in full for the work identified in the Contractor DBE Certification. Examples of documentation from DBEs may include a letter, e-mail, lien waiver or copies of reimbursement checks. If DBE goals were not met, include documentation as to why.

e) Final Invoice

f) Final Detailed Estimate of Quantities

g) Contractor's Affidavit Regarding Settlement of Claims

h) Final Change Order (if needed)

i) Affidavit (Compliance with Prevailing Wage Law)

j) These documents are to be received within 60 days of the Final Inspection date. Final Reimbursement will be processed once all close out documentation has been reviewed and accepted.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified, will terminate twelve months after the commencement of the Construction Contract's correction period.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Undertaking investigations and studies including, but not limited to:

   a. Detailed consideration of operations, maintenance, and overhead expenses.

Project Name/Description: Amendment 1 to WA AND-15th ST EXT-001
Consultant: OWN, Inc.

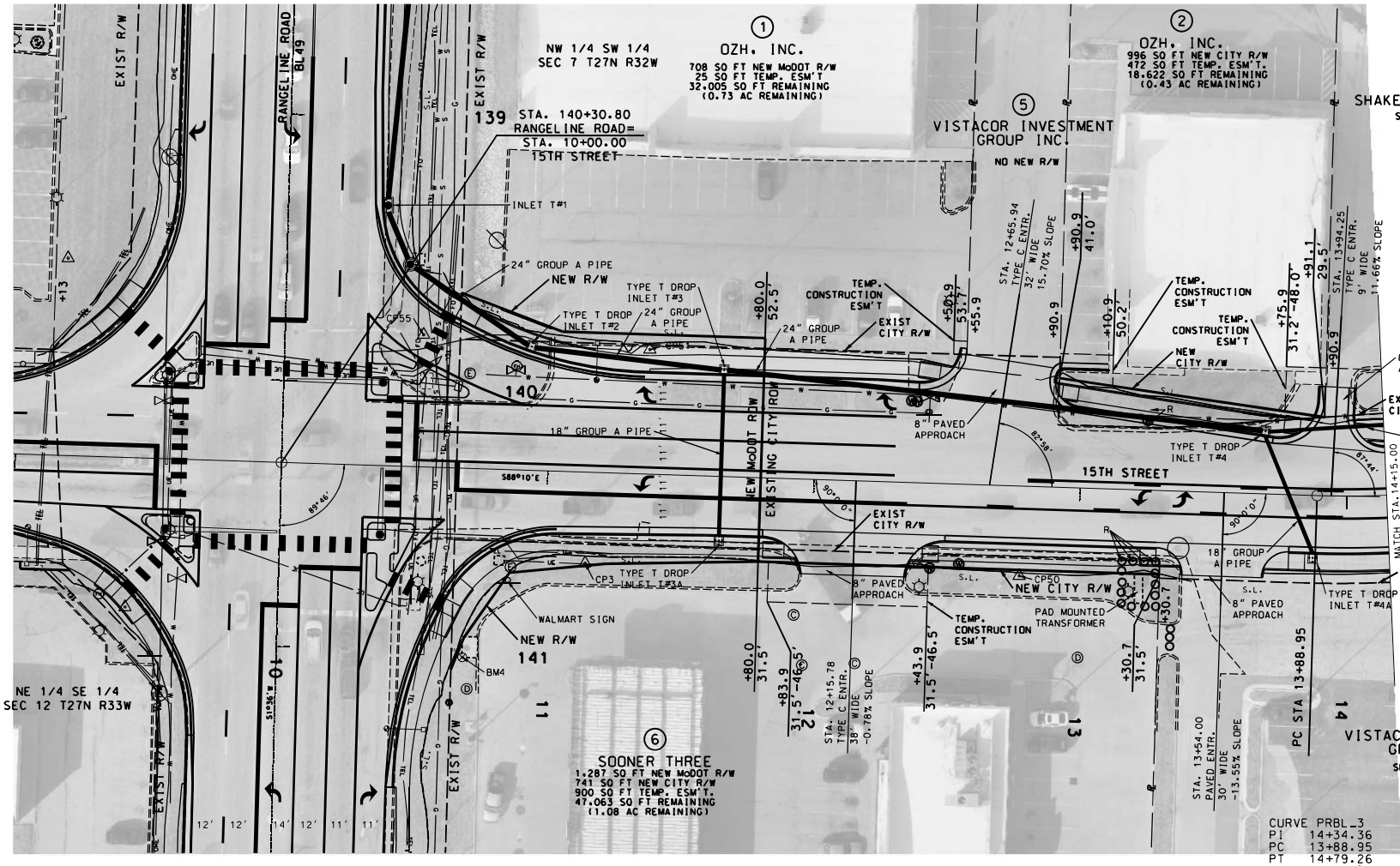
Engineering Services Agreement

Article 1 of the Agreement dated February 13, 2019, is supplemented to include the following agreement of the parties.

Engineer shall provide Additional Services for Roadway Design for the following projects at the costs shown:

Contract Reference	Description	Estimated Cost
Part 1 – Basic Services A1.06 and A1.09	• Contract Administration • Construction Inspection • Bidding Services • Additional Costs for Intersection and Roadway Design • Closing Documentation, Field Checks, and MoDOT Clearances	$11,421.00 $74,990.00 $6,499.00 $42,499.00 $9,990.00
SUBTOTAL – Part 1	**Additional Increase =>**	**$145,399.00**
Part 2 – Additional Services Construction Staking Materials Testing	• Materials Testing • Construction Staking	$11,550.00 $8,550.00
SUBTOTAL – Part 2	**Additional Increase =>**	**$20,100.00**
TOTAL AMOUNT	**PART 1 AND PART 2 =>**	**$165,499.00**

NOTE:
SEE CITY OF JOPLIN STANDARDS
FOR TYPE C ENTRANCE



CURVE PRBL_3
PI 14+34.36
PC 13+88.95
PT 14+79.26
Δ 14° 47' 01.4" (LT)
D 16° 22' 12.8"
L 90.31'
T 45.41'
R 350.00'

ENTRANCES CONSTRUCTED THROUGH NEW CONTROLLED ACCESS RIGHT OF WAY BETWEEN STA. 137+50.00 TO STA. 143+25.00 MUST BE WIDENED BY PERMIT.

SCALE
0 20 40 60

PLAN SHEET
15TH STREET
SHEET 3 OF 7

STATE OF MISSOURI
SEAN LEE MATLOCK
NUMBER PE-2778B
PROFESSIONAL ENGINEER

DATE PREPARED
2/23/2024

ROUTE	STATE
BL49	MO
DISTRICT	SHEET NO.
SW	6

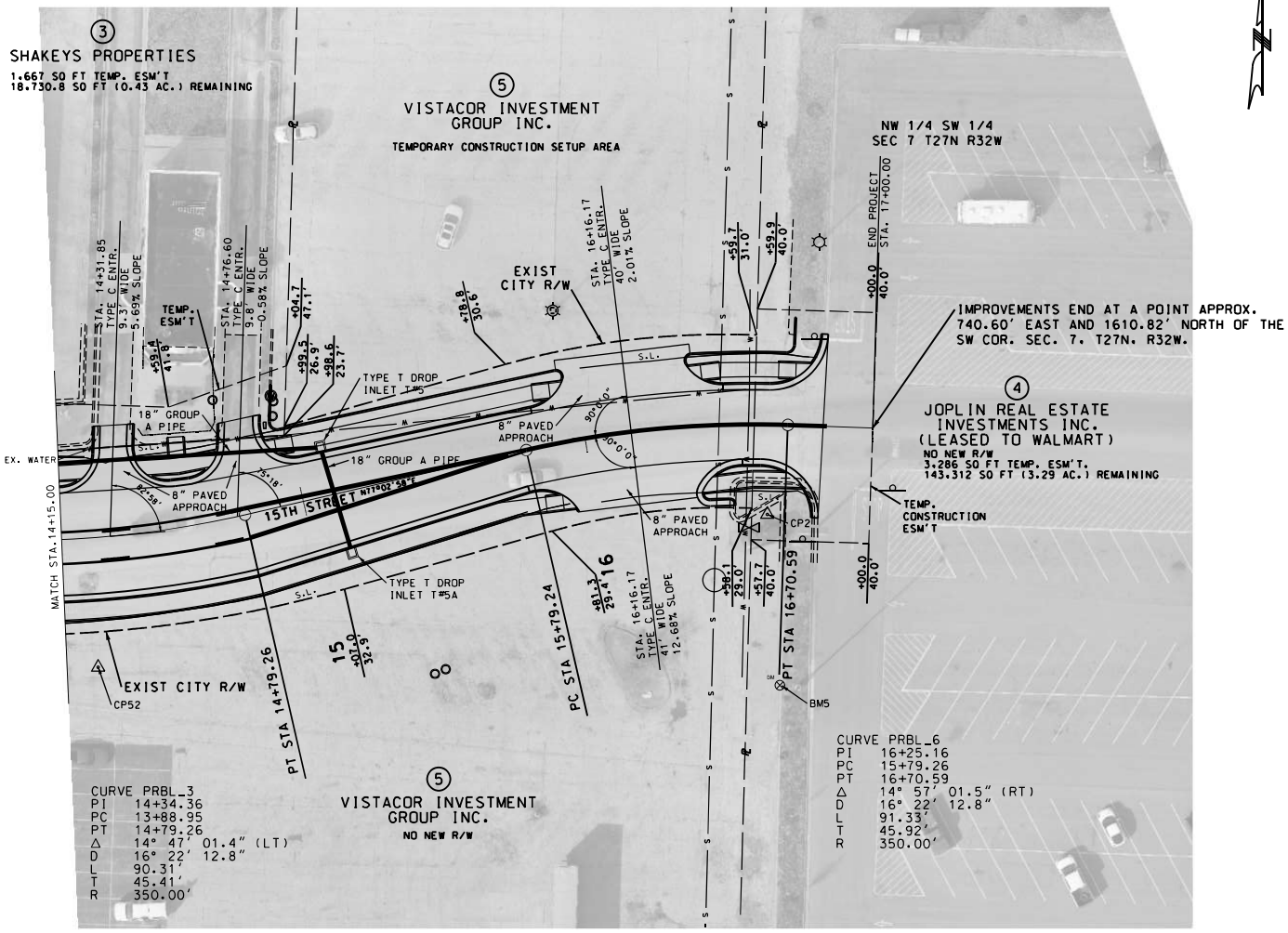
COUNTY
JASPER
JOB NO.
J7S3430
CONTRACT ID.
PROJECT NO.
BRIDGE NO.

DATE	DESCRIPTION

IF A SEAL IS PRESENT ON THIS SHEET IT HAS BEEN ELECTRONICALLY SEALED AND DATED.

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
105 WEST CAPITOL
JEFFERSON CITY, MO 65102
1-888-ASK-MODOT (1-888-475-6636)

ANDERSON ENGINEERING
EMPLOYEE OWNED
ENGINEERS · SURVEYORS · LABORATORIES · DRILLING



SCALE
0 20 40 60

ENTRANCES CONSTRUCTED THROUGH NEW CONTROLLED ACCESS RIGHT OF WAY BETWEEN STA. 137+50.00 TO STA. 143+25.00 MUST BE WIDENED BY PERMIT.

PLAN SHEET
15TH STREET
SHEET 4 OF 7

STATE OF MISSOURI
SEAN LEE MATLOCK
NUMBER PE-2010033
PROFESSIONAL ENGINEER

DATE PREPARED
2/23/2024

ROUTE	STATE
BL49	MO
DISTRICT	SHEET NO.
SW	7

COUNTY
JASPER

JOB NO.
J7S3430

CONTRACT ID.

PROJECT NO.

BRIDGE NO.

DATE	DESCRIPTION

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
105 WEST CAPITOL
JEFFERSON CITY, MO 65102
1-888-ASK-MODOT (1-888-275-6636)

ANDERSON ENGINEERING
EMPLOYEE OWNED
ENGINEERS · SURVEYORS · LABORATORIES · DRILLING

IF A SEAL IS PRESENT ON THIS SHEET IT HAS BEEN ELECTRONICALLY SEALED AND DATED.

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-277 Non-Exclusive Public Rights-of-Way ("ROW") Agreement with ALLO Missouri, LLC, a Missouri limited liability company for the purpose of ALLO installing, maintaining, operating and controlling a fiber optic infrastructure network in the Public ROW for the purpose of offering communications services, including but not limited to wholesale broadband transmission service to Internet Service Providers.

MEETING DATE
August 05, 2024

ORIGINATING DEPT
Planning & Community Development

ATTACHMENTS
Council Bill 2024-277; Non-Exclusive Public ROW License Agreement
ALLO Missouri, LLC

REVIEWED BY
Director of Planning, Development & Neighborhood Services: Troy Bolander; Public Works Director: Dan Johnson; Finance Director: Leslie Haase; City Attorney: Peter Edwards; City Manager: Nicholas Edwards

SUMMARY
This Council Bill approves the Non-Exclusive Public ROW License Agreement

BACKGROUND
April 15, 2024 council approved the Development Agreement between City of Joplin and ALLO Missouri, LLC. As part of the detailed design package, site specific requirements for hardened equipment and structures by specific location were established. This allows for the network design to have explicit attention to redundancy and overall system resilience and considering spatial composition of critical facilities. Hardening refers to the resiliency provided through enhanced protective barriers to the network, safeguarding it from technical or physical damage and ensuring uninterrupted internet access.
The City requested 2 Central Offices be placed with a buried fiber ring connecting the facilities providing redundancy of the Network in the event the primary CO is unable to serve the network. One location will be on the site of City of Joplin Public Works facility at 1301 W 2nd St with a second location at 2749 E 30th St.
The City also requested that the Feeder Rings as well as routes connecting Anchor Institutions which include City Facilities, Public & Private Schools, Colleges and Hospitals, have buried infrastructure connections.

RECOMMENDATION
Staff recommends approval of Council Bill 2024-277, Non-Exclusive Public ROW License Agreement with ALLO Missouri, LLC.

NON-EXCLUSIVE PUBLIC ROW LICENSE AGREEMENT

This Non-Exclusive Public ROW License Agreement ("Agreement") is by and between **The City of Joplin**, a city organized and existing under the laws of the State of Missouri ("City"), and **ALLO Missouri, LLC,** a Nebraska limited liability company ("Licensee").

RECITALS

A. City has jurisdiction over the use of the public rights-of-way in City ("Public ROW").

B. Licensee desires, and City desires to permit Licensee, to install, maintain, operate, and control a fiber optic infrastructure network in Public ROW ("Network") for the purpose of offering communications services ("Services"), including wholesale broadband transmission service to Internet Service Providers ("Broadband Internet Services"), but excluding multichannel video programming services that would be subject to a video services franchise, to residents and businesses in City ("Customers"). The City acknowledges that Licensee may use all or portions of the Network for other lawful purpose, including but not limited to providing Services to residents and businesses outside the corporate limits of the City.

C. The Network consists of equipment and facilities that may include aerial or underground fiber optic cables, lines, wires, or strands; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; vaults; and other similar facilities ("Network Facilities").

AGREEMENT

In consideration of the mutual promises made below, City and Licensee agree as follows:

1. Permission to Use and Occupy.

   1.1. Permission to Use and Occupy Public ROW. Pursuant to the terms of this Agreement and the exhibits thereto (which are incorporated into and made part of this Agreement), City grants Licensee permission to use and occupy the Public ROW (the "License") for the purpose of constructing, installing, repairing, maintaining, operating, and if necessary removing the Network and the related Network Facilities (the "Work"). This Agreement and the License do not authorize Licensee to use any property other than the Public ROW as agreed herein. Licensee's use of any City owned property, including poles and conduits, will be governed under a separate Agreement regarding that use. In accordance with the City's standard policy for communications providers in the City, additional terms and conditions with respect

to Licensee's use and occupancy of the Public ROW to perform the Work are set forth on Exhibit A hereto.

1.2. Subject to Federal. State and Local Law. This Agreement and the License are subject to City's valid authority under federal, state and local laws as they exist now or may be amended from time-to-time, and subject to the conditions set forth in this Agreement. In the event of a material conflict between the terms of local law and the applicable provisions of this Agreement, the applicable provisions of this Agreement will prevail. Federal law is paramount.

1.3. Subject to City's Right to Use Public ROW. This Agreement and the License are subject and subordinate to City's prior and continuing right to use the Public ROW, including constructing, installing, operating, maintaining, repairing, or removing sewers, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal uses.

1.4. Subject to Pre-Existing Property Interests. City's grant of the License is subject to all valid pre-existing easements, restrictions, conditions, covenants, encumbrances, superior claims of title or other property interests that may affect the Public ROW, in addition to those uses permitted by the Joplin Municipal Code. Licensee will obtain at its own cost and expense any required permission or rights as may be necessary to accommodate such pre-existing property interests, so long as such pre-existing interests do not contravene state or federal law.

1.5. No Grant of Property Interest. The License does not grant or convey any property interest.

1.6. Non-Exclusive. The License is not exclusive. City expressly reserves the right to grant licenses, permits, franchises, privileges or other rights to any other individual, corporation, partnership, limited liability company, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity of any nature whatsoever ("Person"), as well as the right in its own name as a City, to use Public ROW for similar or different purposes allowed Licensee under this Agreement.

2. Licensee's Obligations.

2.1. Individual Permits Required. Subject to the requirements as described in Exhibit A hereto, Licensee will obtain City's approval of required individual encroachment, construction, excavation, and other necessary permits before placing its Network

Facilities in the Public ROW or other property of City as authorized. Licensee will pay all lawful processing, field marking, engineering, and inspection fees associated with the issuance of individual permits by City. If there is a conflict between this Agreement and Exhibit A, the terms of the Agreement will be binding on the parties.

2.2. Licensee's Sole Cost and Expense. Licensee will perform the Work at its sole cost and expense, or with any local, State or Federal grants and other funding that may become available to Licensee.

2.3. Compliance with Laws. Licensee will comply with all applicable laws and regulations when performing the Work. Licensee will place its Network Facilities in conformance with the required permits, plans, and drawings approved by City.

2.4. Reasonable Care. Licensee will exercise reasonable care when performing the Work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater.

2.5. No Nuisance. Licensee will maintain its Network Facilities in good and safe condition.

2.6. Repair. Licensee will promptly repair any damage to the Public ROW, City property, or private property if such damage is directly caused by Licensee's Work and no other Person is responsible for the damage (*e.g.,* where a Person other than Licensee fails to accurately or timely locate its underground facilities as required by applicable law). Licensee will repair the damaged property to a condition equal to or better than that which existed prior to the damage. Licensee's obligation under this Section 2.6 will be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work.

2.7. As-Built Drawings and Maps. Licensee will maintain accurate as-built drawings and maps of its Network Facilities located in the Public ROW and will provide them to City upon reasonable request and on a mutually-agreed timetable (e.g., piecemeal following the closure of each permit, or all at once after all the Work is complete), subject to applicable confidentiality protections.

2.8. Network Design. Nothing in this Agreement requires Licensee to build to all areas of City, and Licensee retains the discretion to determine the scope, location, and timing of the design and construction of the Network Facilities.

2.9. Video Service Provider Fee. In accordance with RSMo §67.2689, Licensee shall pay to the City a Video Service Provider Fee that is four and one-half percent (4.5%) of Licensee's gross revenues. Said Fee shall decrease on the following schedule:

a. Beginning August 28, 2024: 4.0%

b. Beginning August 28, 2025: 3.5%

c. Beginning August 28, 2026: 3.0%

d. Beginning August 28, 2027 and continuing thereafter: 2.5%

3. City's Obligations.

Notwithstanding City's obligation as outlined in Section 3 of this Agreement, Licensee's use of Public ROW or City property shall be conducted in a manner consistent with lawful and applicable public easement rights.

3.1. Emergency Removal or Relocation by City. In the event of a public emergency that creates an imminent threat to the health, safety, or property of City or its residents, City and/or other public utilities may remove or relocate the applicable portions of the Network Facilities without prior notice to Licensee. City and any affected public utility will, however, make best efforts to provide prior notice to Licensee before making an emergency removal or relocation. In any event, City and any other public utility benefitting from this provision will promptly provide to Licensee a written description of any emergency removals or relocations of Licensee's Network Facilities. Licensee will reimburse City and any affected public utility for its actual, reasonable, and documented costs or expenses incurred for any such emergency work, the direct cause of which was Licensee's construction, installation, operation, maintenance, repair, or removal of its Network Facilities. Licensee's obligation to reimburse City and any affected public utility under this section will be separate from Licensee's obligation to reimburse City for any other reasonable expense City may incur.

3.2. Relocation to Accommodate Governmental Purposes. If Licensee's then-existing Network Facilities would interfere with planned use of the Public ROW or City property, or property of any other political subdivision (as defined by the IRS) for any governmental purpose as reasonably determined by the City, Licensee will, upon written notice from any of the foregoing entities, relocate its Network Facilities at Licensee's own expense to such other location or locations in the Public ROW as may

be mutually agreed by the parties, taking into account the needs of the governmental purpose and Licensee's interest in maintaining the integrity and stability of its Network. Licensee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances, except that City or any such public entity may not require Licensee to relocate or remove its Network Facilities with less than sixty (60) days' notice.

3.3. Relocation to Accommodate Non-Governmental Purposes. If Licensee's then-existing Network Facilities would interfere with a third-party's use of the Public ROW, Licensee will not be required to relocate its Network Facilities unless the City reasonably determines, and substantiates in writing to Licensee, that a failure to relocate Network Facilities will result in a significant and material detriment or financial loss to the citizens of the City of Joplin. In that event, Licensee shall be entitled to reimbursement of its reasonable costs and expenses incurred in relation to the relocation of its Network Facilities. If there is a dispute between Licensee and the affected third party, City will attempt to mediate the dispute between the parties so as to avoid or mitigate unreasonable delays.

3.4. Post-Removal Restoration of Public ROW. When removal or relocation is required under this Agreement, Licensee will, after the removal or relocation of the Network Facilities, at its own cost, repair and return the Public ROW in which the facilities were located to the same or similar conditions existing prior to the Licensee's construction, and shall comply with the applicable provisions of the Joplin Municipal Code.

4. Contractors and Subcontractors.

4.1. Use of Contractors and Subcontractors. Licensee may retain contractors and subcontractors to perform the Work on Licensee's behalf.

4.2. Contractors to be Licensed. Licensee's contractors and subcontractors used for the Work will be properly licensed under applicable law.

4.3. Authorized Individuals. Licensee's contractors and subcontractors may submit individual permit applications to City on Licensee's behalf, so long as the permit applications are signed by individuals that Licensee has authorized to act on its behalf via a letter of authorization ("Authorized Individuals"). City will accept permit applications under this Agreement submitted and signed by Authorized Individuals,

and will treat those applications as if they had been submitted by Licensee under this Agreement.

5. Defense and Indemnity.

5.1. Obligations. Licensee shall indemnify, protect, defend and hold City and its officers, elected representatives, and employees, harmless from any and all claims, demands, liabilities and costs, including reasonable attorney's fees, costs and expenses, arising from damage or injury, occurring as a result of any acts or omissions of Licensee, its constituent members or partners, their employees, agents, contractors, or other acting through or under Licensee in connection with Licensee's activities connected with this Agreement and/or in connection with Licensee's use of City right-of-way and any services provided under this Agreement.

5.2. Exclusions. Section 5 (Defense and Indemnity) will not apply to the extent the underlying allegation (a) arises from or is related to the negligence or willful misconduct of an indemnified party or (b) is made by City's employee and covered under applicable workers' compensation laws.

5.3. Conditions. Section 5.1 (Obligations) is conditioned on the following: (a) City making its best efforts to promptly notify Licensee in writing of any claim or demand and any allegation(s) that preceded the claim or demand no later than fifteen (15) days after City became aware of the claim or demand; (b) City must reasonably cooperate in the defense at Licensee's request; and (c) City must tender sole control of the indemnified portion of any claim and legal proceeding to Licensee, subject to the following: (i) City may appoint its own non-controlling counsel, at its own expense; and (ii) any settlement requiring City to admit liability, pay money, or take (or refrain from taking) any action, will require City's prior written consent, not to be unreasonably withheld, conditioned, or delayed.

6. Limitation of Liability. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION WILL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE LAW.

7. Performance Bond. In accordance with the terms of Section D(1) of Exhibit A, Licensee will provide City with a performance bond in the amount of fifty thousand dollars ($50,000.00).

8. Insurance.

   8.1. Licensee will carry and maintain liability insurance in the amounts and in accordance with the terms set forth in Section D (2) of Exhibit A.

9. Term. Consistent with the terms of Section F(3) of Exhibit A, this Agreement is effective on the later of (a) the date the last party to sign executes this Agreement and (b) the date on which any required implementing ordinance becomes effective in accordance with its terms and state law ("Effective Date"). The Agreement will expire automatically on the tenth (10th) anniversary of the Effective Date ("Original Term"), unless earlier terminated in accordance with the provisions herein. Thereafter, the Agreement will automatically renew for successive ten (10) year terms (each a "Renewal Term") unless a party provides at least ninety (90) days' prior written notice to the other party of its intent not to renew.

10. Equal Protection**.** If any other provider of Services (without regard to the technology used to deliver such services) is lawfully authorized by the City or by any other State or federal governmental entity to provide such services using facilities located wholly or partly in the public rights-of-way of the City, the City shall within thirty (30) days of a written request from Licensee, modify this Agreement to insure that the obligations applicable to Licensee are no more burdensome than those imposed on the competing provider. If the City fails to make modifications consistent with this requirement, Licensee's Agreement shall be deemed so modified thirty (30) days after the Licensee's initial written notice. As an alternative to the Agreement modification request, the Licensee shall have the right and may choose to have this Agreement with the City be deemed expired thirty (30) days after written notice to the City. Nothing in this Agreement shall impair the right of the Licensee to terminate this Agreement and, at Licensee's option, negotiate a renewal or replacement franchise, license, consent, certificate or other authorization with any appropriate government entity.

11. Termination.

    11.1. Termination by City. City may terminate this Agreement if Licensee is in material breach of the Agreement, provided that City must first provide Licensee written notice of the breach and one hundred eighty (180) days to cure, unless the cure cannot reasonably be accomplished in that time period, in which case Licensee must commence its efforts to cure within that time period and the cure period will continue as long as such diligent efforts continue. No termination under this paragraph will be effective until the relevant cure period has expired.

11.2. Termination by Licensee. Licensee may terminate this Agreement for convenience upon one hundred eighty (180) days' written notice to City.

12. Assignment. Except as set forth below, neither party may assign or transfer its rights or obligations under this Agreement, in whole or part, to a third party, without the written consent of the other party. Any agreed upon assignee will take the place of the assigning party, and the assigning party will be released from all of its rights and obligations upon such assignment.

12.1. Notwithstanding the foregoing, Licensee may at any time, on written notice to City, assign this Agreement or any or all of its rights and obligations under this Agreement:

11.1.1 . to any Affiliate (as defined below) of Licensee;

11.1.2. to any successor in interest of Licensee's business operations in City in connection with any merger, acquisition, or similar transaction if Licensee determines after a reasonable investigation that the successor in interest has the resources and ability to fulfill the obligations of this Agreement; or

1 1.1.3. to any purchaser of all or substantially all of Licensee's Network Facilities in City if Licensee determines after a reasonable investigation that the purchaser has the resources and ability to fulfill the obligations of this Agreement.

12.2. Following any assignment of this Agreement to an Affiliate, Licensee will not remain responsible for such Affiliate's performance under the terms of this Agreement. For purposes of this section, (a) "Affiliate" means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Licensee; and (b) "control" means, with respect to: (i) a U.S. corporation, partnership, or other legal entity, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or (ii) a non-U.S. corporation, partnership, or other legal entity, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (iii) any other Person, fifty percent (50%) or more ownership interest in said Person, or the power to direct the management of such Person.

13. Notice. All notices related to this Agreement will be in writing and sent, if to Licensee to the email addresses set forth below, and if to City, to the City of Joplin Public Works Director, 602 S. Main St. Joplin, MO 64801 with a copy to the City Attorney. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by electronic mail, (c) on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), (d) on the next business day if transmitted

by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.

14. General Provisions. This Agreement is governed by the laws of the state of Missouri. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. This Agreement and the exhibits thereto sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements between the parties relating to its subject matter. This Agreement, including any exhibits, constitutes the entire agreement between the parties related to this subject matter, and any change to its terms, including, but not limited to, amendments or modifications, must be in writing and signed by the parties. The parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each party to this Agreement agrees that Licensee may use electronic signatures.

15. Approval. This Agreement shall not be effective until the execution of this Agreement by the City has been approved by resolution of its City Council.

16. Non-discrimination. Licensee will comply (and similarly require compliance by contractors from time to time used or hired to plan, construct or maintain Network Facilities pursuant to this Agreement) with applicable federal, state, and local laws with respect to prohibitions against discrimination on the basis of race, color sex, age, disability, political or religious opinions, affiliations or national origin.

17. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, and the Licensee shall take appropriate steps to ensure compliance.

18. Reservation of Rights. The parties expressly reserve any rights either of them may have under state or federal law concerning the subject matter of this Agreement and further agree that by execution and performance of this Agreement, neither party shall be deemed to have waived any such rights.

19. Severability. If any part of this Agreement is deemed invalid, illegal, or unenforceable, the remainder of this Agreement will remain in effect.

20. Governing Law, Jurisdiction & Venue. This Agreement shall be governed by the laws of the State of Missouri. Jurisdiction and venue for any dispute between the parties shall lie exclusively in the Circuit Court of Jasper County, Missouri.

[Signature page follows]

EXECUTED this ____ day of _____, 2024.

Signed by authorized representatives of the parties on the dates written below.

ALLO Missouri, LLC

By: _____
Printed Name: _____
Title: _____
Address:
330 S 21st Street
Lincoln, NE 68510

CITY OF JOPLIN, MISSOURI a Municipal Corporation

By: _____
Nicholas Edwards
City Manager

APPROVED AS TO FORM:

_____
Peter Edwards, City Attorney

EXHIBIT A

STATEMENT OF POLICY AND STANDARD SPECIFICATIONS FOR COMMUNICATIONS CABLE ON CITY PROPERTY.

This Statement of Policy and Standard Specifications for Communications Cable on City Property (the "Policy" or "Exhibit A") is hereby appended to, incorporated by reference into, and made a part of that certain Non-Exclusive Public ROW License Agreement by and between the City and Licensee (the "Agreement"). This Exhibit A shall not be amended or modified except by written instrument executed by the City and Licensee in accordance with the terms of Section 14 of the Agreement. Capitalized terms used herein but not otherwise defined shall be ascribed such meanings as are set forth in the Agreement.

SECTION A - AUTHORITY REQUIRED

No person shall use any space above, on or beneath the surface of any street, alley, sidewalk or other public ground within the City of Joplin for the installation, operation and maintenance of any underground fiber optic cable, coaxial cable, or any other communication cable, line or appurtenance, unless such person has received authority therefore granted by agreement approved by Resolution/Ordinance of the City Council or as otherwise provided by the City Code; the City acknowledges that the Agreement satisfies the foregoing requirement in accordance with this Policy and applicable local law. This Policy shall not apply to any cable installed or operated by the holder of any State or City franchise under its terms for telephone or cable communications purposes wherein such telephone, communications, or cable television service is provided to the inhabitants of the City as described in such franchise.

SECTION B - APPLICATION FOR PERMIT

(1) Prior to moving forward with work authorized by Section A of this Policy and for any project of Licensee, the Licensee shall be responsible to secure required approval for any work or segment of work to be performed. Licensee's contractors shall be responsible for securing appropriate excavation and other permits for work performed, which work shall also be subject to this Policy. Application for such approval shall be made to the Public Works Department, and such application shall be in writing, stating specifically the space desired, its length, breadth and depth, the streets, alleys, sidewalks or other public space intended to be used, the use intended to be made thereof, a description of the users if the facility is not to be available to the general public, a description of all users if any conduit is to be shared by a number of users, and the carrying capacity and diameter of the cable or other facilities being installed. In addition thereto, the Public Works Department may request such additional information as they deem reasonable or appropriate for their determination or that of the City Council with reference to such application. All such applications, for which there is no agreement in effect conforming to this Policy and these specifications, shall be referred to the City Council for an agreement to be approved by Resolution prior to the granting of any permit. Other permits (for which such an agreement is in effect) may be granted by the Permits and Inspections Division with the approval of the Public Works Department.

(2) Following initial application and discussions with the Public Works Department concerning the placement of such cable and its appurtenances, the Licensee shall supply accurate drawings sealed by a licensed professional engineer produced to a scale of one (1) inch equaling fifty (50) feet. The plans shall be a detailed plan of the proposed route, with right of way lines and pavement lines shown. Such plans must show typical sections for pavement cuts and crossings, with specific details for conflicts with other utility structures and conduits.

(3) Thirty (30) days after completion of the work, as-built construction drawings, prepared by a qualified outside engineer designated by Licensee, must also be

submitted to the Public Works Department in a pdf file. Updated route maps and required drawings must be provided to the Public Works Department whenever a change is made to the approved cable placement.

SECTION C - CONSTRUCTION SPECIFICATIONS

(1) The work shall be constructed in accordance with plans and specifications approved by the Public Works Department, which approval shall be granted in a competitively neutral and non-discriminatory manner. The Public Works Department will work with Licensee to allow construction of any project in segments as long as in the reasonable opinion of the Public Works Department, the extent of the work in any segment or on multiple segments, will not materially interfere with the public's use of the public right-of-way. All excavations in public streets and right-of-way shall comply with the applicable provisions of the Joplin Municipal Code and all of Licensee's contractors shall comply with all permitting requirements, except that the provisions concerning bonds contained within this Policy shall control.

(a) In those instances that Licensee is desiring to install cable at shallow depths, Licensee's installation shall be controlled by this subsection. It is contemplated that cable pursuant to this Policy shall, if possible, be placed on the property side of the public sidewalk and if there is no sidewalk, it shall be placed on the property side of the curb of the street. In those instances where this is not reasonably feasible in Licensee's discretion, then the Licensee can request specific permission from the City - either in an application for approval to the Public Works Department or as part of a field deviation request - to place the cable between the public sidewalk and the curb of the street. Cable installed pursuant to this subsection shall be buried at a minimum depth of six (6) inches. In no instances shall cable be buried to a depth of less than six (6) inches. Pull boxes and other items shallower than the depth above

specified shall be clearly shown on the completed plans covering the installation work.

(b) In those instances that Licensee cannot install cable needed for its operation pursuant to Section C(1)(a) and must install the cable needed for their operation beneath public streets, sidewalks, or sidewalks, the limitations in this subsection shall apply. Where the cable is located beneath the pavement in all major traffic streets and arterial streets, the minimum depth from the top of the cable to the surface of the ground shall be thirty (30) inches. Cable buried beneath residential streets shall have a minimum depth of twenty-four (24) inches. In no instances shall cable or any other items that are buried in a public street be buried at a depth of less than twenty-four (24) inches. Cable buried beneath sidewalks or drive approaches shall have a minimum depth of fourteen (14) inches from the top of the cable to the surface of the ground. The City and Licensee will cooperatively work together to address potential field exceptions if this minimum depth requirement poses an issue for Licensee. Pull boxes and other items shallower than the depth above specified shall be clearly shown on the completed plans covering the installation work.

(2) All land surfaces and all pavement shall be restored to the same or similar conditions existing prior to the Licensee's construction, and shall comply with applicable provisions of the Joplin Municipal Code. In addition thereto, all established lawns and other earth surfaces which have been disturbed by the installation shall be tamped and seeded, if necessary, unless otherwise specified in the permit.

(3) The City acknowledges and agrees no City permits shall be required for (1) cable drop work that is outside of Right of Way, (2) cable drop work that does not involve the disturbance of hardscape infrastructure (*e.g.*, concrete or asphalt), or (3) cable drop work does not involve any lane closures, shoulder closures, traffic controls, construction staging across roadways, or otherwise impact the normal flow of vehicular pedestrian traffic in a particular area.

(4) All cable buried beneath public streets must be encased in a protective sheath strong enough to avoid damage from the first accidental contact with hand tools. All pavement cuts must be completed in accord with current City Ordinances and specifications.

(5) Prior to the installation of any cable or other equipment in the Public right-of-way that is outside of the public street, Licensee shall be responsible to inform any adjacent property owner of the work that is to be performed by providing at least five (5) days' notice. The City and Licensee will work cooperatively to develop additional communication plans to inform the affected members of the public prior to the construction of a segment by Licensee. Further, Licensee shall make reasonable efforts not to impact the ability of citizens to access any garage that a citizen may have on their residential property.

(6) In the event that Licensee has to maintain, repair, relocate, or replace any cable after its initial installation for any reason, Licensee shall restore all land surfaces and pavement to the same or similar conditions existing prior to the Licensee's work.

SECTION D - BOND, INSURANCE AND PUBLIC LIABILITY

(1) Every applicant for such permit shall file with the City a continuing bond in the amount of Fifty Thousand dollars ($50,000.00) to cover all construction efforts during the term of this Agreement or until Licensee is no longer operating its Communications facilities within the City, whichever is sooner. All bonds and sureties shall be approved by the City before such permit becomes effective. All bonds shall be conditioned that the person to whom such permit shall be issued, and their heirs, successors and assigns, shall save and keep the City free and harmless from any and all loss or damages or claims for damages arising from or out of the use of the space therein mentioned (except those arising from the City's negligence or intentional misconduct), and for the maintenance of the street, alley, sidewalk or other public ground in such condition that the street, alley sidewalk or other public ground shall at all times after the completion of the work be safe for public use; for the full and complete protection of the City against any and all

litigation arising directly as a result of the granting of such permit or anything done under such permit (except to the extent previously specified and/or to the extent such liability arises from the City's negligence or intentional misconduct), and for the removal of any cable or other facility buried by the Licensee to the extent that the same is required by the City, at the sole expense of the Licensee or its appropriate heirs, successors or assigns; for the faithful performance and observance of all of the terms and conditions of this division and the conditions and applicable provisions of the Joplin Municipal Code; and such bond shall also be conditioned for the prompt and full payment of the compensation required by this division, or by any other Ordinance, during the period said permit shall be outstanding. Following the issuance of such permit, and as long as the use continues in such public space, the owners of the permitted facility from time to time shall also be responsible to the City for the performance of all of the conditions of the bond above described. In the event that the City reasonably concludes that the surety on such bond given for such permit issued hereunder has become legally insufficient and shall so declare in writing sent by regular U.S. Mail to the applicant, a new bond for such permit shall thereupon be filed with a new surety to be approved by the City in an amount not to exceed the amount set forth in Section D (1) above.

(2) In addition to the bond, the applicant shall at all times have in full force and effect a policy of liability insurance in the minimum amount of One Million Dollars ($1,000,000.00) for the injury or death of any number of persons per occurrence, and Two Hundred Fifty Thousand Dollars ($250,000.00) for property damage per occurrence. Such coverage shall name the City of Joplin as an additional insured, as its interest may appear, for all acts and omissions of Licensee, its agents and contractors arising out of or in any way connected with the permit and their use and occupation of the public right of-way. All such policies and certificates in insurance shall be issued by companies authorized to do business in the State of Missouri and shall be approved by the City of Joplin Legal Department prior to the commencement of such use and provide that any such policy shall not be cancelled

until thirty (30) days' written notice of such cancellation shall have been filed with the City Clerk. Any termination or lapse of such insurance will automatically revoke any permit issued pursuant to this division.

SECTION E - INTERFERENCE WITH OTHER PUBLIC FACILITIES, RELOCATION, IDENTIFICATION OF COMMUNICATIONS CABLE

(1) No person, whether permitted under this policy or otherwise shall ever use the space under any street, alley, sidewalk or public ground in such manner as to materially interfere (as reasonably determined by the City of Joplin Public Works Department) with any traffic control or energy cable, sewer, gas or water conduit, or any other public facilities or utilities lawfully in such street, alley, sidewalk or other public space unless by consent of the City specially granted in the permit. Whenever any Licensee under this policy is given permission to relocate any existing public facility, such relocation shall be entirely at the cost and expense of the Licensee. All such relocation work shall be subject to the control of the City of Joplin or other public entity controlling such public facility, and all such work shall be done promptly in accordance with the directions of the Public Works Department so as to minimize the interruption of the public's use of such facilities.

(2) All work undertaken by the Licensee which requires inspection by the City shall be performed subject to the requirement that the City be fully reimbursed for its reasonable and documented inspection costs, whether the same are part of the initial installation or the relocation of either Licensee's facilities or those belonging to the City or any other public utility service.

(3) In addition thereto, all permits governed by these specifications are granted subject to the requirement that whenever any work is initiated by the City of Joplin, the State of Missouri, or any other political subdivision (as defined by the IRS), the facilities of the applicant must be relocated within a reasonable time, not to exceed sixty (60) days from written demand for the same, in order to reasonably accommodate such public use. If the Licensee fails to undertake or cause the relocation of its facility within a reasonable time not to exceed sixty (60) days from written demand for the same, then the City of Joplin retains the right to relocate or allow relocation of the cable and other appurtenant facilities and to

assess and collect the reasonable and documented cost from the Licensee or any other owner of the facility if the same fail to relocate the cable in a timely manner; provided, however, that City shall not undertake the foregoing remediation steps, including relocation and assessment of costs, prior to sixty (60) days from written demand for the same Notice as set forth above.

(4) The Licensee shall, at its own cost, maintain an agent available on a twenty four hour per day, seven day per week basis, to provide to the City, any public entity, or any other persons, permitted to do work in the street right-of-way, detailed and accurate information concerning the locations, whether in plan, section or profile, or any combination of the same, of the Licensee's cable, appurtenances or other facilities. This requirement can be satisfied by the Licensee's utilization of a local utility locating service maintained by others, or this provision may be satisfied by any other local, competent agency.

(5) The Licensee, its heirs, successors and assigns, shall at all times remain responsible for injuries caused by its cable, its appurtenances and other facilities injured by any party and due to any inaccuracies in the information given with respect to such facility's location. The City of Joplin, and its contractors, shall be responsible for injuries to the Licensee's facilities only to the extent that such injuries result from their negligence or misconduct.

SECTION F - REVOCATION OF PERMIT; REMOVAL OF FACILITIES

(1) A permit issued under this Policy may be revoked by Resolution of the City Council upon a finding by the Council of such facts shown below and a failure of Licensee to cure such breach within ninety (90) days (or such later date as may be mutually agreed upon in writing by the parties) of sending written notice to Licensee by the City Clerk, for the following reasons:

a) Failure of the Licensee to pay the compensation required within thirty (30) days after the payment due date;

b) Failure or neglect of the Licensee to comply with the material provisions of these specifications or any provision of the Joplin Municipal Code applicable to the permit and the use and occupancy of right-of-way.

(2) Upon revocation of the permit, the permit holder shall forthwith, at the option of the City, either remove or abandon in place the cable and appurtenances for which the permit was granted. All directly buried cable, however, may be abandoned in place at the option of the permit holder. All removals and restoration of the public facilities shall be at the cost of the Licensee, and the Licensee shall hold the City of Joplin free from any and all encroachments or claims of any type. Such facilities which are not removed by the permission of the City of Joplin shall become the property of the City of Joplin upon the City's certification that the Licensee has complied with all requirements of abandonment or cancellation with respect to the specific segment of cable involved. Whenever the Licensee has failed or refused to undertake such removal, abandonment and restoration within six (6) months after such revocation of any such permit, then the City may cause such work to be done and the cost of such work shall be paid by the Licensee and become a lien against the property of the Licensee.

(3) Upon a determination by the City Council that the space for which the permit is granted is needed for other public use and that no relocation within the specific right-of-way is an available, reasonable alternative, then the rights under said permit shall be transferred, to the extent possible by the co-operation of the City and the permit holder, to another specific nearby right-of-way. Such relocation work shall be accomplished by the permit holder at its costs within the time frame specified in Section E (3) hereof. This Agreement shall continue in force and effect for a period of ten (10) years from the execution date of this Agreement, and may thereafter be renewed for additional term periods as may be agreed upon by agreement of the parties, unless terminated by either party by giving written notice of its intention to do so not less than ninety (90) days prior to the end of any period.

COUNCIL BILL NO. 2024-277 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with ALLO Communications LLC, a Nebraska limited liability company, for the purpose of ALLO installing, maintaining, and operating facilities for communications related services including but not limited to wholesale broadband transmission service to Internet Service Providers within the City's Rights-of-Way and ensuring compliance with the City's requirements of such use of City property; authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin; and setting a date when this Ordinance shall become effective.

WHEREAS, in the Smarter Joplin Roadmap expand internet access and improve connectivity was identified as a primary concern in a resident survey; and

WHEREAS, the Broadband Gap Analysis Report identified the specific challenges with connectivity in the city of Joplin including issues with availability, capacity and affordability; and

WHEREAS, the COVID-19 Pandemic has shown that residents need to be connected to be able to work, educate, and receive healthcare from home; and

WHEREAS, for the City of Joplin to remain competitive in the areas of business attraction and retention, transportation, education, health care and other sectors that rely on the exchange of data and information;

WHEREAS, Council Bill 2024-264 approved the Development Agreement with ALLO Missouri, LLC to construct a fiber optic network that is able to offer high quality, fiber optic broadband to substantially all residents, anchor institutions, and business in the City that are accessible using public rights-of-way and similar public easements, ways and extensions and additions thereto.

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

Section 1. That the Agreement between the City of Joplin and ALLO Missouri LLC, for the purpose of ALLO installing, maintaining, operating and controlling a fiber optic infrastructure network in Public ROW and ensuring compliance with the City's requirements of such use of City property, a true and accurate copy of said agreement being attached hereto and incorporated as Exhibit "A", be, and the same is, hereby approved.

Section 2. That the City Manager, or his designee, is hereby authorized and directed to execute said Rights-of-Way Agreement or agreement in substantially similar form, by and on behalf of the City of Joplin, Missouri.

Section 3. That this Council Bill shall have an effective date of August 20, 2024.

Passed by the Council of the City of Joplin, Missouri, this _____ day of_____, 2024, by a vote of_____.

_____

ATTEST: Keenan T. Cortez, Sr., Mayor

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Council Bill 2024-277

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-278 First Amendment to Agreement for Consulting Services and Work Authorization 3 with Alvarez & Marsal Infrastructure and Capital Projects, LLP for professional administrative services for Phase 2 implementing broadband and connectivity solution for the City of Joplin with a not to exceed amount of $836,897 for the scope of work detailed in Work Authorization 3.

MEETING DATE
August 05, 2024

ORIGINATING DEPT
Planning, Development and Neighborhood Services

ATTACHMENTS
Council Bill 2024-278: First Amendment to Agreement for Consulting Services and Work Authorization number 3
2022-RFP-10 Broadband Deployment Consultant Services
Alvarez and Marsal Response to RFP Broadband Deployment Consultant Services
Alvarez and Marsal Contract dated July 5, 2022

REVIEWED BY
Director of Planning, Development & Neighborhood Services: Troy Bolander; Finance Director: Leslie Haase; City Attorney: Peter Edwards; City Manager: Nicholas Edwards

SUMMARY
This Council Bill approves the First Amendment to Agreement for Consulting Services and Work Authorization No 3 with Alvarez and Marsal for Phase 2 work detailed within Work Authorization 3 in the not to exceed amount of Eight Hundred Thirty-Six Thousand, Eight Hundred and Ninety Seven and 00/100 dollars ($836,897.00) for professional consulting services for a broadband connectivity solution.

BACKGROUND
July 05, 2022 council approved Ordinance 2022-114 for the Master Agreement limited to Phase 1 Consulting Services for an amount of Seven Hundred Ninety Seven Thousand Six Hundred Eighteen and 00/100 dollars ($797,618). Understanding the complexities of the network build, A&M delivered a financial strategy to effectively optimize public and private sector investment. They developed, released, and analyzed the City's request for information (RFI) to garner market interest in a future P3; as well as a request for proposal (RFP). During this process they also conducted comprehensive City stakeholder engagement sessions to identify targets of opportunity for improved resident/business connectivity while considered optimization of City operations, public infrastructure asset connectivity, Smarter Joplin solutions.
As part of the detailed design package, site specific requirements for hardened equipment and structures by specific location can be established. This allowed for the network design to have explicit attention to redundancy and overall system resilience and considering spatial composition of critical facilities.

April 15, 2024 council approved Ordinance 2024-264 for the Development Agreement with ALLO Missouri, LLC to construct a fiber optic network that is able to offer high quality, fiber optic broadband to substantially all residents, anchor institutions and businesses within the city limits of Joplin.

FUNDING SOURCE

This Council Bill includes a budget amendment to the general fund use tax for this item.

RECOMMENDATION

Staff recommends approval of Council Bill 2024-278, First Amendment to Agreement for Consulting Services & Work Authorization 3 with Alvarez and Marsal for Phase 2 in the additional not to exceed amount of Eight Hundred Thirty-Six Thousand, Eight Hundred Ninety-Seven and 00/100 dollars ($836,897.00) for professional consulting services for broadband connectivity solutions.

REQUEST FOR PROPOSALS



2022-RFP-10

BROADBAND DEPLOYMENT CONSULTANT SERVICES

Submission Due No Later Than 5:00 PM, May 2, 2022

City of Joplin
Planning, Development and Neighborhood Services Department
602 South Main Street
Joplin, MO 64801

(417) 624-0820 Ext. 1570

REQUEST FOR PROPOSALS

Rev. 3/31/2022

Written proposals subject to the conditions herein stated and attached hereto, will be received at 602 S. Main, Joplin, MO 64801, ATTN: Troy Bolander, until Monday, May 2, 2022, by 5 p.m. Central time for providing the services as described below for the City of Joplin.

DESCRIPTION

The City of Joplin is soliciting proposals from qualified firms with expertise in the areas of stakeholder engagement, telecommunications and information technology, Smart Cities strategic planning project and implementation, federal/state funds management and economic modeling to develop a Fiber Deployment Plan to guide the design, construction, implementation, maintenance, management, regulation, funding of a fiber network backbone, as well as negotiating with ISP providers for access and any other Smart City related technologies in accordance with this Request for Proposal. The City intends to award a Consulting Service Agreement for such efforts. The City is hereby requesting written proposals to provide administration of broadband (fiber) deployment and Smarter Joplin initiatives. The City is requesting professional services to assist in the planning, development, operation and execution of Smarter Joplin broadband and other projects. This shall include technology development and deployment of broadband as a connectivity solution for Joplin, including data analysis, strategic development and planning that focus on resilience, access, affordability and transparency.

The City will receive proposals from Proposers having specific experience and qualifications in the area identified in this solicitation. For consideration, proposals for this project must contain evidence of the Proposer's experience and abilities in the specified area and other disciplines directly related to the proposed service. Other information required by The City may be included elsewhere in this solicitation.

Bidding firms must have a thorough understanding of broadband deployment and federal and state funding opportunities, application processes and any cross-cutting regulations required for the use of said funds.

BACKGROUND

Joplin experienced a devastating E5 tornado in 2011. With the benefit of federal and state disaster recovery funds, the City developed a Capital Plan to address specific recovery projects. An outcrop of those efforts pointed to a need for a resiliency plan for future events. In 2019 the Smarter Joplin Roadmap was developed with considerable stakeholder involvement. Connectivity issues rose to the top regarding access, dependability, speed and affordability. The COVID pandemic hit, and the issues identified in 2019 came to the forefront as the ability to communicate virtually was limited and often inadequate, including educating remotely, providing telehealth, ability to work from home, and conducting business. In 2021, a Broadband Gap Analysis was commissioned and limitations in broadband were specifically identified and solutions offered. Both documents are available on the City of Joplin's website at https://www.joplinmo.org/1124/Smarter-Joplin. These documents will serve as references in developing a Fiber Deployment Plan.

FORMAT FOR STATEMENT OF QUALIFICATIONS

General Instructions

Qualifications shall be prepared SIMPLY AND ECONOMICALLY, providing a straightforward, CONCISE description of the Respondent's ability to meet the requirements of this RFP. Emphasis shall be on the quality, completeness, clarity of content, responsiveness to the requirements, and an understanding of the City's needs as it relates to the administration of various funding sources and associated program objectives.

Responses shall be a maximum of forty (40) printed pages. No 3-ring binders please. The cover, table of contents, divider sheets, resumes and submission form do not count as printed pages. Respondents shall carefully read the information contained in this RFP and submit a complete response to all requirements and questions as directed. Incomplete qualifications will be considered non-responsive and subject to rejection. Responses and any other information submitted by Respondents in response to this RFP shall become the property of the City.

The City will not compensate Respondents for any expenses incurred in Response preparation or for any presentations that may be made, unless agreed to in writing in advance or required by law. Respondents submit the Responses at their own risk and expenses.

Responses that are qualified with conditional clauses, alterations, items not called for in the RFP documents, or irregularities of any kind are subject to rejection by the City, at its option.

The City makes no representations of any kind that an award will be made as a result of this RFP or subsequent interview or recommendation. The City reserves the right to accept or reject any or all Responses, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFP when deemed to be in the City's best interest.

Responses shall consist of answers to the questions asked in the RFP. It is not necessary to repeat the question in the Responses; however, it is essential to reference the question number with the corresponding answer.

Failure to comply with requirements contained in this RFP may result in the rejection of the Responses.

EVALUATION PROCEDURE AND FACTORS TO BE CONSIDERED IN THE EVALUATION PROCESS:

Qualifications of Proposers

The Proposer may be required before the award of any contract to show to the complete satisfaction of the City that it has the necessary facilities, ability, staffing, and financial resources to provide the services specified herein in a satisfactory manner.

The Proposer may also be required to give a past history and references in order to satisfy The City in regard to the Proposer's qualifications. The City may make reasonable investigations deemed necessary and proper to determine the ability of the Proposer to perform the work, and the Proposer shall furnish to the City all information for this purpose that may be requested. The City reserves the right to reject any offer if the evidence submitted by, or investigation of, the Proposer fails to satisfy the City that the Proposer is properly qualified to carry out the obligations of the

contract and to complete the work described therein. Evaluation of the Proposer's qualifications shall include:

A. The knowledge, ability, capacity, skill, financial and other necessary resources to perform the work or provide the service required;
B. The ability of the Proposer to perform the work or provide the service promptly or within the time specified, without delay or interference;
C. The character, integrity, reputation, judgment, experience, and efficiency of the Proposer, and;
D. The quality of performance of previous contracts or services.
E. Overall costs of provided services.

A selection committee made up of qualified City staff shall review and evaluate all responses. The selection committee will have only the response to the solicitation to review for selection of finalists. It is therefore important that respondents emphasize specific information pertinent to the work. Final authority of the selection ultimately lies with the Joplin City Council and is subject to not being in agreement with the recommendation from the selection committee.

Factors to be considered are as follows:

A. **Company Profile: (10 Points)** Scoring will emphasize management, organization, availability of key staff, skill, financial and other necessary resources to perform the work or provide the services required.

Respondents must provide a listing of the personnel who would be assigned to this project, including an explanation of the project team's organizational structure and each person's area of responsibility. CV's or resumes for each professional assigned to this project are also required. Please include an organizational chart of the local team and any associated decision-makers' part of any review or approval process within your firm.

B. **Commencement: (10 Points)** Scoring will emphasize ability to commence services promptly or within the time specified, without delay or interference.

A timeline is required to be provided by the respondent.

C. **Experience: (20 Points)** Scoring will emphasize direct experience and success with the items listed in the proposal as well as character, integrity, reputation, judgment, and efficiency of the Proposer.

Respondent must provide three (3) examples of experience relative to development and execution of a Fiber Deployment Plan including the name, address, and telephone number of a client contact for each project. Examples proving the ability to coordinate multiple projects within administration team should be included and will be considered in the scoring. Scoring will also emphasize experience which includes securing private, local, state and federal sources with knowledge of requirements of each source, and the firm's results of past governmental review and monitoring and/or direct team experience.

D. **Approach Strategy: (20 Points)** Scoring will emphasize project approach for each service requested and proven implementation and/or management strategies by the team for the local City government. Services requested are found in the "Specification for Services Requested" section of this RFP. Responders must have sufficient and qualified staff immediately available to contract solicitations and to enter into and manage any components targeted by the RFP.

   Additionally, please explain the local presence that your firm will have in the community and assigned staff frequency in situ. It will be paramount to have firm expertise available for staff.

E. **References: (10 Points)** Scoring will emphasize quality of references and the quality of performance of previous contracts or services.

F. **Price: (30 Points)** Proposers shall provide hourly information by title/function assigned to the project as shown below:

Department	Title/Function	Average Hourly Rate for Contract Term	Estimated Number of FTE Hours	Total Cost
			Grant Total	**$**

After the selection process, the Selection Committee shall negotiate on behalf of the City of Joplin, a contract based on the fees and fee structure as submitted in the proposal. The City of Joplin reserves the right to delete elements or expand the scope of the contract based on the negotiated fees at the time of contract letting.

SPECIFICATIONS OF SERVICES REQUESTED:

A. **General Statement:**

   The City of Joplin requests proposals for professional telecommunications and information technology services to assist with the development of a Fiber Deployment Plan, access potential funding sources, negotiate with potential carriers and ISPs and other services related to the deployment of broadband.

B. **Specific Specifications: The City requests the following services to be provided:**
   - The ability to collaborate with City leadership and its partners.

- Assist City staff in developing a Fiber Deployment Plan that would serve as a roadmap for developing and executing projects.
- Seek and obtain private, local, state and/or federal funding sources for the execution of a Fiber Deployment Plan.
- The Consultant shall perform certain services necessary for development and initial execution of the Fiber Deployment Plan.
- The City's goal in developing a Fiber Deployment Plan is to document a detailed, actionable plan to build a carrier-class, highly available, redundant fiber network that provides Joplin institutions, businesses and residential areas with high-speed Internet access, data and Smart City services, thereby improving the quality of life of our constituents, boosting economic development and enhancing the infrastructure of Joplin.
- Validate the selected business model, identifying and vetting of any possible public-private partnership opportunities, as required.
- Investigate potential public-private partnership opportunities and options for Joplin with specific, actionable proposals modeled in the business plan if applicable.
- Conduct a business case analysis including return on investment (ROI) timeline, funding type and financing options for a phased build, staffing requirements and pro forma financial statements.
- Prepare, as necessary, governance, ownership and management guidance including zoning and Right of Way (ROW) ordinances, potential legal ramifications and roadblocks to the Plan, leasing and asset sharing guidelines and templates.
- Development of monitoring plans and execution of said plans.
- Review and update the City's Smarter Joplin Roadmap that was presented to the Joplin City Council in September 2019.
- Manage program operations for all available programs.
- IT oversight and Web Development as required.
- Throughout the course of completing the tasks and deliverables in this RFP it is expected that the Consultant will assess and verify the appropriateness of the model and build direction outlined by the City above or recommend an alternative model and build approach.
- Training City Staff on best practices related to broadband deployment.
- Other support and consulting functions as required by the City.

GENERAL INFORMATION AND REQUIREMENTS

Minimum Effective Period of Proposal

All proposals are required to remain in effect for at least 120 days from the date submitted to the City for review. This should be taken into account during budget preparations.

Public Information

All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure.

MBE/WBE

Please state whether your firm or any potential sub-contractors participate in the Minority and Women Business Enterprise Initiative (MBE/WBE).

Type of Contract

The final contract form shall be negotiated between and be mutually acceptable to the parties. Any contract(s) resulting from this effort will be negotiated at the sole discretion of City of Joplin (the "City"), and/or their agents.

Clarifications and Interpretations

Any clarifications or interpretations of this RFP that materially affect or change its requirements will be provided by the City as an addendum. These items must be received by the City 10 days prior to the proposal due date to allow for proper notification. All such addenda issued by the City shall be issued before the proposals are due as part of the RFP, and all Respondents shall acknowledge receipt of and incorporate each addendum in its responses. All additional information or addenda will be posted on the city website at http://joplinmo.org/index.aspx in the left hand column under Bids/Projects. Please check regularly and/or sign up to receive notifications.

Respondents shall consider only those clarifications and interpretations that the City issues by addenda five (5) days prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on the City and should not be relied upon in preparing responses.

No Lobbying

Respondent acknowledges and accepts that from the Date of Issuance of the RFP until a final decision has been made by the City, it will not take any action, make any effort or support or engage others on its behalf to take actions or efforts with attempt to influence the decision making process for this RFP in favor of the respondent. This includes direct contact with the City Council, City Manager and staff of the City of Joplin, the selection committee, board members of the Joplin Chamber, and others who may be engaged in the process. Additionally, the Respondent acknowledges and accepts that it will not attempt to use public communication such as the news media, social media, etc. as a means of attempting to influence the RFP evaluation or decision-making process. Any respondent violating any of the aforementioned conditions is subject to immediate disqualification from consideration.

Deadline for Submission of Interest

Responses will be accepted no later than the time and location described below:

TIME/DATE: Received by 5:00 PM on Monday, May 2, 2022.
RFPs received after this time and date will not be accepted.

TO: City of Joplin
Attn: Troy Bolander, Director
Planning, Development & Neighborhood Services
602 S Main Street
Joplin, MO 64801

One (1) Original with (5) identical copies of the Response in print and one PDF copy provided on USB drive. An original signature must be included on the "THE CITY OF JOPLIN REQUEST FOR PROPOSAL SUBMISSION FORM" document submitted with original document.

Late received Responses will be returned to the Respondent unopened. Properly submitted Responses by the Respondents will not be returned. Hard copies of RFP materials must be enclosed in a sealed envelope (box or container) addressed as noted above; the package must clearly identify the submittal deadline and that the response is for the American Rescue Plan Administration and Management.

Point of Contact
The City designates the following person as its representative and Point-of-Contact for this RFP:

Patty Heagel, Assistant Director Planning, Development & Neighborhood Services
Joplin City Hall
602 S Main Street, 4th Floor
Joplin, MO 64801
(417) 624.0820 Ext 1570
pheagel@joplinmo.org

Respondents shall restrict all contact with the City and direct all questions regarding this RFP, including questions regarding terms and conditions and technical specifications, to the Point of Contact.

Evaluation of Qualifications
The evaluation of the responses shall be based on the requirements described in this RFP. All properly submitted responses will be reviewed, evaluated, and ranked by the City, with input from the committee as noted above. The City will reserve the right to include an interview with the Proposer if the City deems it necessary to aid in the ranking process. If the City requests an interview from a select number of the proposals it is required of those Proposers to meet with the selection team at a time to be specified. The City will contact those Proposers with the top ranked proposals that best meet City's needs. The number of selected proposals will be determined by the selection committee. Each of these will be required to meet with the selection team at a time to be specified. The proposals will be

reviewed in depth with the selection team at that time. The City will contact the proposer that best meets The City's needs and attempt to negotiate an agreement that is acceptable to both parties.

City's Reservation of Rights
The City may evaluate the responses based on the anticipated completion of all or any portion of the project. The City reserves the right to reject any and all Responses and re-solicit for new Responses, or to reject any and all proposals and temporarily or permanently abandon the Project. The City makes no representations, written or oral, that it will enter into any form of agreement with any respondent to this RFP for any project and no such representation is intended or should be construed by the issuance of this RFP.

Acceptance of Evaluation Methodology
By submitting its Responses to this RFP, Respondent accepts the evaluation process and acknowledges and accepts that the determination of the "most qualified" firm(s) will require subjective judgments by the City.

No Reimbursement for Costs
The Respondent acknowledges and accepts that any costs incurred from the Respondent's participation in this RFP shall be at the sole risk and responsibility of the Respondent.

Eligible Respondents
Only individual firms or lawfully formed business organizations may apply (this does not preclude a Respondent from using consultants). The City will contract only with the individual firm or formal organization that submits its Responses.

Reference Checks
Respondent acknowledges and accepts that through the RFP evaluation process reference checks and background investigation may be conducted as a part of the due-diligence process.

Award and Disbursement of Funds
The City will negotiate a contract/agreement with the Proposer to assist in prioritizing needs, optimizing funding available and executing proposed activities according to the requirements of the funding streams. The City will fund the proposal through pandemic sources.

Disposition of Proposals
All submitted proposals become the property of The City.

Nonconforming Terms and Conditions

A proposal that includes terms and conditions that do not conform to the terms and conditions in the RFP is subject to rejection as non-responsive. The City reserves the right to permit the Proposer to withdraw nonconforming terms and conditions from its proposal prior to a determination by the City of non-responsiveness based on the submission of nonconforming terms and conditions.

Debarment

By submitting a proposal, the Proposer certifies that it is not currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Missouri or the Federal government; and that it is not a person or entity that is currently debarred from submitting proposals for contracts issued by any political subdivision or agency of the State of Missouri or the Federal Government. Respondents must be registered at SAM.GOV to be eligible.

THE CITY OF JOPLIN
REQUEST FOR PROPOSAL SUBMISSION FORM
2022-RFP-10 BROADBAND DEPLOYMENT CONSULTANT SERVICES

Company Alvarez and Marsal

Address 655 15th Street, NW Suite 600 | Washington, DC 20005

Contact Person Riz Shah

Telephone Number 202-412-5066

Email riz.shah@alvarezandmarsal.com

NOTE TO RESPONDENTS: SUBMIT ENTIRE SECTION WITH RESPONSE. THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH THE RESPONDENT'S QUALIFICATIONS. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE QUALIFICATIONS MAY RESULT IN REJECTION OF THE QUALIFICATIONS.

SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED QUALIFICATIONS OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS, WHICH MAY RESULT FROM THE SUBMISSION OF RESPONDENT'S QUALIFICATIONS, AND THE RESPONDENT MAY BE REMOVED FROM ALL PROPOSER LISTS. A FALSE CERTIFICATION SHALL BE DEEMED A

MATERIAL BREACH OF CONTRACT AND, AT THE CITY'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT.

By signature hereon, Respondent acknowledges and agrees that (1) this RFP is a solicitation for Interest and is not a contract or an offer to contract; (2) the submission of Responses by Respondent in response to this RFP will not create a contract between the City and Respondent; (3) Neither the City or the Committee, or any of their representatives, have made a representation or warranty, written or oral, that one or more contracts with the City will be awarded under this RFP; and (4) Respondent shall bear, as its sole risk and responsibility, and cost which arises from Respondent's preparation of a response to this RFP.

By signature hereon, Respondent offers and agrees to furnish to the City all of the products and/or services more particularly described in its Responses, and to comply with all terms, conditions and requirements set forth in the RFP documents and contained herein.

By signature hereon, Respondent affirms that they have not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant, elected officials, leadership or staff of the City or partner organizations in connection with the submitted Responses.

By signature hereon, the Respondent hereby certifies that neither the Respondent nor the firm, corporation, partnership or Developer represented by the Respondent, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this state, or the Federal antitrust laws, nor communicated directly or indirectly the Responses made to any competitor or any other person engaged in such line of business.

By signature hereon, Respondent represents and warrants that:

Respondent is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of the RFP;

Respondent has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions and requirements of the RFP;

By signature hereon, Respondent certifies that the individual signing this document and the documents made part of the RFP is authorized to sign such documents on behalf of the company and to bind the company under any agreements or other contractual arrangements, which may result from the submission of the Response.

By signature hereon, Respondent affirms that no compensation has been received for participation in the preparation of the specifications for this RFP.

By signature hereon, Respondent affirms that it has not violated any of the noted No-Lobbying provisions or specification contained in this RFP.

By signature hereon, Respondent agrees to defend, indemnify, and hold harmless the City and the Committee, all of their officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages and liabilities, arising out of, connected with, or resulting from any acts or omissions of Respondent or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of any agreements or other contractual arrangements which may result from the submission of these Responses.

Submitted and certified this 2 day of May 2022.

BY: Riz Shah

Signature Date: 5/2/2022

Name (Printed): Riz Shah

Title: Managing Director

Signature: Riz Shah Riz Shah Digitally signed by Riz Shah Date: 2022.05.02 12:19:20 -04'00'

MARK BID ENVELOPES: "#2022-RFP-10 BROADBAND DEPLOYMENT CONSULTANT SERVICES" Received by 5:00 PM, Monday, May 2, 2022.

AMENDMENT NO. 1
AGREEMENT FOR BROADBAND DEPLOYMENT CONSULTING SERVICES

THIS AMENDMENT TO AGREEMENT FOR BROADBAND DEPLOYMENT CONSULTING SERVICES (the "Amendment") is made and entered into the 20th of August, 2024, by and between the City of Joplin, Missouri, a Missouri Municipal Corporations, hereinafter referred to as "City" and Alvarez & Marsal Infrastructure & Capital Projects, LLC, a Delaware Limited Liability Company, hereinafter referred to as "Consultant," and with City and Consultant being referred to collectively as "the Parties."

RECITALS

A. The City currently engages the Consultant to the terms and conditions of the Agreement for Consulting Services dated July 5th, 2022.

B. The Parties desire to amend the Consulting Agreement to extend the term set forth therein and to modify scope and compensation arrangement set forth therein, as provided in greater detail below.

AGREEMENT

1. **Definitions.** Unless otherwise defined, capitalized terms used herein shall have the meanings assigned to them in the Agreement for Consulting Services.

2. **Consideration.** Section 1(a) of the Agreement for Consulting Services is hereby amended from:

"City agrees to engage Consultant for performance, and Consultant agrees to perform, the services described in Exhibits A and B, as authorized in any Work Authorization (the "Services")

and restated in its entirety to read as follows:

"The City agrees to engage Consultant to perform the services described in Exhibits A (City of Joplin Request for Proposal) and Exhibit B (Alvarez and Marsal Response to RFP), and to the services described herein to support the City in providing services identified in Phase 2 of the Consultant's technical proposal and based upon the results achieved in Phase 1 of the Agreement for Consulting Services, as authorized in any Work Authorization (the "Services"). The Consultant will provide services in accordance with five program categories and subtasks.

Category 1: **Coordination & Conflict Avoidance**

• Coordinate with Public Works and other City departments to understand relevant construction/infrastructure projects for the duration of broadband infrastructure deployment (including scope, schedule, stakeholders) to support conflict avoidance discussions with ALLO Fiber

• Attend and participate in the City's monthly utility coordination meeting, identifying conflicts and opportunities to coordinate between various projects

• Lead weekly coordination meetings between ALLO Fiber, City, and other stakeholders involved in planning and construction of fiber network to track actions, coordinate resolution of those items, and identify/mitigate risks
• Conduct active monitoring and reporting to City leadership (weekly, monthly, emergent)

Category 2: Permitting

• Support conduit specification development/review for broadband development
• Support City in the development of Right-of-Way agreement with ALLO Fiber
• Support discussions with Liberty (e.g., makeready) to help ensure timely turnaround on pole access, as needed

Category 3: ARPA Compliance

• Develop process for ARPA reporting with City departments and communicate requirements/coordinate with ALLO Fiber
• Determine information requirements, timelines, and formats and coordinate to ensure information is consolidated, reviewed, and provided to the City in a timely manner
• Review information received from ALLO Fiber, provide to City departments for internal and external reporting

Category 4: Document & Data Management

• Develop data management process to support document retention, public communications, ARPA compliance reporting, and internal status updates
• Manage document database
• Support public communications and reporting initiatives including marketing, status/progress updates, etc.

Category 5: Public Engagement & Communications

• Support City IT with development and maintenance of reporting dashboard (if applicable) containing status updates and other critical information
• Support City Council updates and other City reporting requirements
• Opportunistically identify additional grant funds to support the delivery of infrastructure associated with broadband
• Support City departments to explore smart city and other technology/connectivity solutions as network is constructed

3. **Consideration.** Section 1(c) of the Agreement for Consulting Services is hereby amended from:

"City agrees to pay Consultant in accordance with the prices and terms set forth in Exhibit B for work authorized by City upon presentation and proper invoice and inspection by City of work completed by Consultant. However, in no event shall the total payment for the scope of work exceed $797,618.00"

and restated in its entirety to read as follows:

The City agrees to pay Consultant in accordance with the prices and terms set forth in Exhibit B for work authorized by City upon presentation of proper invoice and inspection by City of work completed by Consultant. However, in no event shall the total payment for the scope of work exceed $1,634,515.00.

The initial cost proposal provided by the Consultant of $797,618.00 included services throughout Phase 1 of the technical proposal dated May 2, 2022. As written, within the Consultant's response:

"Request for Proposals, Specifications of Services Requested, Section B, bullet 4 explains that the City is searching for a Consultant to "perform certain services necessary for the development and initial execution of the Fiber Deployment Plan." In response to the City's request, we have assumed that the initial execution services stop at defining detailed requirements for the selected Fiber Deployment Plan. Because the size, scope, scale, partnerships, and detailed requirements will be defined in Phase 1, we have not included a price for work anticipated Phase 2, which would include all services after the "initial execution of the Fiber Deployment Plan". Phase 2 services which are outlines in the preceding sections include detailed engineering/design, specification development, procurement/contracting support, and oversight of fiber plan construction. We look forward to working with the City to define and price services for Phase 2 after the detailed requirements for the Fiber Deployment Plan have been established and agreed"

The additional $836,897.00 covers the scope of services outlined in Phase 2.

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

REVIEWED FOR APPROVAL

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

_____
Peter Edwards, City Attorney

AGREED AND ACCEPTED:

CITY OF JOPLIN

By: _____
Nicholas Edwards
City Manager

ALVAREZ & MARSAL INFRASTRUCTURE & CAPITAL PROJECTS LLC

By: _____
Rob Reid
Managing Director

CITY		CONSULTANT	
City of Joplin 602 S. Main Street Joplin, MO 64801		Name: Alvarez and Marsal Infrastructure and Capital Projects LLP	
		Address: 655 15th Street, NW Suite 600, Washington, D.C. 20005	
Attention: Troy Bolander, Director		Attention: Rob Reid, Managing Director	
Department: Planning | Development and Neighborhood Services Troy Bolander, Director		Phone: 770-490-9931	Email: rreid@alvarezandmarsal.com
Phone: 417-624-0820 Ext. 1570	Email: tbolande@joplinmo.org		

WORK AUTHORIZATION NO. 3
TO MASTER AGREEMENT FOR BROADBAND DEPLOYMENT CONSULTANT SERVICES

This Work Authorization dated August 20, 2024 incorporates the terms and conditions of the MASTER PROFESSIONAL SERVICES AGREEMENT between Alvarez and Marsal Infrastructure and Capital Projects LLP ("A&M") and CITY OF JOPLIN (referred to as "City" or the "Client"), dated July 5, 2022 (the "Agreement"), and applies to the performance of consulting services described in Exhibit A (the "Services"). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement.

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

2. **Addition to Services.** The parties may agree to add to the Consultant services or delete therefrom activities of a similar nature to those set forth in Exhibit A. All such directives and changes shall be in written form (a "Change Order") and prepared and approved by the City and, once accepted by the Consultant, countersigned by the Consultant. The Consultant shall not be obligated to undertake such changed activities unless and until the mutual execution of a Change Order.

3. **Term**. The services of the Consultant shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed by the date set forth in Section 2 of ***Exhibit A***.

4. **Costs not to Exceed**. The Consultant providing services shall be required to always keep track of the number of hours billable under this contract, up to the not-to-exceed total labor costs. The Consultant shall notify the City if Consultant anticipates that the contract amount may be exceeded, to determine whether or not the City is prepared to increase the total compensation. The Consultant shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment**. Client will compensate A&M under the terms in ***Exhibit A*** for the Services performed under this Work Authorization. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Consultant under the terms of this Work Authorization Number 3 exceed the sum of $836,897.

6. **Insurance.** Without limiting any of the other obligations or liabilities of the Consultant, the Consultant shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City against hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. It shall be the responsibility of the Consultant to always maintain the required insurance coverage during the term of the Contract. Failure of the Consultant to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance shall be filed with the City within 24 hours of the time that this contract is signed by the Consultant. The required endorsements shall be provided within forty-five days after the applicable policies renew. Consultant shall provide thirty (30) days written notice prior to cancellation or non-renewal of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to: City of Joplin – Planning, Development and Neighborhood Services, 602 S. Main, Joplin, MO 64801

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

As of January 1, 2022, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation…….Statutory coverage per RSMo 287.010 et seq. Employer's Liability.. $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least One Million Dollars ($1,000,000.00) per occurrence with a Two Million ($2,000,000) aggregate with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Consultant agrees to cause its insurer to include City as an additional insured on such insurance policy, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for non-owned and hired vehicles, with limits of at least One Million Dollars ($1,000,000) for all claims arising out of a single accident or occurrence and at least Two Million Dollars ($2,000,000) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Excess Liability Coverage – to provide additional coverage to the Commercial General Liability and Auto Liability. The policy shall carry at least $5,000,000.00 (Five Million) of coverage.

e. Subcontracts. In case any or all of this work is sublet, the Consultant shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Consultant shall require all subcontractors with whom it enters into a contract to perform work on this project to protect the City through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Consultant and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract in the form of current edition ACORD© certificate of insurance forms.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Consultant, upon 10 days written notice, to execute a contract
addendum whereby the Consultant agrees to provide, at a price not exceeding Consultant's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. All other terms and conditions of the original Agreement shall remain in effect.

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

REVIEWED FOR APPROVAL
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

_____
Peter Edwards, City Attorney

CITY OF JOPLIN

By: _____
Nicholas Edwards
City Manager

_____
Troy Bolander
Director of Planning, Development & Neighborhood Services

Alvarez and Marsal Infrastructure and Capital Projects LLP

By: _____
Rob Reid
Managing Director

EXHIBIT A - WORK AUTHORIZATION NO. 3

1. **General:** The Scope of Services identified in this Work Authorization are associated with Phase 2 of the proposed approach for the Broadband Deployment Consultant Services.

2. **Term:** All work tasks under this Work Authorization shall be completed no later than August 20, 2026, unless specifically agreed to in writing by the City of Joplin, within the one-year period of performance for the contract.

3. **Scope of Services and Budget:** For this work authorization, the scope of services include the activities noted in the following task areas:

Coordination & Conflict Avoidance

- Coordinate with Public Works to understand relevant City capital projects and existing/future conduit for the duration of broadband infrastructure deployment (including scope and schedule) to support conflict discussions with ALLO Fiber
- Attend and participate in the City's monthly utility coordination meeting, identifying conflicts and opportunities to coordinate between various projects
- Lead weekly coordination meetings required between ALLO Fiber and City to track actions, coordinate resolution of those items, and identify/mitigate risks
- Conduct active monitoring and reporting to City leadership (weekly, monthly, emergent)

Permitting

- Support conduit specification development/review for broadband development
- Support City in the development of Right-of-Way agreement with ALLO Fiber
- Support discussions with Liberty (e.g., makeready) to help ensure timely turnaround on pole access, as needed

ARPA Compliance

- Develop process for ARPA reporting with City Finance and communicate requirements/coordinate with ALLO Fiber.
- Receive and review reports from ALLO Fiber and provide to City Finance

Document & Data Management

- Develop data management process to support document retention, public communications, ARPA compliance reporting, and internal status updates
- Manage document database, support public communications, support updates to City Council, and provide internal status updates

Public Engagement & Communications

- Support City IT with development and maintenance of dashboard of construction schedule (if applicable), status updates, critical information.
- Support City Council updates and other City reporting requirements, as needed
- Opportunistically identify additional grant funds to support the delivery of infrastructure associated with broadband
- Support City departments to explore technology and connectivity solutions as network is constructed

The estimated labor costs are $836,897 (see **4. Payment/Fee Schedule**). We assume that reasonable travel and other direct costs critical to the completion of our work with the City of Joplin will be billed to the City at cost and will be reimbursed monthly.

4. **Payment/Fee Schedule:** The "Total Cost" estimate provided above is intended to be for representative purposes only and is based on our current understanding of the City's desired scope of services, the status of broadband planning and implementation efforts, and the availability of required City and external resources needed to complete the work as outlined in the RFP for Broadband Consulting Services and those needs listed in Section 3 above.

Labor Category	Average Hourly Rate
Managing Director	$350.00
Senior Broadband Advisor	$350.00
Senior Director	$290.00
Director	$250.00
Manager	$225.00
Senior Consultant	$185.00
Consultant	$150.00
Principal	$350.00
Broadband Strategy Consultant	$265.00
Senior Engineer, P.E.	$205.00
Engineering Coordinator	$160.00
Project Manager	$120.00
Senior Engineering Representative	$105.00
Engineering Designer	$94.00
Project/GIS Designer	$75.00
Support Staff III	$65.00
Support Staff II	$55.00
Support Staff I	$45.00

The City will compensate Consultant for the services performed and expenses incurred through the term or effective date of any termination of this Work Authorization.

A. Consultant will bill on a time and expense basis. Consultant shall invoice the City one time per month unless more frequent invoicing is requested by the City and all invoices will include necessary supporting documentation as defined below. Consultant will be paid within thirty (30) days of the submission of its invoice.

B. If the City does not pay invoiced amounts within sixty (60) days of receipt, A&M may suspend or terminate the Services upon five (5) days written notice if payment is not received within such period. The City shall be responsible for taxes, if any, imposed on the Services or on this engagement, other than taxes imposed by employment withholding for A&M's personnel or on A&M's income or property.

Each Invoice must detail, at minimum, all of the following:

- The labor amount requested by LCAT with associated hours
- Any travel expenditure and other direct reimbursement requested and for which documentation and receipts, as required are attached to the invoice
- The total amount requested (all line-items) for the Invoice Period

REQUEST FOR PROPOSAL: BROADBAND DEPLOYMENT CONSULTANT SERVICES

Date of Submission:
May 2, 2022

City of Joplin
602 South Main Street
ATTN: Troy Bolander
Joplin, MO 64801

Submitted by:

Alvarez & Marsal
Infrastructure & Capital Projects
655 15th Street, NW Suite 600
Washington, DC 20005

Riz Shah
Managing Director
E-mail: riz.shah@alvarezandmarsal.com
(202) 412-5066

This proposal contains information that shall not be disclosed outside of City of Joplin and shall not be duplicated, used, or disclosed in-whole or in-part for any purpose other than to evaluate this proposal. The information subject to this restriction is contained in all pages/sheets herein. This proposal does not constitute a contract to perform services. Any engagement arising out of this proposal will be subject to the execution of a formal engagement contract, including our standard terms and conditions and fees and billing rates established therein.

May 2nd, 2022

City of Joplin
602 South Main Street
Joplin, MO 64801

Dear Mr. Bolander,

On behalf of Alvarez & Marsal (A&M), we appreciate the opportunity to present this proposal for the City of Joplin's (the City) Solicitation for Broadband Deployment Consultant Services. A&M is uniquely qualified to help the City increase connectivity across the community.

We consider the City of Joplin our hometown and we are committed to ensuring that this project supports the future economic opportunities and enhances the quality of life of the community. We see this as a once in a generation opportunity to not only enhance the connectivity of each resident and neighborhoods but the opportunity to improve resiliency, support sustainability, and promote Joplin's economic competitiveness within the region, state, and US market. Members of our A&M team were retained by the City of Joplin to serve as the administrator for the City's Community Development Block Grant - Disaster Recovery funds received following the EF-5 tornado and ever since then we are emotionally and professionally connected to the community. It will be an honor to continue to partner with the City.

We have unmatched knowledge of the City's broadband current state and industry best practices, allowing our team to make an impact on Day 1. Our proposed A&M Team live our principles in bringing the best team committed to working with you. We have carefully gathered teaming partners (i.e., Finley Engineering, BB Civic Solutions, Olsson, and CCG) who have the character, integrity, reputation, judgment, industry, and local experience needed to make this transformation a success. We have first-hand knowledge of the Smarter Joplin Roadmap and recent connectivity gap analysis. We are committed to engaging each of the resources presented in this proposal on-the-ground in Joplin ensuring that the right experience is represented on day-to-day operations. Our professionals are not just exceptional at what they do, they are also exceptional people who are ready to work with you, as we have in the past.

We know how to bridge funding gaps. This project is not just about the technical broadband resources, but there is a responsibility to the City that the project team has the experience needed to identify, secure, and thoughtfully manage funds required to complete this highly complex infrastructure project. Our team members have performed planning, program management, monitoring/compliance, and closeout services for federal recovery programs, most recently with CARES Act, Consolidated Appropriations Act, and ARPA grant funds. We not only have intimate familiarity with the laws and grant-specific regulations, but also understand how those laws and regulations have changed and been implemented and enforced over the years. This will help ensure that the City's deployment of broad is not only technically reasonable but also in compliance with the funding sources.

Based on what the City has detailed in the statement of work, we are confident that in collaboration with the City, we can make a difference in the local neighborhoods that you serve. We thank you for the privilege to serve the City of Joplin and we are committed to helping you and your residents become more connected.

Sincerely,

Riz Shah Digitally signed by Riz Shah
Date: 2022.05.02 14:26:02 -04'00'

Riz Shah
Managing Director

Table of Contents

Our Understanding of Joplin's Needs 1
1.0 COMPANY PROFILE 3
2.0 COMMENCEMENT 7
3.0 EXPERIENCE 8
4.0 APPROACH STRATEGY 11
5.0 PRICE 24
6.0 RESUMES 26

OUR UNDERSTANDING OF JOPLIN'S NEEDS

The City of Joplin (the City) is rapidly advancing towards a critical community transformation in connectivity and progressing forward in its Smart City Roadmap vision. In the wake of the infrastructure devastation caused by the 2011 E5 tornado that impacted Joplin and the resulting rebuilding and rehabilitation capital planning, community resilience to future events became one of the City's highest priorities. The digital connection of people and public infrastructure was identified as one the greatest challenges to the City's goal of a Smart City.



Figure 1: A&M's Highlighted Joplin Experience

We have seen countless instances where the COVID-19 pandemic has brought to the surface critical infrastructure flaws in real-time, broadband connectivity being just one of them as our culture became overly reliant on accessible and reliable internet services. When acutely assessed, the pandemic cause major concern due to the shift in day-to-day business requiring strong internet delivery (e.g., virtual medicine, telecommuting, video meetings) and subsequently issues of access and dependability were raised to the highest levels of our national government. When chronically assessed, the fiber backbone plays an integral part to our public infrastructure not just from a Smart City vantage point but from an infrastructure performance standpoint. We are confident that with a strong broadband network, Joplin can provide its community with greater socio-economic development and the foundation to improve programs such as healthcare and education.

With a Fiber Deployment Plan already drafted, it is critical that City can validate, refresh, and incorporate critical business and financial analysis to prepare the City to move into the execution phase. Joplin cannot act in a silo with their deployment plan and using partnerships is critical in the overall success of the deployment itself. The importance of transparency is critical when undertaking infrastructure investments affecting multiple stakeholders and using diverse funding sources to execute the work.

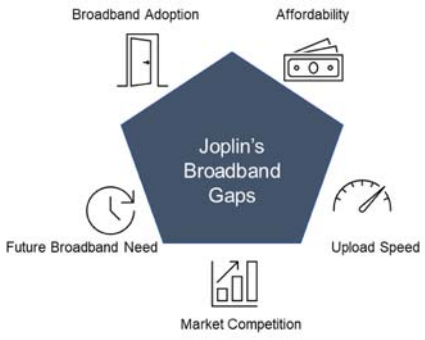


Figure 2: Joplin's Broadband Potential Challenges

Understanding the City has partnered with U.S. Ignite, provides Joplin the platform to become a leader in community broadband deployment and the ability to document best practices that can be used by

communities facing similar challenge across the country. A&M is excited for the City and achieving these goals.

Key Risks

Understanding there are risks associated with fiber deployment is critical from a project and program management perspective. Anticipation and planning around risk is crucial to the success of this implementation. Initially identified risks can be categorized as:

- **Financial Risk:** Joplin could inherently carry more financial risk due to owning a portfolio of new fiber assets.
- **Execution Risk:** Due to Missouri statute and regulations limiting municipalities from providing telecommunication services, there is a risk in achieving progress.
- **Competitive Risk:** Existing commercial providers could drive the market in their favor due to ability to upgrade network.
- **Do-Nothing Risk:** If Joplin does nothing regarding their Smart City and Broadband goals and waits for the private sector to deliver the network, they may be left behind compared to their peer communities in terms of the ability to execute on economic development fronts where fiber networks and broadband are deciding factors for acquisition and retention of business and industry.

A&M is the team the City needs to help achieve these Smart City goals while mitigating against the economic risks. A&M experts have deep experience across the capital infrastructure lifecycle, from planning & investment strategy, through construction and into the operation & maintenance of the asset, servicing public clients across all infrastructure industries including broadband and telecommunications. We are confident that the A&M project team's values align with our broader understanding of Joplin needs (see **Figure 3**).

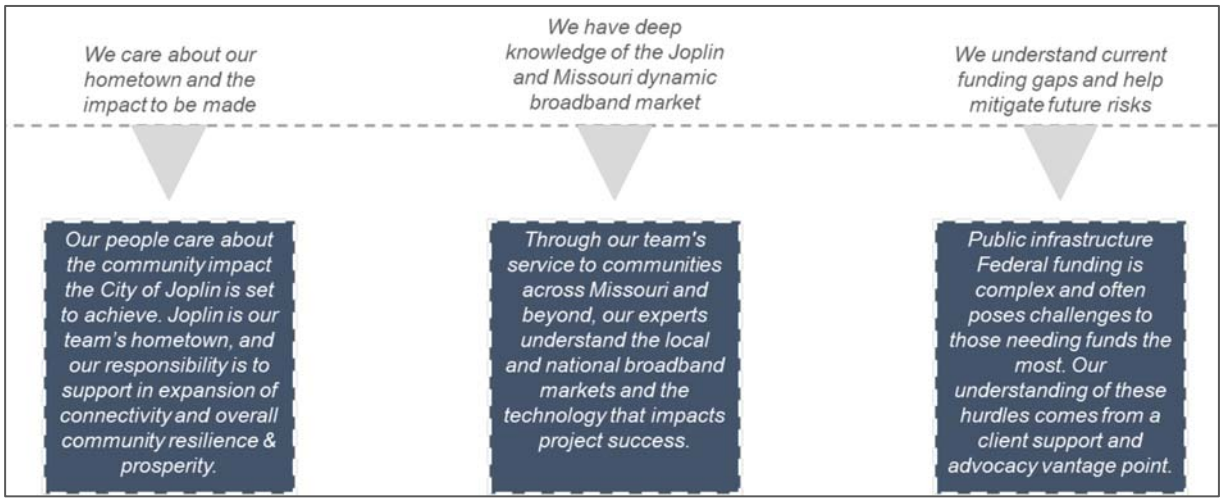


Figure 3: A&M's Values and Approach Aligned with the City's Priorities

In the following sections of our proposal, we highlight our teaming partners, our approach, our qualified and experienced project team, and our corporate experience.

1.0 COMPANY PROFILE

In 1983, Tony Alvarez II and Bryan Marsal founded A&M to provide radically different advice and hands-on support geared toward organizations facing mission-critical operational and financial hurdles—situations demanding leadership, action, clarity, objectivity, and results. They combined their skills and experience in public accounting and financial crisis environments and paved the way for a new specialty area: turnaround management, crisis management, and performance improvement for companies and governments for the benefit of their stakeholders and constituencies.

A&M is focused on the performance improvement of our government clients and delivers five key services through a pragmatic and forward-looking approach. We help our clients:

- Tackle industry-specific challenges
- Manage stakeholder expectations
- Drive financial innovation
- Strengthen service delivery
- Improve internal operations & transparency
- Execute fiduciary services over grants and other federal funds

A&M is a Bronze Partner in good standing of the National Governor's Association (NGA) Partner Program since its inception. The NGA Partner Program provides unique opportunities for companies to demonstrate their commitment to governors and to support innovative leaders solve the challenges facing governments.

A&M's Core Principles

A&M believes in the power of diverse teaming to solve complex problems, create value, and drive change and we decide to deliver projects who meet these same criteria. Our practice group humbly wants to help change the world. We see our professionals' differences as strengths and are committed to fostering a culture of inclusion guided by A&M's Core Values of Integrity, Quality, Objectivity, Fun, Personal Reward, and Inclusive Diversity. Inclusive Diversity runs through how we recruit, develop employees, conduct business, and support our client, as demonstrated below.

> *"[A&M's progress] was extraordinary. I've never seen anything like it."* – **Kate Brown,** Governor of Oregon

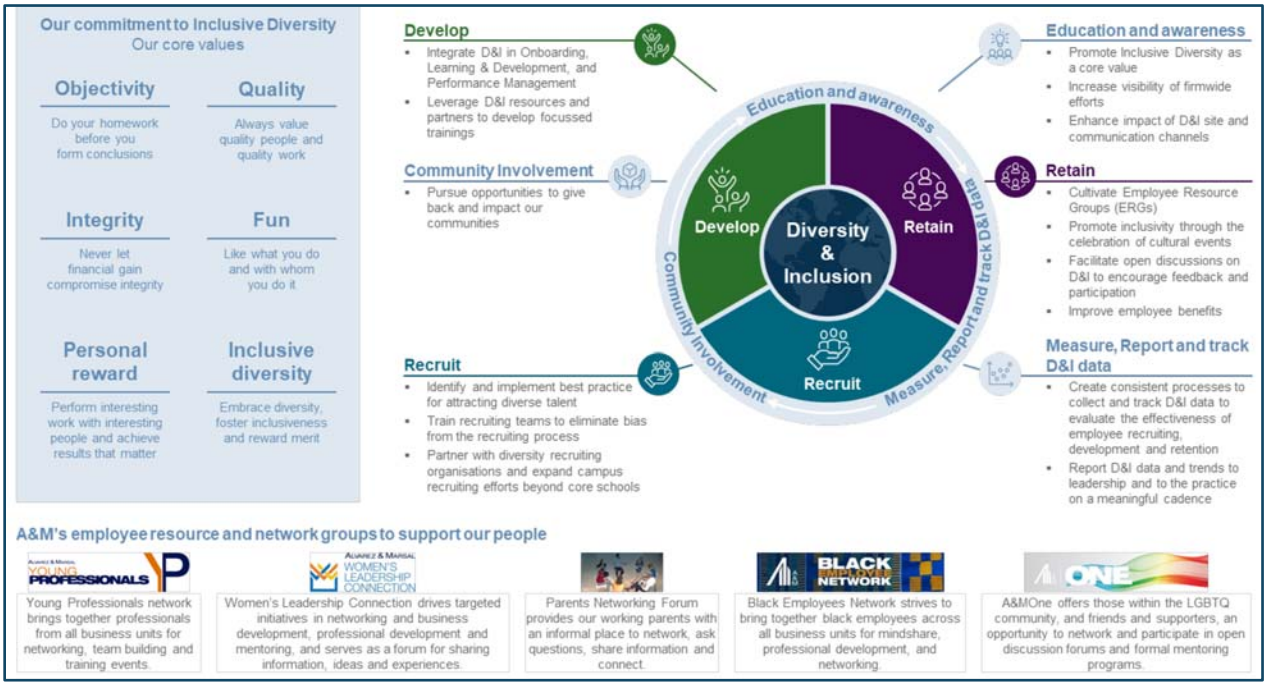


Figure 4: A&M's Core Principles

Our Teaming Partners

Complementing A&M's experience is a cadre of skilled teaming partners, each recognized as leaders in their field. We selected our teaming partners to:

- Ensure we have local experience on the City's priorities and perspectives to help design the strategy and approach, always keeping the "stakeholders' lens" at the table.
- Complement A&M's experience with broadband technical and engineering experience to help design and deliver a customized solution that meets the needs of this project.
- Provide the City with a diverse team of seasoned experts in various broadband topics such as risk assessment and identification, compliance monitoring, training and knowledge transfer, and other critical areas. Our team includes a nationally recognized SDVE, a leader in Smart City solutions, an industry leading firm in broadband services with specific-Joplin experience, and a local engineering firm with a dedicated partnership with the City.

FINLEY ENGINEERING
INTEGRITY INTO EVERYTHING

Finley Engineering (Finley) is a full-service engineering consultancy with a unique position to serve both the Broadband and Energy industries. Finley has a successful history of providing expertise in communications technology and energy engineering services for a wide variety of clients such as independent telecom providers, electric cooperatives, municipalities, competitive providers, large carriers, and government entities. Finley supported the City of Joplin in the delivery of its Broadband Gap Analysis in 2021.

Olsson is a nationally recognized, employee-owned engineering and design firm with a rich history of success. The Olsson team maintains a dedicated Telecommuniations team made up of more than 75 engineers and technicians and have designed 17,500+ miles of fiber and conduit in last five years. At Olsson we consider Joplin our hometown, as seen with our dedication in our local office. Our team worked tirelessly alongside city staff and residents to complete more than 20 infrastructure projects after the devastating EF5 tornado of 2011.

CCG is a full-service telecom consulting firm, specializing in a broad array of services that are needed by broadband providers. CCG was founded by Doug Dawson, who is on our project team, in in 1997. Since then, they have grown to become the largest telecom consulting company in the country in terms of clients. Since inception they have worked with over 1,000 clients, among those clients are over 400 municipal clients, with the others being a mix of fiber overbuilders, telcos, cable companies, and wireless companies. CCG has assisted many of the largest and most successful municipal clients in entering the broadband business including places like Lafayette, LA and Chattanooga, TN.

The B2 Civic Solutions team, led by smart city practitioner and thought leader Bob Bennett, has developed a replicable model for identifying, planning and resourcing smart city solutions for communities of all sizes. From his time as CInO of Kansas City in 2017/18, Bob advised the City of Joplin on fiber deployment projects including technical, project management, and funding strategies for P3s integration of digital equity measures. Twenty-first century citizens will not wait for cities to modernize; they expect results now. B2 Civic Solutions helps deliver them.**Named among Top 30 Veteran Owned Businesses in KCMO region by KC Business Journal in 2020 and 2021** The firm is also a Missouri Service Disabled Veteran Enterprise (SDVE).

The Proposed Project Team

As the City takes on complex infrastructure projects in the public space such as broadband deployment, it is critical to have a proper balance between technical, financial, and strategy experts. The A&M Team is that. Broadband is just one component of Joplin's infrastructure improvement portfolio and as such, our team is ready to support full integration of outputs from the Fiber Deployment Plan into the greater Smarter Joplin Roadmap and other capital planning efforts taken on by the City.

Our team's organizational structure and approach are simple and straightforward aligning to the infrastructure lifecycle along with utilizing subject matter experts (SMEs) in areas that deserve specific consideration during this broadband deployment. Under the A&M Team's structure, Joplin can feel supported in each turn this deployment takes through our fully integrated and experienced team of engineers, grants specialists, financial analysts, public outreach, and more, who are prepared to be on-the-ground.

We look forward to discussing and refining this approach with the City, depending on the progress to-date and if the City has specific preferences on how work should be executed and organized.

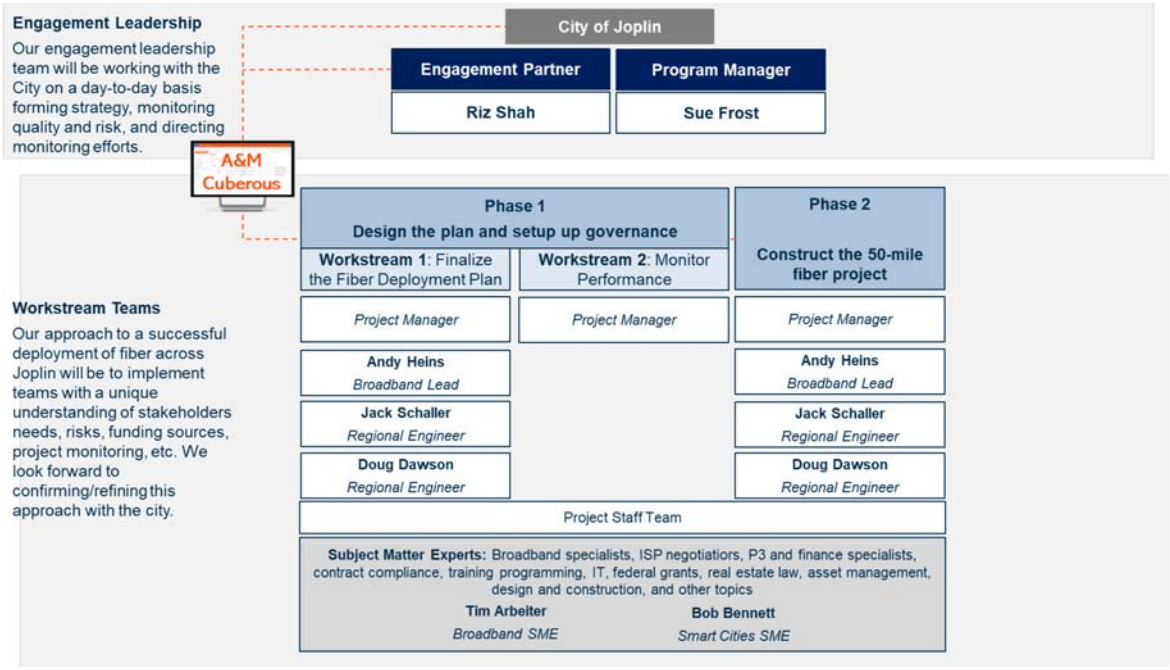


Figure 5: Proposed Project Team

In the table below, you will find brief bios for each of our key project team. All the team members we propose to support Joplin are highly experienced from successfully operating in highly dynamic environments. We trust you will find their 'always on' approach to team collaboration and developing solutions very refreshing and critical to the success of this city-wide initiative. Full resumes for engagement leadership as well as additional engagement team members are provided in **Appendix A**.

Project Team Bios	
Riz Shah *Engagement Partner*	For more than 20 years, Riz has been entrusted to help clients respond to unexpected crises following incredibly challenging and tragic impacts on communities and businesses. From crisis response through resilience, Riz has supported clients through the entire response and recovery lifecycle and advises clients in their immediate-, short- and long-term strategic decisions. Riz has worked with HUD CDBG-DR, FEMA PA, FHWA, FTA, EDA, and other grant programs through his support of recovery programs such as the City of Joplin, Missouri (2011 Tornado), Colorado DHSEM (2013 floods), Governor's Office of Storm Recovery New York (Hurricane Sandy), Harris County, Texas (Hurricane Harvey), Department of Economic Development, Puerto Rico (Hurricanes Maria and Irma), South Asian Earthquake Relief (2005 Earthquake), and Deautsche Bank recovery (9/11).

Sue Frost *Program Manager*	With over 15 years of transportation and infrastructure experience, Sue has supported organizations seeking to make informed decisions on portfolio optimization and project prioritization, evaluating business processes and technology solutions, designing solutions to manage the lifecycle of assets, and establishing governance controls to monitor and manage risks and performance.
Andy Heins *Fiber Lead*	Andy leads strategic discussions and planning with clients across multiple markets and initiatives, from broadband planning, feasibility and implementation to energy integration and planning. Andy is a veteran of the telecommunications industry and began his career at Finley in early 2009. Prior to joining Finley, Heins was the General Manager of Alma Communications Company in Missouri. While with Alma, Heins assumed various management and operations roles, and in 2006 deployed the first 100% Fiber-to-the-Home (FTTH) network in the State of Missouri
Doug Dawson *Negotiations Lead*	Doug has nearly 50 years of experience in the telecom industry with a keen focus on feasibility studies, financial business models/forecasts, strategic planning, and **negotiation support with ISPs**. Doug has a passion to help clients launch new businesses, open new markets, and launch new products – and that is still the bulk of our business today.
Jack Schaller *Engineering Lead*	Jack has over 20 years of engineering experience. Prior to joining Olsson, Mr. Schaller served as the Assistant Public Works Director for the City of Joplin where he was responsible for Capital Improvement Projects including those from the tornado in 2011.
Tim Arbeiter *Broadband SME*	Tim has over 20 years of multi-faceted infrastructure expertise. He has extensive knowledge of the broadband arena and has helped to deliver strong economic growth across the state of Missouri. His focus is the identification and definition of broadband programs including building measurable objectives, strategic planning, feasibility studies analysis, and other initiatives. Previously, Tim was the Director of Broadband Development for the Missouri Department of Economic Development.
Bob Bennett *Smart Cities SME*	Bob served twenty-six years in the US Army. Following his active duty, he served as Chief Innovation Officer of Kansas City, Missouri for almost four years. Bob is a strategic advisor for Smart City solutions and has develop a replicable model for identifying these opportunities, including **critical negotiations with internet provider experience**.

2.0 COMMENCEMENT

Our team is fully prepared to be on-the-ground the day on the project is awarded, without delay or interference. When the project is awarded, we will work quickly with the City to negotiate the terms and conditions; and defer to the City's preference for a kickoff date. This project is a priority for everyone that is presented in the proposal, so we are committed to working with the City's preferred timeline to commence the project.

We know that the City is eager to see impact of this project, so we wanted to highlight some key milestones in our proposed timeline for project delivery. During the kickoff meeting, we will collaborate with the City to finalize the detailed project schedule.

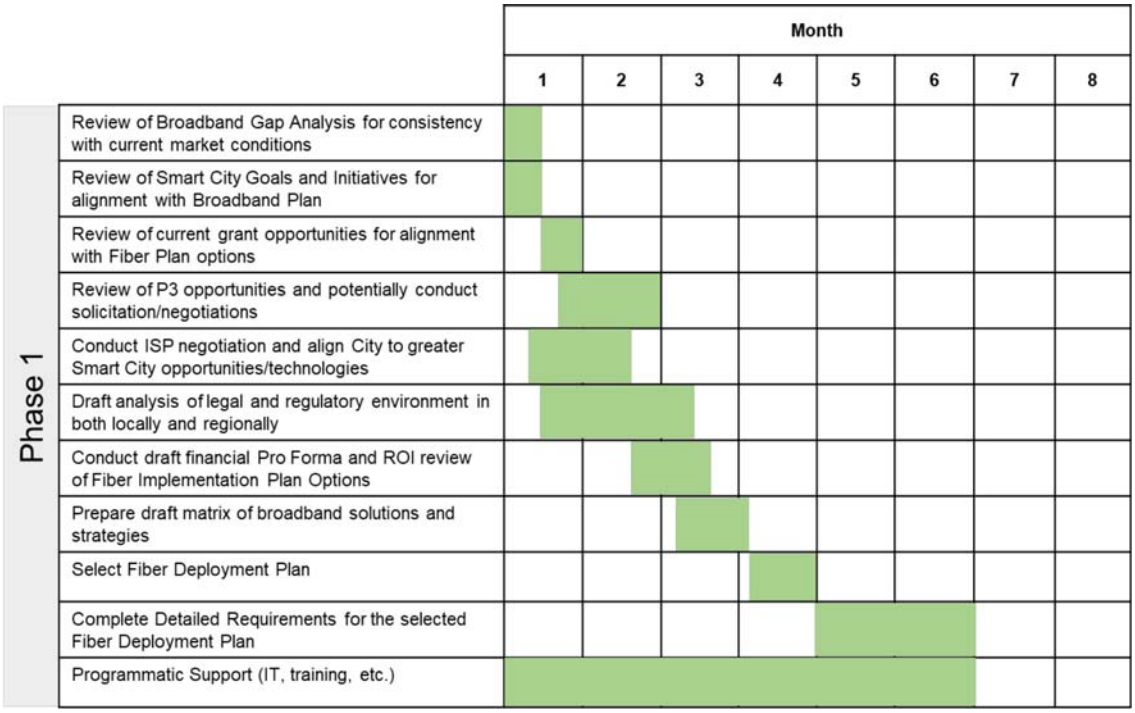


Figure 6: Proposed Schedule for Phase 1

3.0 EXPERIENCE

In the following section, we have provided a sample of A&M's project qualifications, as well as the qualifications of our leadership team.

City of Clarksville, AR - Clarksville Connected Utilities	
Client Information	Name: John Lester Address: 400 W. Main Street, Clarksville, AR 72830 Phone: (479) 754-3148
Qualification Summary	
Challenge: Finley Engineering has assisted Clarksville Light and Water (Clarksville) since 2016 with a fiber network design and feasibility estimate. At the time of the engagement, the City of Clarksville had implemented a 288-fiber network ring and was looking to expand this network and utilize the fiber network for municipal purposes, dark fiber network opportunities, and FTTx network implementation. **Key Tasks**: In their support role to the City of Clarksville, Finley Engineering: • Completed a full review of the existing fiber network and assisted Clarksville with IP Network activity and further network implementation as the network is utilized to expand services.	

City of Clarksville, AR - Clarksville Connected Utilities	
Client Information	Name: John Lester Address: 400 W. Main Street, Clarksville, AR 72830 Phone: (479) 754-3148

Qualification Summary

- Developed an RFP process and selection criteria for the City to secure a construction management firm and General Contractor to execute the fiber deployment.
- Conducted staking, produced construction drawings, and provided general oversight of the Construction Manager and General Contractor, completed in 2021.

Outcomes / Deliverables:

Finley provided the City with fiber network design standards and standard review procedure to ensure materials for construction are industry standard for aerial/buried fiber construction and network equipment for optical connectivity. Finley worked closely with City utility personnel on National Electric Safety Code (NESC) compliance and other design standards for the connectivity required by Clarksville Connected and ultimately increasing community connectivity.

Optic Communications	
Client Information	Name: Dave Soper Address: 224 South Kansas Avenue, Columbus, KS 66725 Phone: (620) 429-3132

Qualification Summary

Challenge:
Finley Engineering provided services to Optic Communications from 2105 – 2019 to build a multi-city fiber network ring and multi-path, redundant fiber network rings inside multiple cities in southeast Kansas and southwest Missouri. This work provided fiber network access to municipal facilities, anchor customers, residential customers, and to created point to point networks between multi-city customer locations.

Key Tasks:

As part of this support, Finley Engineering support Optic with:

- Strategic planning, network design, cost estimating, project staking, contract development, Project Management, and network edge out strategies.
- Grant application submission
- Facilitated contract negotiation with ISPs

Outcomes / Deliverables:

Optic Communications	
Client Information	Name: Dave Soper Address: 224 South Kansas Avenue, Columbus, KS 66725 Phone: (620) 429-3132
Qualification Summary	
As part of ongoing client engagement and work, in 2021 Finley assisted Optic with an NTIA Broadband Grant project submission. The NTIA awarded a broadband grant to Optic, with Finely now assisting with strategic network planning, final FTTH network design, and helping to plan contract negotiation and project management activities for completion of a FTTH network-build for the entire City of Carl Junction, Missouri.	

Kansas City, Missouri Citywide Fiber Deployment Plan	
Client Information	Name: Chris Lockey, PE Address: 414 East 1st Street, Kansas City, MO 64106 Phone: (816) 513-9888
Qualification Summary	

Challenge:
The City of Kansas City was facing a serious dilemma. In the past, the city was hands-off with its internal department's choice of fiber network installations and lease agreements. As a result, various departments had implemented their own fiber across 320 square miles of the city. Because of population growth and increased demand for bandwidth, the city wanted to unify its network.

Key Tasks:

The City of Kansas City partnered with Olsson to develop a plan to centralize and expand the city's fiber network footprint. Olsson evaluated the existing conditions within the city, performed a needs assessment that involved stakeholder outreach, and designed connections and extensions of the existing network. This included the following key tasks:

- A thorough survey of the city's existing communications network, including city-owned fiber-optic and wireless infrastructure
- Meetings with department heads and officials to determine the communications needs and requirements for capacity, reliability, security, coordinated management, and department-specific concerns
- A proposed design for a high-bandwidth, city-managed fiber network using a combination of city-owned infrastructure and fiber-available agreements with public and private partners
- A recommendation for the governance and ownership of the city's fiber network
- A breakdown of potential costs and ongoing savings for enacting the plan's recommendations

Kansas City, Missouri Citywide Fiber Deployment Plan	
Client Information	Name: Chris Lockey, PE Address: 414 East 1st Street, Kansas City, MO 64106 Phone: (816) 513-9888
Qualification Summary	
Outcomes / Deliverables: As a result of the plan, the city moved several departments to its city-owned fiber network at a significant cost savings. As an example, the police department was one of the first departments to make the switch. The department needed a network with encryption capabilities to protect personally identifiable information and had to have the bandwidth to store video taken by body cameras. Three more departments quickly followed. As a result, the city can save about $700,000/year in communications costs by enacting many of the recommendations.	

4.0 APPROACH STRATEGY

The City has a unique opportunity to use federal recovery funds to invest in the things that matter most to the community, while promoting equitably accessible, dependable, and efficient broadband infrastructure implementation to optimize socio-economic development across the City. This investment provides Joplin the ability to digitally connect neighborhoods and will be an integral component for Smart City infrastructure.

Our approach (see **Figure 7**) to delivering broadband deployment services to Joplin is defined by our ability to integrate with City Staff and key stakeholders. A successful deployment of fiber across the City includes two phases:

- **Phase 1 – Design the plan and setup governance**
  - Workstream 1 – Finalize the Fiber Deployment Plan
  - Workstream 2 – Monitor performance (supported in Phase 2 as well)
- **Phase 2 – Construct the 50-mile fiber project**

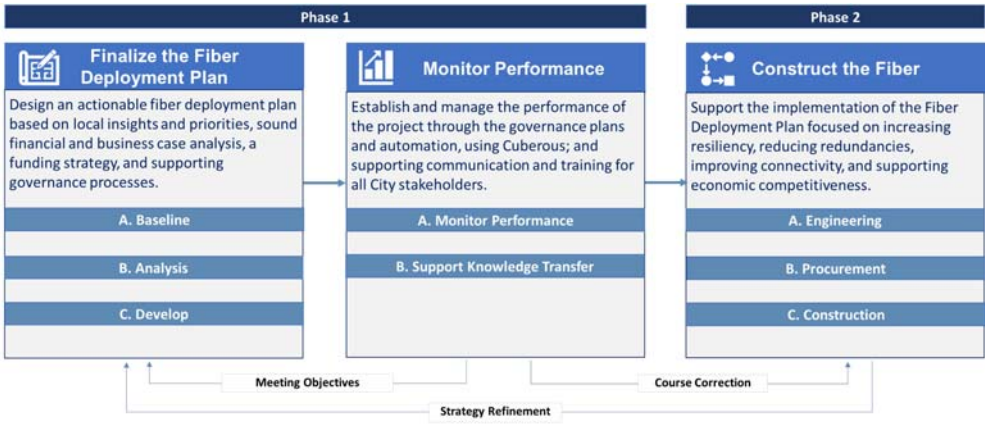


Figure 7: Approach to Support Joplin's Broadband Deployment Program Office

In the following sections, we have presented our approach to each task in terms of:

- **Impact to Joplin:** The overall impact each phase to Joplin
- **Methodology:** The specific steps we intend to take for each phase
- **Deliverables:** Outputs and associated deliverables City will receive each phase

Phase 1 – Design the plan and setup governance

As with any public infrastructure investment, a robust planning effort is required to not only detail the path forward that is well-planned and actionable but provide the necessary transparency. This phase is rooted in strategy, integration, and preparing the City, from a highly technical point of view, for this major community improvement. We will address the following requirements from the statement of work provided by the City.

- *Assist City staff in developing a Fiber Deployment Plan that would serve as a roadmap for developing and executing projects.*
- *Seek and obtain private, local, state and/or federal funding sources for the execution of a Fiber Deployment Plan.*
- *The Consultant shall perform certain services necessary for development and initial execution of the Fiber Deployment Plan.*
- *The City's goal in developing a Fiber Deployment Plan is to document a detailed, actionable plan to build a carrier-class, highly available, redundant fiber network that provides Joplin institutions, businesses and residential areas with high-speed Internet access, data, and Smart City services, thereby improving the quality of life of our constituents, boosting economic development, and enhancing the infrastructure of Joplin.*
- *Validate the selected business model, identifying and vetting of any possible public private partnership opportunities, as required.*
- *Investigate potential public-private partnership opportunities and options for Joplin with specific, actionable proposals modeled in the business plan if applicable.*
- *Conduct a business case analysis including return on investment (ROI) timeline, funding type and financing options for a phased build, staffing requirements and pro forma financial statements.*
- *Prepare, as necessary, governance, ownership and management guidance including zoning and Right of Way (ROW) ordinances, potential legal ramifications and roadblocks to the Plan, leasing and asset sharing guidelines and templates.*
- *Development of monitoring plans and execution of said plans.*
- *Review and update the City's Smarter Joplin Roadmap that was presented to the Joplin City Council in September 2019.*
- *Consultant shall perform services necessary for development/initial execution of Fiber Deployment Plan*
- *Manage program operations for all available programs.*
- *Throughout the course of completing the tasks and deliverables in this RFP it is expected that the Consultant will assess and verify the appropriateness of the model and build direction outlined by the City above or recommend an alternative model and build approach.*

We have decided to create two workstreams in this phase of the project – one focused on the plan and a second focused on monitoring performance and supporting knowledge transfer with City Staff, residents, and businesses. To complete this support,

A&M proposes the following approach (**Figure 8**) which will result in the finalized Fiber Deployment Plan and associated critical documents for execution.



Figure 8: Workstream 1 – Finalize the Fiber Deployment Plan

As we said earlier, Joplin is considered a hometown to our project team which not only drives our desire to have a positive impact on the City, but it allows us to quickly escalate the development of the finalized Fiber Deployment Plan. Thru our previous work on the Broadband Gap Analysis and current interactions with the provider market, we know that multiple competitive fiber providers have identified Joplin as a potential broadband market for expansion. Joplin may rank high for competitive broadband fiber deployments. This is important to help preserve value and save money since the global economy is going to continue to increase the costs of infrastructure projects due to supply chain disruption and inflation. The sooner we hit the ground with execution, the better use of the City's funds will result. The activities listed in **A. Baseline** are more of a refresh to ensure we have not missed anything since we last supported the City. We will review any new documents that the City has pulled together since we last supported the Gap Analysis, review the City council minutes (even though our Project Manager has been following most of the meetings already), and document the current state of the funding sources for this project. We will also consolidate a comment register of the current Smarter Joplin Roadmap to facilitate City feedback which will continue into the next phase to keep the communication feedback loop open with the City's residents and businesses.

Negotiations with internet providers is a critical step in Phase 1. Bob Bennett has negotiated technology P3s on behalf of Kansas City, Mo with value of over $50M during service as CIO from 2016-2019. He will be a key player on our team involves in these activities with the City. Others on our team including Finley team members and Doug Dawson will be supporting based on their experience.

Then comes our favorite part – gathering the City's Broadband Deployment Program Office members and other key stakeholders during a strategy session to work through the key metrics and performance measures of the project's objectives regarding enhancing resiliency, reducing redundancies, complementing the City's growing economic competitiveness, and improving community connectivity. This strategy session's results will be the foundation in how we design the plan and how/what we track in our monitoring workstream. During this same time, our team will design a current state assessment framework based on regional and industry best practices and document our findings. With the foundation documented, the project team will begin to execute the activities listed in **B. Analysis**. As part of the Broadband Gap Analysis, we already created preliminary financial analysis of broadband for the City of Joplin. The additional effort as part of this task is modeling the financial viability of specific and distinct projects, including the financial impacts of possible P3 opportunities and possible grant funding for specific deployment strategies. We intend to use this platform as a takeoff point with the anticipation of refining as our operating model feeds further insight to develop project specific financial models. We will kick off the effort with market research in which we will develop a prospective RFI/RFQ to understand provider interest and deployment strategies which allows the City of Joplin to make smart investment decisions and vet P3 potential partners.

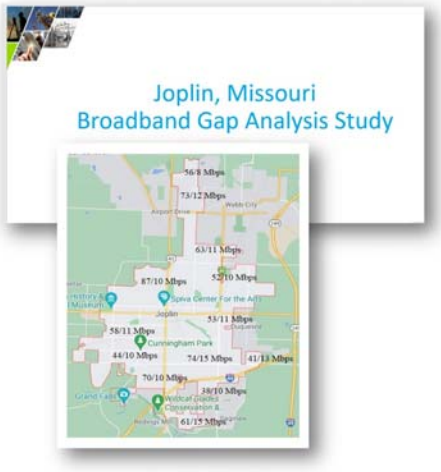


Figure 9: Screenshot of the gap analysis that we supported for the City

As that activity is in motion, the project team will begin a more detailed financial review expanding the previous Broadband Gap Analysis. This deeper dive will focus on the specific financial business plans and will include in-depth detail relative to the organization, operating costs, overheads, equipment, and materials required to operate the proposed business. The development of all necessary costs, initial and incremental lifetime costs, is a normal product of our business plan models due to the way we develop our plans. We build our business plans from the 'bottom up' and we make detailed projections for the required staffing, capital and equipment needed to meet the plan objectives. For example, consider the question of the proper level of staffing. The City must also evaluate and understand any regulatory or legal risks from entering the fiber infrastructure or broadband market; Missouri specifically has certain state statutes which defines what a municipal entity can do in the broadband market. Our team is prepared to deliver the following analyses to inform City decision makers of financial and legal risks to the deployment of options.

- Pro Forma Financials
- Negotiations with Internet Providers
- Sensitivity Analysis
- Breakeven Analysis
- Funding Contribution Analysis
- Legal and Regulatory Analysis
- Zoning and ROW Ordinance Gap Analysis

Understanding the business model and current finances, the project team will complete an analysis on how to close the funding gap with grant programs. To determine available funding, we will catalogue federal stimulus funding available, detailing funds available to state and local governments as well as businesses and individuals and support the competitive awards. From there we will devise a plan to prioritize funding according to socio-economic impact, flexibility, and timeline, ensuring the most restrictive funds are used first while reserving flexible funding for project without a clear funding source.

NeuroData uses the power of physics-based mathematical tools and algorithms and applies them to economic "big data" to enable our clients to conduct real-time planning and unparalleled decision-making. Simply said, the allows our team to previously designed models of Joplin to predict the socio-economic outputs based on historical patterns. If the City choices, we can incorporate this capability onto the team to perform this analysis as we have done in the past with Joplin.



The approach to an effective plan must consider available funding for construction, be operationally & financially viable, be compliant, and be in line with supporting the expansion of broadband from local and regional private providers. There are currently federal funds available for broadband infrastructure development, there are grants for solving local accessibility with programs like creating public hot spots or getting computers into the hands of those who need them. There are grants to provide the assistance to match low-income homes with

Grant Program*	Funds	Description	Method of Distribution
ARPA: State & Local Fiscal Recovery Funds (SLFRF)	$195B	$195 billion of highly flexible funding allocated to state governments to respond to the impacts of COVID-19	Formula-based distribution
ARPA: Coronavirus Capital Projects Fund (CCPF)	$10B	Flexible funding for investment in capital assets including broadband infrastructure	Application (12/27 deadline to request)
IIJA: Broadband Equity, Access, & Deployment Program (BEAD)	$42.45B	States generate a 5 year plan to identify needs and submit applications to NTIA for broadband infrastructure. 25% match required	Application to NTIA (NOFO expected mid-2022)
IIJA: Affordable Connectivity Program	$14.2B	Replaces Emergency Broadband Benefit Program (EBBP) to provide discounted broadband services to qualifying low-income households	Application submitted by households
IIJA: Digital Equity Grant Program	$2.75B	States develop "digital equity plans" to improve access among underserved and unserved communities, submit applications to NTIA	Application
IIJA: Middle Mile Infrastructure Grant Program	$1B	Competitive grants for providers to construct, improve, or acquire middle mile infrastructure. Maximum of 70% project cost funded by this grant	Application
IIJA: ReConnect Program	$1.926B	ReConnect (USDA) offers loans and grants to help construct or improve facilities to provide broadband service to rural areas	Application
EDA Economic Adjustment Assistance		$500 million in flexible grant funds to build and create jobs through construction/non-construction projects.	Application

*Non-exhaustive list of grant programs available for broadband.

Figure 10: Federal Funds for Broadband

low-income broadband subsidy programs. Finally, there are digital literacy grants for putting together training programs for the public. The figure above identifies a portion of the federal funding sources available for broadband deployment.

For any community or provider to be successful in any type of broadband endeavor, all participants must stay current on funding opportunities and requirements. We would provide a report and matrix of currently available broadband funding for infrastructure, adoption, and digital literacy and update this report and provide our analysis of new programs and as changes in funding programs occur.

With the business and financial models analyzed, we will begin the activities listed in **C. Develop**, resulting in all the key strategy and governance needed for the projects. A key task will be updating the Smarter Joplin Roadmap that integrates the Fiber Deployment Plan options impacting other components of the City's infrastructure portfolio. While we understand the current Roadmap is extensive, due to our broader Joplin infrastructure knowledge and expertise, we will challenge the Roadmap and make strategic updates when possible. Evolution of the Roadmap will provide Joplin the competitive edge when connecting the community. After updating the Roadmap in collaborate with the City, we will finalize the Fiber Deployment Plan.

The Fiber Development Plan will use the foundation established in Joplin Smart Cities and Broadband Gap Analysis report strategic conclusions, which structures a plan to implement fiber backbone facilities to business districts, low-income areas, strategic facilities, and areas of potential economic growth, and ultimately focusing on areas of greatest need identified the Gap Analysis report. A physical network of this nature could include multiple ring configurations to support resiliency and redundancy with fiber extensions for critical assets. Additionally, our experts understand similar initiatives occurring across the region and thus Joplin can also consider connectivity options to other broadband related fiber projects in communities surrounding the City of Joplin.

We will include analysis of each potential method of approach for a Fiber Implementation Plan; we expect multiple solutions must be evaluated with a report showing options such as:

- City of Joplin Investment & Internal User Cost Savings
- City of Joplin/P3 Investment/Internal User Cost Savings
- P3 Investment & City of Joplin Support
- Private Investment Only
- Financial Pro Forma and ROI performance
- Regulatory and Legal Implications

Monitoring plans are critical to the overall projects success and to remain in compliance with the various funding sources that may apply to a particular project. Our monitoring approach will provide Joplin real-time visibility into the project portfolio and help to identify risks that may affect the execution of work.

In the dynamic broadband market, it is important to remain actively engaged with regulators and service providers. This, coupled with our Cuberous monitoring tool (**see Workstream 2 – Monitor Performance**), enables the City to view the complete broadband program across all facets and workstreams and manage both technical and non-technical challenges as they are presented. Additionally, our technical experts use geospatial tools to facilitate discussions and data capture and track spatial progress in connectivity.

A well developed and executed Fiber Deployment Plan has the potential to position the City of Joplin and/or private providers to provide world class broadband within the City of Joplin and reduce the current “digital divide.” In fact, one of the Strategic Conclusions of the Broadband Gap Analysis was to consider more focused local goals such as implementation of core fiber routes to support the City of Joplin Smart City initiatives which presents the ability for other providers to expand broadband networks.

Workstream 2 – Monitor Performance

This workstream will kick off at the same time as workstream 1; and the monitoring activities will continue throughout **Phase 2** in the future. Monitoring plans are critical to the overall projects success and to remain in compliance with the various funding sources that may apply to a particular project. Our monitoring approach will provide Joplin real-time visibility into the project portfolio and help to identify risks that may affect the execution of work. We will address the following requirements from the statement of work provided by the City.

- *IT oversight and Web Development*
- *Training City Staff on best practices related to broadband deployment*
- *Other support and consulting functions as required by the City*

To execute these activities, the project team will deploy the following approach for this workstream.

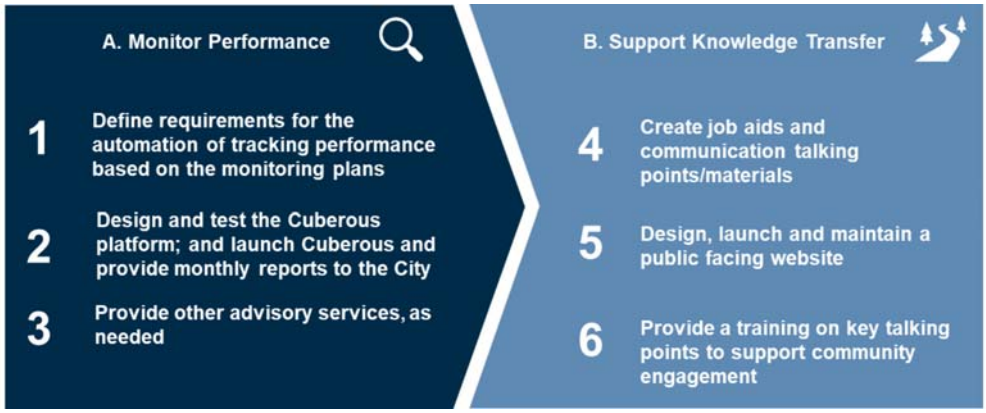


Figure 11: Phase 1 - Workstream 2: Monitor Performance Key Activities

The project team will deploy **A&M's proprietary project and portfolio management tool, Cuberous** in **Workstream 2. A. Monitor Performance**. Many companies would charge clients for the deployment of a similar tool, but we consider it the most effective and efficient way to deliver projects and, therefore, it is included in the way we deliver all projects. Cuberous simplifies and improves every part of your grant planning, management, and monitoring efforts. It empowers client and our project leadership to make better business decisions using intelligent reports linking a strategic, top-down perspective (program and initiative level tracking), and from a tactical bottom-up perspective (risk and issue tracking). Cuberous extends standard Microsoft Project & Portfolio Management (PPM) capabilities to adopt best practices in benefits management, governance, and other vital delivery domains to support effective management and monitoring. In simple terms, Cuberous allows us to identify and track the most important key performance indicators (KPIs) and allows you to have real-time visibility into the performance of your projects.

The incorporation of Cuberous into our delivery approach allows A&M to reduce our costs in the Project Oversight phase by ~25%.

We intend to use Cuberous to manage virtually all aspects of our work with the City including “internal” tasks such as budget management, schedule management, risk/issue management, and stakeholder management, as well City and public facing elements such as project progress, obligations, and expenditures furthering transparency and engagement.



Figure 12: A&M’s Cuberous Capabilities

Cuberous allows our team to focus on the things that matter most and provides visibility and transparency into the project and portfolio performance. Screenshots of our Cuberous tool are provided below and demonstrate the combination of sophistication and ease of use that our tool offers.



Figure 13: Sample Cuberous Screenshots

One of the most critical stakeholders in this project are the City’s residents as noted in **B: Knowledge Transfer**. To help with communication, we will design and launch a public facing website to help not only inform the community of the process and impact but always provide a platform to provide feedback. We will define the audience using different personas to help use detail the requirements for the website. This will help the project team to use language that moves away from technical jargon and focus on what it means for the community – impact, impact, and impact. We would also like to provide simple and clear transparency regarding the budget and schedule of the project. After we design the website, we will test it with some City stakeholders and release the final product. Within our level of effort, we have included

hours to manage not only the development of the website but the governance and maintenance. We are committed to ensuring the City's resident feel a part of the project and serve as an alley assisting with the success of the project.

With any change in business, it is critical to provide the organization the necessary time and training to properly adapt to the changes. The people who support the City of Joplin are at the core of initiative and as such, the project team will work collaboratively with the City to help provide staff the necessary technical and financial knowledge to properly execute the capital investment and convey critical information to the public.

Our goal is to leave our clients in a stronger, more prepared, and more resilient position than when our work begins. To that end, we are eager and prepared to conduct training and provide technical assistance to the City. Some methods that we have found to be effective in conducting training are:

- **Monthly trainings:** Holding weekly technical assistance training sessions, open to all City personnel. We will tailor the topics of those sessions based on the results of our operation activities.
- **Training recordings:** Recording and making available technical assistance trainings on critical topics. We understand that the City personnel have "day jobs" outside of responding to community requests. Our aim is to simplify and make easily accessible critical training recordings for ease of access and simplicity.
- **Training materials:** As needed, the project team will create job aids, desk guides, and other material to document best practice, highlight key reminders, and summarize processes to supplement the formal training.

A&M has structured the team with industry experts in broadband with reach back support in additional infrastructure sectors. Our A&M values and core principles in diversity are seen in our technical support and delivery provides its clients. Ad hoc requests can be considered deliverables within reason and under the assumption that discussion will be help with leadership and decision-makers both within Joplin government and A&M.

Phase 2 – Execution of the Fiber Deployment Plan

We understand that Joplin needs to get to an agreed upon Fiber Deployment plan that takes into consideration both financial and technical feasibility viability. The result of **Phase 1** is a package documenting all the network requirements that can then be used as a basis of design in **Phase 2** of the deployment.

Within the statement of work, the City is seeking a partner to "to perform certain services necessary for the development and initial execution of the Fiber Deployment

Plan." In our workplan and pricing estimate, we have assumed that the initial execution services stop at the defining detailed requirements for the finalized Fiber Deployment Plan. Once the size, scope, scale, partnerships, and detailed requirements are defined in Phase 1, we will be prepared to initiate Phase 2 of our approach, which is detailed below. We wanted to share this approach to give the City confidence that they are partnering with the right team for the entire project lifecycle. We look forward to working with the City to finalizing Phase 2 activities and level of effort after the detailed requirements for the Fiber Deployment Plan have been established and agreed.

Following the alignment to existing City of Joplin Smart City plans and targets to the City-approved Fiber Deployment Plan, the A&M Team will enter the execution phase of fiber deployment where we conduct detailed engineering, procurement, and construction of the fiber network.

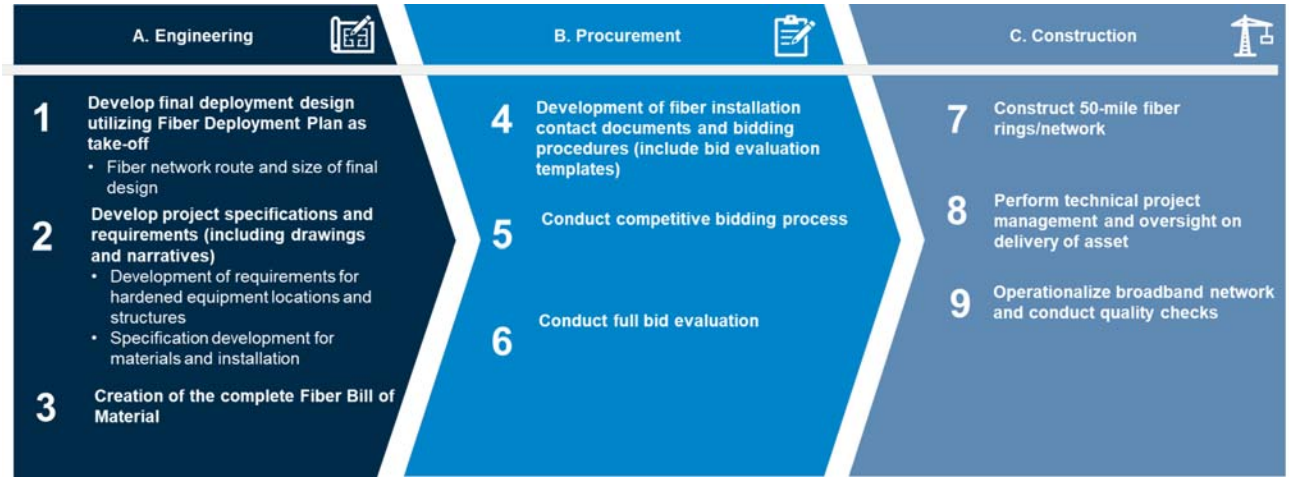


Figure 14: Phase 2 Key Activities

In **A. Engineering** the Fiber Deployment Plan, which includes input used for the updated Smarter Joplin Roadmap, serves as the foundational document for preparing a detailed design of the future Joplin fiber network. At this point in the deployment, final design will include the site-specified fiber network route through the City, the size of fiber to be implemented, and other adjacency considerations marked to actively manage as the City implements these assets. The routing presented at this stage should be fully vetted and agreed to by City officials and will directly incorporate City requirements and insights from **Phase 1**. Below lists a few of the **Phase 1** considerations that will drive the final design and routing of fiber throughout the City.

- Zoning ordinances
- Right-of-Way (ROW) ordinances
- Building layouts
- Structural and utility impediments
- Priority zones

- Funding strategy
- Local and regional regulatory considerations
- Field data and validation

A major part of our team's approach to detailed design for fiber implementation is to consider how a particular project's design can impact or be impacted by procurement. This is where the strict balance between technical and commercial considerations to achieve the end state becomes critically important; one that balances the quality of delivery of the project but also considers financials. All this said, market conditions and material availability are constantly assessed during the project timeline to identify components of the implementation that may be pose challenges during procurement and allow appropriate lead time if alternatives do not exist or are limited. The detailed design will be used to establish overall project specifications and requirements considering fiber, equipment, buildings, and associated facilities.

As part of the detailed design package, we establish site-specific requirements for hardened equipment and structures by specific location. This critical step allows for the network design to have explicit attention to redundancy and overall system resilience and considering spatial composition of critical facilities. This helps the City address delivery risk before any crews are deployed and try to best carry risk in the office than in the field during construction.

From detailed design and engineering of the fiber network, our team begins the official **B. Procurement** process. The structuring of procurement does have overlap with the detailed design due to the go-to-market material capturing the complete set of design considerations, as previously mentioned. One of the major outputs of design that carries into the initial stages of procurement is the preparation of a final fiber Bill of Materials (BOM) to execute the work. This is one of the foundational documents that bidders will use to commercially price their bid packages and can help Joplin to measure bidders' responses and eventually help to structure progress monitoring and project control applications.

The A&M Team has performed extensive procurement process review, strategy, material development, and bid evaluation in the broadband and broader infrastructure space. We know what works and what doesn't.

The materials used to construct fiber networks is directly correlated to current market conditions and supply-chain impacts. COVID-19 spotlighted extreme weakness in our supply chain especially in infrastructure markets therefore our experts continuously monitor markets to ensure good engineering and design does not sit and wait for procurement to take place. While fiber projects use similar equipment and materials, no project is identical in nature due to non-technical factors regarding projects and should

be considered with keen focus. Our team recognizes that each broadband network operator has different goals for their projects, risk tolerance, capital budgets, existing technical expertise, and other decision factors. We consider these factors throughout all phases of this work including procurement to address the complexities on both the planning and implementation side of fiber projects. Our team of experts keeps a constant pulse on the condition of the fiber market and will ensure Joplin has the tools in place to help hit their targets.

Following the drafting of the City's go-to-market materials, our team will help Joplin to gather bidder responses. The A&M team will support the City with any pre-bid meetings, bid clarifications, correspondence, and ad hoc requests during the bidding phase to ensure the City receives offerings that best match its needs. During the bidding phase, we will also build the necessary bid evaluation tools to properly measure bidders against one another giving Joplin a streamlined competitive advantage and the ability to make the best technical and financial decision for the City. Once all bids are received, we will then work with City Staff to review the bids using these evaluation tools to inform the final award. Although focused on the deployment of fiber exclusively, our Smart City experts will also be heavily involved in this process to ensure bids meet the expectations the City has on future infrastructure investment.

We successfully helped a client secure NTIA Broadband Grant to build a 100% FTTH network

We helped our client, Optic Communications (April 2022) win an NTIA Broadband Grant to build a 100% FTTH network throughout the City of Carl Junction. While this is a separate project than the work required for the City of Joplin, there could be synergies between fiber networks which support a broader broadband network in the greater Joplin area which only adds opportunities to enhance redundancy and resiliency concepts.

Following the competitive bidding process, the project team will draft any contractual documents that minimize risk exposure to Joplin. At this point, our team of broadband public infrastructure experts will engage with the City to ensure the contract is structured best for Joplin understanding this project will quickly go from a financial investment for implementation to a financial investment to operate and maintain the new asset portfolio.

Once the City has completed the contracting process, the A&M team will provide project oversight throughout the **C. Construction** of the fiber network itself. As this infrastructure asset will touch many components of the broader Joplin portfolio, we will actively engage with contractors to provide oversight and raise issues in real-time to City staff. This implementation oversight role is where the A&M team serves as an extension of City Staff to provide control over the project and report progress. Furthermore, our broadband experts will perform routine in-the-field checks as fiber in implemented to report back on overall quality of the implementation and identify issues

early for mitigation. The A&M team operates under a continuous feedback model which is imperative to the success of this initiative with all field information relayed to the City in a timely manner. This approach ensures Joplin has a complete and transparent understanding of the project's status at any given point in time.

5.0 PRICE

In the pages that follow, we have presented the A&M Team's cost proposal as requested in the City's solicitation. We look forward to the opportunity to discuss the City's needs in greater detail and modify our approach accordingly to meet the City's needs and budget.

Estimated Fees

To provide the greatest value to the City of Joplin, we have steeply discounted our standard rates. We are confident in our team, approach, and experience, and will work with the City to deliver these services in a cost-reasonable manner to maximize these critical funds to benefit the constituents of the City of Joplin.

Department	Title/Function	Average Hourly Rate for Contract Term	Estimated Number of FTE Hours	Total Cost
Consulting	Managing Director	$350.00	26	$9,100.00
Consulting	Senior Broadband Advisor	$350.00	104	$36,400.00
Consulting	Senior Director	$290.00	104	$30,160.00
Consulting	Director	$250.00	520	$130,000.00
Consulting	Manager	$225.00	1,040	$222,300.00
Consulting	Senior Consultant	$185.00	0	-
Consulting	Consultant	$150.00	0	-
Engineering	Principal	$350.00	234	$81,900.00
Engineering	Broadband Strategy Consultant	$265.00	155	$41,075,00
Engineering	Senior Engineer, P.E.	$205.00	468	$100,100.00
Engineering	Engineering Coordinator	$160.00	195	$31,200.00
Engineering	Project Manager	$120.00	416	$49,920.00
Engineering	Senior Engineering Representative	$105.00	312	$32,760.00
Engineering	Engineering Designer	$94.00	312	$29,328.00
Engineering	Project/GIS Designer	$75.00	45	$3,375.00
Support Staff	Support Staff III*	$65.00	0	-
Support Staff	Support Staff II*	$55.00	0	-
Support Staff	Support Staff I*	$45.00	0	-
Total				**$797,618.00**

Additional positions included for ad-hoc project needs to be identified and agreed by City and A&M.

Assumptions

1. Request for Proposals, ***Specifications of Services Requested, Section B, bullet 4*** explains that the City is searching for a Consultant to "perform certain services necessary for the development and initial execution of the Fiber Deployment Plan." In response to the City's request, we have assumed that the initial execution services stop at defining detailed requirements for the selected

Fiber Deployment Plan. Because the size, scope, scale, partnerships, and detailed requirements will be defined in Phase 1, we have not included a price for work in an anticipated Phase 2, which would include all services after the "initial execution of the Fiber Deployment Plan." Phase 2 services which are outlined in the preceding sections include detailed engineering/design, specification development, procurement/contracting support, and oversight of fiber plan construction. We look forward to working with the City to define and price services for Phase 2 after the detailed requirements for the Fiber Deployment Plan have been established and agreed.

2. For pricing this work, we have assumed a contract base period of 1-year but anticipate the work for Phase 1 will be complete as described in the Workplan in ***Section 2.0: Commencement***.
3. To meet the City's specific needs and requirements upon commencement of the work, we anticipate the opportunity to add/remove positions and reallocate hours between levels.
4. The "Total Cost" estimate provided above is intended to be for representative purposes only and is based on our current understanding of the City's desired scope of services, the status of broadband planning and implementation efforts, and the availability of required City and external resources needed to complete the work as outlined in the RFP.

Proposal Validity

As requested by the City, this proposal is valid for 120 days.

Travel and Other Direct Costs

We assume that reasonable travel and other direct costs critical to the completion of our work with the City of Joplin will be billed to the City at cost and will be reimbursed monthly.

This proposal contains information that shall not be disclosed outside of City of Joplin and shall not be duplicated, used, or disclosed in-whole or in-part for any purpose other than to evaluate this proposal. The information subject to this restriction is contained in all pages/sheets herein. This proposal does not constitute a contract to perform services. Any engagement arising out of this proposal will be subject to the execution of a formal engagement contract, including our standard terms and conditions and fees and billing rates established therein.

6.0 RESUMES

In the section below, you will find resumes for each of our engagement leadership and key staff. All the team members we propose to support you are seasoned and experienced from successfully operating in highly dynamic environments.

Name	Riz Shah
Position	Engagement Partner
Degree/Education	• Bachelor of Architectural Engineering, Penn State University • Executive Degree, INSEAD

Summary of Qualifications

For more than 20 years, Riz has been entrusted to help clients respond to unexpected crises following incredibly challenging and tragic impacts on communities and businesses. From crisis response through resilience, Riz has supported clients through the entire response and recovery lifecycle and advises clients in their immediate-, short- and long-term strategic decisions. Riz has worked with HUD CDBG-DR, FEMA PA, FHWA, FTA, EDA, and other grant programs through his support of recovery programs such as the City of Joplin, Missouri (2011 Tornado), Colorado DHSEM (2013 floods), Governor's Office of Storm Recovery New York (Hurricane Sandy), Harris County, Texas (Hurricane Harvey), Department of Economic Development, Puerto Rico (Hurricanes Maria and Irma), South Asian Earthquake Relief (2005 Earthquake) and Deautsche Bank recovery (9/11).

Riz specializes in supporting global businesses and public sector entities involved in the delivery of large and complex multi-billion dollar capital investments and programs, working side by side with project owners/operators, developers, financers/investors, corporates, government entities and international contractors that operate in the heavy infrastructure, oil and gas, transport, real estate, and industrial sectors in both the public and private sector around the globe, including the US, Europe, Asia, Africa and the Middle East, as well federal, state, local entities here in the US.

Riz holds a Bachelor of Architectural Engineering from Penn State University, an Executive Degree from INSEAD and is a member of the board of the College of Architectural Engineering. He is currently a Managing Director with Alvarez and Marsal and leads their Infrastructure practice nationally. Earlier in his career, he was a Partner with Guidehouse and PwC (2016-2019, 1999-2001), and Managing Director with Deloitte (2001-2015).

Name	Sue Frost
Position	Transportation & Grants Management Expert
Degree/Education	• Master of Applied Science (MAS), Environmental Policy and Management, University of Denver • Master of Business Administration (MBA), Robert H. Smith School of Business, University of Maryland

	• Bachelor of Arts (BA), Psychology, Wesleyan University

Summary of Qualifications

Sue is a Senior Director in Alvarez & Marsal's Infrastructure & Capital Projects practice and leads the Public Sector Infrastructure Management team. Sue has significant experience planning, managing, and monitoring compliance through the lens as the federal government and has supported other state & local entities as a subject matter specialist using this experience. Most recently, Sue has created a risk framework for the Massachusetts Department of Transportation (massDOT) to use when reviewing programs, processes, and technology for their management of federal funding. Additionally, she has experience designing and delivering change management programs, which includes training and communication initiatives.

Relevant Experience

- For the Massachusetts Department of Transportation (massDOT), Sue led multiples efforts with define new requirements in alignment with Federal grant guidelines and access how existing massDOT processes and tools supported/or did not support federal compliance and massDOT's operating priorities. For instance, for massDOT's Federal Aid Programming and Reimbursement Office (FAPRO), her team performed a current assessment through a risk management framework on the office's submission of the request for federal funding to the Federal Highway Administration. This office is responsible for certifying that projects are following federal regulations and determines availability of funds. The project resulted in a set of recommendation to minimize the risk of compliance, streamline processes, and consider scalable technology solutions to automate the process.
- For General Service Administration (GSA), Office of Design and Construction, Sue served as a subject matter specialist on the Recovery Act High Performance Green Building Database Development and Deployment project. She guided a team that created the standard processes, tools, and frameworks for the Recovery Program Management Office to collect, analyze, and report in accordance with the Recovery Act. Under her guidance, the team provided proven performance measure calculations to evaluate new construction and major renovation projects to assess energy savings, calculate cost savings, and estimate the environmental impact; and created a database for recipients and project managers to track progress and performance of the projects. The project team also created communications and deployed training to support the rollout of the new database.
- For the Federal Aviation Administration's (FAA) Real Property Office, Sue directed a team who was responsible for the portfolio optimization of 50k assets by establishing and operating a governance program to establish a clear, data-driven decision-making process from planning and programming through project execution and developing and executing a strategy plan to reduce FAA's financial and physical footprint and set an industry standard in real property management. Within this project, Sue's team created a risk model to categorize projects for governance and supported the governance program with performance tracking tools.

- For FAA's Real Property Training Program, Sue directed the design, development, and delivery of the communications and training program for a workforce that oversees over 6,000 leased assets and over 50,000 owned assets, amounting to approximately $9.3 billion dollars in value. The team administered, deployed, and planed course offerings based on workforce certification requirements and demands from Level I, II, and III certified Real Estate Contracting Officers and newly hired Realty Specialists (RECO/S). The team also supported the delivery of on-demand training, designed to increase RECO on-the-job performance. Our team has supported delivery across this array of training leveraging innovative training methods that also reduce costs.
- For the Tennessee Valley Authority (TVA), Sue led a Small Modular Reactor (SMR) financial governance project. The project team completed an independent review of the TVA SMR Utah Associated Municipal Power Systems (UAMPS) financial governance processes. Under her leadership, the team identified opportunities to improve the effectiveness and efficiency to help TVA comply with the UAMPS contractual financial requirements. Ms. Frost identified areas of improvement and strengths and developed recommendations to help ensure TVA meets contractual financial requirements and enhances standardization of financial project management processes.

Name	**Andy Heins**
Position	Director – Strategy and Operations
Degree/Education	• Bachelor of Science, University of Missouri

Summary of Qualifications

Mr. Heins' qualifications are many, including the fact he is a veteran of the broadband industry; having deployed one of the first GPON FTTH networks in 2006. Mr. Heins brings valuable insight in broadband network strategy, design and operation, industry revenue practices, funding, and industry regulation.

He has drawn from this experience to assist provider clients with understanding best approaches to funding acquisition, expansion strategies and interaction with public partner; while assisting public sector clients with broadband gap analysis, feasibility studies and best approaches to attracting providers to fill broadband gaps.

Specialization

- Broadband Funding Strategies
- Public and Private Partnerships
- Broadband Network Operations

Relevant Experience

- For the City of Joplin, MO led a team to complete a Broadband Gap Analysis and for review of alignment with the City of Joplin Smart City Initiative. The team was responsible for evaluating the existing state of broadband, broadband infrastructure, cost of implementing broadband solutions and strategic next steps.
- For West Memphis Utilities, completed a Broadband Feasibility Study to understand the current state of broadband in West Memphis, AR. Andy led post

study engagement work with West Memphis Utilities and the City of West Memphis to secure $2 million of ARPA funding for investment in a fiber backbone network to support critical community areas and utility operations, with the Finley now engaged for implementation of the fiber network.

- For the Northeast Missouri Regional Planning Commission led a project team to complete a Broadband Mapping Study to document the actual deployment of broadband in Adair, Knox, Scotland, Clark, Lewis, and Schuyler counties to determine priority areas for provider focus and pursuit of broadband grant funds.
- For Socorro County, New Mexico, Andy led a project team to complete a Broadband Feasibility Study to map the current state of broadband in Socorro County. Andy and the project team assisted the City of Socorro in attracting a provider to build an all-fiber network within the City of Socorro and have assisted Socorro County with ongoing efforts to attract providers and funding for rural broadband builds.
- For Hope Water and Light in Andy led the initial consulting engagement for review of high-level costs and requirements for a full fiber network build across the Hope Water and Light electric utility in Hope, AR. Finley was engaged to fulfill all detail engineering, contract development, bid functions and project management for completion of the FTTH network.

Name	**Tim Arbeiter**
Position	Director, Broadband Consulting
Degree/Education	• Bachelor of Science, Business Administration, SE Missouri State University • Master of Arts. Guidance and Counseling, SE Missouri State University

Summary of Qualifications

With a background in government and the non-profit sectors, Tim can assist in helping clients stay up to date on legislative funding at the federal and state levels, consult with public and private stakeholders on win-win partnerships for broadband expansion, devise actionable steps that will propel implementation efforts. Tim is a member of the International Economic Development Council (IEDC). Previously before joining the Finley team, Tim served as the Director of Broadband Development for the State of Missouri. During his tenure, Tim served on the NTIA State Broadband Leaders Network and the National Governors Association Broadband Advisors Council

Specialization

- Broadband Policy
- Broadband Funding Programs
- Public Private Partnerships
- Economic and Community Development Strategies

Relevant Experience

- In 2021, Tim led a Missouri Grant application process to select a package of broadband projects to submit to the NTIA for funding consideration. The Missouri

grant package compiled by Tim was selected by the NTIA for funding, with Missouri receiving $42.2 million out of $288 million in available funding from the NTIA. The approved projects are in 12 counties, with 2 projects located in southwest Missouri.

- In 2020, Tim led the Missouri CARES Act Broadband grant program which awarded $3.8 million to 27 projects for deployment of broadband in Missouri. Tim was responsible for creation of grant program parameters, oversight of a grant application review team, review of grant project completion and reporting to the State of Missouri elected officials on progress and success of the grant program.
- In 2019, Tim led the Missouri Broadband Grant Program which awarded $3.05 million 16 projects for deployment of broadband in Missouri. Tim was responsible for creation of grant program parameters, oversight of a grant application review team, review of grant project completion and reporting to the State of Missouri elected officials on progress and success of the grant program.

Name	**Douglas Dawson**
Position	President, CCG Consulting
Degree/Education	• Bachelor's Degree in Accounting, University of Maryland

Summary of Qualifications

Doug has nearly fifty years of experience in the telecom industry. He began as a technician working on voice switches. He's worked during his career for other consulting firms and has operational experience at one of the large Bell telephone companies and with a telecom holding company.

Doug founded CCG Consulting in 1997, which has grown to be one of the most successful broadband consulting firms in the country. CCG provides a wide range of services ways including engineering, regulatory, financial planning, strategic planning, partnerships, and funding. CCG Consulting was founded to help clients launch new businesses, open new markets, and launch new products – and that is still the bulk of our business today.

Doug has written a daily blog for over seven years that has over 4,000 daily readers across the broadband industry, including regulators, operational ISPs, and community broadband advocates.

Specialization

- Feasibility Studies
- Financial Business Models and Forecasts
- Finding Funding
- Strategic Planning
- Valuations

Relevant Experience

- Doug founded CCG Consulting 25 years ago, and the firm has worked for over 1,200 clients since inception.

- Doug has assisted over 700 local governments to consider broadband options, including many of the best known, such as Chattanooga, TN, and Lafayette, LA.
- Doug has authored over 400 broadband feasibility studies, many for clients, which eventually launched a successful ISP business.
- CCG continues to work for commercial ISPs, and this practice has taught us to focus on ISP practices that lead to efficiency and profitability.
- Doug has helped hundreds of ISPs find funding through grants, municipal bond issues, bank loans, and other ways.

Name	**Jack Schaller**
Position	Governance Oversight
Degree/Education	• Bachelor of Science, Civil Engineering, Missouri University of Science & Technology • Professional Engineer: AR, KS, MO, OK

Summary of Qualifications

Jack is a Vice President and Business Development Specialist in Olsson's Joplin, Missouri, office. He has more than 25 years of engineering experience, designing transportation, stormwater, bridge, airport, waterline, sewer distribution, and treatment projects.

Prior to joining Olsson, Jack served as Assistant Public Works Director for the City of Joplin, a position he held during the devastating tornado of 2011. Jack oversaw the city's tornado debris cleanup, which required intense coordination with multiple federal agencies and local municipalities (e.g., United States Army Corps of Engineers, FEMA, etc.). To date, it was the most successful debris removal operation in history.

Because of his first-hand experience as a public works official and professional engineer, Jack knows how to guide municipalities and help them achieve engineering goals on a budget.

Relevant Experience

- City of Joplin, 2017 On-Call Engineering Services; Joplin, MO
- City of Joplin, Tree Planting Policy; Joplin, MO
- City of Joplin, Sidewalk, Curb, and Gutter American with Disabilities Act (ADA) Ramp Evaluation; Joplin, MO
- City of Joplin, Long-Range Transportation Plan; Joplin, MO
- City of Joplin, Long-Term Pavement Maintenance Plan; Joplin, MO
- City of Joplin, 11th to 15th, Main Street; Joplin, MO
- City of Joplin, 32nd and Indiana Northbound Turning Lake and Signal; Joplin, MO
- City of Joplin, CDBG-DR Infrastructure Projects; Joplin, MO
- City of Joplin, Community Development Block Grant (CDBG) DR-1 Mohaska Trail; Joplin, MO

- City of Joplin, 20th Street Improvements; Joplin, MO
- City of Joplin, Main Street Improvement; Joplin, MO
- City of Joplin, Capital Improvements Projects Program Consisting of 21 Transportation Projects; Roadway Widening to New Interchanges; Joplin, MO
- City of Joplin, CDBG Project No. 1 Surface Project No. 4006 22nd Street to 26th Street and Jackson Avenue to Main Street; Joplin, MO
- City of Joplin, CDBG Project No. 1 Surface Project No. 4005 15th Street to 19th Street and Jackson Avenue to Main Street; Joplin, MO
- City of Joplin, CDBG Project No. 1 Surface Project No. 4004 26th Street to 32nd Street and Maiden Lane to Main; Joplin, MO
- City of Joplin, CDBG Project No. 1 Surface Project No. 4003 22nd Street to 26th Street and Maiden Lane to Jackson; Joplin, MO
- City of Joplin, 32nd Street Widening from Schifferdecker Avenue; Joplin, MO
- City of Joplin, TIGER Grant Reporting and Training; Joplin, MO

Name	**Bob Bennett**
Position	Principal and Founder, B^2 Civic Solutions
Degree/Education	• MA, Strategic Planning, US Army Command and General Staff College • MA, Public Communications, American University • BS, History, US Military Academy

Summary of Qualifications

Bob has been active in local government since his retirement from 25 years of active service with the Army in 2016. His Army career included service as a battalion commander from 2007-2008 and tours as a strategist for US Army Africa, US Strategic Command and Multi-national Force - Iraq.

From 2016-2019, he served as the Chief Innovation Officer for the City of Kansas City, MO in the Mayor Sly James administration. Key projects during that time included winning a transportation planning grant for the city in 2016, completing the technology projects included in the KC Streetcar corridor in 2017 and initiating a Smart City/Infrastructure Public-Private Partnership project in 2018. He left the City of Kansas City when Mayor James' term ended.

Since 2019, Bob led a civic technology consulting firm in Parkville, MO and counts five cities and four private firms as clients. He chairs the Cities Today Institute, a multinational think tank for city leaders focused on including technology as one of many policy and operations management tools to solve problems in 21st Century communities. In April 2022, he was elected an Alderman for the City of Parkville.

Relevant Experience

- GovTech Top 25 Doer, Dreamer and Driver for 2018
- Managed Unified Government of Wyandotte County and Kansas City, Kansas Covid-19 Vaccine operations; led team that administered 106,205 vaccinations over seven months.
- Managed deployment of first phase of Kansas City Smart City infrastructure including 328 Wi-Fi Access Points, 178 smart streetlights, 26 interactive kiosks, and supporting data analytics tools. The first phase earned a Gold Edison Award in 2017 in the Collective Disruption category
- Developed and issued first Comprehensive Smart City RFP in the United States, June 2018

AGREEMENT
FOR CONSULTING SERVICES

THIS AGREEMENT is made and entered into this 5th day of July, 2022, by and between the City of Joplin, Missouri, a Missouri Municipal Corporation, hereinafter referred to as "City," and Alvarez & Marsal Infrastructure & Capital Projects, LLC, a Delaware Limited Liability Company, hereinafter referred to as "Consultant," and with City and Consultant being referred to collectively as "the Parties."

WITNESSETH:

WHEREAS, City desires to engage Consultant to perform the services described in Request for Proposal 2022-RFP-10: Broadband Deployment Consultant Services, attached hereto and incorporated by reference as Exhibit A; and

WHEREAS, Consultant submitted its proposal dated May 2, 2022, attached hereto and incorporated by reference as Exhibit B; and

WHEREAS, Consultant has become the lowest and best Offeror for performing said services.

NOW, THEREFORE, in exchange for valuable consideration each received from the other, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Scope of Work and Payment.

a. City agrees to engage Consultant for performance, and Consultant agrees to perform, the services described in Exhibits A and B, as authorized in any Work Authorization (the "Services").

b. The services of Consultant shall commence only as authorized in writing by City and shall be undertaken and completed as described in Exhibits A, B and any applicable Work Authorization.

c. City agrees to pay Consultant in accordance with the prices and terms set forth in Exhibit B for work authorized by City upon presentation of proper invoice and inspection by City of work completed by Consultant. However, in no event shall the total payment for the scope of work exceed $797,618.00.

d. All information, data, and reports as are existing, available, and necessary for the carrying out of the work, shall be furnished to Consultant without charge, and the Parties shall cooperate with each other in every way possible in carrying out the scope of services.

e. Consultant shall fully coordinate its activities in the performance of this contract with the activities of City as described in Exhibits A, B, and any Work Authorization.

f. Consultant represents that Consultant will secure the following at Consultant's own expense: all personnel required to perform the services called for under this contract by Consultant. Such personnel shall not be employees of the City. All the Services hereunder will be performed by Consultant or under Consultant's direct supervision and all personnel engaged in the work shall be fully qualified and shall perform the services in compliance with applicable state and local law. None of the work or services covered by this contract shall be subcontracted without the written approval of City.

2. Amendments. The covenants and obligations herein contained are the full and complete terms of this Agreement, and no alteration, amendments, or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this Agreement.

3. Assignment. This Agreement, including payment hereunder, shall not be sub-let, assigned, or otherwise disposed of, except with the prior written consent of the City.

4. Attorney's Fees and Expenses. Intentionally omitted.

5. Choice of Law and Venue. 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.

6. Compliance with Laws. Consultant shall observe and comply with all Federal, State, and local laws and ordinances applicable to the provision of Services that affect those employed or engaged by it on the project, or the material or equipment used, or the conduct of the work, and shall procure all necessary licenses, permits, and insurance.

7. Confidentiality. Any reports, data, or similar information given to or prepared or assembled by the Consultant under this contract which the City requests to be kept as confidential shall not be made available to any individual or organization by the Consultant without prior written approval of the City or as otherwise required by applicable law or valid legal process. This section shall not apply to information which is (1) publicly known through no breach of this Agreement; (2) already known to Consultant at the time of disclosure; (3) subsequently obtained by Consultant from a third party without breach of any obligation of confidentiality of such third party; (4) independently developed by Consultant without reliance upon any of the confidential information; or (5) disclosed pursuant to legal requirements or order. Subject to the foregoing, Consultant may disclose City's confidential information to its subcontractors and affiliates who also sign a similar agreement.

All Services and Deliverables shall be solely for City's benefit and are not intended to be relied upon by any person or entity other than City. City shall not disclose the Services or Deliverables, or refer to the Services or Deliverables in any communication, to any person or entity except (i) as specifically set forth in the applicable Work Authorization, or (ii) to City's contractors solely for the purpose of their providing services to City relating to the subject matter of the engagement, provided that such contractors comply with the restrictions on disclosure set forth in this sentence,

or (iii) as otherwise required by law. The parties recognize and agree that the City, is a municipal corporation organized under the laws of the State of Missouri and subject to RSMo Chapter 610 ("sunshine law"). City, however, may create its own materials based on the content of such Services and Deliverables and use and disclose such City-created materials ("Client Materials") for external purposes, provided that, City does not in any way, expressly or by implication, attribute such materials to Consultant or its subcontractors. Notwithstanding the foregoing, Consultant shall have no liability for Client Materials.

8. Contract Documents. The contract documents shall consist of this Agreement, City's Request for Proposal, Consultant's Response to City's Request for Proposal, and any Work Authorization issued hereunder. In the event of conflict between the contract documents, this Agreement will prevail except to the extent a Work Authorization specifically refers to a provision of this Agreement that it supersedes.

9. Discrimination. The Consultant agrees in the performance of this Agreement not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Consultant or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-l.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41C.F.R.§60-741.5(a), if applicable.

a. This Consultant and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. This Consultant and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

10. Equal Employment Opportunity. During the performance of this Contract, the Consultant agrees as follows:

a. The Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non- discrimination clause.

b. The Consultant will, in all solicitation or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.

c. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

d. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. Upon written request, the Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965 to the extent applicable to this contract, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the City and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders in connection with this Agreement.

f. In the event of the Consultant's noncompliance with the non-discrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

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

i. Section 109{a) of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any

prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.

j. Affirmative Action for Handicapped Workers

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

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

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

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

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

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

k. Section 504 of the Rehabilitation Act of 1973, as amended, provides for nondiscrimination of an otherwise qualified individual solely on the basis of his handicap in

benefiting from any program or activity receiving Federal financial assistance. All recipients must certify to compliance with all provisions of this Section.

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

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

n. Interest of Consultant and Employees. The Consultant covenants that other than in connection with performing the Services hereunder it presently has no interest and shall not acquire interest, direct or indirect, in the applicable study area or any parcels therein or any other interest which would prohibit performance of his services hereunder. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed to provide the Services.

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

12. Ethics. Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant and/or its affiliates, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, gift, or contingent fee.

13. Conflicts. Notwithstanding anything to the contrary, because Consultant and its affiliates and subsidiaries comprise a consulting firm (the "Firm") serves clients on a global basis in numerous cases, both in and out of court, it is possible that the Firm may have rendered or will render services to or have business associations with other entities or people which had or have or may have relationships with City, including creditors of City. The Firm will not be prevented or restricted by virtue of providing the Services under the Agreement from providing services to other entities or individuals, including entities or individuals whose interests may be in competition or conflict with City's, provided the Firm makes appropriate arrangements to ensure that the confidentiality of information is maintained.

14. 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.

15. Indemnification.

8

a. Each party, its subsidiaries and subcontractors, and their respective personnel shall not be liable for any claims, liabilities, or expenses relating to this Agreement, any Work Authorization or the Services ("Claims") for an aggregate amount exceeding one times the contract fees under the portion of work giving rise to the liability under this Agreement including, for the avoidance of doubt, in connection with the indemnification obligations hereunder, except to the extent finally determined to have resulted from the gross negligence, fraud, or willful misconduct of either party, in which case the aforementioned limit of liability shall not apply. In no event shall either party, its subsidiaries or subcontractors, or their respective personnel be liable to the other for any loss of use, data, goodwill, revenues, or profits (whether or not deemed to constitute a direct Claim), or any consequential, special, indirect, incidental, punitive, or exemplary loss, damage, or expense relating to this engagement. In circumstances where any limitation on damages or indemnification provision hereunder is not enforceable under applicable law, the aggregate liability of each party, its subsidiaries, subcontractors, and their respective personnel for any Claim shall not exceed an amount that is proportional to the relative fault that the conduct of each party bears to all other conduct giving rise to such Claim.

b. The Consultant shall defend, indemnify, and hold the City and its personnel from all Claims by third parties solely for bodily injury, death, or damage to real or tangible personal property, to the extent directly and proximately caused by the negligence or intentional misconduct of Consultant while engaged in the performance of the Services. Consultant shall indemnify, defend, and hold harmless City and its personnel from all Claims attributable to the claims of third parties for infringement by a Deliverable of any U.S. patent existing at the time of delivery and known Consultant or copyright or any unauthorized use of any trade secret, except to the extent that such infringement or unauthorized use arises from, or could have been avoided except for (i) modification of such Deliverable other than by Consultant or its subcontractors or use thereof in a manner not contemplated by this Agreement, (ii) the failure of the indemnified party to use any corrections or modifications made available by Consultant, (iii) information, materials, instructions, specifications, requirements or designs provided by or on behalf of the indemnified party, or (iv) the use of such Deliverable in combination with any platform, product, network or data not provided by Consultant. If City's use of any such Deliverable, or any portion thereof, is or is likely to be enjoined by order of a court of competent jurisdiction as such an infringement or unauthorized use, Consultant, at its option and expense, shall have the right to (x) procure for City the continued use of such Deliverable, (y) replace such Deliverable with a non-infringing Deliverable, or (z) modify such Deliverable so it becomes non-infringing; provided that, if (y) or (z) is the option chosen by Consultant, the replacement or modified Deliverable is capable of performing substantially the same function. In the event Consultant cannot reasonably procure, replace or modify such Deliverable in accordance with the immediately preceding sentence, Consultant may require City to cease use of such Deliverable and refund the portion of professional fees paid to Consultant with respect to the Services giving rise to such infringing Deliverable. The foregoing provisions of this Section constitute the sole and exclusive remedy of the indemnified parties, and the sole and exclusive obligation of Consultant, relating to a claim that any of Consultant's Deliverables infringes any patent, copyright or other intellectual property right of a third party.

c. City shall indemnify and hold harmless Consultant, its subsidiaries and subcontractors, and their respective personnel from all Claims attributable to the claims of third parties solely for bodily injury, death, or physical damage to real or tangible personal property to the extent directly and proximately caused by the negligence or intentional misconduct of City while Consultant is engaged in the performance of the Services. If any person or entity requests or subpoenas any information or materials related to the Services, City will inform Consultant of such request or subpoena. City agrees to reimburse Consultant for any time and expenses related to the request or subpoena.

d. Notwithstanding anything to the contrary, and for the avoidance of doubt, the provisions of this Agreement shall supersede and take precedence in all respects over any terms of the Request For Proposal related to the Services (2022-RFP-10) including, but not limited to, any indemnification in connection therewith..

e. The indemnification obligations herein shall not negate, abridge, or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Consultant affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Consultant's obligation under this agreement to defend, indemnify and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance.

g. As a condition to the foregoing indemnity obligations, the indemnified party shall provide the indemnifying party with prompt notice of any Claim for which indemnification shall be sought hereunder and shall cooperate in all reasonable respects with the indemnifying party in connection with any such Claim. The indemnifying party shall be entitled to control

16. Independent Contractor. This Agreement does not create an employer-employee relationship between the parties. Consultant is an independent contractor and is not entitled to any benefits including health, dental, vision, disability, life, and unemployment insurance, worker's compensation coverage, and LAGERS. Consultant is an independent contractor and not an employee for all purposes including the application of the Fair Labor Standards Act Minimum Wage and Overtime Payments, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, and the provisions of the Internal Revenue Code, Missouri Revenue and Taxation Laws, and Missouri's Worker Compensation Laws and Unemployment Insurance Laws.

17. Insurance. Intentionally omitted.

18. Intellectual Property.

a. Consultant has rights in, and may, in connection with the performance of the Services, use, create, modify, or acquire rights in, works of authorship, materials, information, and other intellectual property.

b. Upon full payment to Consultant under the applicable Work Authorization, and subject to the terms and conditions contained herein, (i) the tangible items specified as deliverables or work product in such Work Authorization (the "Deliverables") shall become the property of City. Notwithstanding anything to the contrary, Consultant shall retain (1) all of its pre-existing intellectual property, including but not limited to all patent, copyright, trademark and other intellectual property rights therein; and (2) all methodologies, processes, techniques, ideas, concepts, trade secrets, and know-how embodied in the Deliverables or that Consultant may develop or supply in connection with this Agreement ("A&M Knowledge"). Subject to the confidentiality restrictions herein, Consultant may use the A&M Knowledge for any purpose.

c. City shall accept Deliverables which conform to the requirements of the Work Authorization. City will promptly, and in no event more than ten (10) days after the completion of the applicable Services with respect to any Deliverables ("Acceptance Period") provide Consultant with notification of any non-conformance of the Deliverables with such requirements ("Non-conformance"), and Consultant shall have a reasonable period of time, based on the severity and complexity of the Non-conformance, to correct the Non-conformance. City shall have the right to test the corrected Deliverables in the same manner as with respect to the original Deliverables. If City uses the Deliverables before acceptance, modifies the Deliverables without the approval of Consultant, unreasonably delays the beginning of acceptance testing, or does not notify Consultant of any Non-conformance within the Acceptance period, then the Deliverables shall be considered accepted by City.

19. Notices. All notices required or permitted hereinunder and required to be in writing may be given by first class mail addressed to City and Consultant at the addresses as follows:

City of Joplin
ATTN: City Attorney
602 S. Main St.
Joplin, MO 64801

Alvarez & Marsal
Infrastructure & Capital Projects, LLC
ATTN: Riz Shah
655 15th St., NW Suite 600
Washington, DC 20005

The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing.

20. Records and Audits. The Consultant shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract.

21. 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.

22. 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 effected thereby. Any illegal or invalid provision of this Agreement shall be severable and any other provisions shall remain in full force and effect.

23. Miscellaneous.

a. Substantial and meaningful involvement of management of the City is critical to the success of each engagement. The City will be responsible for ensuring that the identified City personnel actively participate in both the planning and execution of any Work Authorization including timely decision making, of any Work Authorization. Consultant agrees to be responsible for providing management oversight of its performance under this Agreement and each Work Authorization.

b. The City is, and will continue to be, solely responsible for establishing and maintaining effective internal control over financial reporting, including, without limitation, systems designed to assure achievement of its control objectives and its compliance with applicable laws and regulations.

c. Consultant will not be responsible for the accuracy or completeness of any data made available to Consultant through any third-party tool, database, or software application. The City further acknowledges and agrees that Consultant will have no responsibility for evaluating the functionality of such third-party tool, database, or software application, nor for any results obtained by Consultant through the use of such third-party tool, database, or software application.

d. This is a services engagement. Except as specifically provided herein, **CONSULTANT DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

24. City Responsibilities. Each party shall cooperate with the other in the performance of the Services. City will provide Consultant with reasonable facilities and timely access to data, information, and personnel of City. With respect to the data and information provided by City to Consultant or its subcontractors for the performance of the Services, City shall have all rights required to provide such data and information, and shall do so only in accordance with applicable law and with any procedures agreed upon in writing. City shall be solely responsible for, among other things (a) the performance of its personnel and agents; (b) the accuracy and completeness of all data and information provided to Consultant for purposes of the performance of the Services; (c) making all management decisions, performing all management functions, and assuming all management responsibilities; (d) designating a competent management member to oversee the Services; (e) evaluating the adequacy and results of the Services; (f) accepting responsibility for the results of the Services; (g) establishing and maintaining internal controls, including monitoring ongoing activities; (h) timely decision making and funding of Work Authorizations.

25. Subcontractors. Consultant shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Consultant is for the acts and omissions of persons it directly employs. Consultant shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Consultant by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Consultant the same power regarding termination of any subcontract as City may exercise over Consultant under any provisions of this Agreement. Nothing contained in this Agreement shall create any contractual relation between the subcontractor and City or between any subcontractors. City hereby consents to Consultant (a) subcontracting or assigning any portion of the Services to (i) Olsson, Finley, CCG or B2 Civic Solutions, and/or (b) utilizing employees of any affiliate or related entity of Consultant, whether located within or outside the United States. Services performed hereunder by Consultant's subcontractors and any of its affiliates' employees shall be invoiced as professional fees on the invoices for Services performed by Consultant's personnel, unless otherwise agreed.

26. Termination. Either party may terminate this Agreement or any or all Work Authorizations without cause by giving thirty (30) days' prior written notice to the other party. If either party terminates the Agreement without cause but does not terminate all of the then-existing Work Authorizations, this Agreement shall continue to apply to such non-terminated Work Authorizations. If either party terminates a Work Authorization without cause, this Agreement shall continue to apply to all Work Authorizations that have not been terminated. If, through any cause, Consultant shall fail to fulfill in a timely and proper manner Consultant's obligations under this contract, or if Consultant shall violate any of the covenants, agreements, or stipulations of this contract, City shall thereupon have the right to terminate this contract by giving written notice to Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective day of such termination. City may, without cause, terminate this contract upon thirty (30) day's prior written notice. In either such event and upon full payment by City for all fees and expenses for Services provided through such date, all finished or unfinished Deliverables prepared by the Consultant under this Agreement shall, at the option of City, become the City's property; provided that any work-in-progress shall be provided on an as-is basis, without warranty or indemnity of any kind, and A&M Knowledge contained therein shall remain property of Consultant. Consultant shall be entitled to receive all fees and expenses for any satisfactory work completed provided through such date. Notwithstanding the above, Consultant shall not be relieved of liability to City for damages sustained by City by virtue of any such breach of the contract by Consultant. Following termination of this Agreement or any Work Authorization issued hereunder, City shall promptly pay Consultant all outstanding fees and expenses due to Consultant thereunder.

27. Waiver of Jury Trial. THE PARTIES HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITIED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM RELATING TO THIS AGREEMENT, ANY WORK AUTHORIZATION OR THE SERVICES.

28. Non-exclusivity. Consultant may (a) provide any services to any person or entity, and (b) develop for itself, or for others, any materials or processes, including those that may be

similar to those produced as a result of the Services, provided that Consultant complies with its obligations of confidentiality set forth hereunder.

29. Non-Solicitation. During the term of any Work Authorization and for a period of one (1) year thereafter, each party agrees that its personnel (in their capacity as such) who had substantive contact with personnel of the other party during such engagement shall not, without the other party's consent, directly or indirectly employ, solicit, engage, or retain the services of such personnel of the other party for employment or engagement by the soliciting party. In the event a party breaches this provision, the breaching party shall be liable to the aggrieved party for an amount equal to thirty percent (30%) of the annual base compensation of the relevant personnel in his or her new position. Although such payment shall be the aggrieved party's exclusive means of monetary recovery from the breaching party for breach of this provision, the aggrieved party shall be entitled to seek injunctive or other equitable relief. This provision shall not restrict the right of either party to solicit or recruit generally in the media.

30. Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the parties and their respective successors and permitted assigns. All Services shall be solely for City's benefit and are not intended to be relied upon by any person or entity other than City.

31. Unauthorized Aliens. That pursuant to Missouri Revised Statute Sections 285.525 through 285.555, if this contract exceeds the amount of $5,000.00 and Consultant is associated with a business entity, Consultant 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, Consultant must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

32. Waiver. 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.

[Remainder of page intentionally left blank – signature page follows]

IN WITNESS WHEREOF, the Parties have hereunto set their hands the date first above written.

CITY OF JOPLIN, MISSOURI

Nick Edwards, City Manager

ALVAREZ & MARSAL INFRASTRUCTURE & CAPITAL PROJECTS, LLC

Riz Shah, Managing Director

ATTEST:

Holly Nagy, City Clerk

COUNCIL BILL NO. 2024-278 ORDINANCE NO.

AN ORDINANCE approving the First Amendment for Consulting Services "First Amendment" and Work Authorization 3 with Alvarez and Marsal Infrastructure and Capital Projects LLP to provide administrative services for Phase 2 implementing broadband and connectivity solutions in the not to exceed amount of Eight Hundred Thirty-Six Thousand Eight Hundred Ninety-Seven Dollars and No Cents ($836,897.00) and authorizing the City Manager to execute the same by and on behalf of the City of Joplin; amending the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024 as adopted by Ordinance 2023-158 on October 16, 2023; and, setting a date when this Ordinance shall become effective.

WHEREAS, in the Smarter Joplin Roadmap expand internet access and improve connectivity was identified as a primary concern in a resident survey; and

WHEREAS, the Broadband Gap Analysis Report identified the specific challenges with connectivity in the city of Joplin including issues with availability, capacity and affordability; and

WHEREAS, the City of Joplin entered into a contract with Alvarez and Marsal on July 5, 2022 implementing Phase One of the Broadband Deployment plan which produced a Public Private Partnership with ALLO Fiber to bring Fiber connectivity opportunities to essentially every business and residence within the city limit of Joplin.

WHEREAS, this Amendment will authorize Alvarez and Marsal to assist the City of Joplin during Phase 2 the Construction Phase of the ALLO Fiber Contract dated May 6, 2024.

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

Section 1. That the First Amendment for Consulting Services "First Amendment" and Work Authorization 3 with Alvarez and Marsal in the not to exceed amount of an additional Eight Hundred Thirty-Six Thousand Eight Hundred Ninety-Seven Dollars and No Cents ($836,897.00) provide Phase 2 of the Broadband Deployment Plan.

Section 2. That the First Amendment for Consulting Services "First Amendment" and the third work order be executed as described in Work Authorization No. 3 attached hereto as Exhibit A.

Section 3. That the City Manager or designee, of the City of Joplin, Missouri, is hereby authorized to execute said Agreement(s), or agreement(s) substantially similar in form, for and on behalf of the City of Joplin.

Section 4. That fiscal year 2023-2024 budgeted appropriations as adopted by Ordinance 2023-158 be amended by increasing appropriations by the total amount of Eight Hundred Thirty-Six Thousand Eight Hundred Ninety-Seven Dollars and No Cents ($836,897.00).

Section 5. That the Director of Finance is hereby directed to make all necessary entries on the City records to show the increase in appropriations.

Section 6. That this Council Bill shall have an effective date of August 20, 2024.

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

day of_____, 2024, by a vote of_____.

_____

ATTEST: Keenan T. Cortez, Sr., Mayor

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:
Council Bill 2024-279 – Approving a Subrecipient Agreement between the City of Joplin and Economic Security Corporation (ESC)

ORIGINATING DEPARTMENT:
Planning, Development, and Neighborhood Services

MEETING DATE;
August 5, 2024

REVIEWED BY;
Director of Planning, Development and Neighborhood Services- Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, Assistant City Manager-Tony Robyn, City Manager-Nick Edwards.

SUMMARY;
This council bill approves the Subrecipient Agreement authorizing Economic Security Corporation to administer the Joplin Homeowners Rehabilitation Program (JHRP), a program that was approved by Council Resolution 2023-005.

BACKGROUND;
The federal American Rescue Plan Act (ARPA) of 2021 established the Coronavirus State and Local Fiscal Recovery Fund (SLFRF) for the purpose of responding to the impact of COVID-19 and the affects felt within communities, residents, and businesses across the nation. The funding aims to provide local governments with the resources to respond to the public health emergency and its economic impacts within four allowable use categories.

The Department of Treasury awarded the State of Missouri a $2.5 billion share of federal funding after which time the Missouri General Assembly appropriated $100 million of the State Fiscal Recovery Fund to the Missouri Department of Economic Development (DED) for community development and revitalization. The DED then established the ARPA Community Revitalization Grant Program, a competitive program that requires a 50% funding match. The City of Joplin applied to and was awarded $3.5 million with the $3.5 million match provided through the City's local ARPA award.

The Seven Million funding stream is supplying three housing projects that will advance neighborhood revitalization in three distinct ways. Joplin Homeowner's Assistance, Joplin Homeowners Rehabilitation and a Demolition Program.

Two Million dollars was allocated to the Joplin Homeowners Rehabilitation Program and Economic Security Corporation has agreed to Administer the program under the federal guidelines of the ARPA grant.

FUNDING SOURCE

This Council Bill includes a budget amendment from general fund use tax proceeds for ESC's fee.

RECOMMENDATION

Staff recommends approval of this council bill for the administration of the Joplin Homeowners Rehabilitation Program with Economic Security Corporation (ESC).

ATTACHMENTS

CB 2024-279
Subrecipient Agreement with Economic Security Corporation

SUBRECIPIENT AGREEMENT

FOR

ARPA JOPLIN HOMEOWNER REHABILITATION PROGRAM

Between

CITY OF JOPLIN

And

ECONOMIC SECURITY CORPORATION (ESC) OF SOUTHWEST AREA

(Subrecipient)

Entered into this 20th day of August 2024

SUBAWARD INFORMATION

The following information is provided pursuant to 2 C.F.R. 200.332(a)(1):

- Subrecipient's name: Economic Security Corporation of Southwest Area
- Subrecipient's unique entity identifier: KQN2BSLHJRA9
- Federal Award Identification Number (FAIN): SLFRP4542
- CFDA Number: 21.027 Coronavirus State Fiscal Recovery Fund
- Federal Award Date: 8/4/2021
- Subaward Period of Performance Start and End Date: 08/19/2024 – 08/31/2025.
- Amount of Federal Funds Obligated by this Agreement: $1,000,000.00
- Amount of Non-Federal Funds Obligated by this Agreement: $1,350,000.00 ($1,000,000 Local Match and $350,000.00 Not to Exceed Administrative Budget)
- Total Amount of Federal Funds Obligated to the Subrecipient by the pass-through entity to include this Agreement: $1,000,000.00
- Total Amount of the Federal Award committed to the Subrecipient by the pass-through entity: $1,000,000.00.
- Federal Award Program Description:

  The federal American Rescue Plan Act ("ARPA") of 2021 established a Coronavirus State and Local Fiscal Recovery Fund ("SLFRF") for the purpose of responding to the impact of COVID-19 and the affects felt within communities, residents, and businesses across the nation. The funding aims to provide governments with the resources to respond to the public health emergency and its economic impacts within four allowable use categories.

  The Department of Treasury awarded the State of Missouri a $2.5 billion share of the federal funding and the Missouri General Assembly appropriated $100 million of the State Fiscal Recovery Funds to the Missouri Department of Economic Development ("MO DED") for community development and revitalization. The MO DED established a competitive program entitled "Missouri ARPA Community Revitalization Grant Program". The City of Joplin was awarded $3.5 million for allowable activities and may expend funds under the "negative economic impacts" allowable use category. This permits a response to the negative economic impacts caused or made worse by COVID-19 as codified in Title VI of the Social Security Act.

  Funding under this Subrecipient Agreement shall be for the Economic Security Corporation to carry out the Joplin Homeowner Rehabilitation Program.
- Name of Federal Awarding Agency: Department of Treasury
- Name of Level 1 Pass-Through Entity (Direct Recipient): State of Missouri Department of Economic Development
- Name of Level 2 Pass-through Entity: City of Joplin

- Contact Information for City of Joplin:

  Attn: Leslie L. Haase

  Title: Finance Director

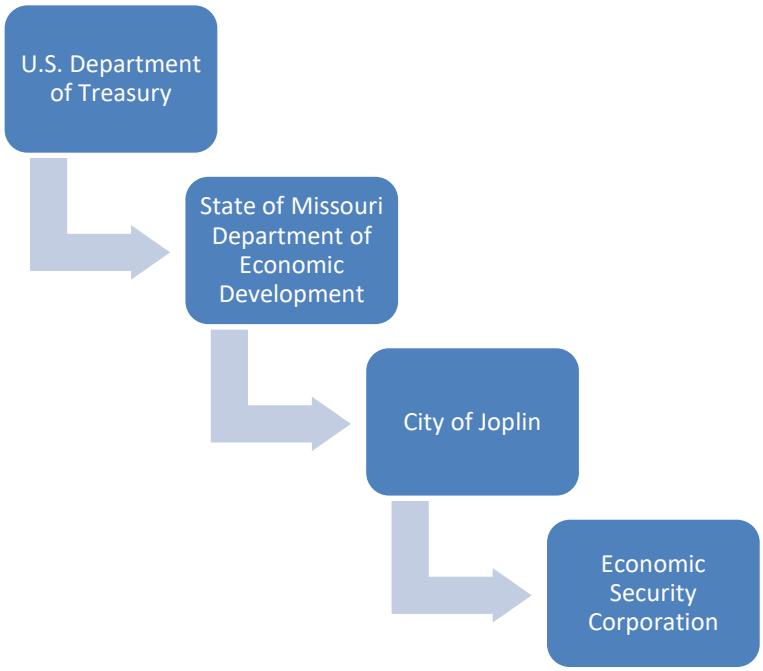
  Street: 602 S Main Street

  City, MO Zip: Joplin, MO 64801

  Phone: 1-417-624-0820

  Email: LHaase@joplinmo.org
- Award is for Research & Development (R&D): No
- Indirect Cost Rate for federal award: de minimis

Flow of Federal financial assistance in this Subrecipient Agreement:



THIS AGREEMENT entered this 20th day of August 2024 by and between the City of Joplin (herein called the "City") and Economic Security Corporation (herein called the "Subrecipient") in connection with a certain grant to Subrecipient under the State and Local Fiscal Recovery Funds ("SLFRF"). The foregoing City and Subrecipient shall sometimes be referred to herein individually as the "Party" and collectively as the "Parties".

The purpose of this Agreement is to provide funding to the Subrecipient from funds provided to the City of Joplin by the State of Missouri Department of Development ("MO DED") through the Department of Treasury ("Treasury") pursuant to Sections 602 and 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (Mar. 11, 2021) ("ARPA"), which authorized the Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") to enable the Subrecipient to carry out specific eligible activities on behalf of the City; and

WHEREAS, the federal American Rescue Plan Act of 2021 ("ARPA") (Pub. L. 117-2) established the Coronavirus State Fiscal Recovery Fund ("SFRF") (42 U.S.C. § 802), and appropriated $195.3 billion to the U.S. Department of the Treasury ("Treasury") for payments to the states to respond to the Coronavirus Disease 2019 ("COVID-19") public health emergency or for various purposes, including "to respond to the negative economic impacts" of COVID-19"; and

WHEREAS, the SFRF is further implemented by Treasury through regulations (31 C.F.R. Part 35) and other guidance; and

WHEREAS, the State of Missouri ("State") entered into an agreement with Treasury regarding the State's SFRF funding ("Treasury-State Grant Agreement"); and

WHEREAS, the SFRF award to the State is over $2.5 billion; and

WHEREAS, the Missouri General Assembly appropriated, and the Governor approved, $100,000,000 in SFRF funds to Missouri Department of Economic Development ("DED") for community development and revitalization for State Fiscal Year 2023 (July l, 2022 - June 30, 2023) (House Bill 3020, § 20.065, 2022); and

WHEREAS, DED established the Missouri ARPA Community Revitalization Grant Program, a competitive grant program ("Program"), to provide federal financial assistance for investments in communities in the State; and

WHEREAS, the City of Joplin submitted an application for a community revitalization project, and DED approved the project for funding; and

WHEREAS, the City of Joplin has received SFRF funds from DED; and

WHEREAS, the City is authorized to disburse all or a portion of its SFRF funds to Subrecipients to carry out eligible uses on behalf of the City; and

WHEREAS, the City has determined that the Joplin Homeowner Rehabilitation Program is an eligible use of SFRF funds; and

WHEREAS, the Subrecipient has been designated by the City to carry out the Joplin Homeowner Rehabilitation Program; and

WHEREAS, the City has defined eligible uses of the SFRF funds under the Joplin Homeowner Rehabilitation Program in the form attached hereto as Exhibit A; and

WHEREAS, the City shall award the Subrecipient SFRF funds in the amount of $2,350,000.00 (the "Award") to carry out the Joplin Homeowner Rehabilitation Program, subject to the City and the Subrecipient entering into this Agreement with respect to the use of said funds; and

WHEREAS, in order to provide funds for the Subrecipient to pay necessary expenditures it has or will incur to carry out the Joplin Homeowner Rehabilitation Program, the Parties have agreed that City shall provide reimbursements for eligible expenses as described herein to Subrecipient.

NOW, THEREFORE, the Parties mutually agree as follows:

I. AGREEMENT TERM

A. Initial Agreement Term

This Agreement shall become effective on the 20th day of August 2024 and end on the 31st day of August 2025.

B. Renewal Terms

a. Written Renewal- This Agreement may only be renewed by action evidenced in writing and executed by both Parties. The exercise of the option to renew under this provision shall be with the understanding that all terms and conditions remain in full force and effect unless this Agreement is specifically amended.

II. PROGRAM ACTIVITIES & BUDGET

A. Program Activities

The Subrecipient will be responsible for administering all activities and completing the Program in accordance with the approved Program Guidelines and Program Description in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds. Program Activities are defined under Attachment A – Program Guidelines and Attachment B – Program Description. The Subrecipient is responsible for completing the Program in accordance with the approved Program Description and Scope of Work as outlined in Attachment B attached hereto and made a part hereof. In any instance where the Program Description may be in conflict with other terms of this Agreement, the Agreement will prevail.

If the Subrecipient wishes to amend the Program Description, the Subrecipient shall seek approval from the City in writing prior to undertaking any actions relative to such change. Failure to do so may result in termination of this Agreement at the City's discretion.

B. Program Budget & Eligible Expenses

The Subrecipient shall not obligate, encumber, spend or otherwise utilize SFRF funds for any activity or purpose not included or not in conformance with the Agreement unless the Subrecipient has received explicit written approval from the City to undertake such action. The City shall only reimburse Subrecipient for eligible expenses. The City will not reimburse for costs incurred for any purpose other than those specified in the Agreement as eligible expenses. Failure to comply with provisions of this Agreement, or failure to perform activities as specified in the Agreement, will result in required corrective action up to and including financial consequences. A financial consequence may be imposed for non-compliance in accordance with 2 C.F.R. 200, including but not limited to costs being disallowed, withholding of federal funds, and/or termination of the Agreement.

Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing. Eligible expenses shall be contingent on approval from The City. An approved budget is incorporated and made a part of this Agreement as attached in

Attachment C - Program Budget & Eligible Expenses.

C. Program Schedule

a. Initial Program Schedule: The Parties acknowledge that, as of the execution date of this Agreement, only the start and end dates of the agreement have been established. The detailed program schedule, including key milestones, deliverables, and deadlines, is still under development.

b. Submission of Detailed Program Schedule: The Subrecipient shall submit a detailed program schedule to the City within thirty (30) days of the execution date of this Agreement. This schedule shall outline specific activities, timelines, and responsibilities necessary to achieve the program objectives.

c. Review and Approval: The detailed program schedule shall be subject to review and approval by the City. The Parties may mutually agree to amend the program schedule as necessary to accommodate changes in program requirements or unforeseen circumstances. Any amendments to the schedule must be documented in writing and approved by both the City and the Subrecipient.

d. Compliance with Approved Schedule: The Subrecipient shall adhere to the approved program schedule and complete all activities, deliverables, and milestones as outlined. Any deviations from the approved schedule must be promptly reported to the City and may require an amendment to the schedule as described above. The City will regularly monitor progress against the approved program schedule and the subrecipient shall include updates in its periodic progress reports to the City. These reports shall highlight any delays or issues and propose corrective actions as needed to ensure timely completion of the program.

D. Re-obligation of Program Funds

a. Authority to Re-obligate Funds: The City, acting as the pass-through entity, reserves the right to re-obligate any and all program funds included in this Subrecipient Agreement at any time and for any reason. This re-obligation may be executed as the City deems appropriate and necessary to ensure the timely expenditure of grant funds by the federally required expenditure deadline for ARPA SLFRF funds.

b. Notification of Re-obligation: The City will provide written notice to the Subrecipient of any decision to re-obligate funds under this provision. This notice will include the amount of funds to be re-obligated, the reasons for the re-obligation, and the effective date of the re-obligation.

c. Subrecipient Compliance: Upon receipt of the re-obligation notice, the Subrecipient shall comply with any directives issued by the City related to the re-obligation of funds. The Subrecipient shall cease all expenditures of re-obligated funds as of the effective date specified in the notice.

d. Revised Work Plan and Budget: If applicable, the Subrecipient shall submit a revised work plan and budget to the City within ten (10) business days of receiving the re-obligation notice. The revised work plan and budget must reflect the changes resulting from the re-obligation of funds and must be approved by the City before any further expenditures are made.

e. Continued Obligations: Notwithstanding the re-obligation of funds, the Subrecipient shall continue to fulfill all other obligations and responsibilities under this Agreement, unless

otherwise directed by the City. The re-obligation of funds does not relieve the Subrecipient of its duty to achieve the objectives and deliverables outlined in this Agreement.

f. Final Settlement and Reporting: The Subrecipient shall submit a final financial report and settlement of accounts, as directed by the City, within thirty (30) days of the effective date of the re-obligation. This report shall detail all expenditures up to the date of re-obligation and shall return any unexpended funds to the City as required.

g. Indemnification: The Subrecipient agrees to indemnify and hold harmless the City from any claims, liabilities, or damages arising from the re-obligation of funds under this provision.

III. NOTICES

Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

City of Joplin Point of Contact:

Troy Bolander

Planning, Development & Neighborhood Services

602 S Main Street

Joplin, MO 64801

1-417-624-0820

TBolande@Joplinmo.org

Subrecipient Point of Contact:

Ryan Peterson

Chief Executive Officer

Economic Security Corporation

1- 417-627-2014

rpeterson@escswa.org

IV. REPORTING & PAYMENT PROCEDURES

A. This is a cost-reimbursement Agreement, subject to the availability of funds.

B. The City will reimburse the Subrecipient only for Eligible Expenses.

C. Eligible Expenses are listed in Attachment C – Program Budget & Eligible Expenses.

D. The City will review any request for reimbursement by comparing the documentation provided by the

Subrecipient against the allowable costs outlined in this Agreement and pursuant to the federal funding agency and pass-through entity requirements.

E. The maximum amount for the entirety of this Agreement is $2,350,000.00.

V. TERMS & CONDITIONS

The following requirements are applicable to all activities undertaken with SFRF funds.

A. Compliance with State and Local Requirements

Subrecipient acknowledges that this Agreement requires compliance with the regulations of the state of Missouri and City of Joplin, and with all applicable state and local orders, laws, regulations, rules, policies, and certifications governing any activities undertaken during the performance of this Agreement.

Missouri Department of Economic Development Contract Provisions attached hereto as Attachment E and incorporated herein by reference.

B. Compliance with Federal Requirements

Subrecipient must comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient acknowledges that this Agreement requires compliance with various provisions of Title 2 C.F.R. 200 – Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards. Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this Agreement. Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

The Subrecipient must comply with all applicable Federal law, statutes, regulations, executive orders, Department of Treasury policies and directives. Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award. Federal regulations applicable to this Agreement include, without limitation, the following:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and the Department of Transportation's implementing regulations, 49 CFR part 24, that apply to projects funded with federal financial assistance, such as SFRF funds.

- Generally applicable federal environmental laws and regulations.
- Federal Contract Provisions attached hereto as Attachment D and incorporated herein by reference.

Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in this Agreement, including but not limited to, 2 C.F.R. Part 200 and the Federal Contract Provisions (Attachment D).

With respect to any conflict between such federal requirements and the terms of this Agreement and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

C. Hold Harmless

Subrecipient shall hold harmless, defend and indemnify the City from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement.

D. Indemnification

Subrecipient shall indemnify, defend, and hold harmless the City of Joplin, its officers, agents and employees, the State of Missouri, and the Federal awarding agency, from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Subrecipient and/or its agents, employees or sub-contractors, excepting only loss, injury or damage determined to be solely caused by the gross negligence or willful misconduct of personnel employed by the City. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the City. Subrecipient shall reimburse the City for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which Subrecipient is obligated to indemnify, defend and hold harmless the City under this Agreement.

E. Misrepresentations & Noncompliance

Subrecipient hereby asserts, certifies and reaffirms that all representations and other information contained in Subrecipient's application, request for funding, or request for reimbursement are true, correct and complete, to the best of Subrecipient's knowledge, as of the date of this Agreement. Subrecipient acknowledges that all such representations and information have been relied on by City to provide the funding under this Agreement.

Subrecipient shall promptly notify City, in writing, of the occurrence of any event or any material change in circumstances which would make any Subrecipient representation or information untrue or incorrect or otherwise impair Subrecipient's ability to fulfill Subrecipient's obligations under this Agreement. Subrecipient further certifies that Subrecipient has disclosed to City all insurance proceeds and other funds received from governmental sources.

F. Workers' Compensation

Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employee involved in the performance of this Agreement.

G. Insurance

Subrecipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud and/or undue physical damage and, as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from City. Subrecipient shall comply with the insurance requirements of 2 C.F.R. 200.310 (Insurance coverage) and 2 C.F.R. 200.447 (Insurance and indemnification).

Without limiting any of the other obligations or liabilities of the Subrecipient, the Subrecipient shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Joplin, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Joplin against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Subrecipient to always maintain adequate insurance coverage during the term of the Contract. Failure of the Subrecipient to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

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

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

Such policies shall name the City as an additional insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(See, http://insurance.mo.gov/industry/sovimmunity.php).

As of January 1, 2024, the minimum coverage for the insurance referred to herein shall be as set out below:

a. Workers' Compensation…. Statutory coverage per RSMo 287.010 et seq.
Employer's Liability……. $1,000,000.00

b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least $1,000,000 for all claims to property arising out of a single occurrence and at least $100,000 to any one owner with respect to damages to property. Subrecipient agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorney's fees of Subrecipient, its employees, officers or agents. Subrecipient agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Three Million Three Hundred Seventy Thousand One Hundred Thirty Seven and no/100 Dollars ($3,370,137.00) for all claims arising out of a single accident or occurrence and at least Five Hundred Five Thousand Five Hundred Twenty and no/100 Dollars ($505,520.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. Errors and Omissions Insurance. The Subrecipient shall maintain a professional liability insurance policy in the amount of $1,000,000.00. This policy shall remain in full force and effect for a period of one year after completion and acceptance by the City of the construction of the project.

e. Subcontracts. In case any or all this work is sublet, the Subrecipient shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Subrecipient shall require all subcontractors with whom it enters into a contract to perform work on this project to protect the City of Joplin through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Subrecipient and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Subrecipient, upon 10 days written notice, to execute an addendum to this agreement whereby the Subrecipient agrees to provide, at a price not exceeding Subrecipient's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

H. Bonding

Subrecipient shall be responsible for ensuring its contractors comply with all bonding requirements of 2 C.F.R. 200.326 (Bonding requirements).

For construction or facility improvement contracts or subcontracts exceeding $15,000.00 the minimum bonding requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

I. Amendments

The City or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the City's governing body. Such amendments shall not invalidate this

Agreement, nor relieve or release the City or Subrecipient from its obligations under this Agreement.

The City may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the program, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both the City and Subrecipient.

J. Suspension or Termination

In accordance with 2 C.F.R. 200.340, the City may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to), the following:

1. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and Federal awarding agency guidelines, policies or directives as may become applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Subrecipient to the City reports that are incorrect or incomplete in any material respect.

K. Termination for Cause

In the event of material breach of the contractual obligations by the Subrecipient, the City may terminate the Agreement for Cause. In its sole discretion, the City may give the Subrecipient an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the Subrecipient must provide the City within 10 working days from notification a written plan detailing how the Subrecipient intends to cure the breach. If the Subrecipient fails to cure the breach or if circumstances demand immediate action, the City will issue a notice of cancellation terminating the Agreement immediately.

If it is determined the City improperly terminated the Agreement, such cancellation shall be deemed a Termination for Convenience.

L. Termination for Convenience

The City reserves the right to terminate the Agreement at any time, for the convenience of the City, without penalty or recourse, by giving written notice to the Subrecipient at least thirty (30) calendar days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, reports, supplies, equipment, and accomplishments prepared, furnished or completed by the Subrecipient pursuant to the terms of the contract shall, at the option of the City, become the property of the City. When applicable, the Subrecipient shall be entitled to receive compensation for services and/or property delivered to and accepted by the City pursuant to the Agreement prior to the effective date of termination.

M. Lobbying

Subrecipient hereby certifies that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subawards, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly:
4. Subrecipient shall complete and submit the Certification Regarding Lobbying – SF-LLL (Attachment D). Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

VI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

Subrecipient's financial management system must comply with 2 C.F.R. 200.302. The Subrecipient agrees to comply with and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred. The Subrecipient's accounting system to record expenditures must be established and maintained in accordance with generally accepted accounting standards and must follow approved practices as outlined in 2 C.F.R. 200.

B. Cost Principles

If any indirect costs will be charged to the City under this contract, such costs must conform to the cost principles set forth under the Uniform Rules at 2 C.F.R. Part 200, subpart E ("Cost Principles"). In general, costs must (i) be necessary and reasonable; (ii) allocable to the grant award; (iii) conform to any limitations or exclusions set forth in the Cost Principles; (iv) be adequately documented; and (v) be determined in accordance with generally accepted accounting principles ("GAAP"), except, for state and local governments and Indian tribes only, as otherwise provided for in 2 C.F.R. Part 200, subpart E. 2 C.F.R. 200.403. Costs that are determined unallowable pursuant to a federal audit are subject to repayment by Subrecipient.

C. Pre-award Costs

Pre-award costs, as defined in 2 C.F.R. §f 200.458, may not be paid with funding from this award.

D. Administrative Costs

a. The City agrees to provide up to $350,000 in local use tax funding to cover the Subrecipient's administrative costs for the program. This funding is based on a two-year estimate of necessary administrative expenditures.

b. Initial Term and Funding Allocation

    i. The initial term of this Agreement shall be for one year. For this initial term, the City shall allocate up to $175,000 to cover the Subrecipient's administrative costs. This allocation is based on the approved funding amount and represents half of the total estimated administrative costs for the two-year period.

c. Eligible Administrative Costs

    i. Administrative costs covered under this Agreement include, but are not limited to, general management, oversight, and coordination expenses necessary for the implementation and administration of the program. These costs must be documented and justified in accordance with applicable regulations and guidelines.

d. Reimbursement and Reporting

    i. The Subrecipient shall submit detailed invoices and reports to the City on at least a monthly basis, outlining the administrative costs incurred. The City will review and approve these submissions before reimbursing the Subrecipient up to the agreed amount for the initial term.

e. Accessing Additional Funding

    i. If the Subrecipient incurs eligible administrative costs exceeding $175,000 within the initial term, or if there is a need to extend the term of this Agreement to cover additional costs, the Subrecipient may request additional funding from the remaining $175,000. Such requests must be submitted in writing, providing detailed justification for the additional costs. The City will review and may approve the request based on available funds and the justification provided.

f. Extension of Agreement Term

    i. If it becomes necessary to extend the term of this Agreement to utilize the remaining $175,000, an amendment to this Agreement must be negotiated and approved by both parties. The amendment shall specify the extended term and any additional terms and conditions related to the extended funding.

E. Cost Sharing

Cost sharing or matching funds are not required to be provided by Subrecipient.

F. Duplication of Benefits; Subrogation

Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155) and in accordance with section 1210 of the Disaster Recovery Reform Act of 2018 (division D of Public Law 115–254; 132 Stat. 3442), which amended section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155). The Subrecipient shall carry out the activities under this agreement in compliance with the City’s procedures to prevent duplication of benefits.

If the Subrecipient receives duplicate benefits from another source for projects related to this disaster, the Subrecipient must refund the benefits provided by the City to the City. The City may also recover the amount to be repaid, or any part thereof, by deductions from any funds which were to be paid to Subrecipient.

Under Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, any entity that has received or is entitled to receive federal disaster assistance is liable to the United States for the repayment of such assistance to the extent that such assistance duplicates benefits available for the same purpose from another source, including insurance and other federal programs.

G. Remedies for Noncompliance; Recoupment

In the event of Subrecipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the City may impose additional conditions on future award funds, if any, or take other available remedies as set forth in 2 C.F.R. 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

H. Documentation & Recordkeeping

1. Access to Records (2 C.F.R. 200.337)

    a. As required by the Department of Treasury, Inspectors General, the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any documents, papers, or other records of the Subrecipient which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Subrecipient's personnel for the purpose of interview and discussion related to such documents. The Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, the State of Missouri, the Federal awarding agency or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

    b. As required by 2 C.F.R. 200.332(a)(5), the City of Joplin, the State of Missouri and appropriate state agencies as designated by the State of Missouri, auditors, or any of their authorized representatives, shall have the right of access to any records, documents, financial statements, papers, or other records of the Subrecipient which are pertinent to this Agreement, in order to make audits, examinations, excerpts, and transcripts. The right of access also includes timely and reasonable access to the Subrecipient's personnel for the purpose of interview and discussion related to such documents.

    c. The right of access is not limited to the required retention period but lasts as long as the records are retained.

2. Record Retention

Subrecipient shall retain sufficient records, which may include, but are not limited to financial records, supporting documents, statistical records, and all other Subrecipient records pertinent to the Agreement to show its compliance with the terms of this Agreement, as well as the compliance of all subcontractors or consultants paid from funds under this Agreement, for a period of for five (5) years from the date of City of Joplin's closeout of their Subaward with DED, unless a longer period is required as set forth in the exceptions in 2 CFR 200.334.in accordance with 2 C.F.R. 200.334.

3. Internal Controls

Subrecipient must comply with 2 C.F.R. 200.303 and establish and maintain effective internal control over the Federal award that provides reasonable assurance that the Subrecipient is managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

4. Personally Identifiable Information

Subrecipient must comply with 2 C.F.R. 200.303(e) and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. 200.82, and other information the City designates as sensitive or the Subrecipient considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

5. Client Data

Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City monitors or their designees for review upon request.

6. Disclosure

Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

7. Close-Outs

Subrecipient shall close-out its use of funds under this Agreement by complying with the closeout procedures in 2 C.F.R. 200.344. Subrecipient's obligation to City shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that Subrecipient has control over funding provided under this Agreement.

8. Audits & Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to City, the Federal awarding agency, and the Comptroller General of the United States or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Subrecipient within 30 days after receipt by the Subrecipient. Failure of Subrecipient to comply with the audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments.

Subrecipients that expend $750,000 or more in total federal assistance (all programs) in a single year must have an audit conducted in accordance with 2 C.F.R. Part 200, Subpart F—Audit Requirements. Subrecipient shall have an annual agency audit conducted in accordance with current City policy concerning subrecipient audits and 2 C.F.R. 200 Subpart F – Audit Requirements. Subrecipient may be required to submit a copy of that audit to the City of Joplin in accordance with Office of Management and Budget Super Circular. This may be provided to the City of Joplin by email at JBulling@joplinmo.org.

I. Reporting & Payment Procedures

1. Indirect Costs

If indirect costs are charged, Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the City for approval, in a form specified by the City. Any indirect costs must be consistent 2 C.F.R. 200 Appendix II Subpart E – Cost Principals.

2. Payment Procedures

The City will pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with any approved budget and the City's policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. In addition, the City reserves the right to liquidate funds available under this contract for costs incurred by the City on behalf of the Subrecipient.

Subrecipients should maintain a financial file with copies of back-up documentation for all paid eligible expenditures made by the Subrecipient during the eligible period. Documentation of expenditures will be reviewed and verified upon receipt by City staff.

a. Subrecipient must carefully track all costs related to the Program. Costs should be segregated by Administrative Costs, Delivery- Hard Costs, and Delivery- Soft Costs.

b. Time spent on Program related issues should be tracked using a unique identifier for each home/applicant.

c. These codes are to enable City to monitor Program costs and can be used by Subrecipient when producing reimbursement requests.

d. Subrecipient must track Program costs within their systems for the purpose of requesting reimbursement. These costs must also be reported to the City upon request.

e. Requests for reimbursement must be submitted to Johan Bulling at least monthly, or more frequently as determined by the City. All reimbursement requests will go through an approval process and funds will be reimbursed up to 100% depending on the total amount of claims and the funds available. A reimbursement of 100% is not guaranteed. Reimbursements will be made within 30 days of receipt of the reimbursement request.

f. Reimbursement requests must contain sufficient documentation to support:

    i. Each home was determined eligible.

    ii. Supporting documentation for all elements of hard and soft costs included in the reimbursement request, including but not limited to vendor invoices, proof of payment,

final inspections, bidding information, etc.

iii. All personally identifiable information must be redacted from the reimbursement requests.

g. All requests are subject to audit and additional documentation must be provided upon request.

3. Progress Reports

The Subrecipient must submit regular Progress Reports to the City in the form, content, and frequency as required by the City. The City may require the Subrecipient to provide the City with quarterly status reports.

J. Procurement

Subrecipient must follow the regulations at 2 C.F.R. 200.318 (General Procurement Standards) through 2 C.F.R. 200.327 (Contract Provisions) for any procurement activities undertaken with funds authorized by this Agreement and must include Appendix II to Part 200 provision in applicable contracts. The Subrecipient shall impose the Subrecipient's obligations under this Agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

Subrecipient shall maintain oversight of all activities under this agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this agreement.

In addition to the requirements pursuant to 2 C.F.R. 200.318-327, Subrecipient shall also:

1. Not enter into contracts, grants, loans or cooperative agreements for which payment is contingent upon receipt of state or federal funds.
2. Not enter into any contract with any party that has been prohibited from participating in Federal or State assistance programs. Entities may be verified through SAM.GOV.

VII. ATTACHMENTS

All attachments to this Agreement are incorporated as if set out fully. In the event of any inconsistencies or conflict between the language of this Agreement and the attachments, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

This Agreement contains the following attachments:

a. Attachment A – Program Guidelines

b. Attachment B – Program Description

c. Attachment C – Program Budget & Eligible Expenses

d. Attachment D – Federal Contract Provisions

e. Attachment E – City of Joplin Additional Specific Award Conditions

f. Attachment F – Missouri Department of Economic Development Contract Provisions

g. Attachment G – Certification Regarding Lobbying

VIII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

IX. WAIVER

The City's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

X. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Agreement.

XI. ELECTRONIC SIGNATURE

In the event that the City of Joplin shall execute this Agreement by the use of an electronic signature, such electronic signature shall create a valid and binding obligation by the City of Joplin.

XII. EXECUTORY CLAUSE

This Agreement is subject to availability of Federal assistance under ARPA or other federal COVID-19 relief funds. The City of Joplin shall have no liability under this Agreement (including any extension or other modification of this Agreement) to provide funding to any Subrecipient beyond funds appropriated or otherwise lawfully available for this Agreement, which shall include funds made available to the City of Joplin from the State of Missouri or the Federal Government.

XIII. SIGNATURE AUTHORITY

The following specific officers/officials, or their authorized designees, are required to sign this Agreement on behalf of the Subrecipient. Note: If this Agreement is signed by a designee, a duly authenticated delegation of authority evidencing the signer's authority to execute the Agreement for and on behalf of the Subrecipient must be attached to the Agreement for review by the City of Joplin.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ECONOMIC SECURITY CORPORATION OF SOUTHWEST AREA

Signed: _____

Its Duly Authorized Agent

Printed Name: _____

Title: _____

Reviewed for Approval

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

_____

Peter Edwards
City Attorney

CITY OF JOPLIN

_____

Nicholas Edwards
City Manager

ATTACHMENT A – PROGRAM GUIDELINES

Missouri Department of Economic Development Community Revitalization Grant Program Guidelines may be found at the following link:

https://ded.mo.gov/media/pdf/community-revitalization-grant-program-round-2-guidelines-north-region

ATTACHMENT B – PROGRAM DESCRIPTION

ARPA-Funded Joplin Home Rehabilitation Program (JHRP2)

Overview: The JHRP2 is designed to provide essential repairs to owner-occupied single-family homes, enhancing the quality of life for residents in disproportionately impacted communities. With a total budget of $2,350,000.00, this program aims to prevent further deterioration of homes, promote property appreciation, reduce vacancy due to disrepair, and decrease code enforcement cases and complaints.

Funding and Budget:

- **Total Budget:** $2,350,000.00
    - **Program Funding (ARPA SFRF and Local Match):** $2,000,000.00
        - **Federal Funds:** $1,000,000.00
        - **Local Match:** $1,000,000.00
    - **Local Not to Exceed Administrative Funding:** $350,000.00
- **Maximum Allocation per Home:** Up to $25,000 of Program Funding for eligible repairs, plus necessary and reasonable administrative costs

Program Objectives: The primary objectives of the Home Rehabilitation Program include:

- **Preventing Further Deterioration:** Addressing critical repairs to prevent homes from falling into further disrepair.
- **Enhancing Quality of Life:** Implementing improvements that contribute to a better living environment for residents.
- **Property Appreciation:** Facilitating home repairs that increase property values and contribute to community stability.
- **Reducing Vacancies:** Decreasing the number of vacant homes by making necessary repairs that allow homes to remain occupied.
- **Decreasing Code Enforcement Issues:** Reducing the incidence of code enforcement cases and complaints by addressing common violations through targeted repairs.

Focus Areas for Repairs: The rehabilitation efforts will prioritize the following areas:

- Roof repairs
- Gas and electrical systems
- Utility systems
- Facades and sidewalks

Eligibility Criteria: To be eligible for this program, homes must meet the following criteria:

- Must be owner-occupied single-family dwellings
- Cannot be manufactured or mobile homes
- Must be located within one of the four qualified census tracts

Subrecipient: The Economic Security Corporation (ESC) will serve as the subrecipient responsible for the following, including but not limited to:

- Receiving and processing applications
- Evaluating eligibility of applicants
- Inspecting homes and identifying deficiencies
- Determining the scope of necessary repairs
- Procuring qualified rehabilitation contractors
- Inspecting completed work to ensure quality and compliance

ATTACHMENT C – PROGRAM BUDGET & ELIGIBLE EXPENSES

Program Budget and eligible expenses are subject to approval by the City of Joplin and are contingent on allowability under the funding source(s). The City of Joplin will review all expenses submitted for reimbursement. Reimbursement shall only be made for program activities and eligible expenses. Expenses must be allowable pursuant to the Federal agency award requirements.

Program Budget and Eligible Expenses

1. Program Budget: The total program budget for this Subrecipient Agreement is $2,350,000. These funds are allocated for the rehabilitation of properties, covering both administrative and delivery costs as detailed below. Home repairs will focus on the following- health and safety, roofs, gas and electrical, utilities, facades, and sidewalks.
2. Eligible Expenses: Eligible expenses under this program are divided into three categories: Administrative Costs, Delivery- Soft Costs and Delivery- Hard Costs. All expenditures must fall within these categories to be considered for reimbursement.
3. Administrative Costs: Administrative costs covered under this Agreement include, but are not limited to, general management, oversight, and coordination expenses necessary for the implementation and administration of the program. These costs must be documented and justified in accordance with applicable regulations and guidelines.
4. Soft Costs: Soft costs refer to non-construction expenses that are necessary for the successful completion of the rehabilitation projects. Eligible soft costs include, but are not limited to, the following:
    - Title Searches: Expenses incurred for conducting title searches to ensure clear ownership of the properties.
    - Credit Searches: Costs associated with conducting credit searches related to the properties.
    - Recording Fees: Fees for recording legal documents related to the rehabilitation projects.
    - Environmental Testing: Costs for environmental testing, including lead-based paint risk assessments, termite inspections, and pest inspections.
    - Scope of Work Development: Expenses for developing scopes of work for properties with lead-based paint hazards.
    - Permits: Fees for obtaining necessary permits for the rehabilitation work.
5. Hard Costs: Hard costs refer to direct construction expenses incurred during the rehabilitation projects. Eligible hard costs include, but are not limited to, the following:
    - Energy Efficiency Improvements: Significant energy efficiency improvements can be made after addressing health, safety, and City code violations. Eligible energy efficiency improvements include: insulation upgrades, HVAC system replacements, window and door replacements, and installation of energy-efficient appliances.
    - Accessibility Improvements: Costs to improve accessibility in the properties, which may include: installation of accessible showers and toilets, construction of ramps, installation of wheelchair lifts or stair lifts.
6. Documentation and Approval: All expenses must be documented with appropriate receipts, invoices, and records. The Subrecipient must submit detailed reports and supporting documentation for all expenditures to the City for approval and reimbursement.

ATTACHMENT D – FEDERAL CONTRACT PROVISIONS

During the performance of this Subrecipient Agreement, the Subrecipient shall comply with all applicable federal laws and regulations, including but not limited to the provisions in this Agreement and the required federal provisions in accordance with Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards (2 C.F.R. 200.327). Violations of law will be referred to the proper authority in the applicable jurisdiction.

Contracts awarded by Subrecipient under this Agreement shall comply with all applicable Federal laws, regulations, executive orders, policies, procedures, and directives. With respect to any conflict between such federal requirements and the terms of the contract and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

A. COST PRINCIPLES (2 C.F.R. PART 200, SUBPART E)

If any indirect costs will be charged to the Subrecipient under this contract, such costs must conform to the cost principles set forth under the Uniform Rules at 2 C.F.R. Part 200, subpart E ("Cost Principles"). In general, costs must (i) be necessary and reasonable; (ii) allocable to the grant award; (iii) conform to any limitations or exclusions set forth in the Cost Principles; (iv) be adequately documented; and (v) be determined in accordance with generally accepted accounting principles ("GAAP"), except, for state and local governments and Indian tribes only, as otherwise provided for in 2 C.F.R. Part 200, subpart E. 2 C.F.R. 200.403. Costs that are determined unallowable pursuant to a federal audit are subject to repayment by contractor.

B. ACCESS TO RECORDS & RECORD RETENTION (2 C.F.R. 200.337 & 2 C.F.R. 200.334)

All recipients, subrecipients, developers, successors, transferees, assignees, contractors, and subcontractors must acknowledge and agree to comply with applicable provisions governing access to records, accounts, documents, information, facilities, and staff. Recipients must give the City of Joplin, the State of Missouri, the Department of Treasury, the Inspectors General, the Comptroller General of the United States, or any of their pass-through entities or authorized representatives access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by applicable regulations and other applicable laws or program guidance.

Subrecipient and contractors shall retain sufficient records, which may include, but are not limited to financial records, supporting documents, statistical records, and all other Subrecipient records pertinent to the Agreement to show its compliance with the terms of this Agreement, as well as the compliance of all subcontractors or consultants paid from funds under this Agreement, for a period of three (3) years from the date of submission of the final expenditure report and in accordance with 2 C.F.R. 200.334.

C. CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (2 C.F.R. 200.321)

Prior to awarding contracts, the Subrecipient and any contractors or subcontractors must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5).

D. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

Subrecipient, contractors, and subcontractors are required to comply with all Federal laws, regulations, executive orders, applicable Federal agency policies, procedures and directives.

E. PROGRAM FRAUD & FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Recipients, subrecipients, and contractors must comply with 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, which shall apply to the activities and actions of recipients, subrecipients, contractors, and subcontractors pertaining to any matter resulting from a contract.

F. NON-COLLUSION (THE SHERMAN ACT)

Price-fixing, bid-rigging, and other forms of collusion are illegal and are subject to criminal prosecution by the Department of Justice. The U.S. Sherman Antitrust Act ("the Sherman Act") prohibits any agreement among competitors to fix prices, rig bids or engage in other anticompetitive activity. Recipients, subrecipients, and contractors must comply with the Sherman Act, which shall apply to the activities and actions of recipients, subrecipients, contractors, and subcontractors pertaining to any matter resulting from a contract.

G. HATCH ACT

Subrecipient must comply with provisions of the Hatch Act of 1939 ((5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

H. CONFLICT OF INTEREST

Subrecipient must comply with conflict-of-interest requirements pursuant to 2 C.F.R. 200.318(c). The Subrecipient shall maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

Subrecipient must disclose in writing to the City any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

I. LOBBYING

Subrecipient shall certify that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in

accordance with its instructions; and

3. It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subawards, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly.

4. Lobbying Certification: Subrecipient shall be required to complete the Certification Regarding Lobbying (Attachment D). This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

J. FLOOD DISASTER PROTECTION ACT OF 1973

In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), as amended, Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106), and the regulations in 44 C.F.R. Parts 59-79, Subrecipient shall assure that for activities located in an Special Flood Hazard Areas (SFHA) as identified by the Federal Emergency Management Agency (FEMA), property owners obtain and maintain flood insurance under the National Flood Insurance Program as a condition of Federal financial assistance for the acquisition, repair, construction, rehabilitation, or improvement of a building. Also required for insurable contents.

K. CHANGES & MODIFICATIONS

To be eligible for reimbursement under the non-Federal entity's grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.

L. SEALS, LOGOS, AND FLAGS

Recipients or contractors must obtain permission prior to using the seal(s), logos, crests, or reproductions of flags or likenesses of the Federal agency(ies). It is recommended that all non-Federal entities place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific pre-approval from the applicable Federal agency.

M. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED (NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS)[1]

Subrecipient, contractors, subcontractors, successors, transferees, and assignees shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. §2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 C.F.R part 22, which are herein incorporated by reference and made a part of this agreement. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations 31 CFR part 22, and herein incorporated by reference and made a part of this agreement.

N. EXECUTIVE ORDER 13166 IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

Subrecipient, contractors, subcontractors, successors, transferees, and assignees shall comply with federal Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," which seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English Proficiency ("LEP"). Denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and Treasury's implementing regulations.

[1] 31 C.F.R. Part 22 and the government-wide regulations contained in 28 CFR part 42.

Accordingly, Subrecipient and its contractor(s) must initiate reasonable steps, or comply with Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in Contractor's programs, services, and activities.

Consistent with the preceding nondiscrimination requirements, Subrecipient and its contractors must comply with the following requirements.

- A contractor must not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, English proficiency, or disability.
- A contractor carrying a program or activity under a federal grant award must not, on the grounds of race, color, creed, national origin, sex, age, English proficiency, or disability, exclude a person from participation in, deny him/her benefits, or subject him/her to discrimination.
- Contractors must adhere to any Federal implementing regulations and other requirements with respect to nondiscrimination.

O. TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968 (FAIR HOUSING ACT)

Subrecipient and its contractors shall comply with all relevant requirements of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601-19, known as the Fair Housing Act), and implementing regulations, which provide that no person shall, on the basis of race, color, religion, sex, familial status, national origin, or disability, be discriminated against in the sale, rental, and financing of dwellings, and in other housing-related transactions.

P. SECTION 504 OF THE REHABILITATION ACT OF 1973

Subrecipient and its contractors shall comply with all relevant requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and implementing regulations, which provide that no otherwise qualified person shall, solely by reason of his or her disability, be subjected to discrimination in any program or activity receiving federal financial assistance.

Q. AGE DISCRIMINATION ACT OF 1975[2]

Subrecipient and its contractors shall comply with all relevant requirements of the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 - 6107), and implementing regulations, which provide that no person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

R. TITLE II OF THE AMERICANS WITH DISABILITIES ACT (ALL SERVICES, PROGRAMS, AND ACTIVITIES PROVIDED OR MADE AVAILABLE BY PUBLIC ENTITIES)

Subrecipient and its contractors shall comply with all relevant requirements of Title II of the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and implementing regulations, which prohibits discrimination on the basis of disability in services, programs, and activities provided or made available by state or local governments or instrumentalities or agencies thereto.

S. FALSE STATEMENTS

Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

T. PUBLICATIONS

[2] 31 CFR Part 23

Any publications produced with funds from this award must display the following language: "This project is being supported, in whole or in part, by federal award number SLFRP4542 awarded to Economic Security Corporation by the City of Joplin through the State of Missouri Department of Economic Development through a direct allocation from the U.S. Department of the Treasury."

U. PROTECTIONS FOR WHISTLEBLOWERS

a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

b. The list of persons and entities referenced in the paragraph above includes the following:

i. A member of Congress or a representative of a committee of Congress;

ii. An Inspector General;

iii. The Government Accountability Office;

iv. A Treasury employee responsible for contract or grant oversight or management;

v. An authorized official of the Department of Justice or other law enforcement agency;

vi. A court or grand jury; or

vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

V. INCREASING SEAT BELT USE IN THE UNITED STATES

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

W. REDUCING TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

X. NO OBLIGATION BY FEDERAL GOVERNMENT

The U.S. Department of Treasury any other federal agency or pass-through entity providing grants or other funding to a subrecipient are not a party to any transaction between the subrecipient and its contractor. The Federal government, Department of Treasury, or any other federal agency or pass-through entity providing grants or other funding are not subject to any obligations or liable to any party for any matter relating to a contract.

Y. REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.327)

1. REMEDIES

Contracts for more than the Simplified Acquisition Threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties

as appropriate.

2. TERMINATION FOR CAUSE OR CONVENIENCE

All contracts in excess of $10,000 must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.[3]

3. EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, 11478, 12086, and 12107 (3 C.F.R. 1964-1965 Comp. p. 339; 3 C.F.R., 1966-1970 Comp., p. 684; 3 C.F.R., 1966-1970., p. 803; 3 C.F.R., 1978 Comp., p. 230; 3 C.F.R., 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 C.F.R., 2002 Comp., p. 258; and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor).[4]

The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:

"The Subrecipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

[3] 2 C.F.R. Appendix II to Part 200 (B)
[4] 2 C.F.R. Appendix II to Part 200 (C)

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Subrecipient further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the Subrecipient so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Subrecipient agrees that it will assist and cooperate actively with the State of Missouri, the Department of Treasury and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the State of Missouri, Department of Treasury, and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the State of Missouri and Department of Treasury in the discharge of the Treasury's primary responsibility for securing compliance.

The Subrecipient further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Subrecipient agrees that if it fails or refuses to comply with these undertakings, the State of Missouri and Department of Treasury may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Subrecipient under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such Subrecipient; and refer the case to the Department of Justice for appropriate legal proceedings."

(c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

4. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT[5]

Where applicable (40 U.S.C. §§ 3701-3708), all contracts in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. RIGHTS TO INVENTIONS[6]

If the Federal award meets the definition of "funding agreement" under 37 C.F.R. 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of Title 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. ENVIRONMENTAL REQUIREMENTS

a. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

Subrecipient shall comply with the U.S. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R. Part 50, as amended, insofar as they apply to the performance of this Agreement. Contracts and subawards of amounts in excess of $150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specific in said Section 114 and Section 308, and all regulations and guidelines issued thereunder. Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency.[7]

b. The Endangered Species Act of 1973

Subrecipient shall be responsible for ensuring compliance with the Federal Endangered Species Act of 1973 (16 U.S.C. 1531-1544), as amended. Subrecipient shall be responsible for ensuring compliance with applicable regulations pursuant to 50 C.F.R. Part 400-424 and ensuring that no Program activities take place in, or in proximity to, designated critical habitats. Subrecipient shall be responsible for ensuring that, should plants and animals belonging to either endangered or threatened species be discovered in areas of construction or adjacent areas, all work in that area will cease immediately, and the Subrecipient shall immediately notify the City.

c. The Migratory Bird Treaty Act of 1918

Subrecipient shall be responsible for ensuring compliance with the Federal Migratory Bird Treaty Act (16 U.S.C.

[5] 2 C.F.R. Appendix II to Part 200 (E)
[6] 2 C.F.R. Appendix II to Part 200 (F)
[7] 2 C.F.R. Appendix II to Part 200 (G)

703-712). Subrecipient shall be responsible for ensuring compliance with applicable regulations pursuant to 50 C.F.R. Part 10 and ensuring that, if in the course of Program activities, a bird rookery, an identified special migratory bird habitat, or a nesting site is discovered on a project site, then the Subrecipient shall be responsible for ensuring all contractor(s) and/or personnel onsite cease work in the area, and the Subrecipient shall immediately notify the City.

Subrecipient shall be responsible for ensuring compliance with applicable regulations pursuant to 50 C.F.R. Part 10 and ensuring that, if in the course of Program activities, a bird rookery, an identified special migratory bird habitat, or a nesting site is discovered on a project site, then the Subrecipient shall be responsible for ensuring all contractor(s) and/or personnel onsite cease work in the area, and the Subrecipient shall immediately notify the City.

d. Toxic Substances Control Act (TSCA)

Subrecipient shall be responsible for ensuring compliance with the Federal Substances Control Act.

e. Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X)

Subrecipient shall be responsible for ensuring compliance with the Federal Residential Lead-Based Paint Hazard Reduction Act of 1992.

f. Safe Drinking Water Act (SDWA)

Subrecipient shall be responsible for ensuring compliance with the Federal Safe Drinking Water Act (SDWA).

g. Resource Conservation and Recovery Act (RCRA)

Subrecipient shall be responsible for ensuring compliance with the Federal Resource Conservation and Recovery Act (RCRA).

h. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

Subrecipient shall be responsible for ensuring compliance with the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

1. DEBARMENT / SUSPENSION AND VOLUNTARY EXCLUSION

a. A contract award (see 2 C.F.R. 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.[8]

b. Non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. The regulations in 2 CFR part 180 restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.[9]

c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended,

[8] 2 C.F.R. Appendix II to Part 200 (H)
[9] 2 C.F.R. 200.214

or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov.[10]

2. BYRD ANTI-LOBBYING AMENDMENT

Pursuant to 31 U.S.C.A. § 1352 (2003), if at any time during the contract term funding to contract exceeds $100,000.00, the Subrecipient, contractor, or other party shall file the Federal Standard Form LLL titled "Disclosure Form to Report Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.[11]

3. PROCUREMENT OF RECOVERED MATERIALS

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.[12]

The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

4. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Pursuant to 2 C.F.R. 200.216:

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the

[10] 2 C.F.R. 180.530
[11] 2 C.F.R. Appendix II to Part 200 (I)
[12] 2 C.F.R. Appendix II to Part 200 (J) and 2 C.F.R. 200.323

Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

ATTACHMENT E – CITY OF JOPLIN ADDITIONAL SPECIFIC AWARD CONDITIONS

Procurement Review and Approval

To ensure compliance with federal procurement requirements and to avoid any potential compliance issues, the Subrecipient is required to submit all procurements related to this program for review and approval by the City of Joplin. This requirement is established under the authority of 2 CFR 200.207, which allows the City to impose additional conditions on the award based on a risk assessment.

1. **Submission for Review and Approval**:
    - The Subrecipient must submit all procurement documents, including but not limited to requests for proposals (RFPs), invitations for bids (IFBs), and contracts, to the City for review and approval before initiating any procurement process.
    - Submissions must be made in a timely manner to allow for adequate review and feedback.
2. **Risk Assessment and Additional Conditions**:
    - According to 2 CFR 200.207, the City has conducted a risk assessment of the Subrecipient and determined that additional specific conditions are necessary to ensure compliance with federal procurement standards.
    - The additional conditions are imposed to mitigate identified potential risks and ensure that all procurement actions conform to federal regulations, particularly those outlined in 2 CFR 200.317-326.
3. **Federal Procurement Standards**:
    - The Subrecipient is required to comply with all applicable federal procurement standards as outlined in 2 CFR 200.317-326. This includes ensuring that procurements are conducted in a manner that promotes full and open competition and avoids practices that may restrict or eliminate competition.
    - The Subrecipient must provide documentation demonstrating that all procurement actions meet these standards, including evidence of competitive bidding processes and justification for any non-competitive procurements.
4. **Documentation and Recordkeeping**:
    - The Subrecipient must maintain thorough documentation of all procurement processes, including procurement planning, bid solicitation, evaluation of bids or proposals, and contract award decisions.
    - Records must be retained in accordance with 2 CFR 200.333-337 and be made available to the City for review upon request.
5. **Compliance Assurance**:
    - The City will review all procurement submissions to ensure compliance with federal standards and to provide feedback or required modifications.
    - The Subrecipient must address any feedback or required modifications from the City before proceeding with the procurement.
6. **Acknowledgment of Understanding**:
    - The Subrecipient acknowledges that while they have an understanding of federal procurement requirements, adherence to these requirements is mandatory to ensure the legality and appropriateness of all procurements under this award.
    - The City's review and approval process is implemented to support the Subrecipient in maintaining compliance and avoiding any potential issues related to procurement practices.

By adhering to these additional specific award conditions, the Subrecipient will ensure that all procurement actions are compliant with federal requirements, thereby safeguarding the integrity and success of the program.

ATTACHMENT F – MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT CONTRACT PROVISIONS

1. BUSINESSES REGISTERED TO DO BUSINESS IN MISSOURI AND IN GOOD STANDING

Subrecipient must ensure that its vendors, contractors, or subcontractors are registered and in good standing with the State of Missouri (unless not required by law to register under law) by checking the entity on the Missouri Secretary of State's business entity search or by requiring a copy of a certificate of good standing.

2. PROHIBITION ON EMPLOYMENT OF UNAUTHORIZED ALIENS/E-VERIFY PARTICIPATION REQUIREMENT (§§ 285.525 - 285.550, RSMO)

Pursuant to subsection l of section 285.530, RSMo, no contractor or subcontractor shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

Subrecipient agrees that it is not knowingly in violation of subsection l of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work in its administration of the Program, and that its employees are lawfully authorized to work in the United States.

Pursuant to section 285.530, RSMo, for contracts in excess of $5,000, Subrecipient affirms its enrollment and participation in a federal work authorization program (as of the date hereof, the Employment Eligibility Verification Program (E-Verify) authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended).

In accordance with sections 285.525 to 285.550, RSMo, a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of section 285.530, RSMo, if the contract binding the contractor and subcontractor affirmatively states that:

a. The direct subcontractor is not knowingly in violation of subsection l of section 285.530, RSMo, and shall not henceforth be in such violation.

b. The contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

3. ANTI-DISCRIMINATION AGAINST ISRAEL ACT (§ 34.600, RSMO, PASSED IN 2020)

Required to be in public entity contracts “to acquire or dispose of services, supplies, information technology, or construction" unless the total potential value of the contract is less than $100,000 or the contractor has fewer than ten employees.

"Public entity" is defined as "the state of Missouri or any political subdivision thereof. Including all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the state created by or in accordance with state law or regulations."

Subrecipient certifies that it is not currently, and will not for the duration of the contract, engage in a boycott of goods or services from : (a) the State of Israel; (b) companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or (c) persons or entities doing business in the State of Israel, and agrees to not engage in these activities for the duration of this contract.

4. MISSOURI WILDLIFE CODE

Subrecipient shall be responsible for ensuring compliance with the Missouri Wildlife Code, as applicable.

ATTACHMENT G – CERTIFICATION REGARDING LOBBYING

Economic Security Corporation of Southwest Area
302 S Joplin Ave,
Joplin, MO 64801

Anti-Lobbying Certification

In accordance with Section 1352, Title 31 of the U.S. Code, and implementing regulations at 2 CFR 200, as applicable, the undersigned certifies, to the best of their knowledge and belief, that:

1. *No Federal Funds Used for Lobbying:*
   - No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. *No Lobbying with Non-Federal Funds:*
   - No non-federal funds have been used to engage in lobbying activities in connection with this federal award.
3. *Requirement to Disclose Changes:*
   - If any registrants under the Lobbying Disclosure Act of 1995 have been retained, and lobbying activities as defined in the statute have been performed, the undersigned shall submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
4. *Compliance with Certification:*
   - The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Authorized Representative

By:_____ Date:_____

Ryan Peterson
Chief Executive Officer
Economic Security Corporation

COUNCIL BILL NO. 2024-279 ORDINANCE NO.

AN ORDINANCE approving an Agreement between the City of Joplin, Missouri, and the Economic Security Corporation to administer all activities and complete the Joplin Homeowners Rehabilitation Program provided through a American Rescue Plan Act (ARPA) Community Revitalization Program; authorizing the City Manager to execute same on behalf of the City of Joplin; amending the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024 as adopted by Ordinance 2023-158 on October 16, 2023; and, setting a date when this Ordinance shall become effective.

WHEREAS, on March 11, 2021, the Department of Treasury established the State and Local Fiscal Recovery Fund (SLFRF) to build upon and expand the financial support provided to state and local governments as they navigate the long-term economic consequences of the COVID-19 public health emergency.

WHEREAS, the City of Joplin was awarded $3,500,000 (Three Million Five Hundred Thousand) with a matching fund requirement by the Missouri Department of Economic Development's ARPA Community Revitalization Grant Program.

WHEREAS, the City of Joplin's Community Revitalization Program is comprised of three housing programs that will advance the revitalization of neighborhoods by providing individuals an opportunity to secure homeowner status by contributing to down payment and closing costs through the Joplin Homebuyers Assistance program (JHAP), Joplin Homeowners Rehabilitation Program (JHRP) and a third program funding the demolition of dangerous and vacant structures.

WHEREAS, the City of Joplin and the Economic Security Corporation (ESC), are desirous of entering into an agreement whereby ESC will administer the Joplin Homeowners Rehabilitation Program to benefit the residents within Census tracts 101, 106.01, 108 & 110 through the American Rescue Plan Act (ARPA) Community Revitalization Program.

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

Section 1. That an Agreement between the City of Joplin, Missouri, and Economic Security Corporation is entered into that describes the expenditure of $2,000,000 (Two Million dollars) to provide necessary repairs for eligible properties within the four qualified census tracts, a copy of same, or copy in substantially similar form, attached hereto and incorporated herein, be and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, or his designee, Director of Planning, Development & Neighborhood Services, is hereby authorized and directed, upon recommendation and approval of the City Council, to execute said Agreement or Agreement in substantially similar form, by and on behalf of the City of Joplin, Missouri.

Section 3. That upon the final approval and acceptance of the Subrecipient Agreement between the City of Joplin and Economic Security Corporation (ESC) that the Subrecipient may request Administrative Cost Reimbursement of an amount not to exceed $350,000 (Three Hundred and Fifty Thousand Dollars) that will be provided from Use Tax Funds.

Section 4. That fiscal year 2023-2024 budgeted appropriations as adopted by Ordinance 2023-158 be amended by increasing appropriations by the total amount of Three Hundred Fifty Thousand Dollars and No Cents ($350,000.00).

Section 5. That the Director of Finance is hereby directed to make all necessary entries on the City records to show the increase in appropriations.

Section 6. That this Council Bill shall have an effective date of August 20, 2024.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2024, by a _____vote.

_____
Keenan T. Cortez, Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM

Council Bill No. 2024-280 – Donation Agreement authorizing the City of Joplin to enter into a Donation Agreement by and between Randal and Shelly Kraft, "Donor", and the City of Joplin, Missouri, "Donee" relating to property located at 2008 South Sergeant Avenue in Joplin.

MEETING DATE

August 5, 2024

REVIEWED BY:

Troy Bolander, Director of Planning & Neighborhood Services; Peter Edwards, City Attorney; Leslie Haase, Finance Director; Holly Nagy, City Clerk; Nicholas Edwards, City Manager.

SUMMARY:

This Council Bill authorizes the City of Joplin to enter into a Donation Agreement with Randal and Shelly Kraft, dealing generally with their donation of certain real property (the old Freeman Hospital) to the City so the City can demolish the building for future residential redevelopment.

BACKGROUND:

The City of Joplin applied for and received the State ARPA Community Revitalization Grant for the demolition of the structure at 2008 South Sergeant as part of the demolition portion of this program. In order to be eligible under the grant, the property has to be located in one of the four qualified census tracts, has to be vacant, abandoned and dangerous, and most importantly located in a residential area so that the demolition results in residential redevelopment. The State ARPA grant is funding 50% of the demolition cost, while the City's ARPA grant is funding the remaining 50%. No City taxpayer funds are being used on this project.

This agreement transfers ownership of the property at no cost to the City. If approved, the City will solicit bids for the demolition. Following the demolition, the City will likely issue a bid to convert the property to a residential development.

For the safety of our citizens, the City has a dangerous building code that can result in the City demolishing both residential and commercial structures, which are funded by the revolving fund. The balance of this fund, though, has been declining and is currently approximately $470,000.00. The ARPA grant is helping fund the demolitions, in turn spurring residential development and helping to address the Council Goal of addressing declining neighborhoods, without using scarce city tax dollars.

RECOMMENDATION:

Staff recommends this Council Bill be placed on First Reading.

ATTACHMENTS:
Council Bill No. 2024-280; Donation Agreement.

PCE:ab

DONATION AGREEMENT

THIS DONATION AGREEMENT (this ***"Agreement"***) is made and entered into as of the _____ day of _____, 2024 (the ***"Effective Date"***), by and between **Randal and Shelly Kraft**, husband and wife (***"Donor"***), and the **City of Joplin, Missouri**, a Missouri Municipal Corporation (***"Donee"***).

RECITALS

A. Donee is a Missouri Municipal Corporation.

B. Donor owns certain real property located in the City of Joplin of Jasper County, State of Missouri, which real property is more particularly described on Exhibit A, attached hereto and incorporated herein, (the ***"Property"***).

C. Donor desires to donate the Property to Donee, and Donee desires to accept donation of the Property.

D. Randal Kraft is the record owner of the property, but Shelly Kraft has been added to this Agreement because she is his spouse and her release of spousal interest is needed to complete this Agreement.

NOW, THEREFORE, in exchange for valuable consideration each received from the other, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE 1.
DONATION OF THE PROPERTY

1.1 Donation of the Property. Upon the terms, covenants and conditions herein set forth, Donor agrees to donate to Donee the Property and all improvements located thereon, and Donee agrees to accept the donation of the Property from Donor.

1.2 Condition of Property.

1.2.1 *"AS IS" DONATION.* DONEE ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND ANY DOCUMENTS DELIVERED TO DONEE BY DONOR AT CLOSING, DONOR HAS NOT MADE, AND SPECIFICALLY NEGATES AND DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES REGARDING ANY ASPECT OF THE PROPERTY, INCLUDING WITHOUT LIMITATION: (A) THE VALUE, NATURE, QUALITY OR PHYSICAL CONDITION OF THE PROPERTY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY ACTIVITY OR USE WHICH DONEE OR ANY TENANT MAY CONDUCT THEREON, (D) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY

APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (G) COMPLIANCE OF THE PROPERTY WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS MATERIALS. ADDITIONALLY, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR ANY OF THE DOCUMENTS DELIVERED BY DONOR TO DONEE AT CLOSING, NO PERSON ACTING ON BEHALF OF DONOR IS AUTHORIZED TO MAKE, AND BY EXECUTION HEREOF DONEE ACKNOWLEDGES THAT NO PERSON HAS MADE, ANY REPRESENTATION, WARRANTY, COVENANT OR AGREEMENT REGARDING THE PROPERTY OR THE DONATION CONTEMPLATED HEREIN. DONEE ACKNOWLEDGES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, DONEE IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY DONOR. DONEE FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE DONATION OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" BASIS WITH ALL FAULTS. DONEE ASSUMES THE RISK THAT ADVERSE PAST, PRESENT OR FUTURE PHYSICAL CHARACTERISTICS AND CONDITIONS OF THE PROPERTY MAY NOT HAVE BEEN REVEALED BY DONOR'S DISCLOSURES OR DONEE'S INSPECTIONS OR INVESTIGATIONS OF THE PROPERTY. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OR ANY TERMINATION OF THIS AGREEMENT.

1.3 Donor's Pre-Closing Rights to Remove Items. Intentionally left blank.

1.4 No Post-Closing Obligations of Donor. Donor has no post closing obligations with respect to the real estate or the improvements thereon.

1.5 Appraisal and IRS Form 8283. Donee agrees to sign a Form 8283 with respect to Donor's donation of this property, subject to Donor completing the form and complying with any applicable requirements, including, but not limited to, obtaining an appraisal of the property from a certified M.A.I. appraiser.

ARTICLE 2.
CLOSING DATE AND CLOSING

2.1 Closing. The consummation of the donation contemplated by this Agreement shall occur (the ***"Closing"***) at the offices of Great American Title Company in Joplin, Missouri (the ***"Title Company"***) or at such other place as the parties may mutually agree, at the end of the Review Period, or on such other date as the parties may mutually agree (the ***"Closing Date"***).

2.2 Obligations at Closing.

2.2.1 *Donor's Deliveries.* At Closing, Donor shall execute, acknowledge (where necessary) and deliver to Donee or the Title Company, as appropriate, the following: (a) the Deed, subject to easements, conditions and restrictions of record, including but not limited to the Permitted Exceptions, and subject to taxes for the year of Closing (which shall be prorated as of the applicable Closing Date with a credit being giving to Donee); (b) such other documents and instruments as may be required to give effect to this Agreement or as may be reasonably requested by the Title Company in connection with the performance of Donor's obligations hereunder; including execution and delivery of the Title Company's standard form of affidavit; and (c) possession of the Property.

2.2.2 *Donee's Deliveries.* Donee shall execute, acknowledge (where necessary) and deliver to Donor or the Title Company, as appropriate, such documents and instruments as may be reasonably required to give effect to this Agreement or as may be reasonably requested by the Title Company or Donor to evidence Donee's acceptance of the Property being conveyed at such Closing subject to the Permitted Exceptions and the performance of Donee's obligations hereunder. Donee shall be responsible for filing a certificate of value in respect of the Property being conveyed at such Closing with the office of the assessor for the county in which the Property is located. Donee shall execute any tax documents and forms required by Donor for its noncash donation and charitable contribution of this real estate.

2.3 Conditions to Closing.

2.3.1 *Donor Conditions.* Donor's obligation to convey the Property to Donee at the Closing shall be expressly conditioned upon and subject to the following: (a) Donee having obtained or obtaining (i) from a title company licensed to do business in the state of Missouri, a commitment in favor of Donee for an owner's policy of title insurance with respect to the Property, and (ii) at Closing, an owner's policy of title insurance with respect to the Property and stating an insured amount of the amount to of Donor's appraisal or some other amount as determined by Donee (the ***"Title Policy"***); and (b) Donee delivering all of the items required pursuant to Section 2.2.2 above.

2.3.2 *Donee Conditions.* Donee's obligation to close shall be expressly conditioned upon and subject to the following: (a) Donee having received or receiving the Title Policy in form and substance reasonably satisfactory to Donee, provided that inclusion of the Permitted Exceptions as exceptions to the coverage set forth therein may not constitute a failure of this condition; (b) Donor delivering all of the items required pursuant to Section 2.2.1 above; and (c) Donee completing it's due diligence during its Review Period to Donee's satisfaction. The Closing is conditioned on the City receiving an ARPA grant in an amount to cover the demolition costs for the structure that is on the property.

2.3.3 *Review Period.* Donee shall have one hundred twenty (120) days from the Effective Date to complete its due diligence and investigation of the subject property. Donee may extend the Review Period for an additional period of sixty (60) days by giving

written notice to Donor. Donee may terminate this Agreement at any time for any reason during the Review Period by giving written notice to Donor.

ARTICLE 3.
CLOSING COSTS AND ADJUSTMENTS

3.1 Closing Costs of Donor. At Closing, Donor shall be responsible for any and all closing costs, title commitment, recording fees, release fees, or any other related item on the closing statement.

3.2 Closing Costs of Donee. At Closing, Donee shall not be responsible for any closing, title or related fees or costs.

3.3 Expenses of Donor. Intentionally left blank.

ARTICLE 4.
REPRESENTATIONS, COVENANTS AND WARRANTIES

4.1 Donor's Representation, Covenants and Warranties. Donor represents, warrants and covenants to Donee as follows, which representation and warranties shall be considered made as of the date hereof and as of the Closing Date:

4.1.1 *Donor's Authority.* Donor are husband and wife and have all requisite power and authority to execute this Agreement and such other documents as may be necessary or desirable to perform its obligations hereunder; the execution and delivery thereof by Donor is fully authorized by all requisite authority; and no other consents by any other party are required for Donor to execute and deliver this Agreement and such other documents.

4.1.2 *Authority of Signatories; No Breach of Other Agreements.* The execution, delivery of and performance under this Agreement is pursuant to authority validly and duly conferred upon Donor and the signatories of Donor hereto. To the actual knowledge of Donor, the performance by Donor of its obligations under the terms of this Agreement do not conflict in any material or adverse way with or result in breach of any of the terms or provisions of, or constitute a default under any agreement, arrangement, understanding, accord, document or instrument by which Donor is bound, and, to the actual knowledge of Donor, will not and does not constitute a violation of any applicable law, rule, regulation, judgment, order or decree of any governmental instrumentality or court, domestic or foreign, to which Donor is subject.

4.1.3 *All Required Action Taken.* All action required pursuant to this Agreement and necessary to effectuate the donation contemplated herein has been or will be taken with reasonable promptness and in good faith by Donor and its representatives and agents.

4.2 Donee's Representations, Covenants and Warranties. Donee represents, warrants and covenants to Donor as follows, which representations and warranties shall survive Closing hereunder for the period provided below and shall inure to the benefit of Donor, its successors and assigns and shall be considered made as of the date hereof and as of the Closing Date:

4.2.1 *Donee's Authority.* Donee is a Missouri Municipal Corporation organized under the law of the State of Missouri, and has all requisite power and authority to execute this Agreement and such other documents as may be necessary or desirable to perform its obligations hereunder; the execution and delivery thereof by Donee is fully authorized by all requisite authority; and no other consents by any other party are required for Donee to execute and deliver this Agreement and such other documents.

4.2.2 *Authority of Signatories; No Breach of Other Agreements.* The execution, delivery of and performance under this Agreement is pursuant to authority validly and duly conferred upon Donee and the signatories of Donee hereto. To the actual knowledge of Donee, the performance by Donee of its obligations under the terms of this Agreement do not conflict in any material or adverse way with our result in breach of any of the terms or provisions of, or constitute a default under any agreement, arrangement, understanding, accord, document or instrument by which Donee is bound, and, to the actual knowledge of Donee, will not and does not constitute a violation of any applicable law, rule, regulation, judgment, order or decree of any governmental instrumentality or court, domestic or foreign, to which Donee is subject.

4.2.3 *All Required Action Taken.* All action required pursuant to this Agreement and necessary to effectuate the donation contemplated herein has been or will be taken with reasonable promptness and in good faith by Donee and its representatives and agents.

ARTICLE 6.
NOTICE

6.1 Notice. Any notice or election required or permitted to be given or served by any party hereto upon any other will be deemed sufficiently given when delivered in person, or when deposited in the United States Mail, registered or certified, return receipt requested, postage prepaid, to such party at the respective addresses given below, or sent by telecopy to the fax numbers set forth below, provided that a confirming copy of the telecopy is promptly sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses given below and a copy of any notice or election given to either party shall be promptly delivered to the attorneys for such party at the addresses given below:

If to Donor: Randy and Shelly Kraft
P.O. Box 2667
Joplin, MO 64803

If to Donee: City of Joplin, Missouri
Attn: City Attorney
602 S. Main St.

Joplin, MO 64801

6.2 Effective Date; Change of Address. Each such notice or communication shall be deemed to have been delivered to the party to which addressed on the date the same is hand-delivered, if mailed when deposited in the United States Postal system, sent by registered or certified mail, return receipt requested, postage prepaid, as the case may be, properly addressed in the manner above provided, and shall be deemed to have been received by the party to which addressed, in the case of hand delivery, on the day it is delivered, or in the case of United States Mail, on the date of deposit in the United States Postal system. Any party may change its address for notice by delivering written notice of said change to the other party, in the manner above provided.

ARTICLE 7.
GENERAL PROVISIONS

7.1 Remedies. In the event of any breach or default by Donee hereunder, Donor shall be entitled to pursue any and all rights and remedies allowed at law or in equity. In the event of a breach or default of this Agreement by Donor occurring prior to Closing and resulting in a failure to close, Donee's sole and exclusive remedy shall be to terminate this Agreement, provided that Donee shall not exercise such remedy unless Donor has first been given written notice of the breach or default hereunder and it remains uncured following such notice for a period of thirty (30) days.

7.2 Entire Agreement. This Agreement constitutes the entire and complete agreement between the parties hereto and supersedes any prior oral or written agreements between the parties with respect to the Property. It is expressly agreed that there are no verbal understanding or agreements which in any way change the terms, covenants and conditions herein set forth, and that no modification of this Agreement and no waiver of any of its terms and conditions shall be effective unless made in writing and duly executed by the parties hereto.

7.3 Duties for Performance. If the date for the performance of any act hereunder falls on a Saturday, Sunday or legal holiday, then the time for performance of such act shall be deemed extended to the next business day.

7.4 Survival. Except as otherwise expressly provided herein, the representations, warranties, covenants and agreements set forth in this Agreement shall survive (and shall be enforceable after) the Closing, and shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

7.5 Captions. The headings or captions of the articles, sections or paragraphs appearing in this Agreement are for convenience of reference only, are not a part of this Agreement and are not to be considered in the interpreting this Agreement.

7.6 Binding Effect. The Agreement shall become effective and shall be binding on the parties only after it has been signed by both Donee and Donor. This Agreement and all covenants, terms and provisions contained herein shall be binding upon and inure to the benefit of the parties

and their respective successors and assigns. The restrictions, covenants and easements set forth in the Deed shall burden and run with Property.

7.7 Controlling Law. This Agreement has been made and entered into under the laws of the State of Missouri, and said laws shall control the interpretation hereof.

7.8 Time of the Essence. Time is of the essence in the performance of this Agreement.

7.9 Counterparts. This Agreement may be executed in one or more counterparts which together shall constitute one and the same Agreement and shall be binding on the parties.

7.10 Assignment. Donee may not assign its interest in this Agreement prior to the Closing without the prior written consent of Donor which may be granted in Donor's sole and absolute discretion. Any assignment made in violation of this paragraph shall be null and void and of no force or effect.

7.11 Participation. Each of the parties has had the opportunity to participate in the negotiation and preparation of this Agreement, and expressly acknowledges such participation, and agrees that no rule construing contractual language against the party which drafted such language shall be applicable in connection with this Agreement.

7.12 Expense of Parties. Except as otherwise specifically provided in this Agreement, each party hereto will pay and bear its own expenses and fees in connection with this Agreement and the donation contemplated hereby.

7.13 Effective Date. As used herein, the term ***"Effective Date"*** shall mean and refer to the date upon which this Agreement is executed by the last party to sign, as indicated by the dates set forth below opposite the signatures of Donee and Donor.

7.14 Exhibits. Any reference herein to any exhibit, addendum or attachment refers to the applicable exhibit, addendum or attachment attached to this Agreement, and all such exhibits, addenda or attachments shall constitute a part of this Agreement and are expressly incorporated herein by reference and made a part hereof.

7.15 Conflicts. In the event of a conflict between any provision of this Agreement and any provision of the Deed, the latter provision shall control to the extent of the conflict.

IN WITNESS WHEREOF, the parties have executed this Donation Agreement as of the dates set for below.

DONEE:

City of Joplin, Missouri,
a Missouri Municipal Corporation

_____

DONOR:

Randal and Shelly Kraft,
husband and wife

_____

Nick Edwards, City Manager

Randal Kraft

ATTEST:

Shelly Kraft

Holly Nagy, City Clerk

EXHIBIT A
to
Donation Agreement

Legal Description of Property

Parcel ID 19501510008007000

"ALL OF LOTS NUMBERED ONE HUNDRED THIRTY NINE (139) TO ONE HUNDRED FORTY TWO (142) IN A.F. FRYES ADDITION TO THE CITY OF JOPLIN, JASPER COUNTY, MISSOURI, ACCORDING TO THE RECORDED PLAT THEREOF"

COUNCIL BILL NO. 2024-280 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin to enter into a Donation Agreement by and between Randal and Shelly Kraft, "Donor", and the City of Joplin, Missouri, "Donee", dealing generally with the donation of certain real property (the old Freeman Hospital) located at 2008 South Sergeant Avenue in Joplin, Missouri.

WHEREAS, Donee is a Missouri Municipal Corporation; and,

WHEREAS, Donor owns certain real property located generally at 2008 South Sergeant Avenue, in Joplin, Missouri; and

WHEREAS, Donor desires to donate said Property to Donee, and Donee desires to accept the donation of the Property.

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

Section 1. That the Donation Agreement by and between Randal and Shelly Kraft, husband and wife, "Donor", and the City of Joplin, Missouri, a Municipal Corporation, "Donee", dealing generally with the donation of certain real property located at 2008 South Sergeant Avenue in Joplin, Missouri, a copy of which is attached hereto and incorporated herein as Exhibit "A", or copy in substantially similar form to that, be, and the same is, hereby approved.

Section 2. That the City Manager, or his designee, is hereby authorized and directed to execute said Donation Agreement, by and on behalf of the City of Joplin, upon the recommendation and approval of the City Attorney.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2024, by a vote of _____.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-616: an Ordinance approving a contract for Benefit Administration SaaS (Software as a Service) between the City of Joplin and Bentek, LLC.

MEETING DATE
August 5, 2024

ORIGINATING DEPT
Information Technology

ATTACHMENTS
CB2024-616 Ordinance; Master Agreement Contract; Sole Source documentation

REVIEWED BY
Dept. Head: Mark Morris; City Attorney: Peter Edwards; Finance Director: Leslie Haase; City Manager: Nick Edwards

SUMMARY
This Council Bill authorizes the City to enter into a contract with Bentek, LLC., to provide Benefit Administration software as a service.

BACKGROUND
The City began reviewing HRIS (Human Resources Information Systems) in 2023. That effort continued into 2024. Bentek staff presented their software as a service on two separate occasions. Bentek solely focuses on benefit administration as part of the HRIS process. Bentek also has a fully built, two-way interface with our financial software provider, Central Square. This positions Bentek as a sole source for the niche module of benefit administration. This will improve the efficiency and accuracy of on-boarding employees and enrolling them in Health, Dental, Vision, and Life. Bentek SaaS will also streamline and improve the open enrollment process for the organization.

FUNDING SOURCE
This Council Bill includes a general fund budget amendment for this item

RECOMMENDATION
Staff recommends placing this Council Bill on 1st Reading and passing it.

COUNCIL BILL NO. 2024-616 ORDINANCE NO.

AN ORDINANCE approving a contract by and between the City of Joplin and Bentek, LLC, a Florida limited liability company in the not to exceed amount of $50,000 for Benefit Administration SaaS and authorizing the City Manager or his designee to execute the same by and on behalf of the City of Joplin; amending the Annual Budget of the City of Joplin for the Fiscal Year 2023-2024 as adopted by Ordinance 2023-158 on October 16, 2023; and, setting a date when this ordinance shall become effective.

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

Section 1. That the contract between the City of Joplin and Bentek LLC, for procurement of human resources and benefits software, a true and accurate copy of said contract being attached hereto and incorporated herein by reference as Exhibit "A", be, and the same is, hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri, or his designee, is hereby authorized and directed to execute said contract, or contract in substantially similar form by and on behalf of the City of Joplin.

Section 3. That fiscal year 2023-2024 budgeted appropriations as adopted by Ordinance 2023-158 be amended by increasing appropriations by the total amount of Fifty Thousand Dollars and No Cents ($50,000.00).

Section 4. That the Director of Finance is hereby directed to make all necessary entries on the City records to show the increase in appropriations.

Section 5. That this Council Bill shall have an effective date of August 20, 2024

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2024, by a vote of _____.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

BENTEK® MASTER SOFTWARE AS A SERVICE AGREEMENT FOR END USERS

This Master Software as a Service Agreement for End Users ("Agreement") dated _____, 2024 ("Effective Date") by and between **Bentek, LLC**, a Florida limited liability company, with a principal place of business at 3500 Kyoto Gardens Drive, Palm Beach Gardens, FL 33410 ("Bentek") and **City of Joplin**, with a principal place of business located at 602 S. Main Street, Joplin, MO 64801 ("Customer").

WHEREAS:

1. Bentek is in the business of developing, licensing, supporting, and hosting software applications for employee benefits enrollment and administration, the SaaS Solution (as defined below).

2. Bentek agrees to provide to the Customer and the Customer agrees to accept a license to use for its own internal business purposes only the SaaS Solution (as defined below) from Bentek as specified in the applicable Exhibit A which is attached to this Agreement and incorporated herein.

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

1. **Definitions.**

(a) "Customer Data" means all electronic data or information submitted by Customer to the SaaS Solution.

(b) "End Users" means individuals who are authorized by Customer to use the SaaS Solution, for whom subscriptions to the SaaS Solution have been purchased as specified in the applicable Order Form and who have been supplied user identifications and passwords by Customer (or by Bentek at Customer's request) and who may only access and use the SaaS Solution so long as they receive employee benefits coverage through programs provided by the Customer.

(c) "Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents, or programs.

(d) "Order Form" means the ordering documents for purchases of subscriptions hereunder, in the form of attached Exhibit A-1, including addenda thereto, that are entered into between Customer and Bentek from time to time. Order Forms shall be deemed incorporated herein by reference.

(e) “Professional Services” means the services provided by Bentek under the terms of the Bentek Professional Services Agreement (“PSA”) which are subject to a fee, and which include assisting the Customer in populating the SaaS Solution with Customer Data.

(f) "SaaS Solution" means the online, Web-based applications and platform provided by Bentek via http://www.mybentek.com and/or other designated websites as described in the User Documentation, that are ordered by Customer under an Order Form, including associated offline components as well as the Benefit Specification Document provided to Customer as part of the services delivered under the PSA.

(g) "Tools" is defined as the scripts, software, and utilities which Bentek may use to monitor and administer the SaaS Solution and to help resolve support requests.

(h) "User Documentation" means the online user guide for the Services, accessible via http://www.mybentek.com and/or other designated websites as described in the User Documentation as updated from time to time.

(i) “Support” is defined as telephone support between the hours of 8:30 a.m. and 5:00 p.m., Eastern Standard Time, Mondays through Fridays. The Support telephone number is 888. 5BENTEK (888.523.6835), and the Email support address is: support@mybentek.com, so long as Customer is compliant with the terms of this SaaS Agreement and is current in all its payment obligations. The response time for Support is within one (1) business day.

2. **License to the SaaS Solution.**

(a) **Grant and Scope of License.** Bentek grants to Customer and Customer accepts a personal, non-transferable, limited, non-exclusive, worldwide, license, to access and use the SaaS Solution for its internal business purposes only during the term of this Agreement. This license automatically terminates upon Customer's breach of section 2(a) or 2(e).

(b) **License Fees.** Customer agrees to pay the license fees as specified in the applicable Order Form on the terms and conditions contained in this Agreement.

(c) **Subscriptions for End Users**. Licenses for use of the SaaS Solution are purchased as subscriptions for specific End Users. Subscriptions for End Users are for designated End Users and cannot be shared or used by more than one End User but may be reassigned to new End Users replacing former End Users who no longer access the Services, so long as Customer (i) provides prior written notice to Bentek and (ii) Customer is current in all its payment obligations.

(d) **Provision of SaaS Solution.** Bentek shall: (i) provide to Customer Support for the SaaS Solution at no additional charge; (ii) use reasonable commercial efforts to make the Services

available 24 hours a day, 7 days a week, except for: (1) planned downtime, in which event Bentek shall give at least 8 hours' notice via the Services and which Bentek shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Eastern time Friday to 6:00 a.m. Eastern time Monday, or (2) any unavailability caused by circumstances beyond Bentek's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, or Internet service provider failures or delays, and (iii) provide the Services only in accordance with applicable laws and government regulations.

(e) **Customer's Use of SaaS Solution.** Customer shall (i) be responsible for all End User's compliance with the terms of this Agreement; (ii) be solely responsible for the accuracy, quality, integrity and non-infringement of Customer Data and the means by which Customer acquired Customer Data, (iii) use reasonable commercial efforts to prevent unauthorized access to or use of the SaaS Solution, and notify Bentek promptly of any such unauthorized access or use, and (iv) use the SaaS Solution only in accordance with the terms of this Agreement, the User Documentation and applicable laws and government regulations. Customer shall not (1) make the SaaS Solution available to anyone other than End Users, (2) modify, adopt, translate, reproduce, enhance, copy, or use the SaaS Solution in a manner that is illegal or violates the terms of this Agreement, (3) use the SaaS Solution to store or transmit material which is infringing, libelous, defamatory, tortious, unlawful, or violates privacy rights or data security regulations, (4) use the SaaS Solution to store or transmit Malicious Code, (5) interfere with or disrupt the integrity or performance of the SaaS Solution or third-party data contained therein, (6) gain or attempt to gain unauthorized access to the SaaS Solution or their related systems or networks, (7) intentionally cause excessive or unwanted traffic or resource consumption on the related systems or network, access data not intended for the Customer, log into a server or account that the Customer is not authorized to access, attempt to probe, scan or test the vulnerability of the SaaS Solution, any system or the network or to breach the security or authentication measures, or (8) decompile, reverse engineer or otherwise obtain the source code of the SaaS Solution (each of the enumerated subparagraphs of this section 2(e) a "Prohibited Act").

3. **License to Customer Data.** Customer hereby grants to, and Bentek hereby accepts a world-wide, royalty-free, and non-exclusive, license to use the Customer Data to perform its obligations during the term of this Agreement.

4. **Fees and Taxes.**

(a) **Fees.** As consideration for the providing the SaaS Solution under this Agreement, the Customer agrees to pay to Bentek the various fees (collectively, the "Fees") set out in the applicable Order Form (Exhibit A-1) and in accordance with the terms and conditions set out therein. The Customer's access to the SaaS Solution is contingent upon the Customer's performance of its obligations under this Agreement including, without limitation, the payment

of all Fees. If any amount owing by Customer under this or any other Agreement is 30 days or more days overdue, Bentek may, without limiting its other rights and remedies, suspend Customer's access to the SaaS Solution until such amounts are paid in full; provided however that Bentek shall not exercise its rights of suspension if the Customer has reasonably and in good faith disputed such charges and is cooperating diligently and in good faith to resolve the dispute.

(b) **Taxes.** The Customer shall, unless it is exempt under regulation, be responsible for all sales, use, value added, or other taxes or duties, as applicable, payable with respect to the SaaS Solution, Professional Services, or otherwise arising out of or in connection with this Agreement, other than Bentek's income taxes. If Bentek pays such taxes on the Customer's behalf, the Customer agrees to reimburse Bentek for such payment immediately upon demand. If any tax in the nature of withholding taxes are payable on any sums payable to Bentek under this Agreement, the Customer shall pay Bentek such amount as is necessary to ensure that the net amount received by Bentek after such withholding shall be equal to the amount originally due.

5. **Professional Services.**

Bentek's provision of Professional Services are governed by the terms of the Master Professional Services Agreement (PSA) dated on or about the date of this Master SaaS Agreement. The Customer shall be responsible for furnishing Bentek with all information determined by Bentek to be necessary for the performance of the Support and Professional Services to be provided by Bentek as specified in this Agreement and the PSA.

6. **Ownership.**

(a) Subject to the provisions of Section 7 hereof, Bentek owns all intellectual property rights, including without limitation, copyrights, patents, trade secrets, moral rights, in and to the support, Tools, and SaaS Solution, including all modifications, changes, enhancements, or additions thereto by whomever made. The Customer agrees that, except for the purchase of subscriptions for End Users to access the SaaS Solution in this Agreement (which is a license only), nothing in this Agreement gives the Customer or any End User any right, title, or interest in, to or under any of the software, network, systems, or any intellectual property rights therein.

(b) Bentek shall own all right, title, and interest (including patent rights, copyrights, trade secret rights, trademark rights and all other intellectual property rights throughout the world relating to any and all suggestions, enhancement requests, recommendations, or feedback provided by Customer and End Users relating to or arising out of the Tools, SaaS Solution, and support. Customer for itself hereby makes, and shall cause End Users to make, all assignments necessary to accomplish the foregoing ownership. Customer shall itself, and shall cause End Users, to further assist Bentek, at Bentek's expense, to further evidence, record, and perfect such assignments, and to perfect, obtain, maintain, enforce, and defend any rights assigned. Customer hereby irrevocably designates and appoints Bentek as its agents and attorneys-in-fact to act for

and in Customer's and its End Users' behalf to execute and file any document and to do all other lawfully permitted acts to further the foregoing with the same legal force and effect as if executed by Customer and End User.

7. **Customer Data.**

(a) Protection of Customer Information. Bentek acknowledges and agrees that any Customer Information, in whatever form, stored and/or processed on the network or systems hosting the SaaS Solution, is and shall remain the sole property of the Customer. Bentek agrees that it will not use any Customer Data for any purpose other than to perform its obligations under this Agreement. Bentek agrees that either (i) upon request of and as directed by the Customer, or (ii) upon the termination of this Agreement, Bentek shall either destroy or return such Customer Data to the Customer in a standard file format as Bentek may reasonably determine. Bentek shall take or cause to be taken the same efforts it exercises in protecting the security of its information, but in no event, shall Bentek exercise less than commercially reasonable precautions to protect the security of Customer Data.

(b) **Regulation of Customer Data**. The Customer acknowledges and agrees that the Customer and its End Users or its agents will be solely and exclusively responsible for the collection and provision of all Customer Data including, without limitation, identifiable personal data regarding the Customer's employees, End Users, or other individuals. The Customer shall not and shall not permit its End Users or agents to provide Bentek with Customer Data or other data that constitutes a Prohibited Act hereunder. The Customer acknowledges and agrees that Bentek is under no obligation to review Customer Data to ensure either its accuracy or its compliance with the terms and conditions of this subsection.

(c) **Unauthorized Access**. Bentek shall in no way be held liable for any loss of data or other claims to the extent the same arise from unauthorized access to the systems, network, or SaaS Solution by obtaining a username or password caused by a negligent or willful act of the Customer, its End Users, or its agents.

(d) **Business Associate Agreement.** If Customer or a Third Party authorized by Customer provides health information to Bentek to perform any services pursuant to this Agreement, and to the extent that such health information constitutes Personal Health Information ("PHI") as that term is defined in the Business Associate Agreement attached hereto and incorporated herein as Exhibit B ("BAA"), then the terms of the BAA shall also apply with respect to such PHI.

8. **Confidentiality.**

(a) Definition. For purposes of this Agreement, "Confidential Information" shall include, but is not limited to, the following: any documentation and other tangible or intangible discoveries, ideas, concepts, software, designs, drawings, specifications, source code, object code, diagrams,

flow charts, procedures and "know-how" comprising all or any portion of a computer program, strategic and development plans or concepts, financial information, business plans, marketing plans, sales plans, marketing and sales strategies, data, business records, project records, market reports, Customer Data, employee lists and business manuals, policies and procedures, information relating to products, processes, technologies or theory and all other information which may be disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party"), or to which the Receiving Party may be provided access by a Disclosing Party, or others, in accordance with this Agreement, or which is generated by the Disclosing Party as a result of or in connection with bona fide business purposes of the Disclosing Party, which is not generally available to the public.

(b) **Obligation of Confidentiality.** The Receiving Party covenants and agrees to receive and hold the Confidential Information in confidence. Without limiting the generality of the foregoing, the Receiving Party covenants and agrees:

(i) to protect and safeguard the Disclosing Party's Confidential Information against unauthorized use, publication or disclosure;

(ii) not to use any of the Disclosing Party's Confidential Information except as required for its performance under this Agreement;

(iii) not to, directly or indirectly, in any way, reveal, report, publish, disclose, transfer or otherwise use any of the Disclosing Party's Confidential Information except as specifically authorized by the Disclosing Party in accordance with this Agreement;

(iv) to restrict access to the Disclosing Party's Confidential Information to those of its officers, directors, agents, attorneys, consultants, employees, contractors and partners who clearly and demonstrably need such access to fulfill its obligations under this Agreement;

(v) to advise in writing each of the persons to whom it provides access to any of the Disclosing Party's Confidential Information, that such persons are strictly prohibited from making any use, publishing or otherwise disclosing to others, or permitting others to use for their benefit or to the detriment of the Disclosing Party, any of the Disclosing Party's Confidential Information, and, upon the request of the Disclosing Party, to provide the Disclosing Party with a copy of a written agreement to that effect signed by such persons; and

(vi) to comply with any other reasonable security measures requested in writing by the Disclosing Party.

(c) **Exceptions to Confidentiality Provisions.** The foregoing confidentiality obligations do not apply:

(i) to the extent that the Confidential Information is or becomes generally available to the public other than as a result of a breach of this Agreement or any other obligation of confidentiality; and,

(ii) to the extent that the Receiving Party is directly ordered by a court or required under State or Federal law to disclose all or any part of the Confidential Information, provided, however, that the party so ordered will give prompt notice to the other of any such order, or of any legal or governmental proceeding that might result in such an order, and will not disclose any Confidential Information until the other party has been provided with a reasonable opportunity to limit or prevent such disclosure.

(d) **Remedies for Breach.** Each party acknowledges that any unauthorized disclosure or use of Confidential Information may cause immediate and irreparable harm to the other, for which damages may not be an adequate remedy, and as such, each party shall, in addition to any other rights or remedies it may have in law or equity under this Agreement or otherwise, be entitled to injunctive relief.

(e) **Return of Confidential Information.** Each of the parties agrees that immediately upon request by the other, and in any event, immediately upon termination or expiration of this Agreement, it shall deliver and return to the other all copies of Confidential Information (including all copies thereof, in any form whatsoever) disclosed and/or in its possession, care or control.

9. **WARRANTIES AND DISCLAIMERS.**

(a) **LIMITED WARRANTY**. Bentek warrants that (i) the SaaS Solution and Tools shall perform substantially in accordance with the User Documentation; (ii) Bentek owns the SaaS Solution and Tools and/or has the express authority to license the SaaS Solution and Tools; (iii) as of the Effective Date, there are no known claims of infringement by the SaaS Solution or Tools. For any breach of the warranty in section 9(a)(ii) and/or (iii), Bentek's entire liability and Customer's sole and exclusive remedy is provided in section 15(a) and (c) below. For any breach of the warranty in section 9(a)(i), Bentek's entire liability and Customer's sole and exclusive remedy is at Bentek's option, either (1) to exercise reasonable efforts to correct such non-conformity in a manner determined by Bentek, within 5 business days of receiving written notice from Customer describing the non-conformity in reasonable detail; or (2) replace the SaaS Solution or Tools containing the non-conformity, or (3) refund, pro-rata the fees received by Bentek for the SaaS Solution or Tools containing the non-conformity, in which case the applicable Order Form which corresponds to the subscriptions for the non-conforming SaaS Solution shall automatically terminate upon the pro rata refund of fees paid for such subscriptions.

(b) **Mutual Warranties.** Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) it will not knowingly or intentionally transmit to the other party any

Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party).

(c) **Warranty Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, BENTEK DISCLAIMS ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY LAW WITH REGARD TO THE SAAS SOLUTION, SUPPORT, AND ANY TOOLS WHICH MAY BE SOLD, LICENSED OR PROVIDED, INCLUDING THOSE AT NO COST, PURSUANT TO THIS AGREEMENT.**

10. **Security**.

(a) The Customer agrees that the Customer is solely responsible for (i) the confidentiality of all Customer and End User passwords and all use or charges incurred from use of the SaaS Solution, Professional Services, and support accessed from Bentek with the Customer's and End Users' passwords, and (ii) the content of all visual, written, or audible communications using the Customer's account. Although Bentek is not responsible for any such communications, Bentek may suspend any such communications of which Bentek is made aware of, at any time, and Bentek shall provide prompt notice thereof to the Customer. The Customer agrees that the Customer and Users will not use the SaaS Solution, Professional Services, Tools, support, related systems, and network in a manner that constitutes a Prohibited Act.

11. **Term and Termination.**

(a) **Term.** This Agreement commences on the Effective Date and continues until all subscriptions for End Users granted in accordance with this Agreement have expired or been terminated. Subscriptions for End Users commence on the start date specified in the applicable Order Form (Exhibit A-1) and continue for the subscription term specified therein. Except as otherwise specified in the applicable Order Form, all End User subscriptions shall automatically renew for additional periods equal to the then-expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 90 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless Bentek provides written notice of a pricing increase at least 90 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter.

(b) **Renewal.** This Agreement shall be automatically renewed for additional one (1) year periods (a "Renewal Term") on the same terms and conditions as provided herein (or as may be otherwise negotiated between the parties) unless either party notifies the other in writing at least 90 days prior to the end of the Term or a Renewal Term, as the case may be, that it has elected to terminate this Agreement, in which case the Agreement shall terminate at the end of the relevant Term.

(c) **Termination.** This Agreement may be terminated by either party upon the occurrence of any of the following events, which shall be deemed to be a breach of the terms of this Agreement:

(i) there is a material breach of this Agreement; provided that the party terminating this Agreement shall first have given prior written notice to the other of its intent to terminate, together with details of the default causing the termination, and the party receiving such notice shall have been given 20 days to cure any such default;

(ii) if either party ceases or threatens to cease to carry on its business, commits an act of bankruptcy, becomes insolvent, makes an assignment or bulk sale of its assets, or proposes a compromise or arrangement to its creditors;

(iii) if any proceeding is taken with respect to a compromise or arrangement, or to have either party declared bankrupt or wound up, or to have a receiver appointed with respect to any part of the assets of a party, or if any encumbrancer takes possession of any part thereof and such proceeding is not dismissed within 60 days of such proceeding being initiated, and with respect to any encumbrancer, any default has not been cured within 60 days of the occurrence of such default; or

(iv) Bentek may, at its sole option suspend the Customer's access to the Software, Support, Services, System and/or Network, and/or terminate this Agreement immediately and take any remedial action under any applicable law:

A. In the event that any Customer Data constitutes or may reasonably be considered to constitute a Prohibited Act hereunder; or

B. The Customer, its End Users or its agent commits or suffers to be committed a Prohibited Act hereunder.

(d) **Events Upon Termination.** Upon termination of this Agreement:

(i) the Customer shall pay to Bentek all amounts outstanding and owing to the effective date of termination upon receipt of a final invoice from Bentek;

(ii) each of the parties shall deliver or destroy all Confidential Information of the other, which is in its possession, care, or control to the other as provided in Section 8(e);

(iii) each of the parties shall release the other from all obligations under this Agreement except for obligations accrued and owing up to the effective date of termination and those obligations which survive as provided in section 11(d)(iv);

(iv) the provisions in Section 5, 6, 7, 8, 9, 10, 11(d), 13, 14, 15, 16(j), (k), (l), and (m) of this Agreement shall continue in force following termination of this Agreement.

12. **Inspection Right.** During normal business hours during the Term or any Renewal Term, Bentek or its authorized representative, shall have the right, upon reasonable advance written notice, to audit and inspect the Customer's utilization of the Software and/or Services via accessing the Customer's accounts in order to verify compliance with the terms and conditions of this Agreement. Bentek shall be solely responsible for the cost and expenses of such audit; however, if Customer is not in compliance with this Agreement, then Customer shall be liable for the cost and expenses of the audit.

13. **Access.** Bentek shall have the right to access the Software, Systems and Network for purposes of maintenance, support, administration, invoicing and inspection, as reasonably necessary in its sole discretion.

14. **LIMITATIONS OF LIABILITY, DAMAGES, AND CAUSE OF ACTION**

(a) **Limited Liability**. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EXCLUDING ANY BREACH BY CUSTOMER OF SECTIONS 2(a), 2(e), 6, BREACH BY BENTEK OF ANY OF ITS OBLIGATIONS WITH RESPECT TO PHI UNDER THE BAA AS REFERENCED IN SECTION 7(d), OR ANY BREACH BY EITHER PARTY OF ITS OBLIGATIONS UNDER SECTION 8 OR SECTION 15 OF THIS AGREEMENT, NEITHER PARTY, ITS DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND WHATSOEVER, WHETHER OR NOT FORESEEABLE (INCLUDING, WITHOUT LIMITATION, LEGAL FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF ANY PARTY'S NEGLIGENCE OR FOR ANY CAUSE OF ACTION WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, EVEN IF THE OTHER PARTY HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING CONTAINED TO THE CONTRARY IN THIS AGREEMENT OR THE BAA, BENTEK SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY OR ARISING FROM CUSTOMER'S AND END USER INTENTIONAL MISUSE OR NEGLIGENT USE OF (i) USERNAMES AND PASSWORDS; (ii) CONFIDENTIAL INFORMATION; AND (iii) PHI; INCLUDING, BUT NOT LIMITED TO, FAILURE OF CUSTOMER AND END USER TO PROTECT AGAINST UNAUTHORIZED USE OF ANY OF THE FOREGOING.**

(b) LIMITATION OF DAMAGES. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER OR, WITH RESPECT TO ANY SINGLE INCIDENT, THE LESSER OF $1,000 OR THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT. THE FOREGOING SHALL NOT LIMIT CUSTOMER'S LIABILITY FOR BREACH OF SECTION 2(a) (GRANT AND SCOPE OF LICENSE) AND/OR 2(e) (CUSTOMER'S USE OF SAAS SOLUTION), CUSTOMER'S

PAYMENT OBLIGATIONS UNDER SECTIONS 4 (FEES AND TAXES), BENTEK'S BREACH OF ANY OF ITS OBLIGATIONS WITH RESPECT TO PHI UNDER THE BAA AS REFERENCED IN SECTION 7(d) (BUSINESS ASSOCIATE AGREEMENT) OF THIS AGREEMENT, BREACH OF A PARTY'S OBLIGATIONS UNDER SECTION 8 (CONFIDENITALITY) OF THIS AGREEMENT, AND A PARTY'S OBLIGATIONS OR BREACH OF ITS OBLIGATIONS UNDER SECTION 15 (INDEMNIFICATION) OF THIS AGREEMENT.

(c) NO ACTION AGAINST EITHER PARTY OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS, REGARDLESS OF FORM (INCLUDING NEGLIGENCE), ARISING OUT OF ANY CLAIMED BREACH OF THIS AGREEMENT, USE OF THE SaaS SOLUTION OR IN ANY OTHER WAY RELATED TO THIS AGREEMENT AS OUTLINED ABOVE MAY BE BROUGHT BY THE OTHER PARTY MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION HAS ARISEN.

15. **Indemnification for Intellectual Property Claims.**

(a) **Indemnification of Customer.** Bentek shall indemnify Customer against all claims, liabilities, and costs, including reasonable attorneys' fees, reasonably incurred in the defense of any claim brought against Customer by third parties alleging that Customer's and/or its End Users' use of the SaaS Solution or Tools infringes any United States patent, a copyright or trade secret, provided that such indemnity shall not apply if the alleged infringement results from use of the SaaS Solution or Tools other than in their respective unaltered forms as supplied by Bentek or unlicensed activities or use not in compliance with this Agreement, and so long as Customer promptly notifies Bentek in writing of any such claim and Bentek is permitted to control fully the defense and any settlement of such claim as long as such settlement shall not include a financial obligation on Customer. Customer shall cooperate fully in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable to Bentek and may settle any claim on a basis requiring Bentek to substitute for the SaaS Solution or Tools alternative substantially equivalent non-infringing software and services. In the event Customer's continued use of any SaaS Solution or Tools is prohibited by reason of infringement or misappropriation of a valid United States patent, copyright, trademark, or trade secret, or if infringement is likely in Bentek's opinion, Bentek may, at its sole option and at its expense, obtain the rights to continued use of any such SaaS Solution or Tools; replace or modify such SaaS Solution or Tools so that they are no longer infringing; or terminate the license to the SaaS or Tools involved and issue a pro rata refund to the Customer.

(b) **Additional Indemnification of Customer.** Bentek will indemnify, defend, save and hold the Customer harmless from and against any and all claims, suits, liabilities, losses, penalties or damages, including court costs and attorneys' fees, to the extent that such claims, losses, liabilities, damages and expenses arise out of or are based upon the gross negligence, fraudulent, criminal or dishonest acts of Bentek or its employees or its agents in the performance of Bentek's duties under this Agreement, except for any acts taken at the specific direction of the Customer.
(c) **Indemnification of Bentek**. To the extent allowed by law, Customer shall indemnify, defend,

and hold Bentek harmless from and against any third party claim, suit, or proceeding, brought against Bentek based on a claim that (i) the use or transfer of any SaaS Solution or Tools which is not in compliance with the terms of this Agreement constitutes an infringement, violation, or misappropriation of a United States patent, copyright, trademark, trade secret, or other intellectual property; (ii) the use of any SaaS Solution or Tools delivered hereunder and modified, altered or combined with any equipment, device or software not supplied by Bentek hereunder and (iii) Bentek's conformity and attempted conformity with the specifications provided by Customer constitutes an infringement of any United States patent, copyright, trademark, or trade secret because of such modification, alteration conformity, attempted conformity, or combination so long as Bentek promptly notifies Customer in writing of any such claim and Customer is permitted to control fully the defense and any settlement of such claim as long as such settlement shall not include a financial obligation on Bentek or a restriction on its ability to continue to develop, market and support the SaaS Solution or Tools. Bentek shall cooperate fully in the defense of such claim and may appear, at its own expense, through counsel reasonably acceptable to Customer.

(d) **Additional Indemnification of Bentek.** To the extent allowed by law, the Customer agrees to indemnify and hold harmless Bentek and its officers, directors, shareholders, employees, agents, and contractors from and against any and all Bentek Claims (as hereafter defined) arising from any Prohibited Act as well as those arising from Customer's failure to pay license fees. Customer acknowledges that Bentek may terminate Customer's and its End Users' use of the SaaS Solution if after written notice, Customer fails to pay the license fees due and owing. "Claim" shall mean all losses, liabilities, damages, claims, taxes, and all related costs and expenses, including, without limitation, reasonable attorneys' fees and costs of investigation, litigation, settlement, judgment, interest, and penalties.

(e) THE PROVISIONS OF THIS SECTION 15 STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF THE INDEMNIFYING PARTY TO THE INDEMNIFIED PARTY WITH RESPECT TO THIRD PARTY INTELLECTUAL PROPERTY RIGHTS AND IS THE INDEMNIFIED PARTY'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THE INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS UNDER THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, THIS PROVISION DOES NOT APPLY TO THE BAA, WHICH PROVIDES FOR INDEMNIFICATION UNDER SECTION 8 OF THE BAA.

16. **Non-Appropriation.** Notwithstanding any provision herein to the contrary, City (Customer) is obligated only to make the payments set forth in the attached contract as may lawfully be made from funds budgeted and appropriated for that purpose during City's (Customer) then current fiscal year at the discretion of City (Customer). If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an "Event of Non-appropriation"), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of City (Customer) to appropriate funds for this Agreement in any

subsequent fiscal year shall not be deemed a breach of this Agreement by any party.

17. **General Provisions.**

(a) **Additional Subscriptions for the SaaS Solution and Support.** All Fee changes and agreements as to the provision of additional subscriptions for the SaaS Solution and support to the Customer by Bentek, from time to time, shall be appended hereto as amended or incorporated herein as additional Exhibits and shall be subject to the terms and conditions hereof upon mutual and duly executed written agreement in accordance with the Agreement.

(b) **Entire Agreement.** This Agreement, inclusive of the Exhibits and any amendments or additions thereto, constitutes the entire agreement and sets forth the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, covenants, arrangements, and discussions with respect thereto. In the event of an inconsistency between the terms and conditions of this Agreement and any Exhibit now or hereafter appended hereto, the terms of the applicable Exhibit shall govern to the extent necessary to remedy such inconsistency.

(c) **Marketing.** Bentek will obtain Customer's written permission prior to the use of Customer's name, trademarks, and/or trade names ("Customer Marks") to identify the Customer as a customer of Bentek on Bentek's website, and for use of such Customer Marks in Bentek's corporate, promotional, and marketing literature.

(d) **Relationship of Customer and Bentek.** Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between the parties; no party is by virtue of this Agreement, authorized as an agent, employee, or agent representative of the other party.

(e) **Non-Exclusivity.** Nothing in this Agreement will be construed to prevent Bentek from marketing, licensing, selling or otherwise providing the SaaS Solution and Professional Services or any aspects of Bentek's technology or services to any third party.

(f) **Modifications.** No modification of, amendment, or addition to this Agreement is valid or binding unless set forth in writing and fully executed by both parties hereto.

(g) **Waiver.** Any waiver of any right or remedy under this Agreement must be in writing and signed by each party. No delay in exercising any right or remedy shall operate as a waiver of such right or remedy or any other right or remedy. A waiver on one occasion shall not be construed as a waiver of any right or remedy on any future occasion.

(h) **No Assignment.** This Agreement and any rights or obligations hereunder, shall not be assigned, sublicensed, or otherwise transferred by the Customer without the prior written

consent of Bentek. Any transfer by merger, consolidation, or liquidation shall constitute an assignment for purposes of this Agreement. Bentek may transfer or assign its rights and obligations hereunder in the event of a change in ownership or control.

(i) **Inurement.** This Agreement shall be binding upon and shall inure to the benefit of Bentek and the Customer and each of their successors and permitted assigns.

(j) **Governing Law.** The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to conflicts of laws principles. The parties agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods do not apply to this Agreement. The parties hereby irrevocably consent to the exclusive jurisdiction and venue of the state and federal courts located within Palm Beach County, Florida.

(k) **Notices.** Any notices, demands and other communications hereunder shall be in writing and shall be delivered, sent by facsimile transmission and by mail, registered or certified, return receipt requested, postage prepaid, and addressed as follows:

(i) to Bentek, at:
3500 Kyoto Gardens Drive
Palm Beach Gardens, Florida 33410
Attn: Chief Financial Officer
Facsimile: (561) 626-6970

With a copy to (which shall not constitute notice):
Adam Fetterman, Esquire
The Fetterman Firm, PLLC
1231 SW Sunset Trail
Palm City, FL 34990
Facsimile: (772)905-0671

(ii) to the Customer, at:
_____
Attn.: _____
_____
_____

All notices shall be effective and deemed to be delivered (i) if mailed, on the fifth business day following such mailing, unless there is an interruption in the mail, in which case it shall be deemed to have been given when received; or (ii) if delivered or sent by facsimile, on the business day following the date of dispatch or the date of transmission, as the case may be; provided that if sent or delivered by facsimile, written confirmation of such transmission is sent or delivered via

regular certified or registered mail. Either party may change the address for notice by giving written notice of such change to the other party in the manner provided in this Section.

(l) **Severability.** If any provision of this Agreement is held to be unenforceable or illegal by a court of competent jurisdiction, such provision shall be modified to the extent necessary to render it enforceable, or shall be severed from this Agreement, and all other provisions of this Agreement shall remain in full force and effect.

(m) **Facsimile Transmission.** This Agreement may be executed and delivered by facsimile or other electronic means of transmission or by U.S. Mail, and upon receipt such transmission shall be deemed delivery of an original.

(n) **Counterparts.** This Agreement may be executed in several counterparts each of which when executed shall be deemed to be original, and such counterparts shall each constitute one and the same instrument and notwithstanding their date of execution shall be deemed to bear the day and year first above written.

(o) **Force Majeure.** Neither party to this Agreement shall be liable to the other for any failure or delay in performance by circumstances beyond its control, including but not limited to, acts of God, fire, labor difficulties or governmental action, provided that the party seeking to rely on such circumstances gives written notice of such circumstances to the other party hereto and uses reasonable efforts to overcome such circumstances.

CUSTOMER: **CITY OF JOPLIN**		**BENTEK:** **BENTEK, LLC**	
By:	_____	By:	_____
Title:	_____	Title:	Julie Fink President
Date:	_____	Date:	_____

EXHIBIT A-1
ORDER FORM FOR SAAS SOLUTION
ADDENDUM TO THE MASTER SOFTWARE AS A SERVICE AGREEMENT FOR END USERS
BETWEEN BENTEK, LLC AND CITY OF JOPLIN ("CUSTOMER")

This Exhibit A-1, Bentek Order Form for SaaS Solution between **Bentek, LLC** ("Bentek") and **City of Joplin** ("Customer") is effective as of the date of execution by Bentek ("Services Effective Date"). This is an Exhibit to the Master Software as a Service Agreement between Bentek and Customer ("Master SaaS Agreement"), the terms of which are incorporated herein.

1. Customer. The legal name, address, contact person, telephone number and e-mail address of the Customer:

Legal Name of Customer:	City of Joplin
Address**:**	602 S. Main, Joplin, MO 64801
Contact Name:	
Telephone Number:	
E-mail Address:	

2. SaaS Solution. Customer orders the following annual subscriptions to the SaaS Solution and agrees to pay the corresponding fees associated with the license:

Description	**User (Group)**	**Annual Fee**
Bentek® Employee Benefits Enrollment & Administration System	City of Joplin, MO	See attached Bentek Cost Proposal

3. Subscription Term. The term for the subscription for the Bentek SaaS Solution is one (1) year effective _____, 2024 subject to the provisions of Section 11 of the Master SaaS Agreement. The Subscription Term may be extended by written mutual agreement between Customer and Bentek after year one (1) at a three percent (3%) annual Fee increase.

4. Fees. Pursuant to Section 4 of the Master SaaS Agreement, following are the payment terms for the SaaS Solution:

☐ Monthly
☐ Quarterly
☐ Annually

5. Support. So long as the Customer is compliant with the terms of the SaaS Agreement and is current in all its payment obligations, Bentek shall provide Customer with telephone support between the hours of 8:30 a.m. and 5:00 p.m., Eastern time. The support number is 888. 5BENTEK. (888.523.6835). E-mail: support@mybentek.com. Response is within one (1) business day.

CUSTOMER: **CITY OF JOPLIN**		**BENTEK:** **BENTEK, LLC**	
By:	_____	By:	_____
			Julie Fink
Title:	_____	Title:	President
Date:	_____	Date:	_____

BENTEK COST PROPOSAL
City of Joplin, Missouri

QTY	DESCRIPTION	PRICE PER MONTH	TOTAL ANNUAL
525 Total Lives (Active, Retired, Cobra)	Bentek Core License includes: Admin Community Portal Benefits Administration Electronic Data Interchange (EDI) Life Event Module New Hire Orientation Module Open Enrollment Module Open Enrollment Payroll Export Payroll Audit Tool Payroll Integration - NaviLine Personnel Import Tool Standard Reporting Report Building Tool Standard COBRA Reporting Standard Carrier Self-Billing Professional Services and Software Licensing System Maintenance and Upgrades On-going Support and Service* Q1 Incentives**: Initial Payroll/Carrier Data Audit 50% off one-time implementation fee	$3,750.00	$45,000.00
		One-Time Implementation Fee	$5,000.00
		Total	$50,000.00

***Notes**: Please refer to the Bentek Master Professional Services Agreement for additional details regarding the features described herein.*On-going support and service includes unlimited administrator support and training, including product user guides, webinars, email support and phone support between 8:30am and 5:00pm EST.*

***Q1 Incentive Program pricing is valid if contract is executed on or before March 1, 2023:*

-50% discount off one-time $10,000.00 implementation fee to be paid separately
-Includes initial data audit
-Initial Electronic File Feeds will be waived during Implementation.

*-**Notes:** Post implementation, electronic file feed changes will incur additional fees of $1,500 per file.*

EXHIBIT B
BUSINESS ASSOCIATE AGREEMENT ("BAA")

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the "Agreement") by and between **City of Joplin** ("Customer"), and **Bentek, LLC** ("Bentek") is made and entered into effective _____. 2024.

RECITALS

WHEREAS, Customer is a "covered entity" as those terms are defined in 45 C.F.R. § 160.103; and

WHEREAS, Bentek provides consulting services to Customer; and

WHEREAS, as a result of such functions, Customer has identified Bentek as a "business associate," as defined in 45 C.F.R. § 160.103, of Customer for purposes of the privacy and security requirements under the Health Insurance Portability and Accountability Act of 1996, (HIPAA) as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) and the regulations issued thereunder; and

WHEREAS, Bentek acknowledges that it is a business associate, as defined in 45 C.F.R. § 160.103, of Customer that may create, use, or disclose Protected Health Information or Electronic Protected Health Information on behalf of Customer; and

WHEREAS, Customer desires to obtain written assurances that Bentek will safeguard Protected Health Information or Electronic Protected Health Information created or received by or on behalf of Customer.

NOW, THEREFORE, the parties agree as follows:

1. DEFINITIONS

1.1 "Breach" shall have the meaning set forth in 45 C.F.R. §164.402.

1.2 "Data Aggregation" shall have the meaning as the term "data aggregation" in 45 C.F. R. § 164.501.

1.3 "Designated Record Set" shall mean a group of health-related records about an Individual as provided in 45 C.F.R. § 164.501.

1.4 "Electronic Health Record" shall mean an electronic record of health-related information with respect to an Individual that is created, gathered, managed, and consulted by authorized healthcare clinicians and staff.

1.5 "Electronic Protected Health Information" or "Electronic PHI" means information that Bentek or its agent, including a subcontractor, creates, receives, maintains, or transmits from or on behalf of Customer that comes within paragraphs 1(i) or 1(ii) of the definition of "protected health information" at 45 C.F.R. § 160.103.

1.6 "Genetic Information" shall have the meaning assigned to such term in 45 C.F.R. § 160.103.

1.7 "HIPAA" shall mean the health information privacy provisions under the Health Insurance Portability and Accountability Act of 1996, and regulations issued thereunder at 45 C.F.R. Parts 160 and 164, as amended by HITECH.

1.8 "HITECH" shall mean the Health Information Technology for Economic and Clinical Health Act and the regulations issued thereunder.

1.9 "Individual" shall mean a person who is the subject to the Protected Health Information of the Customer and shall include a person who qualifies as the Individual's personal representative in accordance with 45 C.F.R. § 164.502(g).

1.10 "Limited Data Set" shall have the meaning assigned to such term in 45 C.F.R. §164.514(e)(2).

1.11 "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Bentek from or on behalf of Customer. Genetic Information shall be considered PHI.

1.12 "Required by Law" shall mean a mandate contained in an applicable state, federal, or local law that compels Customer (or business associates acting on behalf of Customer) to make a use or disclosure of PHI that is enforceable in a court of law.

1.13 "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system, as defined at 45 C.F.R. § 164.304. However, certain low risk attempts to breach network security, such as the incidents listed below, shall not constitute a Security Incident under this Agreement, provided they do not penetrate the perimeter, do not result in an actual breach of security and remain within the normal incident level:

- pings on the firewall;
- port scans;
- attempts to log on to a system or enter a database with an invalid password or username;

- denial-of-service attacks that do not result in a server being taken off-line; and
- malware such as worms or viruses.

1.14 "Subcontractor" shall have the meaning as the term in 45 C.F.R. § 160.103.

1.15 "Unsecured Protected Health Information" or "Unsecured PHI" shall have the meaning assigned to such term in 45 C.F.R. § 164.402 and guidance issued thereunder.

2. OBLIGATIONS OF THE PARTIES

2.1 Bentek shall safeguard all PHI and Electronic PHI created or received by Bentek on behalf of Customer in accordance with HIPAA. Bentek shall implement administrative, physical and technical safeguards that prevent use or disclosure of the Electronic Protected Health Information other than as permitted by the Security Rules. Specifically, Bentek agrees to implement policies and procedures in accordance with 45 C.F.R. § 164.316 that:

i. Prevent, detect, contain and correct security violations in accordance with the administrative safeguards set forth in 45 C.F.R. § 164.308;

ii. Limit physical access to electronic information systems and the facility or facilities in which they are housed, while ensuring that properly authorized access is allowed in accordance with the physical safeguards set forth in 45 C.F.R. § 164.310; and

iii. Allow access to electronic information systems that maintain Electronic PHI to only those persons or software programs that have been granted access rights in accordance with the technical safeguards set forth in 45 C.F.R. § 164.312.

2.2 Bentek shall not use or disclose PHI or Electronic PHI except as permitted or required by Article 3 of this Agreement or as Required by Law. Bentek shall notify Customer of all requests for the disclosure of PHI and Electronic PHI from a law enforcement or government official, or pursuant to a subpoena, court or administrative order, or other legal request as soon as possible prior to making the requested disclosure. Bentek shall provide to Customer all PHI and Electronic PHI necessary to respond to these requests as soon as possible, but no later than ten (10) business days following its receipt of a written request from Customer.

2.3 Customer shall provide to Bentek, and Bentek shall request from Customer, disclose to its affiliates, subsidiaries, agents and subcontractors or other third parties, only a Limited Data Set or, if necessary or otherwise permitted by HHS regulations, the minimum PHI or Electronic PHI necessary to perform or fulfill a specific function required or permitted under the Agreement. "Minimum necessary" shall be interpreted in accordance with

HITECH, and in any event shall not include any direct identifiers of individuals such as names, street addresses, phone numbers or social security numbers, except for a unique identifier assigned by Customer as necessary for the strategic analysis.

2.4 Bentek shall comply with all granted restrictions on the use and/or disclosure of PHI, pursuant to 45 C.F.R. § 164.522(a), upon written notice from Customer; provided, however, that Customer shall not grant any restriction that affects Bentek's use or disclosure of PHI without first consulting with Bentek.

2.5 Bentek shall comply with all granted requests for confidential communication of PHI, pursuant to 45 C.F.R. § 164.522(b), upon written notice from Customer.

2.6 Bentek shall report to Customer any use or disclosure of PHI not permitted by this Agreement of which Bentek becomes aware within fifteen (15) business days of its becoming aware, and will take such corrective action necessary, or as reasonably directed by Customer, in order to prevent and minimize damage to any Individual and to prevent any further such occurrences.

2.7 Following the discovery of a Breach of Unsecured PHI, Bentek shall notify the Customer without unreasonable delay and in no case no later than fifteen (15) days after discovery of the Breach. The notification shall include the identification of each Individual whose Unsecured PHI has been or is reasonably believed by Bentek to have been accessed, acquired, used or disclosed during the Breach. Bentek shall provide the Customer with any other available information that the Customer requires to notify affected individuals under the Privacy Rule.

2.8 Bentek shall make reasonable efforts to mitigate, to the extent practicable or as reasonably directed by Customer, any harmful effect that is known to Bentek resulting from a breach of this Agreement or HIPAA that is directly caused by Bentek.

2.9 Bentek shall report to Customer any Security Incident within five (5) business days of when it becomes aware of such Security Incident. Bentek shall mitigate to the extent practicable or as reasonably directed by Customer any harmful effect that is known to Bentek of a Security Incident by Bentek.

2.10 Bentek shall take reasonable steps to ensure that any Subcontractor performing services for Customer agrees in writing to the same restrictions and conditions that apply to Bentek regarding its creation, use, and disclosure of PHI and Electronic PHI in accordance with 45 C.F.R. §§ 164.308(b)(2), 164.502(e)(1)(ii) and 164.504(e)(5). Bentek shall, upon written request from Customer, provide a list of any Subcontractors with whom Bentek has contracted to perform services for Customer. Bentek shall advise Customer if any Subcontractor breaches its agreement with Bentek with respect to the disclosure or use of PHI or Electronic PHI. If Bentek knows of a pattern of activity or practice of its

Subcontractor that constitutes a material breach or violation of the Subcontractor's duties and obligations under its agreement with the Subcontractor ("Subcontractor Material Breach"), Bentek shall cure the breach or provide a reasonable period for Subcontractor to cure the Subcontractor Material Breach; provided, however, that if Bentek cannot, or Subcontractor does not, cure the Subcontractor Material Breach within such period, Bentek shall terminate the agreement with Subcontractor, if feasible, at the end of such period.

2.11 Bentek shall, upon written request from Customer, provide to Customer a copy of any PHI or Electronic PHI in a Designated Record Set, as defined in 45 C.F.R. § 164.501, created or maintained by Bentek, and not also maintained by Customer, within thirty (30) days of receipt of the request.

2.12 Bentek shall, upon written request from Customer, make any amendment to PHI in a Designated Record Set maintained by Bentek within thirty (30) days of receipt of the request unless Bentek can establish to Customer's satisfaction that the PHI at issue is accurate and complete.

2.13 If an Individual's PHI is held in an Electronic Health Record, Bentek shall provide requested copies in electronic format to the individual or to an entity or person designated by the Individual, provided such designation is clearly and conspicuously made by the Individual or Customer.

2.14 Bentek shall make its internal practices, written policies and procedures, books, records, and other documents relating to the use and disclosure of PHI and/or Electronic PHI created or maintained by Bentek on behalf of Customer available to the Secretary of the Department of Health and Human Services, or his or her designee, for purposes of the Secretary determining Customer's compliance with HIPAA.

2.15 Bentek shall make available the information required to provide an accounting of disclosures made on and after the Effective Date, as necessary for Customer to comply with 45 C.F.R. § 164.528, within twenty (20) business days of receipt of the request. Bentek shall provide one such accounting within a twelve-month period without charge but may make a reasonable charge for any additional such accountings within the same twelve-month period.

2.16 Bentek shall maintain all records, other than those records that are also maintained by Customer, for six (6) years from the date created or last in effect, whichever is later, as necessary for Customer to comply with 45 C.F.R. § 164.530(j)(2).

3. PERMITTED USES OF PHI

3.1 Bentek may use and disclose PHI and Electronic PHI as necessary to provide services to Customer, subject to Section 2.3 of this Agreement and consistent with the requirements of HIPAA.

3.2 Bentek may use and disclose PHI and Electronic PHI as necessary for the proper management and administration of Bentek or to carry out Bentek's legal responsibilities, subject to Section 2.4 of this Agreement and consistent with the requirements of HIPAA; provided, however, that Bentek may disclose the PHI and Electronic PHI for such purposes only if:

i. the disclosure is Required by Law, or

ii. Bentek obtains reasonable assurances that the party to whom the PHI or Electronic PHI is disclosed (a) will protect the confidentiality of the PHI and Electronic PHI, (b) will not further disclose the PHI or Electronic PHI except as Required by Law or for the purposes for which it was disclosed to the other party, and (c) will report any improper use or disclosure of the PHI and/or Electronic PHI to Bentek.

3.3 Except as otherwise limited in this Agreement, and to the extent provided for under this Agreement, Bentek may use PHI and Electronic PHI to provide Data Aggregation services to Customer, as permitted by 42 C.F.R. § 164.504(e)(2)(i)(B).

4. TERMINATION OF AGREEMENT

4.1 Except as described in Section 4.3, this Agreement shall continue in effect so long as Bentek provides service to Customer involving maintaining, using or disclosing PHI or Electronic PHI, or otherwise retains a copy of PHI or Electronic PHI provided to Bentek by Customer.

4.2 Customer may terminate this Agreement at any time if Customer discovers that Bentek has materially breached any provision of this Agreement.

4.3 If Bentek becomes aware of a pattern of activity or practice of the Customer that constitutes a material breach or violation of the Customer's duties and obligations under the Agreement, Bentek shall take reasonable steps and provide a period of thirty (30) calendar days for the Customer to cure the material breach or violation. If the Customer does not cure the material breach or violation within such 30-day period, Bentek shall terminate the Agreement, if feasible, at the end of such 30-day period.

4.4 Upon the expiration of Customer's relationship with Bentek, and contingent upon the payment of all outstanding fees, Bentek shall return PHI and Electronic PHI to Customer

or Customer's designated agent upon Customer's request. If return of all PHI and Electronic PHI is not feasible, the provisions of this Agreement shall continue to apply to Bentek until such time as all PHI and Electronic PHI is either returned to Customer or destroyed pursuant to Bentek's document retention policy, provided that Bentek shall limit further use of PHI and Electronic PHI only to those purposes that make the destruction or return of the PHI and Electronic PHI infeasible. Following the expiration of the relationship, Bentek agrees not to disclose PHI and Electronic PHI except to Customer or as Required by Law.

5. NOTICES

Whenever, under this Agreement, Bentek is required to give notice to Customer, such notice shall be sent via First Class Mail to:

City of Joplin
602 S Main
Joplin, MO 64801
Attention: Privacy Officer

Whenever, under this Agreement, Customer is required to give notice to Bentek, such notice shall be sent via First Class Mail to:

Bentek, LLC
3500 Kyoto Gardens Drive
Palm Beach Gardens, FL 33410
Attention: Privacy Officer

6. INDEMNIFICATION

Bentek agrees to indemnify Customer, and any employees, directors, officers of Customer (collectively "Customer Indemnitees"), against all actual and direct losses resulting from or in connection with any breach of this Agreement by Bentek, or its partners, employees, or other members of its workforce. Actual and direct losses shall include, but shall not be limited to, judgments, liabilities, fines, penalties, costs, and expenses (including reasonable attorneys' fees) which are imposed upon or incurred by Customer Indemnitees by reason of any suit, claim, action, investigation, or demand by any Individual, government entity, or third party. This obligation to indemnify shall survive the termination of this Agreement.

To the extent allowed by law, Customer agrees to indemnify Bentek and any employees, directors, officers of Bentek (collectively "Bentek Indemnitees") against all actual and direct losses resulting from or in connection with any breach of this Agreement by Customer, or any violation of HIPAA resulting from any improper use or disclosure of PHI and Electronic PHI pursuant to Customer's direction. Actual and direct losses shall include, but shall not be limited

to, judgments, liabilities, fines, penalties, costs, and expenses (including reasonable attorneys' fees) which are imposed upon or incurred by Bentek Indemnitees by reason of any suit, claim, action, investigation, or demand by any Individual, government entity, or third party. This obligation to indemnify shall survive the termination of this Agreement.

7. AMENDMENT

The parties agree to negotiate in good faith any amendments necessary to conform this Agreement to changes in applicable law. Bentek further agrees to promptly attempt to amend its agreements with its subcontractors and agents to conform to the terms of this Agreement. In the event Bentek is unable to amend this Agreement or its agreements with its subcontractors in a way that is sufficient to satisfy the requirements under HIPAA, Customer may terminate this Agreement in accordance with Section 4 upon thirty (30) days written notice.

8. TERMS OF AGREEMENT GOVERN

Any ambiguity in this Agreement shall be resolved in a way that permits compliance with HIPAA. In the event of a conflict between the terms of this Agreement and any other contract or agreement between Customer and Bentek, this Agreement shall govern.

9. REGULATORY REFERENCES

A reference in this Agreement to a section in the Privacy Rules or Security Rules means the section as in effect or as amended, and for which compliance is required.

* * *

IN WITNESS HEREOF, the parties have executed this Agreement by their respective duly authorized officers or representatives.

CUSTOMER:	**BENTEK:**
CITY OF JOPLIN	**BENTEK, LLC**
By: _____	By: _____
	Julie Fink
Title: _____	Title: President
Date: _____	Date: _____

Docusign Envelope ID: 255C4BA8-AC93-4353-B7FD-4A1A79420481

CentralSquare Technologies, LLC
1000 Business Center Drive
Lake Mary, FL 32746

July 15, 2024

Mark Morris
City of Joplin
602 S. Main Street
Joplin, MO, 64801

Dear Mark Morris,

CentralSquare strives to build vendor relationships that provide our customers with the best possible solutions. Our third-party Solution Provider program helps our customers identify trusted, compliant, third-party products that extend the functionality of their investment.

We are pleased to recommend BenTek as our only vendor relationship in the benefits enrollment and administration space with full integration for our NaviLine product offering, both on-premises and hosted. This integration is available to our existing customers and will assist in providing a real-time paperless benefits solution.

BenTek has:

- An exclusive focus on local governments and municipalities
- Implementation and support services to meet our customer needs
- Sponsorship by CentralSquare customers
- Offerings that enhance CentralSquare products and are a natural fit for integration
- Testing and certification with the appropriate CentralSquare software versions

We are committed to customer success and consistently seek new ways to meet our customers' needs through effective vendor relationships that extend our offerings. CentralSquare is confident that BenTek is well positioned to assist City of Joplin in achieving just such success.

Sincerely,

DocuSigned by:
Matt Korte
5CC0E0E3B4394E3...

Matt Korte
Vice President of Sales, Public Administration
CentralSquare Technologies, LLC

COUNCIL BILL NO. 2024-617 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin, Missouri, to enter into an Agreement with Springfield Sign and Graphics Inc., a Missouri Corporation, d/b/a Springfield Sign, for the purpose of completing three wayfinding projects for the not-to-exceed price of Thirty-One Thousand Four Hundred and Thirty-Seven Dollars ($31,437.00) and authorizing the City Manager to execute the same by and on behalf of the City of Joplin.

WHEREAS, a portion of the City's current wayfinding signage requires replacement or upgrading; and

WHEREAS, the City wishes to expand its current wayfinding system to support guiding guests to Grand Falls; and

WHEREAS, the City desires to ensure that its wayfinding system is accurate and appealing to travelers and incorporates the City's proper branding and tourism look, such as its logo and color palette.

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

Section 1. That the Agreement by and between the City of Joplin, Missouri, and Springfield Sign and Graphics Inc., a Missouri Corporation, d/b/a Springfield Sign, for the not-to-exceed price of Thirty-One Thousand Four Hundred and Thirty-Seven Dollars ($31,437.00), a true and accurate copy of said agreement being attached hereto and incorporated as Exhibit "A," be and the same is hereby approved.

Section 2. That the City Manager of the City of Joplin, Missouri, is hereby authorized and directed to execute said Agreement by and on behalf of the City of Joplin.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2024, by a vote of _____.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM:

Council Bill No. 2024-617. This Council Bill approves the Agreement between Springfield Sign and Graphics Inc., a Missouri Corporation, d/b/a Springfield Sign, of Springfield, Missouri, and the City of Joplin for three (3) Wayfinding Projects: replacing outdated signage, correcting font issues, and adding Grand Falls wayfinding all as part of the City of Joplin wayfinding system. This agreement covers the design, manufacturing, and installation of wayfinding signs.

MEETING DATE:

Monday, August 5, 2024

ORIGINATING DEPARTMENT:

Convention & Visitors Bureau

ATTACHMENTS:

CB 2024-617 Ordinance, Request for Proposal 2024-RFP-15: Joplin Wayfinding Projects and RFP Supplement, Springfield Sign Bid, 2024-RFP-15 Bid Tabulation Agreement between Springfield Sign & COJ, Project #1 Change Order (1), and Project #3 Change Order (1).

REVIEWED BY:

Director of Convention & Visitors Bureau-Patrick Tuttle, Director of Finance-Leslie Haase, City Attorney-Peter Edwards, City Manager-Nicholas Edwards

SUMMARY REQUEST:

This Council Bill authorizes Springfield Sign's services for three projects related to the City's Wayfinding Signage System. These projects cover sixty (60) wayfinding signs at fifty-three (53) locations.

Project #1: Replace outdated, off-brand signage at Five Thousand Seven Hundred Ninety-Three dollars ($5,793) = materials $2,758, installation $3,035. Includes ten signs at eight locations, with two double-sided.

Project # 2: Correct font issues at Eight Thousand Eight Hundred and One dollars ($8,801) = materials $6,081, installation, $2,720. Includes 31 signs at 29 locations, with two double-sided.

Project #3: Add wayfinding to Grand Falls at Sixteen Thousand Eight Hundred and Forty-Four dollars ($16,844) = materials $9,084, installation $7,760. Includes 19 signs at 16 sign locations, with three double-sided.

Where possible, existing poles and brackets will be used.

BACKGROUND:

The City of Joplin, Convention & Visitors Bureau, and Public Works departments seek to complete three (3) projects relating to the city's wayfinding signs program.

Bids were for all design, manufacturing, materials, and installation.

The City of Joplin branding and full-color palette are to be followed. Key factors were the signage's aesthetically appealing, traveler-supportive, and regulatory-compliant nature.

All signs, designs, colors, and indicators must comply with the MoDOT Engineering Policy Guide and the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD), namely Chapter 2D. Sign installation shall meet the standards in MoDOT's Standard Plans for Highway Construction and Missouri Standard Specifications for Highway Construction. Federal Standards state that all signs are to be retroreflective, so the sign's color is the same during the day and night.

The city received three bids for these projects through the RFP process. Springfield Sign submitted the lowest bid.

From the initial meeting with Springfield Sign, which followed their physical review of the existing wayfinding sign inventory, minor adjustments to projects #1 and #3 were recommended and have been added to the overall cost. These items are attached as change orders

FUNDING SOURCE:

Funding to support this agreement is included in the FY2024 CVB budget.

RECOMMENDATIONS:

Convention & Visitors Bureau recommends passing this bill on first reading.

REQUEST FOR BID PROPOSAL PACKAGE

#2024-RFP-15

for

City of Joplin
Wayfinding Projects (3)

JOPLIN CONVENTION & VISITORS BUREAU
602 S. MAIN STREET
JOPLIN, MO 64801

NOTICE TO BIDDERS

The City of Joplin, Missouri, will accept sealed bid proposals until Noon, Thursday, June 20, 2024, at the Joplin CVB located at 602 S. Main Street, Joplin, Missouri, 64801 seeks the following service SUPPLIER:

THREE WAYFINDING PROJECTS

THROUGHOUT THE CITY OF JOPLIN

The City of Joplin, Convention & Visitors Bureau, and Public Works departments are seeking a supplier for three (3) projects relating to the city's wayfinding (trailblazer) signs program.

PROJECT #1 – REPLACE OUTDATED SIGNS

Metal fabrication using new design, vinyl; to include installation.

PROJECT #2 – CORRECT FONT ISSUE

Manufacture and install overlay to existing signs.

PROJECT #3 – NEW ADDITION (GRAND FALLS WAYFINDING)

Metal fabrication with the new design, vinyl; to include installation -- to include posts and hardware.

a) The project comprises fifty-six (56) at forty-nine (49) locations
    a. Project #1 equals ten signs at eight locations, with two double-sided.
    b. Project #2 equals 27 signs at 25 locations, with one double-sided.
    c. Project #3 equals 19 signs at 16 sign locations, with three double-sided.
b) Where possible, existing uprights and bracketing are to be reused.
c) Bids are for all design, manufacturing, materials, and installation.
d) City of Joplin branding and full-color palette are in the attached City of Joplin 2022 Style Guide, and being aesthetically appealing, traveler-supportive, and regulatory compliant are key factors.
e) All signs, designs, colors, and indicators must comply with the MoDOT Engineering Policy Guide and the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD), namely Chapter 2D. Sign installation shall meet the standards in MoDOT's Standard Plans for Highway Construction and Missouri Standard Specifications for Highway Construction.
f) Federal Standards state that all signs are to be retroreflective, so the sign's color is the same during the day and night.

This bid seeks:

- One bid package with each project separately listed.
- Bid **design and manufacturing** of all signs required for the project.
- Bid **installation** costs.
    - Include all material and manufacturing costs.
    - Include any freight costs to Joplin, Missouri
- Separate cost for materials and manufacturing from costs of installation
- Specifications of materials to be used in basic design
- Warranty of information on all materials (prefer 7+ years)
- Proposed timeline for fabrication and installation
- Selected provider will be required to provide renderings prior to approval of work
- All designs are the intellectual property of the City of Joplin for unrestricted use
- References of similar wayfinding projects your company has accomplished for communities served over the past three years

Production Notes:

1. The City of Joplin Public Works and MoDOT will have full authority and oversight on all aspects of the project
2. Highway Gothic Series B, aka FWHA Series B, is the specific font that must be used.
3. Letter height should ideally be 4" with an absolute minimum height of 3.5" reserved for unique sign dimension constraints.
4. Sign lettering for names of places, streets, and highways shall be composed of a combination of lower-case letters with initial upper-case letters
5. Specify the process to meet the retroreflectivity requirement -- silk screen printing or latex printing onto HIP sheeting, etc.

A larger format map of the current wayfinding location is available at the Joplin CVB office, 1st Floor of City Hall, or PDF via email request to Patrick Tuttle at ptuttle@joplinmo.org. For additional details/options, contact Patrick at 417-625-4789.

This RFP seeks bids for three (3) projects for upgrading the City of Joplin's wayfinding program.

PROJECT #1 – REPLACE OUTDATED SIGNS.

Ten (10) new signs need to be fabricated and installed. Eight (8) of these are replacing outdated designs, and two (2) signs (double signs) are new. All are to match the 2022 design using the new City branding. Font must be at 4" font with an absolute minimum height of 3.54.

The signs are indicated as #1, 14, 15, 16, 22, "C," Airport (2), and Tri-State Marker (2, new). All will use the existing poles. Some hardware may vary.

PROJECT #2 – CORRECT FONT ISSUE.

The existing wayfinding signs do not meet the highway standards' font height requirement. Those with a 2" font must be replaced with a 4" font with an absolute minimum height of 3.54.

This project seeks an overlay approach to correcting the sign's appearance using the existing metal base signs and design.

PROJECT #3 – GRAND FALLS - a new addition.

This new wayfinding project will incorporate the current design for a seamless appearance throughout the system. Posts and hardware must be included. A subdued pole that will complement the sign and meet manufacturer and highway standards for durability and safety requirements.

Selection will be based on (100 points possible):

1. Overall cost for all three projects (50 points)
2. Method and materials used in Project #1, overlay (20 points)
3. Timeline to completely accomplish all three projects (15 points)
4. Meeting Warranty Requirements (10 points)
5. References from similar projects (5 points)

MARK BID ENVELOPES: "BID 2024-RFP-15

WAYFINDING PROJECTS, BY NOON, THURSDAY, JUNE 20, 2024"

Any bids received after the specified deadline will be returned to the vendor.

The City reserves the right to evaluate all bids, reject any or all bids, and re-bid later. The city may waive any irregularities in the bid, negotiate variances from specifications, and make awards that are in the City's best interests. The city will have the final decision regarding the acceptance of bids and issuance of awards.

The city encourages minority and female-owned businesses to submit bids on all City purchases.

Leslie Haase, CPA

Finance Director

Publication Date: Tuesday, May 28, 2024.

INSTRUCTIONS TO BIDDERS

The City of Joplin, Missouri, seeks the following service SUPPLIER for:

WAYFINDING PROJECTS
THROUGHOUT THE CITY OF JOPLIN

All bids shall have firm-fixed F.O.B. Joplin, Missouri price and shall be honored for a minimum of ninety (90) days following the bid opening.

All bids shall be exclusive of Federal, State, and City taxes.

The specifications included with this bid document aim to generally describe the item(s) desired in sufficient detail to secure bids on comparable items. All parts not specifically mentioned necessary for the item(s) to perform as intended shall be included. The strength, quality of workmanship, and material shall be in accordance with the best trade practices.

Specification variances, manufacturer's literature, and additional information should be attached to the bid form. All blanks on the attached bid specifications shall be filled in completely and accurately. Any bid not meeting this requirement may be considered non-responsive.

Any protest or grievance must be issued in writing and delivered to the office of the Director of Finance within ten (10) days following the bid opening. Any protest filed after this period has elapsed will not be considered.

The city encourages the selection of products manufactured, assembled, and produced in the United States as long as the quality and price are comparable with other items bid.

Businesses located within the city limits of Joplin may be given preference in awarding a bid, providing the bid from the local business does not exceed the lowest bid by more than 3% or $2,500, whichever is less.

The city may prefer vendors handling products that contain post-consumer recovered materials, providing the bid does not exceed the lowest bid by more than 5% or $2,500, whichever is less.

Once the bids are reviewed and evaluated, the successful vendor will be notified in writing and receive an authorized City of Joplin purchase order. Verbal acknowledgments will not be considered an official notification and will not obligate the city in any way. Delivery or performance should not be completed without receiving an authorized purchase order.

CITY OF JOPLIN, MISSOURI

BID PROPOSAL SUMMARY

Description of Item: SUPPLIER for Wayfinding Projects throughout the City of Joplin

BID PROJECT #1:

Materials/Manufacturing $_____.

Installation $_____

Once the contract is awarded, this project could be completed in _____ days.

BID PROJECT #2:

Materials/Manufacturing $_____.

Installation $_____

Once the contract is awarded, this project could be completed in _____ days.

BID PROJECT #3:

Materials/Manufacturing $_____.

Installation $_____

Once the contract is awarded, this project could be completed in _____ days.

COMPANY NAME: _____

CONTACT PERSON: _____

EMAIL ADDRESS: _____

PHONE NUMBER: _____

ADDRESS: _____

_____

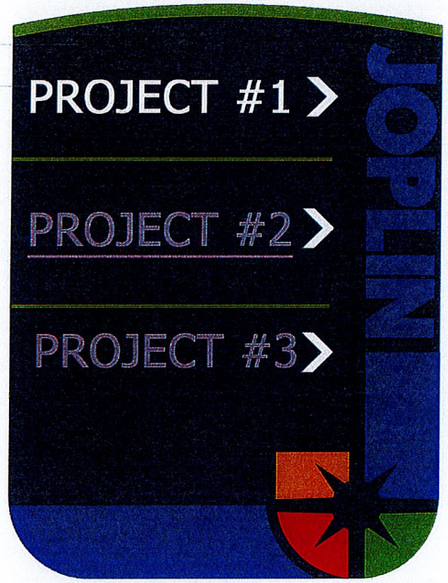
Signature of Company Representative: _____

Date: _____

MARK BID ENVELOPES: "BID 2024-RFP-15

WAYFINDING PROJECTS, BY NOON, THURSDAY, JUNE 20, 2024"

RFP-2024-15 Joplin Wayfinding RFP - SUPPLEMENT



REPLACE OUTDATED SIGNS

Metal fabrication using new design, vinyl, and installation.

CORRECT FONT ISSUE

Apply overlay to existing signs.

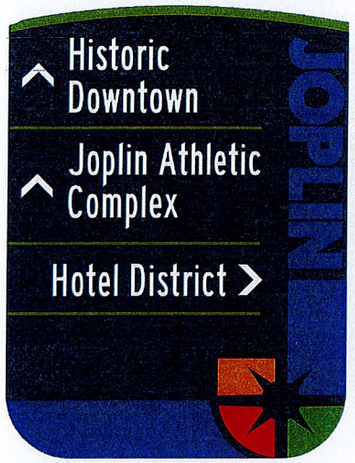
NEW ADDITION (GRAND FALLS WAYFINDING)

Metal fabrication with the new design, vinyl, and installation to include posts and hardware.

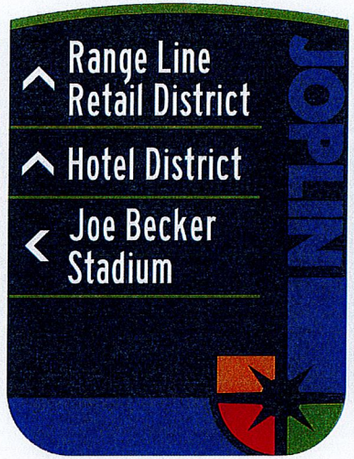
RFP-2024-15 Joplin Wayfinding PROJECT #1

40” w x 54 h

Sign 1: Main - Northbound at 32nd



Sign 14: 7th Eastbound at High Ave.



Sign 15: Range Line Northbound at 32nd.



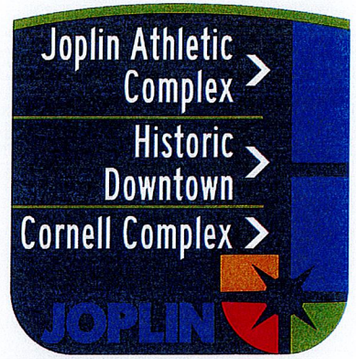
40” w x 32 h

Sign 16: 32nd Eastbound at Range Line



40” w x 42 h

Sign 22: 32nd Westbound at Main Str



Sign C: 4th Str Eastbound at Jackson Ave.

40” w x 23 h



Airport - 43 Hwy at JLN Entrance.



Side A
East Facing



Side B
West Facing

D/S

Tri-State Marker - Entrance of Downstream Casino
69300 E. Nee Road



Side A
East Facing

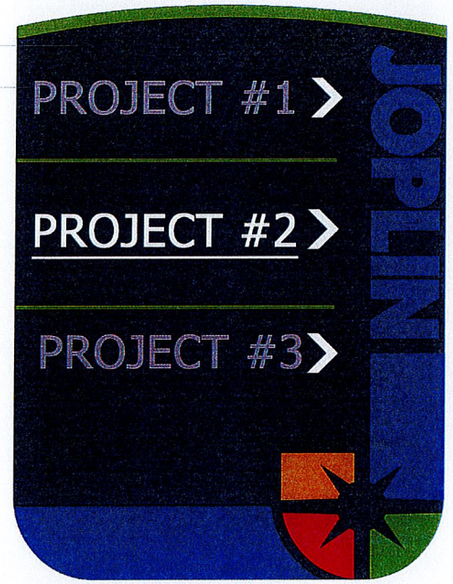


Side B
West Facing

D/S

D/S Double-Sided

RFP-2024-15 Joplin Wayfinding RFP - SUPPLEMENT



REPLACE OUTDATED SIGNS

Metal fabrication using new design, vinyl, and installation.

CORRECT FONT ISSUE

Apply overlay to existing signs.

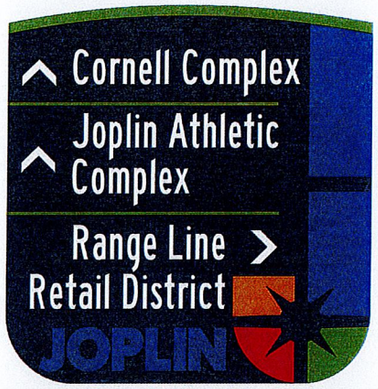
NEW ADDITION (GRAND FALLS WAYFINDING)

Metal fabrication with the new design, vinyl, and installation to include posts and hardware.

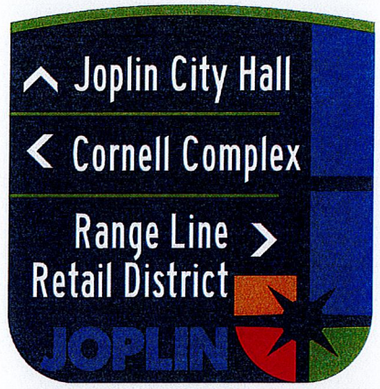
RFP-2024-15 Joplin Wayfinding PROJECT #2(a)

40” w x 42 h
QTY.: 1 of Each

Sign 2: Main - Northbound at 20th St.



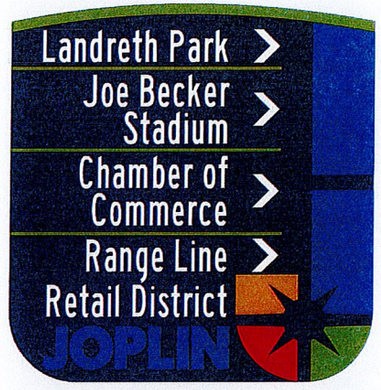
Sign 3: Main Northbound at 7th St.



Sign 4: Main -Northbound at 4th St.



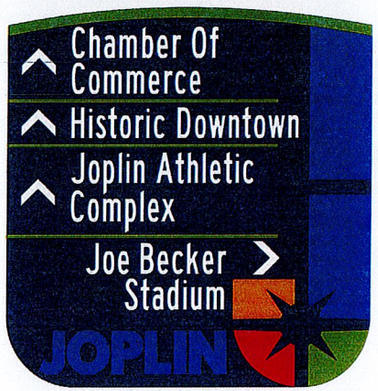
Sign 5: Main Northbound at 4th St.



Sign 25: 4th Eastbound at Schifferdecker



Sign 6: 4th Westbound at High Ave.



Sign 9: 4th Eastbound at Maiden Ln.



Sign 10: 4th Westbound at Schifferdecker



RFP-2024-15 Joplin Wayfinding PROJECT #2(b)

40” w x 42 h
QTY.: 1 of Each

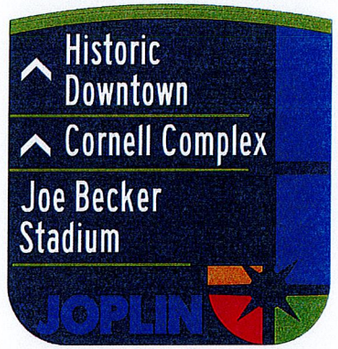
Sign 19: 7th Westbound at Murphy Blvd.



Sign 20: 7th Eastbound at Murphy Blvd.



Sign 13: 7th Westbound at High Ave.



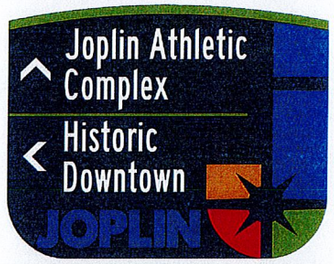
RFP-2024-15 Joplin Wayfinding PROJECT #2(c)

40" w x 32 h
QTY.: 1 of Each

Sign 11: Range Line - Southbound at 7th



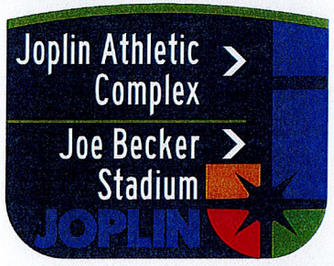
Sign 12: Range Line - Northbound at 7th St.



Sign 23: Range Line Northbound at 4th



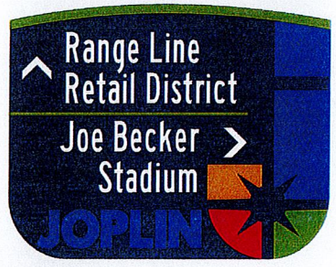
Sign 24: Range Line - Southbound at 4th



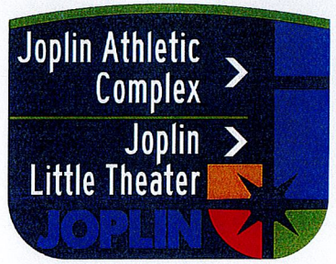
Sign 8: 4th Str Westbound at Maiden Lane



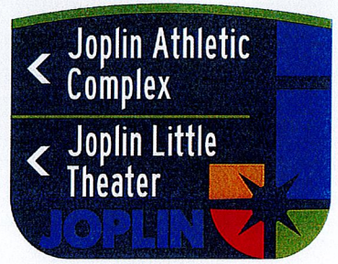
Sign 7: 4th Str Eastbound at High Ave.



Sign 21: Schifferdecker SW Cornet at 1st St.



Side A - Faces North



Side B - Faces South

D/S

D/S Double-Sided

RFP-2024-15 Joplin Wayfinding PROJECT #2(d)

40” w x 23 h
QTY.: 1 of Each

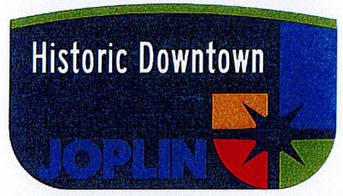
Sign 17: 7th Str Eastbound at Range Line.



Sign 26: 4th Str Eastbound at Range Line.



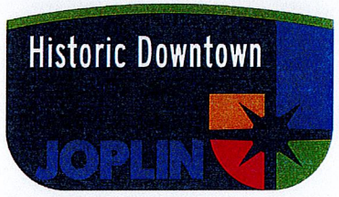
Sign A: Main Str Northbound at 10th Str.



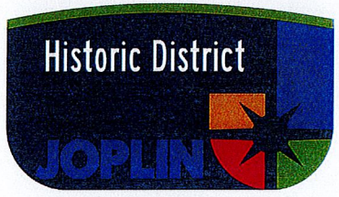
Sign B: 4th Str Westbound at Moffet Ave.



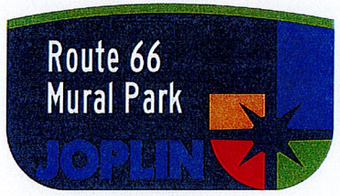
Sign D: 4th Str Westbound at Kentucky Ave.



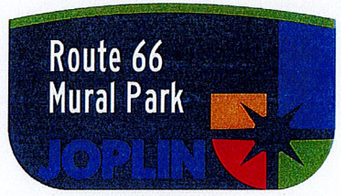
Sign E: 7th Str Westbound at Kentucky Ave.



Sign F: 619 S. Main Str.



Sign F: 619 S. Main Str.



Side A
North Facing

D/S

Side B
South Facing

D/S Double-Sided

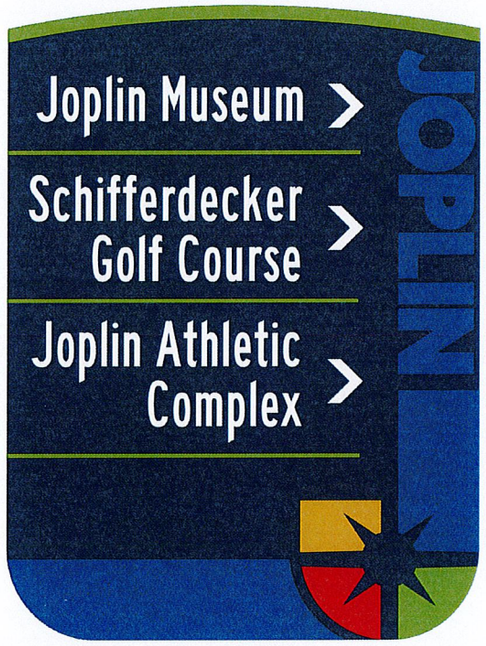
RFP-2024-15 Joplin Wayfinding PROJECT #2(e)

40” w x 42 h
QTY.: 1 of Each

Sign 27: 7th & Schifferdecker - Eastbound



Sign 28: 7th & Schifferdecker - Westbound



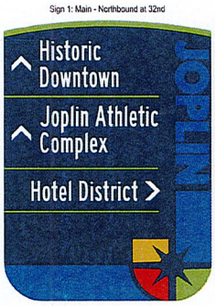
Sign 29: 4th & Murphy Blvd. Eastbound



Sign 30: 4th & Murphy Blvd. Westbound



Sign 1: Main - Northbound at 32nd



Sign 2: Main - Northbound at 20th St.



Sign 3: Main Northbound at 7th St.



Sign 4: Main -Northbound at 4th St.



Sign 5: Main Northbound at 4th St.



Sign 6: 4th Westbound at High Ave.



Sign 7: 4th Str Eastbound at High Ave.



Sign 8: 4th Str Westbound at Maiden Lane



Sign 9: 4th Eastbound at Maiden Ln.



Sign 10: 4th Westbound at Schifferdecker



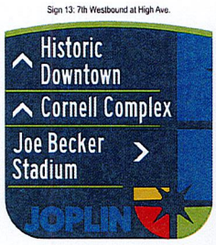
Sign 11: Range Line - Southbound at 7th



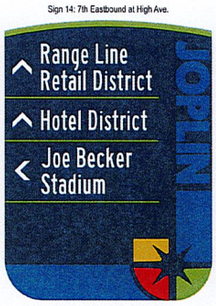
Sign 12: Range Line - Northbound at 7th St.



Sign 13: 7th Westbound at High Ave.



Sign 14: 7th Eastbound at High Ave.



Sign 15: Range Line Northbound at 32nd.



Sign 16: 32nd Eastbound at Range Line



Sign 17: 7th Str Eastbound at Rangs Line.



No #18

Sign 19: 7th Westbound at Murphy Blvd.



Sign 20: 7th Eastbound at Murphy Blvd.



Sign 21: Schifferdecker SW Corner at 1st St.



Side A - Faces North



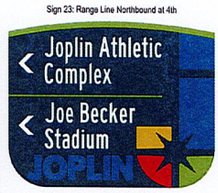
Side B - Faces South

D/S

Sign 22: 32nd Westbound at Main Str



Sign 23: Range Line Northbound at 4th



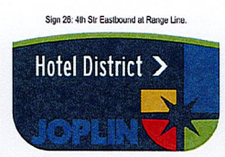
Sign 24: Range Line - Southbound at 4th



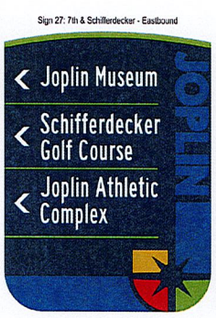
Sign 25: 4th Eastbound at Schifferdecker



Sign 26: 4th Str Eastbound at Range Line.



Sign 27: 7th & Schifferdecker - Eastbound



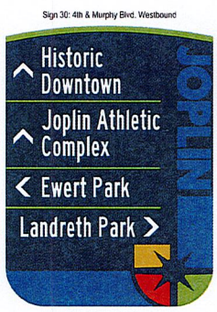
Sign 28: 7th & Schifferdecker - Westbound



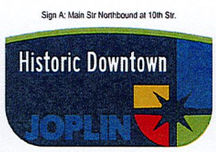
Sign 29: 4th & Murphy Blvd. Eastbound



Sign 30: 4th & Murphy Blvd. Westbound



Sign A: Main Str Northbound at 10th Str.



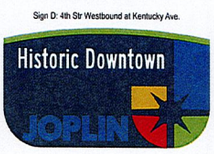
Sign B: 4th Str Westbound at Moffet Ave.



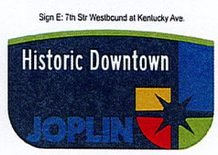
Sign C: 4th Str Eastbound at Jackson Ave.



Sign D: 4th Str Westbound at Kentucky Ave.



Sign E: 7th Str Westbound at Kentucky Ave.



Sign F: 619 S. Main Str.



Side A
North Facing

D/S

Sign F: 619 S. Main Str.



Side B
South Facing

Airport - 43 Hwy at JLN Entrance.



Side A
East Facing

D/S



Side B
West Facing

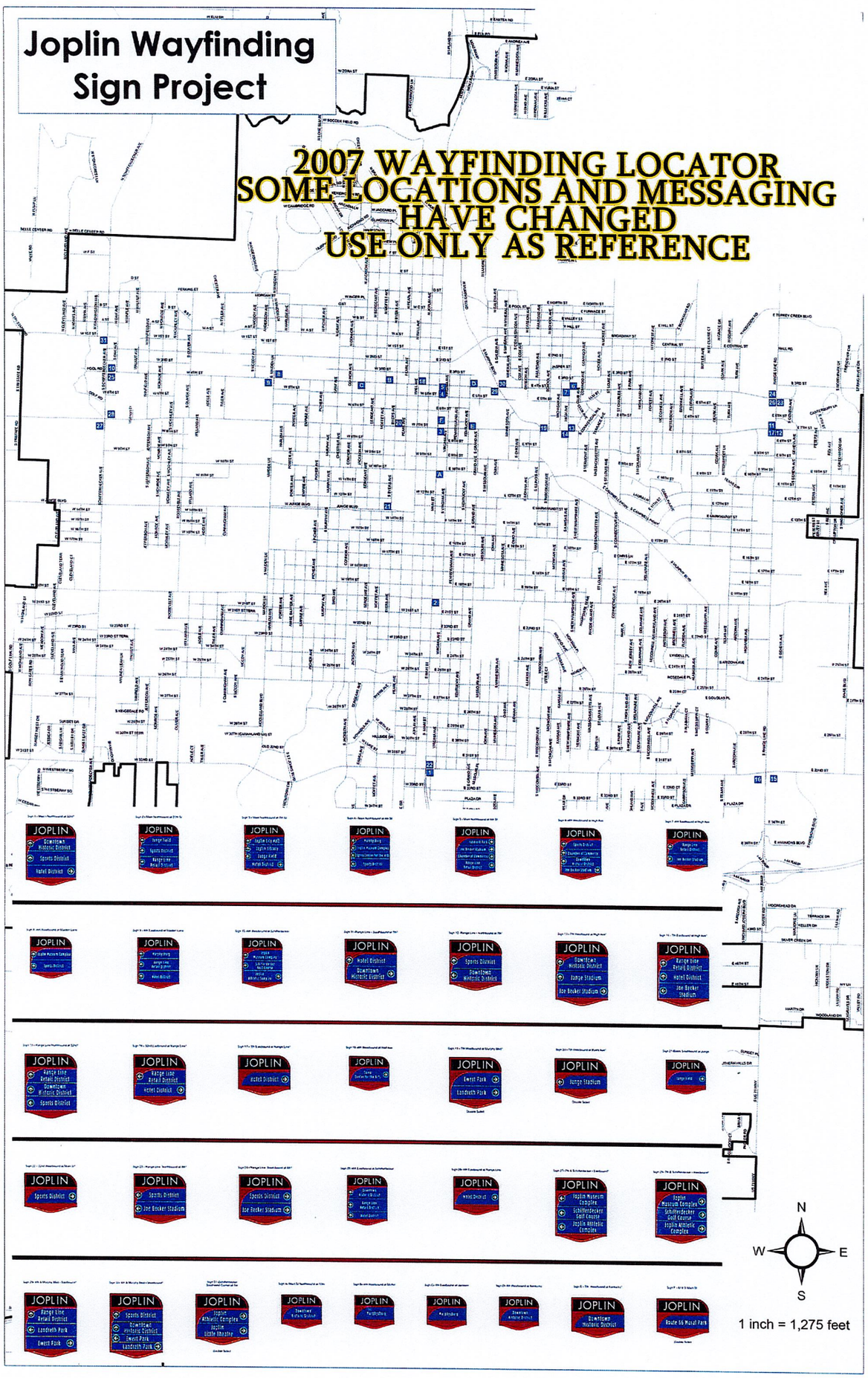
Tri-State Marker - Entrance of Downstream Casino
69300 E. Nee Road



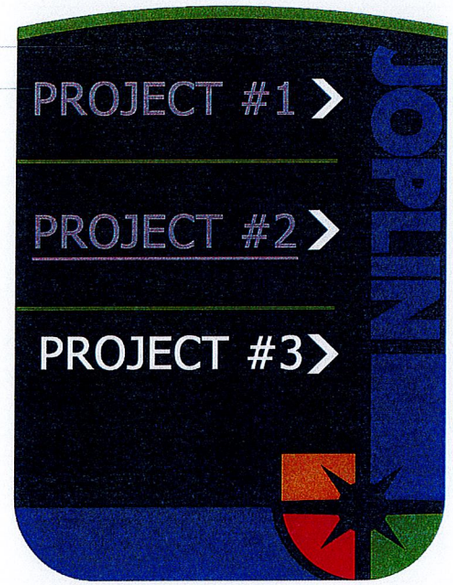
Side A
East Facing

D/S

Side B
West Facing


Joplin Wayfinding Sign Project
2007 WAYFINDING LOCATOR
SOME LOCATIONS AND MESSAGING
HAVE CHANGED
USE ONLY AS REFERENCE
N
W
E
S
1 inch = 1,275 feet

RFP-2024-15 Joplin Wayfinding RFP - SUPPLEMENT



REPLACE OUTDATED SIGNS

Metal fabrication using new design, vinyl, and installation.

CORRECT FONT ISSUE

Apply overlay to existing signs.

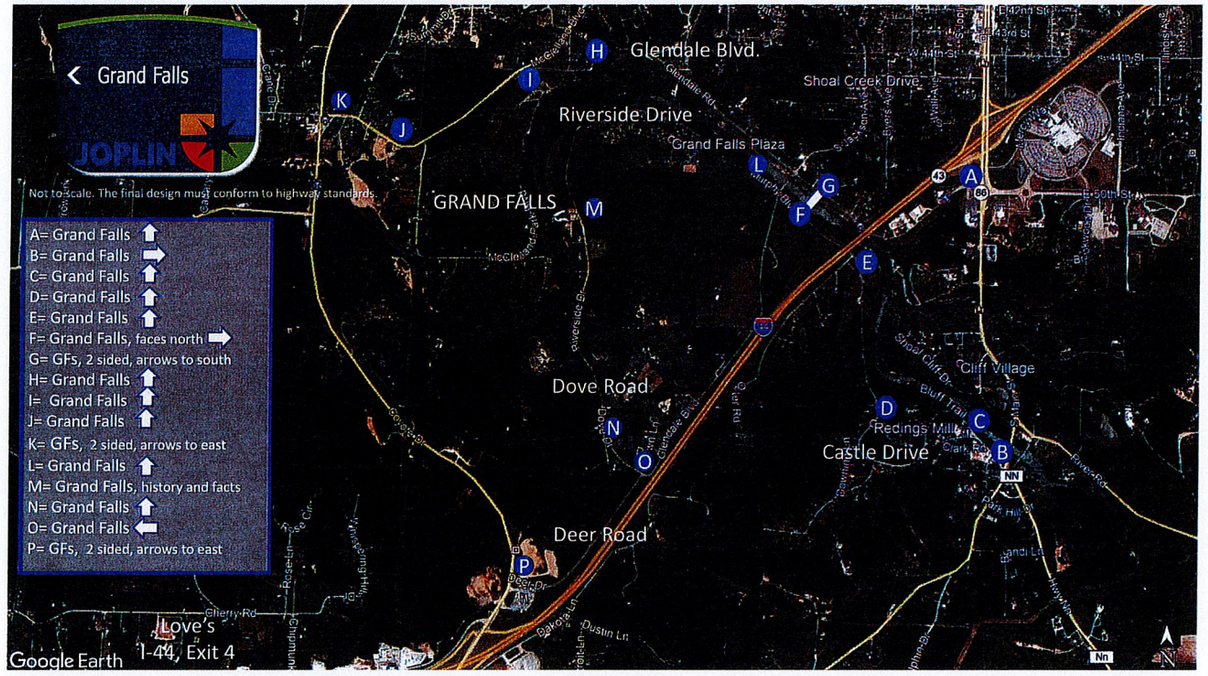
NEW ADDITION (GRAND FALLS WAYFINDING)

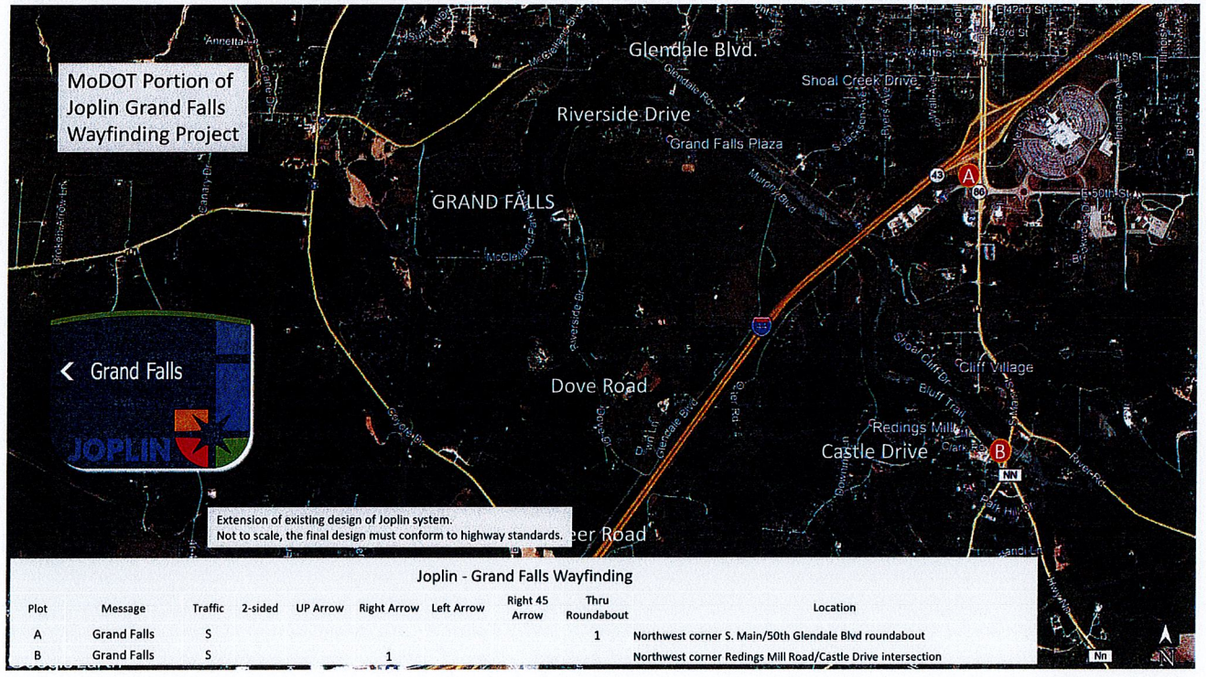
Metal fabrication with the new design, vinyl, and installation to include posts and hardware.

RFP-2024-15 Joplin Wayfinding GRAND FALLS PROJECT #3



40” w x 32 h
QTY.: 1 of Each


Grand Falls
JOPLIN
Not to scale. The final design must conform to highway standards
A= Grand Falls
B= Grand Falls
C= Grand Falls
D= Grand Falls
E= Grand Falls
F= Grand Falls, faces north
G= GFs, 2 sided, arrows to south
H= Grand Falls
I= Grand Falls
J= Grand Falls
K= GFs, 2 sided, arrows to east
L= Grand Falls
M= Grand Falls, history and facts
N= Grand Falls
O= Grand Falls
P= GFs, 2 sided, arrows to east
Glendale Blvd.
Riverside Drive
Grand Falls Plaza
Shoal Creek Drive
GRAND FALLS
Dove Road
Deer Road
Castle Drive
Cliff Village
Redings Mill
Love's
I-44, Exit 4
Google Earth



Joplin - Grand Falls Wayfinding

Plot	Message	Traffic	2-sided	UP Arrow	Right Arrow	Left Arrow	Right 45 Arrow	Thru Roundabout	Location
A	Grand Falls	S						1	Northwest corner S. Main/50th Glendale Blvd roundabout
B	Grand Falls	S			1				Northwest corner Redings Mill Road/Castle Drive intersection

CITY OF JOPLIN, MISSOURI
FORMAL BID TABULATION FORM
ITEMS VALUED OVER $5,000

BID #: 2024-RFP-15 BID ITEM DESCRIPTION: **Wayfinding Projects**

BID OPENING DEADLINE: June 20, 2024, NOON **DEPARTMENT:** CVB

REQUISITION NUMBER: **DATE & TIME OPENED:** June 24, 2024 11:00:00 AM

OPENED BY: Patrick Tuttle **WITNESSED BY:** Donna Miller

	VENDOR / ADDRESS	DATE RECEIVED / EMAIL	CONTACT	PHONE NUMBER / WEBSITE	VENDOR DEBARRED OR SUSPENDED - Yes OR No	BID AMOUNT					
						Project #1		Project #2		Project #3	
						REPLACE OUTDATED SIGNS		CORRECT FONT ISSUE		NEW GRAND FALLS ADDITION	
						Materials	Installation	Materials	Installation	Materials	Installation
1	**SIGN DESIGNS**	June 20, 2024	John Hipple	417-624-8688	NO	$ 10,533.00	$ 2,400.00	$ 10,966.00	$ 3,000.00	$ 32,894.00	$ 6,000.00
	1720 W. 7th Street					P1 Total	**$ 12,933.00**	P2 Total	**$ 13,966.00**	P3 Total	**$ 38,894.00**
	Joplin, MO 64801	john@sign-designs.com		https://www.sign-designs.com/						Grand Total this Bid	**$ 65,793.00**
	COMMENTS:										
	VENDOR / ADDRESS	DATE RECEIVED / EMAIL	CONTACT	PHONE NUMBER / WEBSITE	VENDOR DEBARRED OR SUSPENDED - Yes OR No	BID AMOUNT					
						Project #1		Project #2		Project #3	
						REPLACE OUTDATED SIGNS		CORRECT FONT ISSUE		NEW GRAND FALLS ADDITION	
						Materials	Installation	Materials	Installation	Materials	Installation
2	**ADVANCED HIGHWAY SIGN AND SUPPLY LLC**	June 20, 2024	Sam Cook	417-491-2064	NO	$ 6,300.00	$ 2,600.00	$ 15,120.00	$ 5,670.00	$ 15,200.00	$ 6,480.00
	6251 Hwy O					P1 Total	**$ 8,900.00**	P2 Total	**$ 20,790.00**	P3 Total	**$ 21,680.00**
	Ash Grove, MO 65604	sam@advancedhighwaysign.com		https://advancedhighwaysign.com/						Grand Total this Bid	**$ 51,370.00**
	COMMENTS:										
	VENDOR / ADDRESS	DATE RECEIVED / EMAIL	CONTACT	PHONE NUMBER / WEBSITE	VENDOR DEBARRED OR SUSPENDED - Yes OR No	BID AMOUNT					
						Project #1		Project #2		Project #3	
						REPLACE OUTDATED SIGNS		CORRECT FONT ISSUE		NEW GRAND FALLS ADDITION	
						Materials	Installation	Materials	Installation	Materials	Installation
3	**SPRINGFIELD SIGN**	June 20, 2024	Mike Dardis	208-738-6062	NO	$ 2,300.00	$ 3,035.00	$ 6,081.00	$ 2,720.00	$ 8,575.00	$ 7,760.00
	4825 E. Kearney Street					P1 Total	**$ 5,335.00**	P2 Total	**$ 8,801.00**	P3 Total	**$ 16,335.00**
	Springfield, MO 65803	michaeld@springfieldsign.com		https://www.springfieldsign.com/						Grand Total this Bid	**$ 30,471.00**
										TOTAL WITH CHANGE ORDERS	**$ 31,436.57**
	COMMENTS: Following selection from the initial meeting and an inventory review, it was determined by both parties that two items were left off the RFP Supplement document. 1) Painting the backs of the signs in Project #1 and #3, and 2) adjusting two signs in project #1. These raise the original bid from $30,471 to $31,436.57. This $956.57 increase would not have effected the overall bid delection outcome.										

CITY OF JOPLIN, MISSOURI

BID PROPOSAL SUMMARY

Description of Item: SUPPLIER for Wayfinding Projects throughout the City of Joplin

BID PROJECT #1:

Materials/Manufacturing $2,300.00.

Installation $3,035.00

Once the contract is awarded, this project could be completed in 25 business days.

BID PROJECT #2:

Materials/Manufacturing $6,081.00.

Installation $2,720.00

Once the contract is awarded, this project could be completed in 25 business days.

BID PROJECT #3:

Materials/Manufacturing $8,575.00.

Installation $7,760.00

Once the contract is awarded, this project could be completed in 25 business days.

COMPANY NAME: Springfield Sign

CONTACT PERSON: Mike Dardis

EMAIL ADDRESS: michaeld@springfieldsign.com

PHONE NUMBER: Cell: 208-738-6062

ADDRESS: 4825 E Kearney St. Springfield, MO 65803

Signature of Company Representative: Mike Dardis

Date: 06.19.2024

MARK BID ENVELOPES: "BID 2024-RFP-15 WAYFINDING PROJECTS, BY NOON, THURSDAY, JUNE 20, 2024"

SPRINGFIELD SIGN

ADDRESS

CONTACT US

To whom it may concern,

The bid summary is included along with a breakdown for each project (project quotes). A few items to note...

Project 2: As noted on our quote, we are proposing to apply ACM panel overlays onto the existing panels. Our concern is that the existing retroreflective vinyl has a slight grain texture to it, and if we apply vinyl over it, this may cause ghosting (show through) and or have a wavy effect when looking at it from an angle. With the new vinyl applied to ACM we will avoid any of these issues.

Project 3: A drawing is attached to show the basic black (powder coated) posts to be used. We can certainly provide a more ornate post if desired. Likewise, we are proposing to set the posts at 10' overall height, which can also be adjusted if needed. City to confirm sign locations and setbacks.

We completed a similar sign project for the Village of Fremont Hills and installed 80+ signs.

Our product warranty is five years. Per 3M the vinyl degradation (retained luminance) is 80% at 7 years depending on the position of the sign relative to the sun, weather, etc.

Please let me know if you have any questions or need additional information. We appreciate the opportunity.

Thank you,

Mike

SPRINGFIELD SIGN

Mike Dardis / Sr. Manager of Business Development
michaeld@springfieldsign.com **Cell: 208-738-6062**

Springfield Sign, NWA Division
Office: 417.862.2454
1721 Acorn Dr. Little Flock, AR 72756-6805
Springfield Sign

SPRINGFIELDSIGN

SPRINGFIELDSIGN

Date 6/19/2024
Estimate # 100

Springfield Sign

4825 E Kearney St
Springfield, MO 65803
Phone: 800-845-9927

Quotation for:

Project #1
City Wayfinding
Joplin, MO

BUILDING IMAGES THAT BUILD BUSINESS

#	QTY	Product or Service	Unit Price	Total
1	3	40" x 54" .125 aluminum composite single sided sign panels with retroreflective vinyl graphics per city design.	$315.00	$945.00
2	1	40" x 32" .125 aluminum composite single sided sign panels with retroreflective vinyl graphics per city design.	$215.00	$215.00
3	1	40" x 42" .125 aluminum composite single sided sign panels with retroreflective vinyl graphics per city design.	$235.00	$235.00
4	1	40" x 23" .125 aluminum composite single sided sign panels with retroreflective vinyl graphics per city design.	$195.00	$195.00
5	2	40" x 23" .125 aluminum composite double sided sign panels with retroreflective vinyl graphics per city design.	$295.00	$590.00
6	4	Concrete	$20.00	$80.00
7	1	Miscellaneous Hardware	$40.00	$40.00
8	1	5 year product warranty		
9	1	Complete in 25 business days		
10				
11	2	City to provide posts (2 sets) that are in storage for the two new double sided signs		

Replace outdated Signs. Metal fabrication using new design (city to provide artwork), vinyl and installation. Project #1 equals ten signs at eight locations, with two double-sided. City to provide locations and setbacks for new signs. Tax exempt.

Product Total:	$2,300.00
Survey/Patterns:	$500.00
Setting Footings:	$550.00
Installation:	$1,985.00
Installation Total:	$3,035.00
Total:	$5,335.00

Customer Name:_____ Company:_____

Customer Signature:_____ Date:_____

THANK YOU FOR CHOOSING SPRINGFIELD SIGN! WE APPRECIATE THE OPPORTUNITY TO SERVE YOU. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT MIKE DARDIS AT 208.738.6062 OR MICHAELD@SPRINGFIELDSIGN.COM

SPRINGFIELD SIGN

SPRINGFIELDSIGN

Date 6/19/2024
Estimate # 101

Springfield Sign

4825 E Kearney St
Springfield, MO 65803
Phone: 800-845-9927

Quotation for:

Project #2
City Wayfinding
Joplin, MO

BUILDING IMAGES THAT BUILD BUSINESS

#	QTY	Product or Service	Unit Price	Total
1	8	40" x 32" ACM single sided sign panels with retroreflective vinyl graphics per city design.	$215.00	$1,720.00
2	11	40" x 42" ACM single sided sign panels with retroreflective vinyl graphics per city design. *Two of the panels to be applied to one D/S sign.	$235.00	$2,585.00
3	8	40" x 23" ACM single sided sign panels with retroreflective vinyl graphics per city design. *Two of the panels to be applied to one D/S sign.	$195.00	$1,560.00
4	27	Adhesive	$8.00	$216.00
5	1	5 year product warranty		
6	1	Complete in 25 business days		
7				
8				
9				
10				

Correct font issue. Apply overlay to existing signs (city to provide artwork). Project #2 equals 27 signs at 25 locations, with one double-sided. PLEASE NOTE: We are proposing to overlay the existing .125 panels with new ACM panels with applied graphics to avoid ghosting and or a rippling affect by only overlaying with vinyl. The ACM panels will be attached with permanent adhesive. Tax exempt.

Product Total:	$6,081.00
Survey/Patterns:	$500.00
Setting Footings:	$0.00
Installation:	$2,220.00
Installation Total:	$2,720.00
Total:	$8,801.00

Customer Name:_____ Company:_____

Customer Signature:_____ Date:_____

THANK YOU FOR CHOOSING SPRINGFIELD SIGN! WE APPRECIATE THE OPPORTUNITY TO SERVE YOU. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT MIKE DARDIS AT 208.738.6062 OR MICHAELD@SPRINGFIELDSIGN.COM

SPRINGFIELD SIGN

SPRINGFIELDSIGN

Date 6/19/2024
Estimate # 101

Springfield Sign

4825 E Kearney St
Springfield, MO 65803
Phone: 800-845-9927

Quotation for:

Project #3
City Wayfinding
Joplin, MO

BUILDING IMAGES THAT BUILD BUSINESS

#	QTY	Product or Service	Unit Price	Total
1	19	40" x 32" .125 aluminum composite, single sided sign panels with retroreflective vinyl graphics per city design. *3 signs are double sided (two panels each).	$215.00	$4,085.00
2	19	12' (10' overall mounting height) 2 3/8" round black (powder coated) 16 gauge galvanized steel posts.	$185.00	$3,515.00
	19	2 3/8" round galvanized steel post caps powder coated black.	$10.00	$190.00
3	32	Sets of black (powder coated) galvanized steel hardware brackets for single sided signs	$19.95	$638.40
4	6	Sets of black (powder coated) galvanized steel hardware brackets for double sided signs	$24.50	$147.00
5	1	5 year product warranty		
6	1	Complete in 25 business days		
7				
8				
9				
10				

NEW ADDITION (GRAND FALLS WAYFINDING)
Metal fabrication with the new design (city to provide artwork), vinyl; to include installation -- to include posts and hardware. Project #3 equals 19 signs at 16 sign locations, with three double-sided. City to provide locations and setbacks for new signs. Tax exempt.

Product Total:	$8,575.40
Survey/Marking:	$500.00
Setting Footings:	$3,500.00
Installation:	$3,760.00
Installation Total:	$7,760.00
Total:	$16,335.40

Customer Name:_____ Company:_____

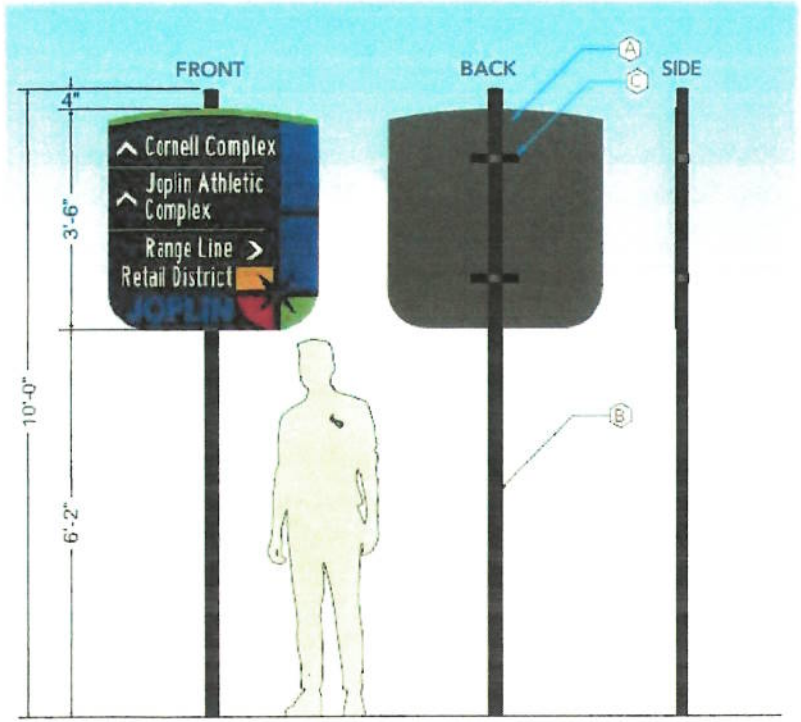
Customer Signature:_____ Date:_____

THANK YOU FOR CHOOSING SPRINGFIELD SIGN! WE APPRECIATE THE OPPORTUNITY TO SERVE YOU. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT MIKE DARDIS AT 208.738.6062 OR MICHAELD@SPRINGFIELDSIGN.COM

S/F POST & PANEL

SALES: MIKE DARDIS | 800.845.9927 | CLIENT: CITY OF JOPLIN | # 2019 | DRAWING #: ao53595_1
ARTIST: D. MADDEN | CREATED: 9e/10/24 | LOCATION: JOPLIN, MO | REV DATE: 00/00/00 | REV: 0 ##

02



1 PROPOSAL
SCALE: 1/2" = 1'

MAIN - NORTHBOUND AT 20TH ST.

VECTOR ART NEEDED

ARTWORK IS RASTERED, NOT VECTOR
CANNOT EDIT WITHOUT REDRAW



FONTS APPEAR TO BE OUTSIDE BRAND STANDARDS

SIGN SCALED NATURALLY DIFFERS FROM CUSTOMER DIMENSIONS OF 40" WIDE

2 DETAIL VIEW
SCALE: 1" = 1'





3 MATERIALS
NO SCALE

DETAILS.

A - S/F 1/8" ALUMINUM SIGN PANEL
- 3M REFLECTIVE VINYL GRAPHICS

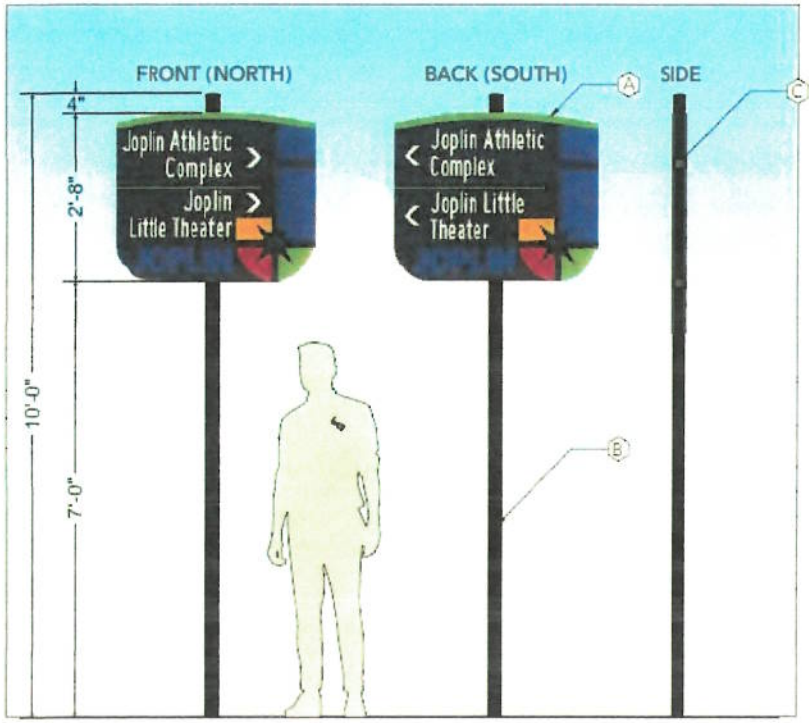
B - 2-3/8" 16 GAUGE STEEL POST & CAP
- POWDER COATED BLACK

C - SINGLE PANEL MOUNTING BRACKETS

D/F POST & PANEL

SALES: MIKE DARDIS | 800.845.9927 | CLIENT: CITY OF JOPLIN | # 2019 | DRAWING #: sc53595.2
ARTIST: D. MADDEN | CREATED: 06/10/24 | LOCATION: JOPLIN, MO | REV DATE: 00/00/00 | REV. 0 ##

03

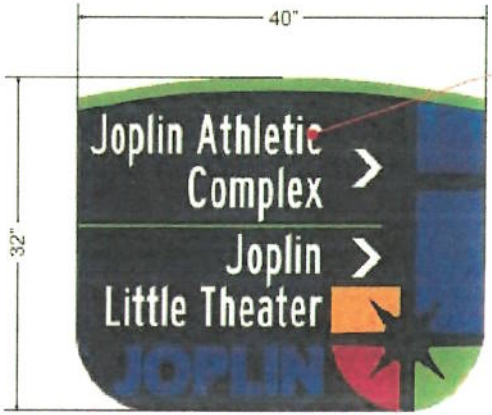


1 PROPOSAL
SCALE: 1/2"=1'

SCHIFFERDECKER SW CORNER AT 1ST ST.

VECTOR ART NEEDED

ARTWORK IS RASTERED, NOT VECTOR.
CANNOT EDIT WITHOUT REDRAW



FONTS APPEAR TO BE OUTSIDE BRAND STANDARDS

2 DETAIL VIEW
SCALE: 1"=1'





3 MATERIALS
NO SCALE

DETAILS:

A - D/F 1/8" ALUMINUM SIGN PANEL
- 3M REFLECTIVE VINYL GRAPHICS

B - 2-3/8" 16 GAUGE STEEL POST & CAP
- POWDER COATED BLACK

C - DOUBLE PANEL MOUNTING BRACKETS

SPRINGFIELD SIGN

SPRINGFIELDSIGN

Date 7/19/2024
Estimate # 100

Springfield Sign

4825 E Kearney St
Springfield, MO 65803
Phone: 800-845-9927

Change Order #1

Project #1
City Wayfinding
Joplin, MO

BUILDING IMAGES THAT BUILD BUSINESS

#	QTY	Product or Service	Unit Price	Total
1	3	40" x 54" .125 aluminum single sided sign panels with retroreflective vinyl graphics per city design.	$315.00	$945.00
2	1	40" x 32" .125 aluminum single sided sign panels with retroreflective vinyl graphics per city design.	$215.00	$215.00
3	1	40" x 42" .125 aluminum single sided sign panels with retroreflective vinyl graphics per city design.	$235.00	$235.00
4	1	40" x 23" .125 aluminum single sided sign panels with retroreflective vinyl graphics per city design.	$195.00	$195.00
5	2	40" x 23" .125 aluminum double sided sign panels with retroreflective vinyl graphics per city design.	$295.00	$590.00
5	2	**REMOVE**: 40" x 23" .125 aluminum double sided sign panels with retroreflective vinyl graphics per city design.	-$295.00	-$590.00
6	4	**ADD**: 40" x 23" .125 aluminum double sided sign panels with retroreflective vinyl graphics per city design. NEW SIGNS	$195.00	$780.00
7	4	Concrete	$20.00	$80.00
8	1	Miscellaneous Hardware	$40.00	$40.00
9	10	**ADD**: Paint the backs of the panels matte black	$26.73	$267.30
10	1	5 year product warranty		
11	1	Complete in 25 business days		
12				
13	2	City to provide posts (2 sets) that are in storage for the two new double sided signs		

Replace outdated Signs. Metal fabrication using new design (city to provide artwork), vinyl and installation. Project #1 equals ten signs at eight locations, with two double-sided. City to provide locations and setbacks for new signs. Tax exempt.

Product Total:	$2,757.30
Survey/Patterns:	$500.00
Setting Footings:	$550.00
Installation:	$1,985.00
Installation Total:	$3,035.00
Total:	$5,792.30

Customer Name:_____ Company:_____

Customer Signature:_____ Date:_____

THANK YOU FOR CHOOSING SPRINGFIELD SIGN! WE APPRECIATE THE OPPORTUNITY TO SERVE YOU. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT MIKE DARDIS AT 208.738.6062 OR MICHAELD@SPRINGFIELDSIGN.COM

SPRINGFIELD SIGN

SPRINGFIELDSIGN

Date 7/19/2024
Estimate # 101

Springfield Sign

4825 E Kearney St
Springfield, MO 65803
Phone: 800-845-9927

Change Order #1

Project #3
City Wayfinding
Joplin, MO

Building Images That Build Business

#	QTY	Product or Service	Unit Price	Total
1	19	40" x 32" .125 aluminum, single sided sign panels with retroreflective vinyl graphics per city design. *3 signs are double sided (two panels each).	$215.00	$4,085.00
2	19	12' (10' overall mounting height) 2 3/8" round black (powder coated) 16 gauge galvanized steel posts.	$185.00	$3,515.00
	19	2 3/8" round galvanized steel post caps powder coated black.	$10.00	$190.00
3	32	Sets of black (powder coated) galvanized steel hardware brackets for single sided signs	$19.95	$638.40
4	6	Sets of black (powder coated) galvanized steel hardware brackets for double sided signs	$24.50	$147.00
5	19	**ADD:** Paint the backs of the panels matte black	$26.73	$507.87
6	1	5 year product warranty		
7	1	Complete in 25 business days		
8				
9				
10				
11				

NEW ADDITION (GRAND FALLS WAYFINDING)
Metal fabrication with the new design (city to provide artwork), vinyl; to include installation -- to include posts and hardware. Project #3 equals 19 signs at 16 sign locations, with three double-sided. City to provide locations and setbacks for new signs. Tax exempt.

Product Total:	$9,083.27
Survey/Marking:	$500.00
Setting Footings:	$3,500.00
Installation:	$3,760.00
Installation Total:	$7,760.00
Total:	$16,843.27

Customer Name:_____ Company:_____

Customer Signature:_____ Date:_____

Thank you for choosing Springfield Sign! We appreciate the opportunity to serve you. If you have any questions, please contact Mike Dardis at 208.738.6062 or michaeld@springfieldsign.com

AGREEMENT
FOR CONSULTING SERVICES

THIS AGREEMENT is made and entered into this _____ day of August, 2024, by and between the **City of Joplin, Missouri**, a Missouri Municipal Corporation, hereinafter referred to as "City," and Springfield Sign and Graphics Inc., a Missouri Corporation, d/b/a Springfield Sign, hereinafter referred to as "Consultant," and with City and Consultant being referred to collectively as "the Parties."

WITNESSETH:

WHEREAS, City desires to retain a professional Consultant to provide services as described in City's Request for Proposal #2024-RFP-15 Wayfinding Projects (3) and Wayfinding Supplement, attached hereto and incorporated by reference as Exhibit A; and

WHEREAS, Consultant desires to provide professional services pursuant to the terms of this agreement, as described in Consultant's Bid Proposal Summary, attached hereto and incorporated by reference as Exhibit B; and

WHEREAS, City has selected Consultant as the lowest and best bidder based on full consideration of all factors, preferences, and conditions deemed applicable by City as described in the Formal Bid Tabulation Form; attached hereto and incorporated by reference as Exhibit C.

NOW, THEREFORE, in exchange for valuable consideration each received from the other, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Scope of Work and Payment.

a. City agrees to engage Consultant for performance, and Consultant agrees to perform, the scope of services, duties, and responsibilities described in Exhibits A and B within the time specified therein.

b. The services of Consultant shall commence only as authorized in writing by City and shall be undertaken and completed as promised by Consultant as described in Exhibits A and B.

c. City agrees to pay Consultant in accordance with the prices and terms set forth in Exhibits A and B for work authorized by City upon presentation of proper invoice and inspection by City of work completed by Consultant. Specifically, City agrees to pay Consultant Thirty-One Thousand Four Hundred and Thirty-Seven Dollars ($31,437.00).

d. All information, data, and reports as are existing, available, and necessary for the carrying out of the work, shall be furnished to Consultant without charge, and the Parties shall cooperate with each other in every way possible in carrying out the scope of services.

e. Consultant shall fully coordinate its activities in the performance of this contract with the activities of City.

f. Consultant represents that Consultant will secure the following at Consultant's own expense: all personnel required to perform the services called for under this contract by Consultant. Such personnel shall not be employees of or have any contractual relationship with City except as employees of Consultant. All the services required hereunder will be performed by Consultant or under Consultant'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 City.

2. Amendments. The covenants and obligations herein contained are the full and complete terms of this Agreement, and no alteration, amendments, or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this Agreement.

3. Assignment. This Agreement, including payment hereunder, shall not be sub-let, assigned, or otherwise disposed of, except with the prior written consent of the City.

4. Attorney's Fees and Expenses. If City files suit in order to enforce any term of this Agreement and is the prevailing party, Consultant shall be liable for City's reasonable attorney's fees and expenses. In no event shall City be liable for Consultant's reasonable attorney's fees and expenses.

5. Choice of Law and Venue. 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.

6. Compliance with Laws. Consultant shall observe and comply with all Federal, State, and local laws and ordinances that affect those employed or engaged by it on the project, or the material or equipment used, or the conduct of the work, and shall procure all necessary licenses, permits, and insurance.

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

8. Consequential Damages. In no event shall City be liable to Contractor for special, indirect, or consequential damages.

9. Contract Documents. The contract documents shall consist of the following: this Agreement, City's Request for Proposal, and Consultant's Response to City's Request for Proposal. In the event of conflict between the contract documents, this Agreement will prevail. In the event of conflict between City's Request for Proposal and Consultant's Response to City's Request for Proposal, City's Request for Proposal will prevail.

10. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile signatures shall be given the same force and effect as original signatures.

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

12. Ethics. Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, gift, or contingent fee.

13. Fiduciary Duty. Consultant owes a fiduciary duty to City, including the duty of care and the duty of loyalty. Consultant shall act in the best interest of City.

14. 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.

15. Indemnification. Consultant hereby assumes all risk of, and responsibility for, and agrees to indemnify and save harmless City, from and against any and all claims, demands, suits, actions, recoveries, judgments, costs, and expenses, including reasonable attorney's fees and expenses, therewith made, brought or obtained on account of the loss of life or property or injury or damage to the person or property of any person or persons whomsoever, whether such person or persons be Consultant, its agents or employees, or City, its agents or employees, or any third-person in any way connected with the parties hereto, which loss of life or property, or injury or damage to persons or property, shall be due to, or arise out of, result from, or be in any way connected with, this Agreement, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of City, its agents or employees.

16. Independent Contractor. This Agreement does not create an employer-employee relationship between the parties. Consultant is an independent contractor and is not entitled to any benefits including health, dental, vision, disability, life, and unemployment insurance, worker's compensation coverage, and LAGERS. Consultant is an independent contractor and not an employee for all purposes including the application of the Fair Labor Standards Act Minimum Wage and Overtime Payments, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, and the provisions of the Internal Revenue Code, Missouri Revenue and Taxation Laws, and Missouri's Worker Compensation Laws and Unemployment Insurance Laws.

17. Insurance. Consultant shall maintain for itself general liability, automobile liability, workers' compensation, fidelity bond, and errors and omissions insurance coverage, as may be customary in the industry, but in no event, less than the limits required by law.

18. Intellectual Property. Any information, know-how, data, results, inventions, and any associated intellectual property, that is made, discovered, created, invented, or generated by Consultant in any activities or work under this Agreement shall be owned by City.

19. Non-Appropriation. Notwithstanding any provision herein to the contrary, City is obligated only to make the payments set forth in the attached contract as may lawfully be made from funds budgeted and appropriated for that purpose during City's then current fiscal year at the discretion of City. If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an "Event of Nonappropriation"), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of City to appropriate funds for this Agreement in any subsequent fiscal year shall not be deemed a breach of this Agreement by any party.

20. Notices. All notices required or permitted hereinunder and required to be in writing may be given by first class mail addressed to City and Consultant at the addresses as follows:

City of Joplin, Missouri	Springfield Sign
ATTN: HR	ATTN: Mike Dardis
602 S. Main St.	4825 E. Kearney St.
Joplin, MO 64801	Springfield, MO 65803

The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing.

21. Records and Audits. The Consultant shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative and will be retained for three years after the expiration of this Contract.

22. 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.

23. 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 effected thereby. Any illegal or invalid provision of this Agreement shall be severable and any other provisions shall remain in full force and effect.

24. Termination. If, through any cause, Consultant shall fail to fulfill in a timely and proper manner Consultant's obligations under this contract, or if Consultant shall violate any of the covenants, agreements, or stipulations of this contract, City shall thereupon have the right to terminate this contract by giving written notice to Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective day of such termination. City may, without cause, terminate this contract upon thirty (30) day's prior written notice. In either such event, all finished or unfinished documents, data, studies, reports, or other materials prepared by the Consultant shall, at the option of City, become its property. Consultant shall be entitled to

receive just and equitable compensation for any satisfactory work completed. Notwithstanding the above, Consultant shall not be relieved of liability to City for damages sustained by City by virtue of any such breach of the contract by Consultant.

25. Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the parties and their respective successors and permitted assigns.

26. Unauthorized Aliens. That pursuant to Missouri Revised Statute Sections 285.525 through 285.555, if this contract exceeds the amount of $5,000.00 and Consultant is associated with a business entity, Consultant 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, Consultant must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

27. Waiver. 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.

IN WITNESS WHEREOF, the Parties have hereunto set their hands the date first above written.

CITY OF JOPLIN, MISSOURI	SPRINGFIELD SIGN
_____	_____
Nick Edwards, City Manager	By: Mike Dardis

ATTEST:

_____
Holly Nagy, City Clerk

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2024-619 – Approving a CMAR contract Branco Enterprises Inc. for general conditions, terms, and pre-construction services of the Ewert Splash Park Project.

MEETING DATE
August 5, 2024

ORIGINATING DEPT
Parks and Recreation

ATTACHMENTS
CB 2024-619 Ordinance; Exhibit "A" Branco Enterprises Inc. CMAR Contract; Exhibit "B" Existing Conditions-Aerial; Exhibit "C" CMAR Services Scope of Work; Exhibit "D" Preliminary Design Schedule; Exhibit "E" CMAR Proposal Form; Exhibit "F" Proposal Matrix; Exhibit "G" City of Joplin RFQ Step 1 Submittal with Addendum; Exhibit "H" City of Joplin RFP Step 2 Submittal; Exhibit "I" Summary of Scores and Comments

REVIEWED BY
Department Head: Leslie Haase; Parks Director: Paul Bloomberg; City Attorney: Peter Edwards; City Manager: Nick Edwards

SUMMARY
This Council Bill approves a CMAR contract Branco Enterprises Inc. for general conditions, terms, and pre-construction services of the Ewert Splash Park Project.

BACKGROUND
July 24, 2023, the City of Joplin received bids for the Ewert Splash Park project. Once all submittals were reviewed, scored, and interviews conducted Olsson Studio was selected as engineering design firm for this project. October 16, 2023, a contract with Olsson Studio was presented to City Council and approved to conduct the Ewert Splash Park project.

Summary of Bid Process:
April 23, 2024, an RFQ for proposals was issued and on May 13, 2024, the following bids were received in response to the Ewert Splash Park project RFQ submittal:

- Branco Enterprises Inc.
- R.E. Smith Construction Company
- Home Center Construction, Inc.

A City staff team, Olsson Studio, and Paragon assessed the bids as set forth in the RFQ. The team was Paul Bloomberg, Tony Robyn, Patrick Tuttle, Leslie Haase, Rob Beachner, and Dakota Rusk.

The selection of a CMAR is a two-step competitive process:

Step 1 consists of submission of qualifications. After qualification submissions are received, they will be opened publicly by the City, and names of the respondents will be read aloud. A selection committee will then review the qualification submissions. Following the review of the submissions, the City will select no more than five (5) firms to submit on Step 2.

Step 2 consists of a short list of firms asked to submit proposals in direct response to the Request for Proposal (RFP). A selection committee will then review the proposal submissions. Following the review of the submissions, the City will select no more than three (3) firms to invite to interview. The City may begin contract negotiations with the firm submitting the best proposal as determined by the selection criteria where qualification submissions account for 45% and proposal submissions shall account for 55%. In the event a contract agreement cannot be reached, the Owner reserves the right to negotiate with the firm submitting the next best proposal.

Finalist Summary:

After the submittals were evaluated Branco Enterprises Inc. and R.E. Smith Construction Company were selected for finalist interviews for the Ewert Splash Park project. These interviews were held on Tuesday, June 11th, 2024. The City staff team that participated in the finalist interviews were Greg Bertoncino, Tony Robyn, Dakota Rusk, Jason Cowen, Rob Beachner, and Patrick Tuttle, along with Olsson Studio and Paragon. A listing of questions was provided to each finalist prior to their presentation. The finalists were asked to address the questions in their presentations and each team was given 30 minutes to present, with 15 minutes for questions. The presentations occurred as in-person meetings. The presentation teams represented the staff that would be assigned to work on the project.

A summary of the final scores and detailed comments related to the final scores is attached for your review. Branco Enterprises Inc. had the highest final score for the Ewert Splash Park project and has submitted the best overall bid.

FUNDING SOURCE

This item is included in the Parks Storm Water ¼ Cent Sales Tax budget.

RECOMMENDATION

Staff recommends approval of this council bill on first reading.

ConsensusDocs®
BUILDING A BETTER WAY

ConsensusDocs 500
STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND CONSTRUCTION MANAGER (Where the CM is At-Risk)



This page is solely for the information and convenience of ConsensusDocs users, and is not a part of the contract. Gray boxes indicate where you should click and type in your project information. The yellow shading is a Word® default function that displays editable text. Shading can be turned off by going to the Review tab, select "Restrict Editing" button and uncheck "Highlight the regions I can edit". In Word 2003 you will find this option under the Tools tab, Options, Security tab, Protect Document button.

EMBEDDED INSTRUCTIONS are provided solely to help you complete the document. To display or hide instructions select the "¶" button under the "Home" tab to show all formatting marks.

Red Boxes: Instructions for fields that are typically required to complete contract.
Blue Boxes: Instructions for fields that may or may not be required for a complete contract.
Green Boxes: Provide general instructions or ConsensusDocs Coalition Guidebook comments, which can be found at www.ConsensusDocs.org/guidebook.

This document was developed through a collaborative effort of organizations representing a wide cross-section of the design and construction industry. This document has important legal and insurance consequences, and it is not intended as a substitute for competent professional services and advice. This document must be reviewed and adapted to meet your project-specific needs. Federal, State and Local laws may vary with respect to the applicability or enforceability of specific provisions in this document. CONSENSUSDOCS SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASER ASSUMES ALL LIABILITY WITH RESPECT TO THE USE OF THIS DOCUMENT, AND CONSENSUSDOCS AND ANY OF THE ORGANIZATIONS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM SUCH USE. For additional information, please contact ConsensusDocs, 2300 Wilson Blvd, Suite 300, Arlington, VA 22201, 866-925-DOCS (3627), support@consensusdocs.org or www.ConsensusDocs.

ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language that the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

ConsensusDocs 500

STANDARD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND CONSTRUCTION MANAGER (Where the CM is At-Risk)

TABLE OF ARTICLES

1. AGREEMENT
2. GENERAL PROVISIONS
3. CONSTRUCTION MANAGER'S RESPONSIBILITIES
4. OWNER'S RESPONSIBILITIES
5. SUBCONTRACTS
6. TIME
7. COMPENSATION AND GUARANTEED MAXIMUM PRICE
8. COST OF THE WORK
9. CHANGES
10. PAYMENT
11. INDEMNITY, INSURANCE, AND BONDS
12. SUSPENSION, NOTICE TO CURE, AND TERMINATION
13. DISPUTE MITIGATION AND RESOLUTION
14. MISCELLANEOUS
15. CONTRACT DOCUMENTS

ARTICLE 1 AGREEMENT

Job Number: OLS-Ewert23-01

This Agreement is made this 29th day of July in the year 2024, by and between the

OWNER, City of Joplin, Missouri

and the

CONSTRUCTION MANAGER, Branco Enterprises, Inc.
12033 E Highway 86
Neosho, MO 64850

for construction and services in connection with the following

PROJECT City of Joplin, MO Ewert Splash park

Design Professional is Olsson Studio
1814 Main Street
Kansas City, MO 64108

ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

ARTICLE 2 GENERAL PROVISIONS

2.1 PARTIES' RELATIONSHIP Each Party agrees to act on the basis of mutual trust, good faith, and fair dealing, and perform in an economical and timely manner. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2.1.1 Construction Manager represents that it is an independent contractor and that it is familiar with the type of Work it is undertaking.

2.1.2 Neither Construction Manager nor any of its agents or employees shall act on behalf of or in the name of Owner except as provided in this Agreement unless authorized in writing by Owner's Representative.

2.2 ETHICS Each Party shall perform with integrity. Each shall: (a) avoid conflicts of interest, and (b) promptly disclose to the other Party any conflicts that may arise. Each Party warrants that it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers, employees, Subcontractors, Subsubcontractors, Suppliers, or Others to secure preferential treatment.

2.3 DESIGN PROFESSIONAL Owner, through its Design Professional, shall provide all architectural and engineering design services necessary for the completion of the Work excluding, however, (a) design services delegated to Construction Manager in accordance with §3.17, and (b) services within the construction means, methods, techniques, sequences, and procedures employed by Construction Manager, its Subcontractors, and Subsubcontractors in connection with their construction operations.

2.4 Owner shall obtain from Design Professional either a license for Construction Manager and Subcontractors to use the design documents prepared by Design Professional or ownership of the copyrights for such design documents, and shall indemnify and hold harmless Construction Manager against any suits or claims of infringement of any copyrights or licenses arising out of the use of the design documents for the Project.

2.5 DEFINITIONS

2.5.1 "Agreement" means this ConsensusDocs 500 Standard Agreement and General Conditions Between Owner and Construction Manager, as modified, and exhibits and attachments made part of this agreement upon its execution.

2.5.1.1 The following attached exhibits are a part of this Agreement:

Exhibit A: See Article 15
Exhibit B: NOT USED
Exhibit C: Construction Manager at Risk (CMAR) Service Scope of Work
Exhibit D: Preliminary Design Schedule
Exhibit E: CMAR Proposal Form
Exhibit F: Proposal Matrix
Exhibit G: Branco Insurance Certificate

2.5.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

2.5.3 A "Change Order" is a written order signed by the Parties after execution of this Agreement, indicating changes in the scope of the Work, the GMP and Date of Substantial Completion or Date of Final Completion, including substitutions proposed by Construction Manager and accepted by Owner.

2.5.4 The "Contract Documents" consist of (a) this Agreement; (b) documents listed in §15.1 as existing contract documents; (c) drawings, specifications, addenda issued and acknowledged before execution of this Agreement; (d) information furnished by Owner pursuant to §3.15.4, and (e) Change Orders, Interim Directives, and amendments issued in accordance with this Agreement.

2.5.5 "Contract Time" is the period between the Date of Commencement and the total time authorized to achieve Final Completion.

2.5.6 "Cost of the Work" means the costs and discounts specified in ARTICLE 8.

2.5.7 The "Construction Manager" is the person or entity identified in ARTICLE 1 and includes Construction Manager's Representative.

2.5.8 "Date of Commencement" is as set forth in §6.1.

2.5.9 "Day" means a calendar day.

2.5.10 "Defective Work" is any portion of the Work that that does not conform with the requirements of the Contract Documents.

2.5.11 "Design Professional" means the licensed architect or engineer, and its consultants, retained by Owner to perform design services for the Project.

2.5.12 "Final Completion" occurs on the date when Construction Manager's obligations under this Agreement are complete and accepted by Owner and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by the Parties.

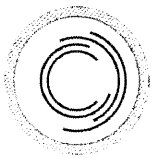
2.5.13 "Hazardous Material" is any substance or material identified now or in the future as hazardous under the Law, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup.

2.5.14 "Interim Directive" is a written order containing change to the Work directed by Owner pursuant to §9.2 and that is signed by Owner after execution of this Agreement and before Substantial Completion.

2.5.15 "Law" means federal, state, or local laws, ordinances, codes, rules, and regulations applicable to the Work with which Construction Manager must comply that are enacted as of the Agreement date.

2.5.16 "Others" means Owner's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, subsubcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.

2.5.17 "Overhead" means (a) payroll costs, burden, and other compensation of Construction Manager's employees in Construction Manager's principal and branch offices; (b) general and administrative expenses of Construction Manager's principal and branch offices including charges against Construction Manager for delinquent payments, and costs related to the correction of



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

defective work; and (c) Construction Manager's capital expenses, including interest on capital used for the Work.

2.5.18 "Owner" is the person or entity identified in ARTICLE 1.

2.5.19 The "Owner's Program" is an initial description of Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, site requirements, and any requirements for phased occupancy.

2.5.20 The "Parties" are collectively Owner and Construction Manager.

2.5.21 The "Project," as identified in ARTICLE 1, is the building, facility, or other improvements for which Construction Manager is to perform Work under this Agreement. It may also include construction by Owner or Others.

2.5.22 The "Schedule of the Work" is the document prepared by Construction Manager that specifies the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner.

2.5.23 "Subcontractor" is a person or entity retained by Construction Manager as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or Others.

2.5.24 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that Owner may occupy or utilize the Work, or a designated portion, for the use for which it is intended, without unapproved disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond Construction Manager's control. This date shall be confirmed by a certificate of Substantial Completion signed by the Parties.

2.5.25 A "Subsubcontractor" is a person or entity who has an agreement with a Subcontractor or another subsubcontractor or Supplier to perform a portion of the Subcontractor's Work or supply material or equipment.

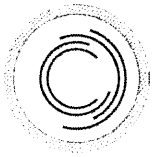
2.5.26 A "Supplier" is a person or entity retained by Construction Manager to provide material or equipment for the Work.

2.5.27 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.5.28 "Work" means the construction and administrative and management services necessary or incidental to fulfill Construction Manager's obligations for the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.

2.5.29 "Worksite" means the area of the Project location as identified in ARTICLE 1 where the Work is to be performed.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

3.1 GENERAL RESPONSIBILITIES

3.1.1 Construction Manager shall provide all labor, materials, equipment, and services necessary to complete the Work, all of which shall be provided in full accord with the Contract Documents and reasonably inferable from the Contract Documents.

3.1.2 Construction Manager represents that it is an independent contractor and that it is familiar with the type of work required by this Agreement.

3.1.3 Unless the Contract Documents instruct otherwise, Construction Manager shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized. When following construction means, methods, techniques, sequences, or procedures instructed by the Contract Documents, Construction Manager is not liable to Owner for damages resulting from compliance with such instructions, unless (a) Construction Manager recognized and (b) failed to timely report to Owner any error, inconsistency, omission, or unsafe practice that it discovered in such requirements.

3.1.4 Construction Manager shall perform Work only within locations allowed by the Contract Documents, Law, and applicable permits.

3.2 CONSTRUCTION PERSONNEL AND SUPERVISION

3.2.1 Construction Manager shall provide competent supervision for the performance of the Work. Before commencing the Work, Construction Manager shall notify Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager, so Owner may review the individual's qualifications. If, for reasonable cause, Owner refuses to approve the individual, or withdraws its approval after once giving it, Construction Manager shall name a different superintendent for Owner's review.

3.2.2 Construction Manager shall be responsible to Owner for acts or omissions of Parties or entities performing portions of the Work for or on behalf of Construction Manager or any of its Subcontractors.

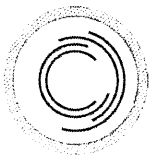
3.2.3 Construction Manager shall permit only fit and skilled persons to perform the Work. Construction Manager shall enforce safety procedures, strict discipline and good order among persons performing the Work. If Owner determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned work, Construction Manager shall immediately reassign the person on receipt of Owner's written notice to do so.

3.2.4 CONSTRUCTION MANAGER'S REPRESENTATIVE Construction Manager's authorized representative is rob Lichtenberg. Construction Manager's Representative shall possess full authority to receive instructions from Owner and to act on those instructions. If Construction Manager changes its representative or their authority, Construction Manager shall immediately notify Owner in writing.

3.3 PRECONSTRUCTION SERVICES The Preconstruction Services under this section are included in Construction Manager's work.

3.3.1 PRELIMINARY EVALUATION Construction Manager shall provide a preliminary evaluation of Owner's Program and report such findings to Owner and Design Professional.

3.3.2 CONSULTATION Construction Manager shall schedule and attend regular meetings with Owner and Design Professional. Construction Manager shall consult with Owner and Design



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

Professional regarding site use and improvements and the selection of materials, building systems, and equipment. Construction Manager shall provide recommendations on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; and factors related to construction cost, including estimates of alternative designs or materials.

3.3.3 SCHEDULE OF THE WORK When Project requirements have been sufficiently identified, Construction Manager shall prepare a preliminary Schedule of the Work for Design Professional's review and Owner's approval. Construction Manager shall coordinate and integrate the Schedule of the Work with the services and activities of Owner, Construction Manager, Design Professional, and the requirements of governmental entities. As design proceeds, Construction Manager shall update the Schedule of the Work to indicate proposed activity sequences, durations, or milestone dates for such activities as receipt and approval of pertinent information, issuance of the drawings and specifications, the preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead-time procurement, Owner's occupancy requirements and estimated date of Substantial Completion of the Project. If Schedule of the Work updates indicate that milestone dates contained in prior Schedules of the Work will not be met, Construction Manager shall notify and make recommendations to Owner. If the Project is to be completed in phases, Construction Manager shall make recommendations to Owner and Design Professional regarding the phased issuance of the drawings and specifications.

3.3.4 ESTIMATES

3.3.4.1 When Owner has sufficiently identified Owner's Program and other Project requirements and Design Professional has prepared other basic design criteria, Construction Manager shall prepare, for the review of Design Professional and approval of Owner, an initial estimate for the Project, utilizing area, volume, or similar conceptual estimating techniques.

3.3.4.2 When schematic or preliminary design documents have been completed by Design Professional and approved by Owner, Construction Manager shall prepare for the review of Design Professional and approval of Owner, a more detailed budget with supporting data. During the preparation of the design development documents or documents of comparable detail, Construction Manager shall update and refine this estimate at appropriate intervals agreed upon by The Parties.

3.3.4.3 When design development documents or documents of comparable detail have been completed by Design Professional and approved by Owner, Construction Manager shall prepare a further detailed estimate with supporting data for review by Design Professional and approval by Owner. During the preparation of the drawings and specifications, Construction Manager shall update and refine this estimate at appropriate intervals agreed upon by the Parties.

3.3.4.4 If any estimate submitted to Owner exceeds previously approved estimates, Construction Manager shall notify and make recommendations to Owner.

3.3.5 CONSTRUCTION DOCUMENT REVIEW Construction Manager shall review the drawings and specifications in an effort to identify potential constructability problems that could impact Construction Manager's ability to perform the Work in an expeditious and economical manner. Construction Manager shall issue a report to Design Professional and Owner for their review and action as appropriate. In addition, Construction Manager shall promptly report to Owner and Design Professional any errors or omissions which it discovers in the drawings and specifications.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

3.3.6 TEMPORARY FACILITIES Construction Manager shall make recommendations regarding temporary construction facilities, equipment, materials, and services for common use by Construction Manager, its Subcontractors, Subsubcontractors, and Suppliers.

3.3.7 LONG-LEAD-TIME ITEMS Construction Manager shall recommend to Owner and Design Professional a schedule for procurement of long-lead-time items which will constitute part of the Work as required to meet the Schedule of the Work. Construction Manager shall help expedite the delivery of long-lead-time items.

3.3.8 SOLICITATION OF SUBCONTRACTORS AND SUPPLIERS Construction Manager shall seek to develop Subcontractor interest in the Project and shall furnish to Owner and Design Professional a list of possible subcontractors from whom proposals may be requested for each principal portion of the Work. Owner shall promptly reply in writing to Construction Manager if Owner or Design Professional know of any objection to a subcontractor. Owner may designate specific persons or entities from whom Construction Manager shall solicit bids.

3.3.9 EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION Construction Manager shall consult with Owner regarding equal employment opportunity and affirmative action programs.

3.3.10 CONSULTANTS Construction Manager shall assist Owner in selecting, retaining, and coordinating the professional services of a surveyor, testing laboratories, and special consultants as needed.

3.3.11 PERMITS Construction Manager shall assist Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by Construction Manager.

3.3.12 OTHER PRECONSTRUCTION SERVICES Construction Manager shall provide such other preconstruction services as are agreed upon by the Parties and identified in an attached exhibit to this Agreement.

3.4 GUARANTEED MAXIMUM PRICE (GMP)

3.4.1 At such time as the Parties agree the drawings and specifications are sufficiently complete, Construction Manager shall prepare and submit to Owner in writing a GMP. The GMP proposal shall include the sum of the estimated cost of the Work, Construction Manager's Fee, the clarifications and assumptions upon which it is based, allowances, and reasonable contingencies, but shall not include compensation for Preconstruction Services. Construction Manager does not guarantee any specific line item provided as part of the GMP, but agrees that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with this Agreement.

3.4.2 BASIS OF GUARANTEED MAXIMUM PRICE Construction Manager shall include with the GMP proposal a written statement of its basis, which shall include:

3.4.2.1 a list of the drawings and specifications, including all addenda, which were used in preparation of the GMP Proposal;

3.4.2.2 a list of allowances and a statement of their basis;

3.4.2.3 a list of the assumptions and clarifications made by Construction Manager in the preparation of the GMP Proposal to supplement the information contained in the drawings and specifications;

ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

3.4.2.4 the Date of Substantial Completion or the Date of Final Completion upon which the proposed GMP is based, and the Schedule of Work upon which the Date of Substantial Completion or the Date of Final Completion is based;

3.4.2.5 a schedule of applicable alternate prices;

3.4.2.6 a schedule of applicable unit prices;

3.4.2.7 a statement of any work to be self-performed by Construction Manager.

3.4.3 Construction Manager shall meet with Owner and Design Professional to review the GMP. If Owner or Design Professional discovers any inconsistencies, inaccuracies, or omissions in the information presented, they shall promptly notify Construction Manager, who shall make appropriate adjustments to the GMP. Owner shall then give prompt written approval of the GMP.

3.4.4 Owner shall cause Design Professional to revise the drawings and specifications to the extent necessary to reflect the clarifications, assumptions, and allowances on which the GMP is based. Revised drawings and specifications shall be furnished to Construction Manager in accordance with the current Schedule of the Work, unless otherwise agreed by Owner, Construction Manager, and Design Professional. Construction Manager shall promptly notify Owner and Design Professional if the revised drawings and specifications are inconsistent with the GMP's clarifications, assumptions, and allowances.

3.4.5 If the Contract Documents are not complete at the time the GMP proposal is submitted to Owner, Construction Manager shall provide in the GMP for further development of the Contract Documents. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Document.

3.4.6 If this Agreement is executed before establishment of the Guaranteed Maximum Price and its acceptance by Owner, then the GMP and its basis shall be set forth in Amendment 1.

3.4.7 Allowances shall include the costs of materials, supplies, and equipment delivered to the Worksite less applicable trade discounts and including requisite taxes, unloading and handling at the Worksite, and labor and installation, unless specifically stated otherwise. Construction Manager's overhead and profit for the allowances shall be included in the GMP, but not in the allowances. The GMP shall be adjusted by Change Order to reflect the actual costs when they are greater than or less than the allowances.

3.4.8 FAILURE TO ACCEPT THE GMP PROPOSAL Unless Owner accepts the GMP Proposal in writing on or before the date specified in the GMP Proposal for such acceptance and so notifies Construction Manager, the GMP Proposal shall not be effective. If Owner fails to accept the GMP Proposal, or rejects the GMP Proposal, Owner shall have the right to:

3.4.8.1 suggest modifications to the GMP Proposal. If such modifications are accepted in writing by Construction Manager, the GMP Proposal shall be deemed accepted in accordance with §3.4.6;

3.4.8.2 direct Construction Manager to proceed on the basis of reimbursement as provided in ARTICLE 7 and ARTICLE 8 without a GMP, in which case all references in this Agreement to the GMP shall not be applicable; or

ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

3.4.8.3 terminate the Agreement for convenience in accordance with §12.4. In the absence of a GMP the Parties may establish a Date of Substantial Completion or a Date of Final Completion.

3.4.9 PRE-GMP WORK Before Owner's acceptance of the GMP Proposal, Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or as Owner may specifically authorize in writing.

3.5 WORKMANSHIP

3.5.1 The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except as otherwise provided in the Contract Documents.

3.6 COOPERATION WITH WORK OF OWNER AND OTHERS

3.6.1 Owner may perform work at the Worksite directly or by Others. Any agreements with Others to perform construction or operations related to the Project shall include provisions pertaining to insurance, indemnification, waiver of subrogation, consequential damages, coordination, interference, cleanup, and safety that are substantively the same as the corresponding provisions of this Agreement.

3.6.2 If Owner elects to perform work at the Worksite directly or by Others, the Parties shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. Owner shall require each separate contractor to cooperate with Construction Manager and assist with the coordination of activities and the review of construction schedules and operations. The GMP or the Date of Substantial Completion or the Date of Final Completion may be equitably adjusted in accordance with this Agreement, for changes resulting from the coordination of construction activities, and the Schedule of the Work shall be revised accordingly.

3.6.3 With regard to the work of Owner and Others, Construction Manager shall (a) proceed with the Work in a manner that does not hinder, delay, or interfere with the work of Owner or Others or cause the work of Owner or Others to become defective; (b) afford Owner or Others reasonable access for introduction and storage of their materials and equipment and performance of their activities; and (c) coordinate Construction Manager's Work with theirs.

3.6.4 Before proceeding with any portion of the Work affected by the construction or operations of Owner or Others, Construction Manager shall give Owner prompt, written notification of any defects Construction Manager discovers in their work which will prevent the proper execution of the Work. Construction Manager's obligations in this subsection do not create a responsibility for the work of Owner or Others, but are for the purpose of facilitating the Work. If Construction Manager does not notify Owner of defects interfering with the performance of the Work, Construction Manager acknowledges that the work of Owner or Others is not defective and is acceptable for the proper execution of the Work. Following receipt of written notice from Construction Manager of defects, Owner shall promptly issue an Interim Directive informing Construction Manager what action, if any, Construction Manager shall take with regard to the defects.

3.7 CONTRACT DOCUMENT REVIEW AND ADMINISTRATION



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

3.7.1 Before commencing the Work, Construction Manager shall examine and compare the drawings and specifications with information furnished by Owner that are considered Contract Documents, relevant field measurements made by Construction Manager, and any visible conditions at the Worksite affecting the Work.

3.7.2 Should Construction Manager discover any errors, omissions, or inconsistencies in the Contract Documents, Construction Manager shall promptly report them to Owner. It is recognized, however, that Construction Manager is not acting in the capacity of a licensed design professional, and that Construction Manager's examination is to facilitate construction and does not create an affirmative responsibility to detect defects or to ascertain compliance with a Law. Following receipt of written notice from Construction Manager of defects, Owner shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defect.

3.7.3 Construction Manager shall have no liability for errors, omissions, or inconsistencies discovered under this section, unless Construction Manager knowingly fails to report a recognized problem to Owner.

3.7.4 Construction Manager may be entitled to additional costs or time because of clarifications or instructions growing out of Construction Manager's reports described in this §3.7.

3.7.5 Nothing in §3.7 shall relieve Construction Manager of responsibility for its own errors, inconsistencies, or omissions.

3.7.6 COST REPORTING Construction Manager shall maintain complete, accurate, and current records that comply with generally accepted accounting principles and calculate the proper financial management under this Agreement. Construction Manager shall maintain a complete set of all books and records prepared or used by Construction Manager with respect to the Project. Owner shall be afforded access to all of Construction Manager's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. Construction Manager shall preserve all such records for a period of three years after the final payment or longer where required by Law.

3.7.6.1 Construction Manager agrees to use reasonable skill and judgment in the preparation of cost estimates and Schedule of the Work, but does not warrant or guarantee their accuracy.

3.8 MATERIALS FURNISHED BY OWNER OR OTHERS

3.8.1 If the Work includes installation of materials or equipment furnished by Owner or Others, it shall be the responsibility of Construction Manager to examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of Construction Manager shall be the responsibility of Construction Manager and may be deducted from any amounts due or to become due Construction Manager. Any defects discovered in such materials or equipment shall be reported at once to Owner. Following receipt of written notice from Construction Manager of defects, Owner shall promptly inform Construction Manager what action, if any, Construction Manager shall take with regard to the defects.

3.9 TESTS AND INSPECTIONS

3.9.1 Construction Manager shall schedule all required tests, approvals, and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project. Construction Manager shall give proper notice to all required Parties of such



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

tests, approvals, and inspections. If feasible, Owner and Others may timely observe the tests at the normal place of testing. Except as provided in §3.9.3, Owner shall bear all expenses associated with tests, inspections, and approvals required by the Contract Documents which, unless otherwise agreed to, shall be conducted by an independent testing laboratory or entity retained by Owner. Unless otherwise required by the Contract Documents, required certificates of testing, approval, or inspection shall be secured by Construction Manager and promptly delivered to Owner.

3.9.2 If Owner or appropriate authorities determine that tests, inspections, or approvals in addition to those required by the Contract Documents will be necessary, Construction Manager shall arrange for the procedures and give timely notice to Owner and Others who may observe the procedures. Costs of the additional tests, inspections, or approvals are at Owner's expense except as provided in the subsection below.

3.9.3 If the procedures described in the two subsections immediately above indicate that portions of the Work fail to comply with the Contract Documents due to the negligence of Construction Manager, Construction Manager shall be responsible for costs of correction and retesting.

3.10 WARRANTY

3.10.1 Construction Manager warrants that all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At Owner's request, Construction Manager shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. Construction Manager further warrants that the Work shall be free from material defects not intrinsic in the design or materials required in the Contract Documents. Construction Manager's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by Owner or others, or abuse. Construction Manager's warranty shall commence on the Date of Substantial Completion of the Work, or of a designated portion.

3.10.2 With respect to any portion of Work first performed after Substantial Completion, Construction Manager's warranty obligation shall be extended by the period of time between Substantial Completion and the actual performance of the later Work.

3.10.3 To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by Owner, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty. For such incorporated items, ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED

3.10.4 Construction Manager shall obtain from its Subcontractors and Suppliers any special or extended warranties required by the Contract Documents. Construction Manager's liability for such warranties shall be limited to the one-year correction period referred to in the section immediately below. After that period Construction Manager shall provide reasonable assistance to Owner in enforcing the obligations of Subcontractors or Suppliers for such extended warranties.

3.11 CORRECTION OF WORK WITHIN ONE YEAR

3.11.1 If before Substantial Completion or within one year after the date of Substantial Completion of the Work any Defective Work is found, Owner shall promptly notify Construction Manager in writing.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

Unless Owner provides written acceptance of the condition, Construction Manager shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period Owner discovers and does not promptly notify Construction Manager or give Construction Manager an opportunity to test or correct Defective Work as reasonably requested by Construction Manager, Owner waives Construction Manager's obligation to correct that Defective Work as well as Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.11.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall commence when that portion of the Work is substantially complete. Correction periods shall not be extended by corrective work performed by Construction Manager.

3.11.3 If Construction Manager fails to correct Defective Work within a reasonable time after receipt of written notice from Owner before final payment, Owner may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due Construction Manager. If payments then or thereafter due Construction Manager are not sufficient to cover such amounts, Construction Manager shall pay the difference to Owner.

3.11.4 Construction Manager's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, Owner discovers any Work which Owner considers Defective Work, Owner shall, unless the Defective Work requires emergency correction, promptly notify Construction Manager and allow Construction Manager an opportunity to correct the Work if Construction Manager elects to do so. If Construction Manager elects to correct the Work it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from Owner and shall complete the correction of Work within a mutually agreed timeframe. If Construction Manager does not elect to correct the Work, Owner may have the Work corrected by itself or Others, and, if Owner intends to seek recovery of those costs from Construction Manager, Owner shall promptly provide Construction Manager with an accounting of the actual correction costs.

3.11.5 If Construction Manager's correction or removal of Defective Work causes damage to or destroys other completed or partially completed work or existing building, Construction Manager shall be responsible for the cost of correcting the destroyed or damaged property.

3.11.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Construction Manager's other obligations under the Contract Documents.

3.11.7 Before final payment, at Owner's option and with Construction Manager's agreement, Owner may elect to accept Defective Work rather than require its removal and correction. In such cases the GMP shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work.

3.12 CORRECTION OF COVERED WORK

3.12.1 Upon issuance of an Interim Directive, Work that has been covered without a requirement that it be inspected before being covered may be uncovered for Owner's inspection. Owner shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents, or if the defective condition was caused by Owner or Others. If the uncovered Work proves to be defective, Construction Manager shall pay the costs of uncovering and replacement.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

3.12.2 If any Work is covered contrary to requirements in the Contract Documents, Owner may issue an Interim Directive to uncover the Work for Owner's observation and recover the Work all at Construction Manager's expense. In this circumstance the Work shall be replaced at Construction Manager's expense and with no adjustment to the Dates of Substantial or Final Completion.

3.13 SAFETY OF PERSONS AND PROPERTY

3.13.1 SAFETY PROGRAMS Construction Manager holds overall responsibility for safety programs. However, such obligation does not relieve Subcontractors of their safety responsibilities and to comply with the Law. Construction Manager shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in performing the Work; and (c) property located at the Worksite and adjacent to work areas, whether or not the property is part of the Worksite.

3.13.2 CONSTRUCTION MANAGER'S SAFETY REPRESENTATIVE Construction Manager shall designate an individual at the Worksite in its employ as its safety representative. Unless otherwise identified by Construction Manager in writing to Owner, Construction Manager's project superintendent shall serve as its safety representative. Construction Manager shall report promptly in writing all recordable accidents and injuries occurring at the Worksite. When Construction Manager is required to file an accident report with a public authority, Construction Manager shall furnish a copy of the report to Owner.

3.13.3 Construction Manager shall provide Owner with copies of all notices required of Construction Manager by the Law. Construction Manager's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.

Damage or loss not insured under property insurance that may arise from the Work, to the extent caused by negligent or intentionally wrongful acts or omissions of Construction Manager, or anyone for whose acts Construction Manager may be liable, shall be promptly remedied by Construction Manager.

3.13.4 If Owner deems any part of the Work or Worksite unsafe, Owner, without assuming responsibility for Construction Manager's safety program, may require by Interim Directive Construction Manager to stop performance of the Work, take corrective measures satisfactory to Owner, or both. If Construction Manager does not adopt corrective measures, Owner may perform them and deduct their cost from the GMP. Construction Manager agrees to make no claim for damages, or an increase in the GMP, or for a change in the Dates of Substantial or Final Completion based on Construction Manager's compliance with Owner's reasonable request.

3.14 EMERGENCIES In an emergency affecting the safety of persons or property, Construction Manager shall act in a reasonable manner to prevent threatened damage, injury, or loss. If appropriate, an equitable adjustment in GMP or Date of Substantial Completion or Date of Final Completion shall be determined as provided for in ARTICLE 9.

3.15 HAZARDOUS MATERIALS

3.15.1 Construction Manager shall not be obligated to commence or continue Work until any Hazardous Material discovered at the Worksite has been removed, rendered or determined to be harmless by Owner as certified by an independent testing laboratory, and approved by the appropriate governmental agency.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

3.15.2 If after commencing the Work, Hazardous Material is discovered at the Worksite, Construction Manager shall be entitled to immediately stop Work in the affected area. Construction Manager shall promptly report the condition to Owner, Design Professional, and, if required, the governmental agency with jurisdiction.

3.15.3 Construction Manager shall not resume nor be required to continue any Work affected by any Hazardous Material without written mutual agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

3.15.4 Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Work.

3.15.5 If Construction Manager incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, Construction Manager may be entitled to an equitable adjustment in the GMP or the Dates of Substantial or Final Completion in accordance with this Agreement.

3.15.6 To the extent permitted by §6.7 and to the extent not caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, Owner shall defend, indemnify, and hold harmless Construction Manager, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution procedure arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

3.15.7 MATERIALS BROUGHT TO THE WORKSITE

3.15.7.1 Safety Data Sheets (SDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Construction Manager, Subcontractors, Owner or Others, shall be maintained at the Worksite by Construction Manager and made available to Owner, Subcontractors, and Others.

3.15.7.2 Construction Manager shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Construction Manager in accordance with the Contract Documents and used or consumed in the performance of the Work. Upon the issuance of the Certificate of Substantial Completion, Owner shall be responsible for materials and substances brought to the Worksite by Construction Manager if such materials or substances are required by the Contract Documents.

3.15.7.3 To the extent permitted under §6.7 and to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, its agents, officers, directors, and employees, Construction Manager shall defend, indemnify, and hold harmless Owner, its agents, officers, directors, and employees, from and against claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs and expenses incurred in connection with any dispute resolution procedure, arising out of or relating to delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by Construction Manager



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

3.15.7.4 §3.15 shall survive the completion of the Work or Agreement termination.

3.16 SUBMITTALS

3.16.1 Construction Manager shall submit to Owner and Design Professional all shop drawings, samples, product data, and similar submittals required by the Contract Documents for review and approval. Submittals shall be submitted in electronic form if required in accordance with §4.6.1. Construction Manager shall be responsible for the accuracy and conformity of its submittals to the Contract Documents. At no additional cost, Construction Manager shall prepare and deliver its submittals in such time and sequence so as not to delay the performance of the Work or the work of Owner and Others. Construction Manager's submittals shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The approval of any Construction Manager submittal shall not be deemed to authorize changes, deviations, or substitutions from the requirements of the Contract Documents unless a Change Order or Interim Directive specifically authorizes such deviation, substitution, or change. To the extent a change, deviation, or substitution causes an impact to the Contract Price or Contract Time, such approval shall be memorialized in a Change Order no later than seven (7) Days following approval by Owner. Neither Design Professional nor Owner shall make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to Construction Manager. If the Contract Documents do not contain submittal requirements pertaining to the Work, Construction Manager agrees upon request to submit in a timely fashion to Design Professional and Owner for review any shop drawings, samples, product data, manufacturers' literature, or similar submittals as may reasonably be required by Owner.

3.16.2 Owner shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay.

3.16.3 Construction Manager shall perform all Work strictly in accordance with approved submittals. Approval of shop drawings is not an authorization to perform changed work, unless the procedures of ARTICLE 9 are followed. Approval does not relieve Construction Manager from responsibility for Defective Work resulting from errors or omissions on the approved shop drawings.

3.16.4 Record copies of the following, incorporating field changes and selections made during construction, shall be maintained at the Worksite and available to Owner upon request: drawings, specifications, addenda and other modifications, and required submittals including product data, samples, and shop drawings.

3.16.5 Construction Manager shall prepare and submit to Owner

X Final marked-up as-built drawings;
[_____] Updated electronic data, in accordance with §4.6.1;
[_____] Other documentation required by the Contract Documents that specifies how various elements of the Work were actually constructed or installed.

3.17 DESIGN DELEGATION If the Contract Documents require Construction Manager to specify that Construction Manager is responsible for the design of a particular system or component to be incorporated into the Project, then Owner shall specify all required performance and design criteria. Construction Manager shall not be responsible for the adequacy of such performance and design criteria. As required by the Law, Construction Manager shall procure design services and certifications necessary to satisfactorily complete the Work from a licensed design professional. The signature and seal of Construction Manager's design professional shall appear on all drawings, calculations, specifications,



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

certifications, shop drawings, and other submittals related to the Work designed or certified by Construction Manager's design professional.

3.18 WORKSITE CONDITIONS

3.18.1 WORKSITE VISIT Construction Manager acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.

3.18.2 CONCEALED OR UNKNOWN SITE CONDITIONS If a condition encountered at the Worksite is (a) a subsurface or other physical condition materially different from those indicated in the Contract Documents, or (b) an unusual and unknown physical condition materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, Construction Manager shall stop affected Work after the condition is first observed and give prompt written notice of the condition to Owner and Design Professional. Owner shall investigate and then issue an Interim Directive specifying the extent to which Owner agrees that a concealed or unknown condition exists and directing how Construction Manager is to proceed. Construction Manager shall not be required to perform any Work relating to the condition without the written mutual agreement of the Parties. Any change in the GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services as a result of the condition, including any dispute about its existence or nature shall be determined as provided in ARTICLE 9.

3.19 PERMITS AND TAXES

3.19.1 Construction Manager shall give public authorities all notices required by law and, except for permits and fees that are the responsibility of Owner pursuant to §4.4, shall obtain and pay for all necessary building permits, utility fees, licenses, and renewals pertaining to the Work. Construction Manager shall provide to Owner copies of all notices, permits, licenses, and renewals required under this Agreement.

3.19.2 Construction Manager shall pay applicable taxes for the Work provided by Construction Manager.

3.19.3 If, in accordance with Owner's direction, Construction Manager claims an exemption for taxes, Owner shall indemnify and hold Construction Manager harmless from any liability, penalty, interest, fine, tax assessment, attorneys' fees, or other expense or cost incurred by Construction Manager as a result of any such claim.

3.20 CUTTING, FITTING, AND PATCHING

3.20.1 Construction Manager shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of Owner or Others.

3.20.2 Cutting, patching, or altering the work of Owner or Others shall be done with the prior written approval of Owner. Such approval shall not be unreasonably withheld.

3.21 CLEAN UP

3.21.1 Construction Manager shall regularly remove debris and waste materials at the Worksite resulting from the Work. Before discontinuing Work in an area, Construction Manager shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

materials. Construction Manager shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Construction Manager shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

3.21.2 If Construction Manager fails to commence compliance with cleanup duties within two (2) Business Days after written notification from Owner of non-compliance, Owner may implement appropriate cleanup measures without further notice and the cost shall be deducted from any amounts due or to become due to Construction Manager in the next payment period.

3.22 ACCESS TO WORK Construction Manager shall facilitate the access of Owner, its Design Professional, and Others to Work in progress.

3.23 COMPLIANCE WITH LAWS Construction Manager shall comply with all the Law at its own cost. Construction Manager shall be liable to Owner for all loss, cost, or expense attributable to any acts or omissions by Construction Manager, its employees, subcontractors, suppliers, and agents for failure to comply with Laws, including fines, penalties, or corrective measures. However, liability under this subsection shall not apply if prior approval by appropriate authorities and Owner is received.

3.23.1 CHANGES IN THE LAW The GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services shall be equitably adjusted in accordance with ARTICLE 9 for additional costs or time needed resulting from Laws enacted after the date of this Agreement, including taxes.

3.24 CONFIDENTIALITY Construction Manager shall treat as confidential and not disclose to third persons, nor use for its own benefit ("Treat as Confidential"), any of Owner's confidential information, know-how, discoveries, production methods, and the like disclosed to Construction Manager or which Construction Manager may acquire in performing the Work. To the extent necessary to perform the Work, Construction Manager's confidentiality obligations do not apply to disclosures to Subcontractors, Subsubcontractors, and Suppliers. Owner shall Treat as Confidential information all of Construction Manager's estimating systems and historical and parameter cost data disclosed to Owner in performing the Work. Each Party shall specify and mark confidential items as "Confidential." Confidentiality obligations do not supersede compulsion by Law, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena. In such event, a Party shall promptly notify the other Party to permit that Party's legal objection.

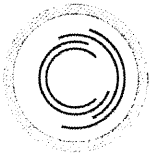
ARTICLE 4 OWNER'S RESPONSIBILITIES

4.1 INFORMATION AND SERVICES Owner's responsibilities under this Article shall be fulfilled with reasonable detail and in a timely manner.

4.2 FINANCIAL INFORMATION Before commencement of the Work and thereafter at the written request of Construction Manager, Owner shall provide Construction Manager with evidence of Project financing. Evidence of such financing shall be a condition precedent to Construction Manager's commencing or continuing the Work. Construction Manager shall be notified before any material change in Project financing.

4.3 WORKSITE INFORMATION To the extent Owner has obtained, or is required to obtain the following Worksite information, then Owner shall provide Construction Manager the following:

4.3.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data, or drawings depicting existing conditions, subsurface conditions, and environmental studies, reports, and investigations;



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

4.3.2 tests, inspections, and other reports dealing with environmental matters, Hazardous Material, and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or Law;

4.3.3 the limits of Pollution Liability Insurance covering the Worksite held by Owner; and

4.3.4 any other information or services requested in writing by Construction Manager which are required for Construction Manager's performance of the Work and under Owner's control.

4.4 BUILDING PERMIT, FEES, AND APPROVALS Except for those permits and fees related to the Work which are the responsibility of Construction Manager pursuant to §3.19.1, Owner shall secure and pay for all other approvals, easements, assessments, and fees required for the development.

4.5 MECHANICS AND CONSTRUCTION LIEN INFORMATION Within seven (7) Days after receiving Construction Manager's written request, Owner shall provide Construction Manager with the information necessary to give notice of or enforce mechanics lien rights and, where applicable, stop notices. This information shall include Owner's real property interests in the Worksite and the record legal title.

4.6 CONTRACT DOCUMENTS Unless otherwise specified, Owner shall provide a reasonable number of hard copies of the Contract Documents to Construction Manager without cost.

4.6.1 ELECTRONIC DOCUMENTS If Owner requires that Owner, Design Professional, and Construction Manager exchange documents and data in electronic or digital form, before any such exchange, Owner, Design Professional, and Construction Manager shall agree on and follow a written protocol governing all exchanges in ConsensusDocs 200.2 or a separate addendum, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. Except as otherwise agreed upon by the Parties in writing, each Party shall each bear its own costs as identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

4.7 OWNER'S REPRESENTATIVE Owner's Representative is Paul Bloomberg. Owner's Representative shall be fully acquainted with the Project, and shall have authority to bind Owner in all matters requiring Owner's approval, authorization, or written notice. If Owner changes its Representative or the Representative's authority, Owner shall immediately notify Construction Manager in writing.

4.8 OWNER'S CUTTING AND PATCHING Cutting, patching, or altering the Work by Owner or Others shall be done with the prior written approval of Construction Manager, which approval shall not be unreasonably withheld.

4.9 OWNER'S RIGHT TO CLEAN UP In case of a dispute between Construction Manager and Others with regard to respective responsibilities for cleanup at the Worksite, Owner may implement appropriate cleanup measures after two (2) Business Days' notice and allocate the cost among those responsible during the following pay period.

4.10 COST OF CORRECTING DAMAGED OR DESTROYED WORK With regard to damage or loss attributable to the acts or omissions of Owner or Others and not to Construction Manager, Owner may either (a) promptly remedy the damage or loss and assume affected warranty responsibilities, (b) accept



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

the damage or loss, or (c) issue an Interim Directive or Change Order to remedy the damage or loss. If Construction Manager incurs costs or is delayed due to such loss or damage, Construction Manager may seek an equitable adjustment in the GMP, estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, and, if appropriate, the Compensation for Preconstruction Services under this Agreement.

ARTICLE 5 SUBCONTRACTS

5.1 SUBCONTRACTORS Subcontracts shall be issued on a lump sum basis unless Owner has given prior written approval of a different method of payment to the Subcontractor.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Promptly after the execution of this Agreement, Construction Manager shall provide Owner, and, if directed, Design Professional with a written list of the proposed subcontractors and significant Suppliers. If Owner has a reasonable objection to any proposed subcontractor or material supplier, Owner shall notify Construction Manager in writing. Failure to promptly object shall constitute acceptance.

5.2.2 If Owner has reasonably and promptly objected, Construction Manager shall not contract with the proposed Subcontractor or Supplier, and Construction Manager shall propose another acceptable Subcontractor or Supplier to Owner. An appropriate Change Order shall reflect any increase or decrease in the GMP or Dates of Substantial or Final Completion because of the substitution.

5.3 BINDING OF SUBCONTRACTORS AND SUPPLIERS Construction Manager agrees to bind every Subcontractor and Supplier (and require every Subcontractor to so bind its subcontractors and significant suppliers) to the Contract Documents as they apply to the Subcontractor's or Supplier's applicable provisions to that portion of the Work.

5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.4.1 If this Agreement is terminated, each subcontract and supply agreement shall be assigned by Construction Manager to Owner, subject to the prior rights of any surety, provided that: (a) this Agreement is terminated by Owner pursuant to §12.4 or §12.5; (b) Owner accepts such assignment after termination by notifying the Construction Manager and Subcontractor or Construction Manager and Supplier in writing; and (c) Owner assumes all rights and obligations of Construction Manager pursuant to each subcontract or supply agreement.

5.4.2 If Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, the Subcontractor's or Supplier's compensation shall be equitably adjusted as a result of the suspension.

ARTICLE 6 TIME

6.1 DATE OF COMMENCEMENT The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below: N/A.

6.1.1 SUBSTANTIAL/FINAL COMPLETION Unless the Parties agree otherwise, the Date of Substantial Completion or the Date of Final Completion shall be established in Amendment 1 to this Agreement subject to adjustments as provided for in the Contract Documents. Owner and Construction Manager may agree not to establish such dates, or in the alternative, to establish one but not the other of the two dates. If such dates are not established upon the execution of this



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

Agreement, at such time as GMP is accepted a Date of Substantial Completion or Date of Final Completion of the Work shall be established in Amendment 1. If a GMP is not established and the Parties desire to establish a Date of Substantial Completion or Date of Final Completion, it shall be set forth in Amendment 1. The dates for Substantial and Final Completion are subject to adjustments as provided for in the Contract Documents.

6.1.2 Time is of the essence with regard to the obligations of the Contract Documents.

6.1.3 Unless instructed by Owner in writing, Construction Manager shall not knowingly commence the Work before the effective date of Construction Manager's required insurance.

6.2 SCHEDULE OF THE WORK

6.2.1 Before submitting its first application for payment, Construction Manager shall submit to Owner and, if directed, Design Professional a Schedule of the Work showing the dates on which Construction Manager plans to begin and complete various parts of the Work, including dates on which information and approvals are required from Owner. Except as otherwise directed by Owner, Construction Manager shall comply with the approved Schedule of the Work. Unless otherwise agreed, the Schedule of the Work shall be formatted in a detailed precedence-style critical path method that (a) provides a graphic representation of all activities and events, including float values that will affect the critical path of the Work, and (b) identifies dates that are critical to ensure timely and orderly completion of the Work. Construction Manager shall update the Schedule of the Work on a monthly basis or as mutually agreed by the Parties.

6.2.2 Owner may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the approved project schedule. Owner may require Construction Manager to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by Owner or Others. If Construction Manager consequently incurs costs or is delayed, the GMP or the Dates of Substantial or Final Completion, or both, Construction Manager may seek equitable adjustment under ARTICLE 9.

6.3 DELAYS AND EXTENSIONS OF TIME

6.3.1 If Construction Manager is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Construction Manager, Construction Manager shall be entitled to an equitable extension of the Date of Substantial Completion or Date of Final Completion. Examples of causes beyond the control of Construction Manager include, but are not limited to, the following: (a) acts or omissions of Owner, Design Professional, or Others; (b) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by Owner pending dispute resolution or suspension by Owner under §12.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving Construction Manager; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions; (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated. Construction Manager shall submit any requests for equitable extensions of Contract Time in accordance with the provisions of ARTICLE 9.

6.3.2 In addition, if Construction Manager incurs additional costs as a result of a delay that is caused by items (a) through (d) immediately above, Construction Manager shall be entitled to an equitable adjustment in the GMP subject to §6.7.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

6.3.3 NOTICE OF DELAYS If delays to the Work are encountered for any reason, Construction Manager shall provide prompt written notice to Owner of the cause of such delays after Construction Manager first recognizes the delay. The Parties each agree to take reasonable steps to mitigate the effect of such delays.

6.4 NOTICE OF DELAY CLAIMS If Construction Manager requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay described in §6.3, Construction Manager shall give Owner written notice of the claim in accordance with §9.4. If Construction Manager causes delay in the completion of the Work, Owner shall be entitled to recover its additional costs subject to §6.7. Owner shall process any such claim against Construction Manager in accordance with ARTICLE 9.

6.5 MONITORING PROGRESS AND COSTS Following acceptance by Owner of the GMP, Construction Manager shall establish a process for monitoring actual costs against the GMP and actual progress against the Schedule of Work. Construction Manager will provide written reports to Owner at intervals as agreed to by the Parties on the status of the Work, showing variances between actual costs and the GMP and actual progress as compared to the Schedule of Work, including estimates of future costs and recovery programs if actual progress indicates that the Dates of Substantial Completion or Final Completion may not be met.

6.6 LIQUIDATED DAMAGES

6.6.1 SUBSTANTIAL COMPLETION Liquidated damages based on the Substantial Completion date of November 14, 2025 shall apply.

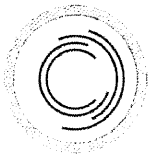
6.6.1.1 Owner will suffer damages which are difficult to determine and accurately specify if the Substantial Completion date, which may be amended by Change Order, is not attained. Construction Manager shall pay Owner Three Thousand dollars ($3,000.00) as liquidated damages and not as a penalty for each Day that Substantial Completion extends beyond the Substantial Completion date. These liquidated damages are in lieu of all liability for all extra costs, losses, expenses, claims, penalties, and any other damages of any nature incurred by Owner resulting from not attaining the Substantial Completion date.

6.6.2 FINAL COMPLETION Liquidated damages based on the Final Completion date December 1, 2025 shall apply.

6.6.2.1 Owner will suffer damages which are difficult to determine and accurately specify if the Final Completion date, as may be amended by subsequent Change Order, is not attained. Construction Manager shall pay Owner Three Thousand dollars dollars ($3,000.00) as liquidated damages and not as a penalty for each Day that Final Completion extends beyond the Final Completion date. These liquidated damages are in lieu of all liability for any extra costs, losses, expenses, claims, penalties, and any other damages of any nature incurred by Owner resulting from not attaining Final Completion date.

6.6.3 Other applicable liquidated damages shall be included as Agreement exhibit.

6.7 LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for damages mutually agreed upon by the Parties as liquidated damages in §6.6 and excluding losses covered by insurance required by the Contract Documents, the Parties agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

Owner agrees to waive damages including but not limited to Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit, or financing related to the Project, as well as the loss of business, loss of financing, loss of profits not related to this Project, loss of reputation, or insolvency. Construction Manager agrees to waive damages including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. The following are excluded from this mutual waiver: N/A.

6.7.1 The Parties shall each require similar waivers in contracts with Subcontractors and Others retained for the Project.

ARTICLE 7 COMPENSATION AND GUARANTEED MAXIMUM PRICE

7.1 Owner shall compensate Construction Manager for Work performed on the following basis:

7.1.1 the Cost of the Work as allowed in ARTICLE 8; and

7.1.2 Construction Manager's Fee paid in proportion to the Work performed subject to adjustment as provided in §7.4.

7.2 The compensation to be paid shall be limited to the GMP established in Amendment 1, as the GMP may be adjusted under ARTICLE 9.

7.2.1 Payment for Work performed shall be as set forth in ARTICLE 10.

7.3 CONSTRUCTION MANAGER'S FEE Construction Manager's Fee shall be as follows, subject to adjustment as provided in §7.4: 2.5% of the total construction cost.

7.4 FEE ADJUSTMENTS:

7.4.1 Changes in the Work as provided in ARTICLE 9, shall adjust Construction Manager's Fee as follows: fee shall remain at 2.5% of the total construction cost.

7.4.2 except as provided for in §6.3, delays in the Work not caused by Construction Manager shall adjust Construction Manager's Fee to compensate for increased expenses as provided for in ARTICLE 9; and

7.4.3 managing the replacement of an insured or uninsured loss shall increase Construction Manager's fee in the same proportion that Construction Manager's Fee bears to the estimated Cost of the Work for the replacement.

7.5 PRECONSTRUCTION SERVICES COMPENSATION Construction Manager shall be compensated for Preconstruction Services as follows: Five Thousand Dollars ($5,000.00).

ARTICLE 8 COST OF THE WORK

8.1 Owner agrees to pay Construction Manager for the Cost of the Work as defined in this article. This payment shall be in addition to Construction Manager's Fee stipulated in §7.3.

8.2 COST ITEMS

8.2.1 Labor wages directly employed by Construction Manager in performing of the Work.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

8.2.2 Salaries of Construction Manager's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office as mutually agreed by the Parties in writing.

8.2.3 Cost of all employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement, and other fringe benefits as required by law, labor agreements, or paid under Construction Manager's standard personnel policy, insofar as such costs are paid to employees of Construction Manager who are included in the Cost of the Work pursuant to §8.2.1 and §8.2.2.

8.2.4 Reasonable transportation, travel, hotel, and moving expenses of Construction Manager's personnel incurred in connection with the Work.

8.2.4.1 General Conditions outlined by the attached matrix (Exhibit F) are established at Nineteen Thousand Five Hundred Dollars ($19,500.00) per month.

8.2.5 Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by Owner, transportation, storage, and handling.

8.2.6 Payments made by Construction Manager to Subcontractors for work performed under this Agreement.

8.2.7 Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of Construction Manager.

8.2.8 Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Construction Manager or others, including installation, repair, and replacement, dismantling, removal, maintenance, transportation, and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from Construction Manager or its affiliates, subsidiaries, or related parties shall be reimbursed at the prevailing rates in the locality of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment.

8.2.9 Cost of the premiums for all insurance and surety bonds which Construction Manager is required to procure or deems necessary, and approved by Owner including any additional premium incurred as a result of any increase in the GMP.

8.2.10 Sales, use, gross receipts, or other taxes, tariffs, or duties related to the Work for which Construction Manager is liable.

8.2.11 Permits, fees, licenses, tests, royalties.

8.2.12 Losses, expenses, or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for a one-year period following the Date of Substantial Completion, provided that such losses, expenses, damages, or corrective work did not arise from Construction Manager's negligence.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

8.2.13 Costs associated with establishing, equipping, operating, maintaining, and demobilizing the field office.

8.2.14 Water, power, and fuel costs necessary for the Work.

8.2.15 Cost of removal of all nonhazardous substances, debris, and waste materials.

8.2.16 Costs incurred due to an emergency affecting the safety of persons or property.

8.2.17 Legal, mediation, and arbitration fees and costs, other than those arising from disputes between Owner and Construction Manager, reasonably and properly resulting from Construction Manager's performance of the Work.

8.2.18 Costs directly incurred in the performance of the Work or in connection with the Project, and not included in Construction Manager's Fee as set forth in ARTICLE 7, which are reasonably inferable from the Contract Documents.

8.3 DISCOUNTS All discounts for prompt payment shall accrue to Owner to the extent such payments are made directly by Owner. To the extent payments are made with funds of Construction Manager, all cash discounts shall accrue to Construction Manager. All trade discounts, rebates, and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work.

ARTICLE 9 CHANGES

Changes in the Work that are within the general scope of this Agreement shall be accomplished, without invalidating this Agreement, by Change Order and Interim Directive.

9.1 CHANGE ORDER

9.1.1 Construction Manager may request or Owner may order changes in the Work or the timing or sequencing of the Work that impacts the GMP or the estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion and, if appropriate, the Compensation for Preconstruction Services. All such changes in the Work shall be formalized in a Change Order. Any such requests for changes in the Work shall be processed in accordance with this article.

9.1.2 For changes in the Work, the Parties shall negotiate an equitable adjustment to the GMP or the Date of Substantial Completion or Date of Final Completion in good faith and conclude negotiations as expeditiously as possible. Acceptance of the Change Order and any equitable adjustment in the GMP or Date of Substantial Completion or Date of Final Completion shall not be unreasonably withheld.

9.1.3 NO OBLIGATION TO PERFORM Construction Manager shall not be obligated to perform changes in the Work that impact the GMP or the estimated Cost of the Work, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion without a Change Order or Interim Directive.

9.2 INTERIM DIRECTIVES

9.2.1 Owner may issue an Interim Directive directing a change in the Work before reaching agreement with Construction Manager on the adjustment, if any, in the GMP, Construction Manager's Fee, Date of Substantial Completion or Date of Final Completion, or directing Construction Manager



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

to perform Work that Owner believes is not a change. If the Parties disagree that the Interim Directed work is within the scope of the Work, Construction Manager shall perform the disputed Work and furnish Owner with an estimate of the costs to perform the disputed work in accordance with Owner's interpretations.

9.2.2 The Parties shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the GMP or the Date of Substantial Completion or Date of Final Completion arising out of an Interim Directive. As the directed Work is performed, Construction Manager shall submit its costs for such Work with its application for payment beginning with the next application for payment within thirty (30) Days of the issuance of the Interim Directive. If there is a dispute as to the cost to Owner, Owner shall pay Construction Manager fifty percent (50%) of its actual (incurred or committed) cost to perform the Work. In such event, the Parties reserve their rights as to the disputed amount, subject to the requirements of ARTICLE 13. Owner's payment does not prejudice its right to be reimbursed should it be determined that the disputed work was within the scope of the Work. Construction Manager's receipt of payment for the disputed work does not prejudice its right to receive full payment for the disputed work should it be determined that the disputed work is not within the scope of the Work. Undisputed amounts may be included in applications for payment and shall be paid by Owner in accordance with this Agreement.

9.2.3 When the Parties agree upon the adjustments in the GMP or the Date of Substantial Completion or Date of Final Completion, for a change in the Work directed by an Interim Directive, such agreement shall be the subject of an appropriate Change Order. The Change Order shall include all outstanding Interim Directives on which the Parties have reached agreement on GMP or the Date of Substantial Completion or Date of Final Completion issued since the last Change Order.

9.3 DETERMINATION OF COST

9.3.1 An increase or decrease in the GMP or the Date of Substantial Completion or Date of Final Completion resulting from a change in the Work shall be determined by one or more of the following methods:

9.3.1.1 unit prices set forth in this Agreement or as subsequently agreed;

9.3.1.2 a mutually accepted, itemized lump sum;

9.3.1.3 Cost of the Work as defined by ARTICLE 8 and determined as a net savings from the change in the work; plus 2.5% for fee. Construction Manager's fee shall be added to any net increase in GMP. No Overhead and profit shall be applied to any net decrease in the GMP that is less than ten percent (10%). Overhead and profit shall be applied to any net decrease of the GMP that is ten percent (10%) or more.

9.3.1.4 If there is a net increase in the GMP, Construction Manager's Fee shall be adjusted accordingly. In case of a net decrease in the GMP, Construction Manager's Fee shall not be adjusted unless ten percent (10%) or more of the Project is deleted. Construction Manager shall maintain a documented, itemized accounting evidencing the expenses and savings.

9.3.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the Parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to either Party, such unit prices shall be equitably adjusted.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

9.3.3 If the Parties disagree as to whether work required by Owner is within the scope of the Work, Construction Manager shall furnish Owner with an estimate of the costs to perform the disputed work in accordance with Owner's interpretations.

9.4 CHANGES NOTICE Except as provided in §6.3.2 and §6.4 for any claim for an increase in the GMP or the Date of Substantial Completion or Date of Final Completion, Construction Manager shall give Owner written notice of the claim within fourteen (14) Days after the occurrence giving rise to the claim or within fourteen (14) Days after Construction Manager first recognizes the condition giving rise to the claim, whichever is later. Owner's failure to so respond shall be deemed a denial of Construction Manager's claim. Except in an emergency, notice shall be given before proceeding with the Work. Thereafter, Construction Manager shall submit written documentation of its claim, including appropriate supporting documentation, within twenty-one (21) Days after giving notice, unless the Parties mutually agree upon a longer period of time. No later than fourteen (14) Days after receipt, Owner shall respond in writing denying or approving the claim. Owner's failure to so respond shall be deemed a denial of the claim. Any change in the GMP or the Date of Substantial Completion or Date of Final Completion resulting from such claim shall be authorized by Change Order.

9.5 INCIDENTAL CHANGES Owner may direct Construction Manager to perform incidental changes in the Work, upon concurrence with Construction Manager that such changes do not involve adjustments in the Contract Price or the Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. Owner shall initiate an incidental change in the Work by issuing a written order to Construction Manager. Such written notice shall be carried out promptly and is binding on the Parties.

ARTICLE 10 PAYMENT

10.1 SCHEDULE OF VALUES Within twenty-one (21) Days from the date of execution of this Agreement, Construction Manager shall prepare and submit to Owner and Design Professional a schedule of values apportioned to the various divisions or phases of the Work. Each line item contained in the schedule of values shall be assigned a value such that the total of all items shall equal the GMP.

10.2 PROGRESS PAYMENTS

10.2.1 APPLICATIONS Construction Manager shall submit to Owner and, if directed, Design Professional a monthly application for payment no later than the twenty fifth (25th) Day of the calendar month for the preceding calendar month. Construction Manager's applications for payment shall be itemized and supported by Construction Manager's schedule of values based on a percentage of completion and shall include any other substantiating data as required by this Agreement. Applications for payment shall include payment requests on account of properly authorized Change Orders or Interim Directives. Owner shall pay the amount otherwise due on any payment application, as certified by Design Professional, no later than fifteen (15) Days after accepting such application. Owner may deduct from any progress payment amounts that may be retained pursuant to §10.2.4.

10.2.2 STORED MATERIALS AND EQUIPMENT Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by Construction Manager of bills of sale and proof of required insurance, or such other documentation satisfactory to Owner to establish the proper valuation of the stored materials and equipment,



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

Owner's title to such materials and equipment, and to otherwise protect Owner's interests therein, including transportation to the Worksite.

10.2.3 LIEN WAIVERS AND LIENS

10.2.3.1 PARTIAL LIEN WAIVERS AND AFFIDAVITS If required by Owner, as a prerequisite for payment, Construction Manager shall provide a partial lien and claim waiver in the amount of the application for payment and affidavits from its Subcontractors and Suppliers for the completed Work. Such waivers shall be conditional upon payment. In no event shall Construction Manager be required to sign an unconditional waiver of lien or claim, before receiving payment or in an amount in excess of what it has been paid.

10.2.3.2 RESPONSIBILITY FOR LIENS If Owner has made payments in the time required by this article, Construction Manager shall, within thirty (30) Days after filing, remove any liens filed against the premises or public improvement fund by any party or parties performing labor or services or supplying materials in connection with the Work. If Construction Manager fails to take such action on a lien, Owner may cause the lien to be removed at Construction Manager's expense, including bond costs and reasonable attorneys' fees. This subsection shall not apply if there is a dispute pursuant to ARTICLE 13 relating to the subject matter of the lien.

10.2.4 RETAINAGE From each progress payment made before Substantial Completion, Owner may retain five percent (5%), of the amount otherwise due after deduction of any amounts as provided in §10.3, provided such percentage doesn't exceed the Law. If Owner chooses to use this retainage provision:

10.2.4.1 after the Work is fifty percent (50%) complete, Owner shall withhold no additional retainage and shall pay Construction Manager the full amount due on account of subsequent progress payments;

10.2.4.2 Owner may, in its sole discretion, reduce the amount to be retained at any time;

10.2.4.3 Owner may release retainage on that portion of the Work a Subcontractor has completed in whole or in part, and which Owner has accepted. In lieu of retainage, Construction Manager may furnish a retention bond or other security interest acceptable to Owner, to be held by Owner.

10.3 ADJUSTMENT OF CONSTRUCTION MANAGER'S PAYMENT APPLICATION Owner may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect Owner from loss or damage based upon the following, to the extent that Construction Manager is responsible under this Agreement:

10.3.1 Construction Manager's repeated failure to perform the Work as required by the Contract Documents;

10.3.2 except as accepted by the insurer providing builder's risk or other property insurance covering the Project, loss or damage arising out of or relating to this Agreement and caused by Construction Manager to Owner or others to whom Owner may be liable;

10.3.3 Construction Manager's failure to properly pay Subcontractors and Suppliers following receipt of such payment from Owner for that portion of the Work or for supplies, provided that Owner is making payments to Construction Manager in accordance with this Agreement;



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

10.3.4 rejected or Defective Work not corrected in a timely fashion;

10.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed by the Dates of Substantial or Final Completion;

10.3.6 reasonable evidence demonstrating that the unpaid balance of the GMP is insufficient to fund the cost to complete the Work; and

10.3.7 uninsured third-party claims involving Construction Manager or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until Construction Manager furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established.

No later than seven (7) Days after receipt of an application for payment, Owner shall give written notice to Construction Manager, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by Construction Manager in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.

10.4 ACCEPTANCE OF WORK Neither Owner's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of Work not complying with the Contract Documents.

10.5 PAYMENT DELAY If for any reason not the fault of Construction Manager Construction Manager does not receive a progress payment from Owner within seven (7) Days after the time such payment is due, then Construction Manager, upon giving seven (7) Days' written notice to Owner, and without prejudice to and in addition to any other legal remedies, may stop Work until payment of the full amount owing to Construction Manager has been received, including interest for late payment. If Construction Manager incurs costs or is delayed resulting from shutdown, delay, and start-up, Construction Manager may seek an equitable adjustment in the GMP and Dates of Substantial or Final Completion may be equitably adjusted by a Change Order in accordance with ARTICLE 9.

10.6 SUBSTANTIAL COMPLETION

10.6.1 Construction Manager shall notify Owner and, if directed, Design Professional when it considers Substantial Completion of the Work or a designated portion to have been achieved. Owner, with the assistance of its Design Professional, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by Owner without excessive interference in completing any remaining unfinished Work. If Owner determines that the Work or designated portion has not reached Substantial Completion, Owner, with the assistance of its Design Professional, shall promptly compile a list of items to be completed or corrected so Owner may occupy or use the Work or designated portion for its intended use. Construction Manager shall promptly complete all items on the list.

10.6.2 When Substantial Completion of the Work or a designated portion is achieved, Construction Manager shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of each Party for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by Construction Manager to Owner and, if directed, to Design Professional for written acceptance of responsibilities assigned in the Certificate of Substantial Completion.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

10.6.3 Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.

10.6.4 Upon Owner's written acceptance of the Certificate of Substantial Completion, Owner shall pay to Construction Manager the remaining retainage held by Owner for the Work described in the Certificate of Substantial Completion less a sum equal to one hundred and fifty percent (150%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the Parties as necessary to achieve Final Completion. Uncompleted items shall be completed by Construction Manager in a mutually agreed upon timeframe. Owner shall pay Construction Manager monthly the amount retained for unfinished items as each item is completed.

10.7 PARTIAL OCCUPANCY OR USE

10.7.1 Owner may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. Construction Manager shall not unreasonably withhold consent to partial occupancy or use. Owner shall not unreasonably refuse to accept partial occupancy.

10.8 FINAL COMPLETION AND FINAL PAYMENT

10.8.1 Upon notification from Construction Manager that the Work is complete and ready for final inspection and acceptance, Owner, with the assistance of its Design Professional shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.

10.8.2 When the Work is complete, Construction Manager shall prepare for Owner's written acceptance a final application for payment stating that to the best of Construction Manager's knowledge, and based on Owner's inspections, the Work has reached Final Completion in accordance with the Contract Documents.

10.8.3 Final payment of the balance of the GMP shall be made to Construction Manager within twenty (20) Days after Construction Manager has submitted an application for final payment, including submissions required under §10.8.4, and a Certificate of Final Completion has been executed by the Parties.

10.8.4 Final payment shall be due on Construction Manager's submission of the following to Owner:

10.8.4.1 an affidavit declaring any indebtedness connected with the Work, to have been paid, satisfied, or to be paid with the proceeds of final payment, so as not to encumber Owner's property;

10.8.4.2 as-built drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents;

10.8.4.3 release of any liens, conditioned on final payment being received;

10.8.4.4 consent of any surety; and

10.8.4.5 any outstanding known and unreported accidents or injuries experienced by Construction Manager or its Subcontractors at the Worksite.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

10.8.5 If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of Construction Manager, Owner shall pay the balance due for any portion of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount before payment, Construction Manager shall submit to Owner and, if directed, Design Professional the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by this §10.8.

10.8.6 OWNER RESERVATION OF CLAIMS Owner's claims not reserved in writing with final payment are waived, except for claims relating to liens or similar encumbrances, warranties, Defective Work, and latent defects.

10.8.7 ACCEPTANCE OF FINAL PAYMENT Unless Construction Manager provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.

10.9 LATE PAYMENT Payments due but unpaid shall bear interest from the date payment is due at the statutory rate at the place of the Project.

ARTICLE 11 INDEMNITY, INSURANCE, AND BONDS

11.1 INDEMNITY

11.1.1 To the fullest extent permitted by law, Construction Manager shall indemnify and hold harmless Owner, Owner's officers, directors, members, consultants, agents, and employees, Design Professional, and Others (the "Indemnitees") from all claims for bodily injury and property damage, other than to the Work itself and other property insured, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of the Work, but only to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, Subcontractors, Suppliers, Subsubcontractors, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. Construction Manager shall be entitled to reimbursement of any defense costs paid above Construction Manager's percentage of liability for the underlying claim to the extent provided for by §11.1.2.

11.1.2 To the fullest extent permitted by law, Owner shall indemnify and hold harmless Construction Manager, its officers, directors, members, consultants, agents, and employees, Subcontractors, Suppliers, or anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable from all claims for bodily injury and property damage, other than property insured, including reasonable attorneys' fees, costs, and expenses, that may arise from the performance of work by Owner, Design Professional, or Others, but only to the extent caused by the negligent or intentionally wrongful acts or omissions by Owner, Design Professional, or Others. Owner shall be entitled to reimbursement of any defense costs paid above Owner's percentage of liability for the underlying claim to the extent provided for by §11.1.1.

11.1.3 NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of Construction Manager, anyone directly or indirectly employed by Construction Manager, or anyone for whose acts Construction Manager may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Construction Manager under workers' compensation acts, disability benefit acts, or other employment benefit acts.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

11.2 INSURANCE

11.2.1 Before starting the Work and as a condition precedent to payment, Construction Manager shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance ("CGL"). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. Construction Manager shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Construction Manager's Employers' Liability, Business Automobile Liability and CGL policies shall be written with at least the following limits of liability:

11.2.1.1 Employers' Liability Insurance
(a) $1,000,000 bodily injury by accident per accident.
(b) $1,000,000 bodily injury by disease policy limit.
(c) $1,000,000 bodily injury by disease per employee.

11.2.1.2 Business Automobile Liability Insurance $1,000,000 per accident.

11.2.1.3 Commercial General Liability Insurance
(a) $1,000,000 per occurrence.
(b) $2,000,000 general aggregate.
(c) $2,000,000 products/completed operations aggregate.
(d) $1,000,000 personal and advertising injury limit.

11.2.2 Employers' Liability, Business Automobile Liability, and CGL coverages required under §11.2.1 may be provided by a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella liability policies.

11.2.3 Construction Manager shall maintain in effect all insurance coverage required under §11.2.1 with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Construction Manager fails to obtain or maintain any insurance coverage required under this Agreement, Owner may purchase such coverage and charge the expense to Construction Manager, or terminate this Agreement.

11.2.4 To the extent commercially available to Construction Manager from its current insurance company, insurance policies required under §11.2.1 shall contain a provision that the insurance company or its designee must give Owner written notice transmitted in paper or electronic format: (a) thirty (30) Days before coverage is nonrenewed by the insurance company and (b) within ten (10) Business Days after cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Construction Manager shall furnish Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under §11.2.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Construction Manager shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

11.3 PROPERTY INSURANCE

11.3.1 Unless otherwise directed in writing by Owner, before starting the Work, Construction Manager shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also (a) name



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

Construction Manager, Subcontractors, Subsubcontractors, and Design Professional as named insureds; (b) be written in such form to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and not exclude:

11.3.1.1 the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of Construction Manager) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse, however caused;

11.3.1.2 damage resulting from defective design, workmanship, or material;

11.3.1.3 coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant or structures. Coverage shall be to the extent loss or damage arises out of Construction Manager's activities or operations at the Project;

11.3.1.4 equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;

11.3.1.5 testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

11.3.1.6 physical loss resulting from Terrorism.

11.3.2 The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy pursuant to §11.3.1 shall be responsible for the deductible amounts or coinsurance payments as a reimbursable expense no greater than $10,000. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than Owner has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until Owner has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, Owner shall provide a copy of the property policy or policies obtained in compliance with this §11.3.

11.3.3 If Owner elects to purchase the property insurance required by this Agreement, including all of the coverages and deductibles for the same durations specified in this §11.3, Owner shall give written notice to Construction Manager before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with this §11.3. Owner may then provide insurance to protect its interests and the interests of the Construction Manager, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by Owner in a Change Order. If Owner gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, Owner shall be responsible for costs reasonably attributed to such failure.

11.3.4 The Parties each waive all rights against each other and their respective employees, agents, contractors, subcontractors, suppliers, subsubcontractors, and design professionals for damages caused by risks covered by the property insurance provided under §11.3.1, except such rights as they may have to the proceeds of the insurance. To the extent of the limits of Construction Manager's Commercial General Liability Insurance specified in §11.2.1 or N/A whichever is more, Construction Manager shall indemnify and hold harmless Owner against any and all liability, claims, demands,



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of Owner's existing adjacent property that may arise from the performance of the Work, to the extent caused by the negligent or intentionally wrongful acts or omissions of Construction Manager, Subcontractor, Supplier, Subsubcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

11.3.5 RISK OF LOSS Except to the extent a loss is covered by applicable insurance, risk of loss from damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk Policy pursuant to §11.3.1 until the Date of Final Completion.

11.3.6 POLLUTION LIABILITY INSURANCE Construction Manager ☐ is/ ☒ is not required to maintain pollution liability insurance. Unless indicated affirmatively, the obligation to procure such insurance is not triggered.

11.3.6.1 If applicable: in the following amounts: [_____] per occurrence, and shall apply for [_____] year(s) after Final Completion. The policy shall cover Construction Manager's liability during construction, removal, storage, encapsulation, transport and disposal of hazardous waste and contaminated soil, and asbestos abatement. The policy shall include coverage for on-site and off-site bodily injury and loss of damage to, or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gas, waste materials, or other irritants, contaminants or pollutants into or upon the land, the atmosphere or any water body, whether it be gradual or sudden and accidental. The policy shall not have exclusions for mold or asbestos.

11.4 ADDITIONAL GENERAL LIABILITY COVERAGE Owner ☒ shall/ ☐ shall not require Construction Manager to purchase and maintain additional liability coverage. If required, Construction Manager shall provide:

11.4.1 ☒ Additional Insured. Owner shall be named as an additional insured on Construction Manager's CGL specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent acts or omissions of Construction Manager, or those acting on Construction Manager's behalf, in the performance of Construction Manager's work for Owner at the Worksite. The insurance of the Construction Manager and its Subcontractors (both primary and excess) shall be primary to any insurance available to the Additional Insureds. Any insurance available to the Additional Insureds shall be excess and non-contributory.

11.4.2 ☒ OCP. Construction Manager shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on CGL specified, or limits as otherwise required by Owner.

Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by Owner directly or the costs may be reimbursed by Owner to Construction Manager by increasing the Contract Price to correspond to the actual cost required to purchase and maintain the coverage. Before commencing the Work, Construction Manager shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that Owner has been named as an additional insured, as applicable.

11.4.3 ROYALTIES, PATENTS, AND COPYRIGHTS Construction Manager shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

systems selected by Construction Manager and incorporated in the Work. Construction Manager shall defend, indemnify, and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. Owner agrees to defend, indemnify, and hold Construction Manager harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods, or systems specified by Owner or Design Professional.

11.5 BONDS Performance and Payment Bonds ☒ are/ ☐ are not required of Construction Manager. Such bonds shall be issued by a surety admitted in the state in which the Project is located and must be acceptable to Owner. Owner's acceptance shall not be withheld without a reasonable cause. The penal sum of the bonds shall each be one hundred percent (100%) of the GMP. Construction Manager shall endeavor to keep its surety advised of changes potentially impacting the GMP and Contract Time, though Construction Manager shall require that its surety waives any requirement to be notified of any alteration or extension of time.

ARTICLE 12 SUSPENSION, NOTICE TO CURE, AND TERMINATION

12.1 SUSPENSION BY OWNER FOR CONVENIENCE

12.1.1 OWNER SUSPENSION Should Owner order Construction Manager in writing to suspend, delay, or interrupt the performance of the Work for the convenience of Owner and not due to any act or omission of Construction Manager or any person or entity for whose acts or omissions Construction Manager may be liable, then Construction Manager shall immediately suspend, delay, or interrupt that portion of the Work for the time period ordered by Owner.

12.1.2 Any action taken by Owner that is permitted by any other provision of the Contract Documents and that results in a suspension of part or all of the Work does not constitute a suspension of Work under this section.

12.2 NOTICE TO CURE A DEFAULT If Construction Manager persistently fails to supply enough properly qualified workers, proper materials, or equipment to maintain the approved Schedule of the Work or fails to make prompt payment to its workers, Subcontractors, or Suppliers, disregards a Law or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, Construction Manager may be deemed in default.

12.2.1 After receiving Owner's written notice, if Construction Manager fails within seven (7) Days after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, then Owner shall give Construction Manager a second notice to correct the default within three (3) Business Days after receipt. The second notice to Construction Manager, and if applicable, the surety, may include, that Owner intends to terminate this Agreement for default absent appropriate corrective action.

12.2.2 If Construction Manager fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, Owner without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing reasonable means; (c) withhold payment due to Construction Manager; and (d) as Owner deems necessary, supply workers and materials, equipment, and other facilities for the satisfactory correction of the

ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

default, and charge Construction Manager, the costs and expenses, including reasonable Overhead, profit, and attorneys' fees.

12.2.3 In the event of an emergency affecting the safety of persons or property, Owner may immediately commence and continue satisfactory correction of such default without first giving written notice to Construction Manager, but shall give Construction Manager prompt written notice.

12.3 OWNER'S RIGHT TO TERMINATE FOR DEFAULT

12.3.1 Upon expiration of the second notice to cure pursuant to §12.2, and absent appropriate corrective action, Owner may terminate this Agreement by written notice. Termination for default is in addition to any other remedies available to Owner under §12.2. Termination for default is in addition to any other remedies available to Owner under §12.2. If Owner's costs arising out of Construction Manager's failure to cure, including the costs of completing the Work and reasonable attorneys' fees, exceed the unpaid GMP, Construction Manager shall be liable to Owner for such excess costs. If Owner's costs are less than the unpaid GMP, Owner shall pay the difference to Construction Manager. If Owner exercises its rights under this section, upon the request of Construction Manager, Owner shall furnish to Construction Manager a detailed accounting of the costs incurred by Owner.

12.3.2 If Owner or Others perform work under this section, Owner shall have the right to take and use any materials and supplies for which Owner has paid and located at the Worksite for the purpose of completing any remaining Work. Owner or Others performing work under §12.3 shall also have the right to use construction tools and equipment belonging to the Construction Manager or its subcontractors and located on the Worksite for the purpose of completing the remaining Work but only after Construction Manager's written consent which shall not be unreasonably withheld. If Owner uses Construction Manager's construction tools and equipment in accordance with this subsection, then Owner shall indemnify and hold harmless Construction Manager and applicable Subcontractors and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with Owner's use of Construction Manager's or applicable subcontractor's construction tools and equipment. Immediately upon completion of the Work, any remaining materials, supplies, or equipment not consumed or incorporated in the Work shall be returned to Construction Manager in substantially the same condition as when they were taken, reasonable wear and tear excepted.

12.3.3 If Construction Manager files a petition under the Bankruptcy Code, this Agreement shall terminate if: (a) Construction Manager or Construction Manager's trustee rejects the Agreement; (b) a default occurred and Construction Manager is unable to give adequate assurance of required performance; or (c) Construction Manager is otherwise unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

12.3.4 Owner shall make reasonable efforts to mitigate damages arising from Construction Manager's default, and shall promptly invoice Construction Manager for all amounts due pursuant to §12.2 and §12.3.

12.4 TERMINATION BY OWNER FOR CONVENIENCE

12.4.1 Upon Construction Manager's receipt of written notice from Owner, Owner may, without cause, terminate this Agreement. Construction Manager shall immediately stop the Work, follow Owner's instructions regarding shutdown and termination procedures, and strive to minimize any further costs.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

12.4.2 If Owner terminates this Agreement for convenience, Construction Manager shall be paid (a) for the Work performed to date including Overhead and profit; (b) for all demobilization costs and costs incurred resulting from termination, but not including Overhead or profit on Work not performed; and (c) reasonable attorneys' fees and costs related to termination; and (d) a premium as follows: N/A.

12.4.3 If Owner terminates this Agreement, Construction Manager shall:

12.4.3.1 execute and deliver to Owner all papers and take all action required to assign, transfer, and vest in Owner the rights of Construction Manager to all materials, supplies, and equipment for which payment has been or will be made in accordance with the Contract Documents and all subcontracts, orders, and commitments which have been made in accordance with the Contract Documents;

12.4.3.2 exert reasonable effort to reduce to a minimum Owner's liability for subcontracts, orders, and commitments that have not been fulfilled at the time of the termination;

12.4.3.3 cancel any subcontracts, orders, and commitments as Owner directs; and

12.4.3.4 sell at prices approved by Owner any materials, supplies, and equipment as Owner directs, with all proceeds paid or credited to Owner.

12.5 CONSTRUCTION MANAGER'S RIGHT TO TERMINATE

12.5.1 Seven (7) Days after Owner's receipt of written notice from Construction Manager, Construction Manager may terminate this Agreement if the Work has been stopped for a thirty (30) Day period through no fault of Construction Manager for any of the following reasons:

12.5.1.1 under court order or order of other governmental authorities having jurisdiction;

12.5.1.2 as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of Construction Manager, materials are not available; or

12.5.1.3 suspension by Owner for convenience pursuant to §12.1.

12.5.2 In addition, upon seven (7) Days' written notice to Owner and an opportunity to cure within three (3) Days, Construction Manager may terminate this Agreement if Owner:

12.5.2.1 fails to furnish reasonable evidence pursuant to §4.2 that sufficient funds are available and committed for Project financing, or

12.5.2.2 assigns this Agreement over Construction Manager's reasonable objection, or

12.5.2.3 fails to pay Construction Manager in accordance with this Agreement and Construction Manager has stopped Work in compliance with §10.5, or

12.5.2.4 otherwise materially breaches this Agreement.

12.5.3 Upon termination by Construction Manager in accordance with this section, Construction Manager shall be entitled to recover from Owner payment for all Work executed and for any proven loss, cost, or expense in connection with the Work, including all demobilization costs plus reasonable Overhead and profit on Work not performed.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

12.6 OBLIGATIONS ARISING BEFORE TERMINATION Even after termination, the provisions of this Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred, or obligations arising before the termination date.

ARTICLE 13 DISPUTE MITIGATION AND RESOLUTION

13.1 WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, Construction Manager shall continue the Work and maintain the Schedule of the Work during any dispute mitigation or resolution proceedings. If Construction Manager continues to perform, Owner shall continue to make payments in accordance with this Agreement.

13.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that a resolution could not be reached. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected below.

13.3 MITIGATION If the Parties select one of the dispute mitigation procedures provided in this section, disputes remaining unresolved after direct discussions shall be directed to the selected mitigation procedure. The dispute mitigation procedure shall result in a nonbinding finding on the matter, which may be introduced as evidence at a subsequent binding adjudication of the matter, as designated in §13.5. The Parties agree that the dispute mitigation procedure shall be:

☒ Project Neutral ("Neutral")
☐ Dispute Review Board (DRB).

13.3.1 MITIGATION PROCEDURES As soon as practicable after the execution of this Agreement, the Neutral or DRB shall be mutually selected and appointed by the Parties and shall execute a retainer agreement with the Parties establishing the scope of responsibilities, including requirements for nonbinding findings. Costs and expenses of the Neutral or DRB shall be shared equally by the Parties. A Neutral or DRB shall be available to either Party, upon request, throughout the course of the Project, and shall make regular visits to the Project so as to maintain an up-to-date understanding of the Project progress and issues and to enable the Neutral or DRB to address matters in dispute between the Parties promptly and knowledgeably.

13.3.2 If the matter remains unresolved following the issuance of the nonbinding findings or such findings are not made within five (5) Business Days of the referral, the Parties shall submit the matter to the binding dispute resolution procedure designated in §13.5.

13.3.3 If the Parties agree to use a DRB, then the dispute mitigation procedures and time requirements in §13.3.1 and §13.3.2. shall be governed by the specifications and agreement applicable to that DRB.

13.4 MEDIATION If direct discussions pursuant to §13.2 do not result in resolution of the matter and no dispute mitigation procedure is selected under §13.3, the Parties shall endeavor to resolve the matter by



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

mediation through the current Construction Industry Mediation Rules of the American Arbitration Association, or the Parties may mutually agree to select another set of mediation rules. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties.

13.5 BINDING DISPUTE RESOLUTION If the matter is unresolved after submission of the matter to a mitigation procedure or to mediation, the Parties shall submit the matter to the binding dispute resolution procedure selected below:

☐ Arbitration using:

☐ the current Construction Industry Arbitration Rules of the AAA and administered by the AAA;
☐ the current JAMS Engineering and Construction Arbitration Rules and Procedures and administered by JAMS; or
☐ the current arbitration rules of [_____] and administered by [_____].

Unless the Parties mutually agree otherwise in writing, if arbitration is selected as the binding dispute resolution procedure and this Agreement does not specify the arbitration rules to be utilized, then the arbitration shall be conducted using the current Construction Industry Arbitration Rules of the AAA and the arbitration shall be administered by the AAA.

☒ Litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.

13.6 COSTS The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

13.7 VENUE To the extent permitted by Law, the venue of any binding dispute resolution procedure shall be the location of the Project.

13.8 MULTIPARTY PROCEEDING All parties necessary to resolve a matter agree to be parties to the same dispute resolution proceeding, if possible. Appropriate provisions shall be included in all other contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution procedures.

13.9 LIEN RIGHTS Nothing in this article shall limit any rights or remedies not expressly waived by Construction Manager which Construction Manager may have under lien laws.

ARTICLE 14 MISCELLANEOUS

14.1 EXTENT OF AGREEMENT Except as expressly provided, this Agreement is for the exclusive benefit of the Parties, and not the benefit of any third party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of the Parties and not for the benefit of any third party.

14.2 ASSIGNMENT Except as to the assignment of proceeds, neither Party shall assign their interest in this Agreement without the written consent of the other Party. The terms and conditions of this Agreement



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party shall assign the Agreement as a whole without written consent of the other except that Owner may assign the Agreement to a wholly owned subsidiary of Owner when Owner has fully indemnified Construction Manager or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to Construction Manager than this Agreement. If such assignment occurs, Construction Manager shall execute any consent reasonably required. In such event, the wholly owned subsidiary or lender shall assume Owner's rights and obligations under the Contract Documents. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under this Agreement, unless otherwise agreed by the other Party.

14.3 GOVERNING LAW & VENUE Missouri law shall govern this Agreement. Venue for any dispute that results in litigation shall lie exclusively in the Circuit Court of Jasper County, Missouri.

14.4 SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

14.5 NOTICE Unless changed in writing, a Party's address indicated in Article 1 shall be used when delivering notice to a physical address. Except for Agreement termination and as otherwise specified in the Contract Documents, notice is effective upon transmission by any effective means, including U.S. postal service and overnight delivery service.

14.6 NO WAIVER OF PERFORMANCE Either Party's failure to insist upon any of its rights, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance or any other term, covenant, condition, or right.

14.7 TITLES The titles given to the articles are for ease of reference only and shall not be relied upon or cited for any other purpose.

14.8 JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

ARTICLE 15 CONTRACT DOCUMENTS

15.1 EXISITING CONTRACT DOCUMENTS The Contract Documents in existence at the time of execution of this Agreement are as follows:

(a) Other: Conceptual Plans
(b) Exhibit A: Existing Conditions - Aerial

15.2 INTERPRETATION OF CONTRACT DOCUMENTS

15.2.1 The drawings and specifications are complementary. If Work is shown only on one but not on the other, Construction Manager shall perform the Work as though fully described on both.

15.2.2 In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of omissions or errors in figures, drawings, or specifications, Construction Manager shall immediately submit the matter to Owner for clarification. Subject to an equitable adjustment in the



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

GMP, Dates of Substantial or Final Completion pursuant to ARTICLE 9 or a dispute mitigation and resolution, Owner's clarifications are final and binding.

15.2.3 Where figures are given, they shall be preferred to scaled dimensions.

15.2.4 Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

15.2.5 ORDER OF PRECEDENCE In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to this Agreement; (b) the Agreement; (c) subject to §15.2.2 the drawings, specifications, and addenda issued before the execution of this Agreement; (d) approved submittals; (e) information furnished by Owner pursuant to §3.15.4 or designated as a Contract Document in §15.1; (f) other Contract Documents listed in this Agreement.

OWNER: City of Joplin, Missouri

BY: _____ NAME: _____ TITLE: _____

WITNESS: _____ NAME: _____ TITLE: _____

CONSTRUCT MANAGER: Branco Enterprises, Inc.

BY: _____ NAME: _____ TITLE: _____

WITNESS: _____ NAME: _____ TITLE: _____

END OF DOCUMENT.



ConsensusDocs® 500 - Standard Agreement and General Conditions Between Owner and Construction Manager (CM At-Risk) © 2017, Revised November 2023. THIS DOCUMENT MAY HAVE BEEN MODIFIED. The ConsensusDocs technology platform creates a redline comparison to the standard language which the purchaser of this contract is authorized to share for review purposes. Consultation with legal and insurance counsel are strongly encouraged. You may only make copies of finalized documents for distribution to parties in direct connection with this contract. Any other uses are strictly prohibited.
CONTENT SECURE ID: 1D1E044D-BC2A

COUNCIL BILL NO. 2024-619 **ORDINANCE NO.**

AN ORDINANCE approving a CMAR Contract by and between the City of Joplin and Branco Enterprises Inc., for general conditions, terms, and pre-construction services of the Ewert Splash Park Project; authorizing the City Manager to execute said Contract by and on behalf of the City of Joplin.

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

Section 1. That the Contract by and between the City of Joplin and Branco Enterprises Inc. to complete the Ewert Splash Park Project a true and accurate copy of said agreement being attached hereto and incorporated herein by reference as Exhibit "A", be, and the same is, hereby approved.

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

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

of _____, 2024, by a _____vote.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney

Exhibit A

Existing Conditions - Aerial



EXISTING CONDITIONS - AERIAL

Ewert Splash Park / 846 Murphy Blvd / Joplin, MO

March 12, 2024 / 023-04621

1" = 50'

0' 25' 50' 100'

SCALE IN FEET

N

olsson studio
1814 Main Street / Kansas City, MO 64108
O 816.842.8844 / olsson.com

Exhibit C

CMAR Services Scope of Work

CMAR Services Scope of Work

April 22, 2024

The City of Joplin has elected to pursue the Construction Manager at Risk (CMAR) project delivery methodology for this project. The selected CMAR shall provide planning (pre-construction) and professional inputs pertaining to construction schedules, construction market conditions, budgets, project-specific means/methods & constructability, and overall project construction costs. The City's overall goal for CMAR services is to integrate construction expertise with the design process provide "value-added" efficiencies to project planning and construction execution.

SCOPE OF WORK

Phase I: Pre-Construction Services

Task 1. Coordination with Design Professionals

a. CMAR shall work in close consultation with the Landscape Architect/Engineer consulting professionals, City staff, and the City Project Manager (herein referred to as "Project Team") to provide:
   i. Project Schedule Development:
      1. At the conclusion of the Schematic Design phase and in coordination with the Project Team, the CMAR shall develop a project schedule with activities, durations, and various milestones for the remainder of the project. Project schedule shall incorporate services of the CMAR and design professional, responsibilities of the City, permitting, and other activities that may impact the overall schedule. CMAR shall update schedule periodically as design progresses and notify City if any milestones will not be met as indicated in previous schedule iteration.
   ii. Construction Cost Estimates:
      1. Itemized cost estimates at the milestones below. CMAR shall use conceptual estimating techniques for the Schematic Design phase cost estimate with increasing level of detail and engagement of subcontractors and suppliers for subsequent cost estimates. Cost estimates shall be inclusive of the entire project.
         a. Schematic Design
         b. Design Development
         c. Construction Documents
   iii. Consultation:

1. As the design professional progresses with the design, the CMAR shall be constantly involved and shall:
    a. Identify potential design changes which could result in cost savings, schedule benefits, or other construction efficiencies.
    b. Provide input for standardized design elements and availability of labor and materials.
    c. Give recommendations for construction sequencing, lead-times, and optimal construction phasing
    d. Review Plans, Specifications, and Supporting documents (at Schematic Design, Design Development and Construction Documents phases) to ensure:
        i. Plans and specifications contain sufficient detail to reduce scope uncertainties and risk.
        ii. Materials and construction techniques are regionally available.
        iii. Sufficient due diligence has been completed to characterize subsurface site conditions (e.g. depth to bedrock, locations of known utilities, etc.)
2. Informal Meetings:
    a. Intermediate reviews and meetings with the Project Team may be required to refine the design prior to issuance of the defined deliverables.
        i. Informal meetings/Conference Calls: CMAR shall attend and provide input for one (1), 1-hour per month for a period of six (6) months.
        ii. Site Visits/Field Reconnaissance: CMAR shall attend a total of two (2), 1-hour site meetings to view site conditions and discuss real-world site conditions/constraints with Project Team.
3. Formal Meetings
    a. CMAR shall attend and participated in meetings with Project Team, as necessary to facilitate design. Meetings may include but not be limited to: design workshops, special design items, review of “working” construction documents, schedule and budget considerations, and public informational sessions.
        i. CMAR shall attend and provide input for one (1), 1-hour design team meetings per month for a period of eight (8) months.
    b. CMAR shall provide appropriate deliverables:

i. Meeting minutes
ii. Cost estimates
iii. Schedule estimates
iv. Bid-ability reports
v. Formal proposals for design changes for cost efficiency and constructability

Task 2. Responsibilities, CMAR Shall:

a. Work closely with Project Team to develop construction cost estimates, construction efficiency opportunities, construction schedule estimates, meeting minutes.
b. Assist with Federal, State, and local permitting compliance requirements for all aspects of construction planning and constructability. Provide construction industry input for compliance with permitting requirements.
c. Publicly advertise, in accordance with City purchasing procedures, and receive bids from subcontractors for the performance of all major elements of the work.
d. Provide recommendations to the Project Team and to identify cost efficient constructability options during the development of schematic plans, design development plans, and construction document plans.

Task 3. Deliverables, CMAR shall submit:

a. At Schematic Design (30% Plans):
    1. Constructability Review Report(s) compiled into a written review with all suggested constructability considerations for the entire project.
    2. Project schedule
    3. Itemized estimate of costs

ii. At Design Development (50% Plans) and Construction Documents (90% Plans):
    1. Report(s) compiled into a written review with evaluation of Plans, Specifications and written recommendations to mitigate scope uncertainties and construction risk (if any).
    2. Updated and more detailed project schedule with critical path and total float time shown.
        a. Schedule shall include estimate lead-time for procurement of specific equipment/subcontractor and materials.
    3. Updated itemized estimate of costs.

iii. At Construction Documents (90% and 100% Plans):
    1. An “open book”, fixed, Guaranteed Maximum Price (GMP) proposal for construction of the Project, for review by the City.

a. GMP shall be “open book” and include an itemized list of all costs including overhead, profit, and contingency provisions.
b. GMP itemized cost shall reference Standard Items defined in City of Joplin General Conditions and Technical Specifications along with any job special provisions.
c. GMP shall clearly state all assumptions.
d. GMP shall be inclusive of price for Fee for General Conditions and/or Construction Manager Fee (as % of total construction cost), subcontractor markup (as % of subcontractor total).

2. Allocation of work that CMAR would self-perform and allocation of portion of subcontracted work/work packages.
3. Construction Health and Safety Plan for construction covering construction worker personnel.
    a. Health and Safety Plan shall address OSHA construction requirements and any special considerations for the project.

Phase II: Construction Services

a. If the CMAR and the City come to agreement on the GMP, the CMAR shall procure subcontractors and materials and shall be responsible for execution of construction of the Project within the GMP. Execution of construction shall include but not be limited to:
    i. Procurement of materials and equipment
    ii. Solicit subcontractors and subcontract appropriate work.
    iii. Package and bid early-work construction packages.
    iv. Construction bonds and insurance requirements
    v. Coordinate submittal process.
    vi. Management of construction site and construction schedule
    vii. Management of Owner, Architect and Contractor Meeting. One (1) meeting per month for the duration of the construction timeline
    viii. Document construction progress with drone images, on site construction camera for image and video documentation. To be provide to the city on the monthly basis for their use. The documents shall become property of the city.
    ix. Maintain permit compliance with Federal, State, and local permit during construction.
    x. Implement health and safety practices.

xi. Implement quality management procedures including inspection and materials testing.
xii. Project Close-Out Services including subcontractor close-out, project warranty, any as-built notes & documents.

Understandings Pertaining to Phase I (Pre-Construction) and Phase II (Construction) Services

1. CMAR shall only provide construction input pertaining to budget, schedule, and constructability and shall NOT provide structural or engineering input.
2. CMAR shall work in concert with Project Team to develop cost estimates, identify construction efficiency opportunities, and project-specific means and methods throughout development of design.
3. Landscape Architect & Engineering consultant firms shall provide construction documents to CMAR for review and advisement during development of design.
4. Landscape Architect & Engineering consultant firms shall provide geotechnical report and site topographic survey.
5. City shall provide available geospatial data, old plans, environmental assessments, old subsurface and geotechnical reports and any other data relevant for construction of the project.
6. City shall coordinate with existing utilities and shall conduct any right-of-way or easement negotiations.
7. If contracted for construction services, CMAR shall be responsible for: (1) maintaining construction schedule, (2) fines or violations of permit, (3) construction related damages to existing facilities, infrastructure, property.
8. If Contracted for construction services, CMAR shall be responsible for construction cost up to the agreed upon GMP. CMAR shall be responsible for construction costs in excess of the agreed upon GMP.
9. The CMAR shall publicly advertise and bid all major elements of the Work in accordance with the City of Joplin purchasing guidelines. The CMAR may seek to perform portions of the Work itself and shall submit a sealed bid for those portions of the Work in the same manner as all other subcontractors.
10. CMAR derived constructability inputs are subject to review and approval of Project Team prior to being incorporated into the final construction documents.
11. Meetings are likely to be digital/remote format; however, up to approximately 50% of the meetings may be held, in-person, at location in Joplin, Missouri.

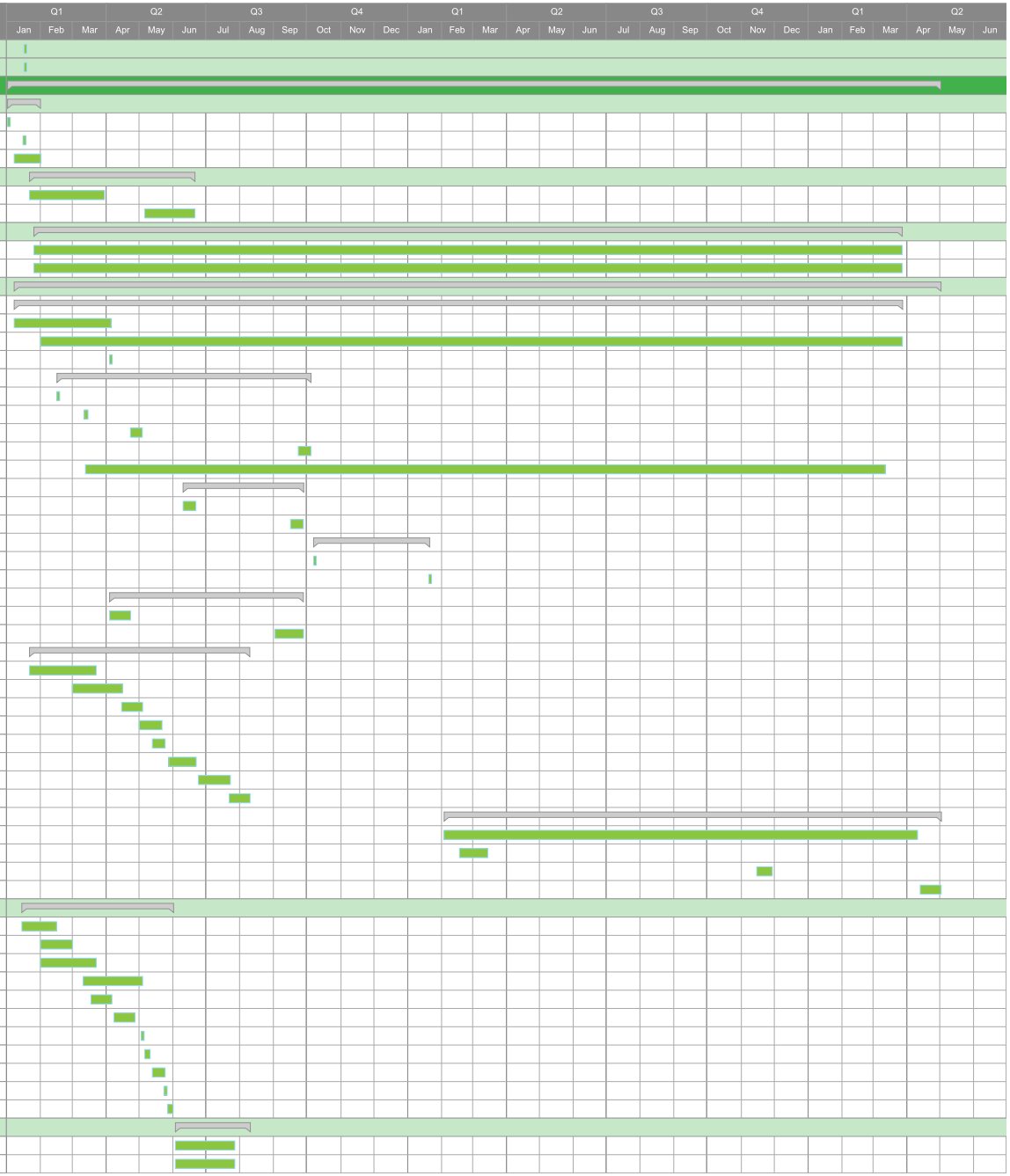
Exhibit D

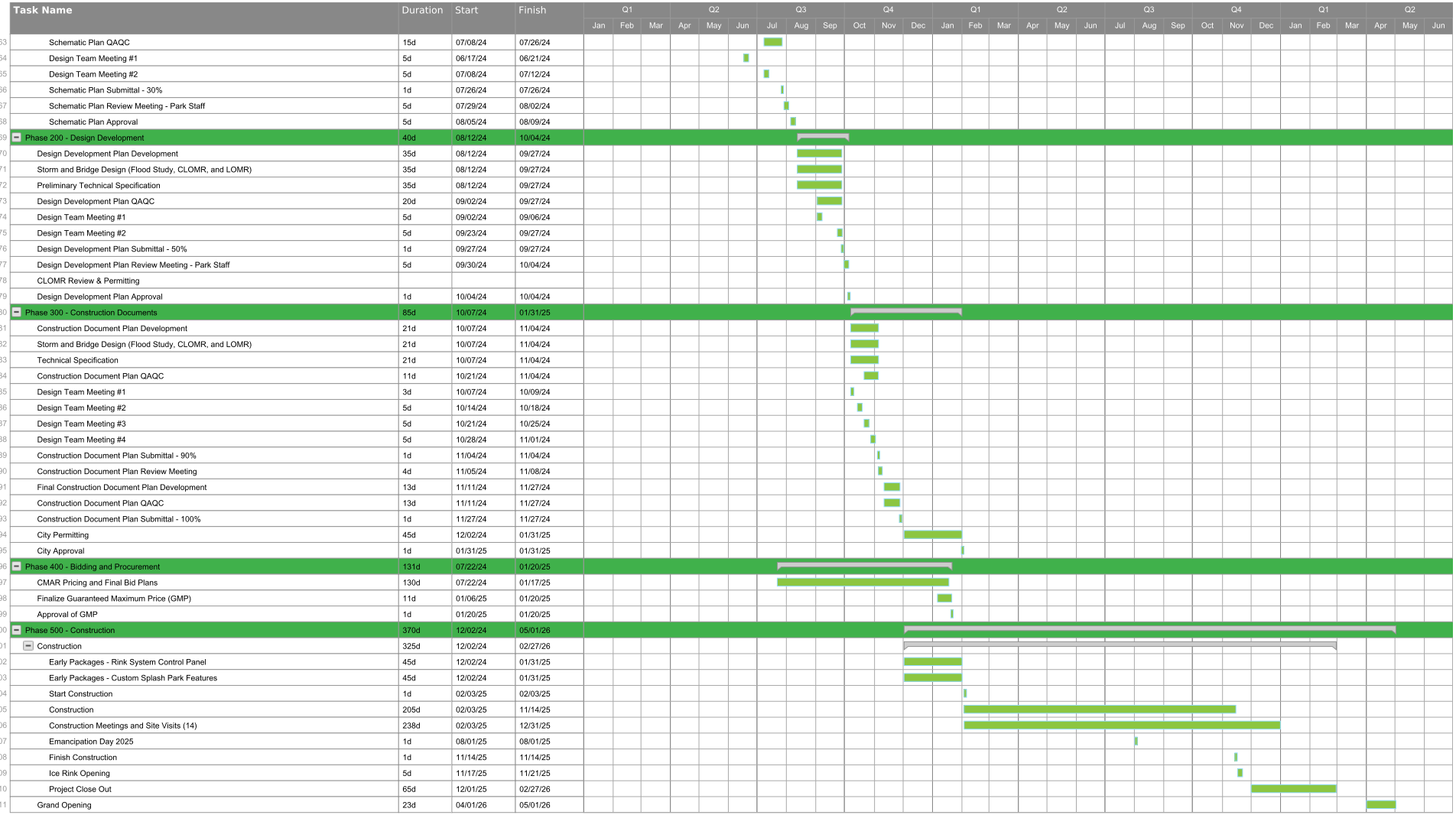
Preliminary Design Schedule

City of Joplin MO - Ewert Park Improvements

olsson studio

	Task Name	Duration	Start	Finish
1	Contract Approved/Signed	1d	01/17/24	01/17/24
2	Notice to Proceed	1d	01/17/24	01/17/24
3	Phase 100 - Schematic Design	609d	01/02/24	05/01/26
4	Project Kickoff and Research	22d	01/02/24	01/31/24
5	Project Kickoff	1d	01/02/24	01/02/24
6	Kick Off Meeting	1d	01/16/24	01/16/24
7	Data Gathering and Review	18d	01/08/24	01/31/24
8	Field Work	109d	01/22/24	06/20/24
9	Survey	50d	01/22/24	03/29/24
10	Geotechnical Study	34d	05/06/24	06/20/24
11	Project Updates	566d	01/26/24	03/27/26
12	Bi Weekly Email Updates (44)	566d	01/26/24	03/27/26
13	Project Update Meetings (22)	566d	01/26/24	03/27/26
14	Engagement	605d	01/08/24	05/01/26
15	Engagement Plan Development	580d	01/08/24	03/27/26
16	Branding, Press Releases, Website, Social Media Development	64d	01/08/24	04/04/24
17	Press Releases, Website Updates, and Social Media Posts	562d	02/01/24	03/27/26
18	Website Launch	1d	04/04/24	04/04/24
19	Stakeholder Group Meetings (4)	166d	02/16/24	10/04/24
20	Meeting #1 Stakeholder Project Kick Off	1d	02/16/24	02/16/24
21	Meeting #2 Visioning/Program and Design Charrette	3d	03/12/24	03/14/24
22	Meeting #3 Design Review	9d	04/23/24	05/03/24
23	Meeting #4 Final Design Review	10d	09/23/24	10/04/24
24	Park Board Meetings (10)	521d	03/13/24	03/11/26
25	Maintenance and Operations Stakeholder Meeting (2)	80d	06/10/24	09/27/24
26	Meeting #1 - Schematic	10d	06/10/24	06/21/24
27	Meeting #2 - Design Development	10d	09/16/24	09/27/24
28	City Council Meeting (2)	76d	10/07/24	01/20/25
29	Meeting #1 - Design Development	1d	10/07/24	10/07/24
30	Meeting #2 - Construction Documents & CMAR GMP	1d	01/20/25	01/20/25
31	Open House (2)	127d	04/04/24	09/27/24
32	Design Review - Concept - Virtual Open House	13d	04/04/24	04/22/24
33	Project Status - Design Development	20d	09/02/24	09/27/24
34	Construction Manager at Risk Support and Coordination Process	145d	01/22/24	08/09/24
35	Develop Plan	45d	01/22/24	03/22/24
36	Develop and Approval RFQ Two Step Process	32d	03/01/24	04/15/24
37	RFQ Release for CMAR Quals - Step 1	15d	04/15/24	05/03/24
38	CMAR Review Submittal Shortlist	15d	05/01/24	05/21/24
39	CMAR Fee and Pricing Requst - Step 2	10d	05/13/24	05/24/24
40	CMAR Review Submittals, Interviews and Selection	19d	05/28/24	06/21/24
41	CMAR Contract Development	21d	06/24/24	07/22/24
42	CMAR City Approved	15d	07/22/24	08/09/24
43	Construction	325d	02/03/25	05/01/26
44	Progress Updates	310d	02/03/25	04/10/26
45	Ground Breaking	20d	02/17/25	03/14/25
46	Soft Opening	11d	11/15/25	11/28/25
47	Grand Opening	15d	04/13/26	05/01/26
48	Concept Development	100d	01/15/24	05/31/24
49	Conceptual Design Preparation	24d	01/15/24	02/15/24
50	Program Development	21d	02/01/24	02/29/24
51	Concept Development	37d	02/01/24	03/22/24
52	Concept Refinement	40d	03/11/24	05/03/24
53	Design Team Meeting #1	15d	03/18/24	04/05/24
54	Design Team Meeting #2	15d	04/08/24	04/26/24
55	Concept Plan Submittal	1d	05/03/24	05/03/24
56	Concept Review Meeting - Park Staff	5d	05/06/24	05/10/24
57	Concept Plan Refinement	10d	05/13/24	05/24/24
58	Final Concept Plan Submittal	1d	05/24/24	05/24/24
59	Concept Approval	5d	05/27/24	05/31/24
60	Schematic Plans	50d	06/03/24	08/09/24
61	Schematic Plan Development	40d	06/03/24	07/26/24
62	Storm and Bridge Design (Flood Study, CLOMR, and LOMR)	40d	06/03/24	07/26/24





	Task Name	Duration	Start	Finish
63	Schematic Plan QAQC	15d	07/08/24	07/26/24
64	Design Team Meeting #1	5d	06/17/24	06/21/24
65	Design Team Meeting #2	5d	07/08/24	07/12/24
66	Schematic Plan Submittal - 30%	1d	07/26/24	07/26/24
67	Schematic Plan Review Meeting - Park Staff	5d	07/29/24	08/02/24
68	Schematic Plan Approval	5d	08/05/24	08/09/24
69	Phase 200 - Design Development	40d	08/12/24	10/04/24
70	Design Development Plan Development	35d	08/12/24	09/27/24
71	Storm and Bridge Design (Flood Study, CLOMR, and LOMR)	35d	08/12/24	09/27/24
72	Preliminary Technical Specification	35d	08/12/24	09/27/24
73	Design Development Plan QAQC	20d	09/02/24	09/27/24
74	Design Team Meeting #1	5d	09/02/24	09/06/24
75	Design Team Meeting #2	5d	09/23/24	09/27/24
76	Design Development Plan Submittal - 50%	1d	09/27/24	09/27/24
77	Design Development Plan Review Meeting - Park Staff	5d	09/30/24	10/04/24
78	CLOMR Review & Permitting			
79	Design Development Plan Approval	1d	10/04/24	10/04/24
80	Phase 300 - Construction Documents	85d	10/07/24	01/31/25
81	Construction Document Plan Development	21d	10/07/24	11/04/24
82	Storm and Bridge Design (Flood Study, CLOMR, and LOMR)	21d	10/07/24	11/04/24
83	Technical Specification	21d	10/07/24	11/04/24
84	Construction Document Plan QAQC	11d	10/21/24	11/04/24
85	Design Team Meeting #1	3d	10/07/24	10/09/24
86	Design Team Meeting #2	5d	10/14/24	10/18/24
87	Design Team Meeting #3	5d	10/21/24	10/25/24
88	Design Team Meeting #4	5d	10/28/24	11/01/24
89	Construction Document Plan Submittal - 90%	1d	11/04/24	11/04/24
90	Construction Document Plan Review Meeting	4d	11/05/24	11/08/24
91	Final Construction Document Plan Development	13d	11/11/24	11/27/24
92	Construction Document Plan QAQC	13d	11/11/24	11/27/24
93	Construction Document Plan Submittal - 100%	1d	11/27/24	11/27/24
94	City Permitting	45d	12/02/24	01/31/25
95	City Approval	1d	01/31/25	01/31/25
96	Phase 400 - Bidding and Procurement	131d	07/22/24	01/20/25
97	CMAR Pricing and Final Bid Plans	130d	07/22/24	01/17/25
98	Finalize Guaranteed Maximum Price (GMP)	11d	01/06/25	01/20/25
99	Approval of GMP	1d	01/20/25	01/20/25
100	Phase 500 - Construction	370d	12/02/24	05/01/26
101	Construction	325d	12/02/24	02/27/26
102	Early Packages - Rink System Control Panel	45d	12/02/24	01/31/25
103	Early Packages - Custom Splash Park Features	45d	12/02/24	01/31/25
104	Start Construction	1d	02/03/25	02/03/25
105	Construction	205d	02/03/25	11/14/25
106	Construction Meetings and Site Visits (14)	238d	02/03/25	12/31/25
107	Emancipation Day 2025	1d	08/01/25	08/01/25
108	Finish Construction	1d	11/14/25	11/14/25
109	Ice Rink Opening	5d	11/17/25	11/21/25
110	Project Close Out	65d	12/01/25	02/27/26
111	Grand Opening	23d	04/01/26	05/01/26

Exhibit E

CMAR Proposal Form

CMAR Proposal Form - Ewert Splash Park

Construction Management Service Fees

May 17, 2024

City Project Number OLS-Ewert23-01

For the purposes of calculating this proposal, CMAR is to assume this proposal only applies to the Ewert Splash Park with a project budget of $5,335,897.00 and 10 months of construction duration. The numbers provided on this proposal form shall reflect these assumptions. Proposals for other miscellaneous projects will be requested at the time of their commencement.

Provide values below in both words and figures as indicated. In the case of a discrepancy between the words and the figures, words will govern.

Preconstruction Services Fee:

Written form: Five Thousand Dollars

Numerical form: $ 5,000 Lump Sum

Construction Phase Services – Construction Manager's Fee:

Note: Method of adjustment of the Construction Manager's Fee for changes in the Work shall not exceed Construction Manager's Fee.

Written form: Two point five Percent

Numerical form: 2.5 %

General Conditions Fee (per Exhibit F: Proposal Matrix):

Written form: Nineteen thousand and five hundred Dollars per Month

Numerical form: $ 19,500 Dollars per Month

*3.65% of anticipated total construction costs

Authorized Representative's Signature:

Authorized Representative's Name Printed: Justin Branham

Company Name: Branco Enterprises, Inc.

Date: June 4, 2024

Exhibit F

Proposal Matrix

Exhibit F: PROPOSAL MATRIX

CONSTRUCTION MANAGEMENT SERVICES

City of Joplin, Missouri - Ewert Splash Park	Preconstruction Services	General Conditions	Cost of Work	CM Fee, Overhead & Profit Fee	Performance & Payment Bonds	Owner Provided
PRECONSTRUCTION						
Project Management	X					
Estimators & Budgeting	X					
Ongoing Value Engineering	X					
Site Superintentdnet Review	X					
Project Scheduling	X					
M/E Coordination	X					
Constructability & QA/QC Review	X					
Bid Package Preparation	X					
Plans, Specification Reproduction	X					
Online or Electronic Plan Distribution	X					
ADMINISTRATION						
Project Manager		X				
Project Admin & Support		X				
Project Executive		X				
Field Superintendent		X				
Estimating (ouside preconstruction)		X				
All supervision, including superintendents, project managers, assistant project managers, project engineers, foremen, and the like are all to be shown and included as part of General Conditions. There shall be no supervision expenses includedin any Cost of Work items.		X				
Profit				X		
Home Overhead, Office Management & Support				X		
Home Office Insurance, Taxes				X		
Home Office Software, License Fees, Equipment				X		
Project Website - Submittal Exchange, Procore, or similar Construction Administration software.		X				
Fed Ex, USPS, Courier Services		X				
TEMPORARY FACILITIES						
Temporary Field Office, Maintenance		X				
Field Office, Office Equipment, Office Supplies, Furniture		X				
Field Office IT, Cell Phone, PC, Radio & Communication Systems		X				
Field Office Electric		X				
Utility Service Charges (New Building)						X
Temporary Utility Installation			X			
Storage		X				
Field Supplies		X				
Personal Safety Equipment		X				

First Aid		X				
Fire Extinguishers		X				
Security / Watchman Services / Cameras			X			
Jobsite Progress Cleaning			X			
Final Cleaning			X			
Traffic Control & Flagging			X			
Roadway Cleaning & Maintenance & Dust Control			X			
Temporary Parking			X			
Safety Handrails, Guardrails			X			
Temporary Stairs, Enclosures, Fencing			X			
Temporary Partitions, Covered Walkways			X			
Project Signs			X			
Temporary Floor and Roof Protection			X			
Jobsite Toilets, Drinking Water, Sinks			X			
Jobsite Dumpster, Permits & Fees			X			
Debris Hauling and Removal			X			
Jobsite Equipment Rental			X			
Scaffolding and Hoisting			X			
Superintendent Truck, Fuel and Miscellaneous Equipment		X				
PERMITS, BONDS, INSURANCE						
Building Permit & Plan Review Fees			X			
Trade Permits, Tap Fees, Miscellaneous			X			
Vehicle Insurance		X				
Workman's Comp Insurance		X				
General Liability Insurance			X			
Builders Risk Insurance			X			
Subcontractors Bonds			X			
Performance & Payment Bonds					X	
CM Contractors License		X				
QUALITY CONTROL						
Special Inspections & Third Party Material Testing						X
Warranty Inspections and Coordination		X				
Mockups			X			
Project Progress Photograhy		X				
Survey & Staking			X			
Layout			X			
Testing & Balancing			X			
As-Built Documentation		X				

Authorized Representative's Signature

Justin Branham

Authorized Representative's Name Printed

Branco Enterprises, Inc.

Company Name

6/4/2024

Date

Request of Qualifications - Ewert Splash Park

Request for Qualifications (RFQ) for Construction Manager At Risk (CMAR) services for the Ewert Splash Park Improvements – Step 1 Submittal

Address:
615 South murphy Boulevard
Joplin, MO 64801

April 22, 2024

City Project Number OLS-Ewert23-01

The City of Joplin, Missouri is accepting Request of Qualifications for firms interested in providing Construction manager at Risk (CMAR) services for the implementation of a new splash park (the Project) in Ewert Park, located at 615 South Murphy Boulevard in Joplin, MO. The park is in the center of Joplin and the property is owned by the City.

Project Background

Park History: The 14 acres Ewert Park was deeded to the City of Joplin on February 29, 1924, by Mr. Paul A. Ewert and his wife, Sidney T. Ewert. A prominent lawyer and onetime Assistant U.S. Attorney General, Mr. Ewert gave the Park and Pool to Joplin's African American citizens; but the Park was later opened for all citizens to use. Ewert Aquatic Center, located within Ewert Park, was renovated in 1974 and 2003.

The pool has been an integral part of Ewert Park for nearly a century, and the history behind how and why the park and pool were developed are of importance to the community. Strategies and methods for educating on and incorporating that history should be recommended in this build.

Existing Park Features: The current park consists of basketball courts, tennis courts, picnic pavilion, grills, picnic tables, playground, swimming pool, restroom, and parking lot.

Park Improvements: An initial planning study for the new splash park was developed through the Ewert Pool Study which was completed in 2021. In Fall of 2023 the City hired a design team to provide preliminary and final plans along with construction administration services for the project. Improvements for the project consist of the following improvements.

- Splash park is expected to include:
    - Colored concrete and artificial turf, playground surfacing under dry play structure
    - Additional shade structures (5), existing shade structure at the bathhouse will remain
    - Ground sprays (33)
    - Tall and larger sprays (8)
    - Water table (1)
    - Spray arches (1)
    - Wet boulder sprays (2)
    - Wet play structure (1)
    - Dry play structure (1)
    - Dry boulder play unit (1)
    - Ice rink (12' width, 4,920 s.f.)
    - Landscaping

    - Bathhouse & buildings:
        - Reconfigure entry/admission area
        - Relocate men's shower tree
        - Add 2 family changing rooms
        - Condition the bathhouse to utilize in the winter months (for ice skating)
        - Basic interior and exterior aesthetic improvements
        - Recoat roof
        - Improvements to the entrance between the bathhouse and concession building.
- Ice Ribbon (rink) 12' wide, 4,290 sf ribbon that will weave in and around the splash park area. This will include lighting and an underground refrigeration system.
- Covered basketball / multiuse court that will take the place of the existing tennis courts. The covered court will include lighting, outlets, and a water fountain.
- An amphitheater south of the aquatic center, which will replace the current triangle shaped basketball court. This amphitheater will provide visibility to a minimum of 200 spectators, power will be provided for portable speaker systems, and lighting will be included for nighttime events.
- A park kiosk in a location that complements the amphitheater and other new park elements. The kiosk will incorporate design elements that highlight the history of Ewert Park. In addition to the kiosk, there will be interpretative signage at various locations throughout the park that highlight the park's history.
- The existing playground will be replaced with a new playground that will include a poured-in-place rubberized playground surface.
- Provide security in the parks with proposed enhancements including the addition of security lighting and camera systems within the park. Must conform and integrate with existing and proposed systems elsewhere.

Statement of Qualifications

Qualified firms interested in providing CMAR services for the splash park should submit a statement of qualifications (SOQ) according to the specifications below.

Proposal Submission Requirements:

Step 1 Submittal - Interested firms must submit qualifications that demonstrate their experience in performing similar projects. Submissions must include a response addressing the following information.

- Letter of interest

- Company profile: Provide the following information relative to your firm:
    - Firm name and business address, including telephone and facsimile numbers, and e-mail address.
    - Year established (include former firm names and year established). Identify the county and state in which the firm was incorporated or adopted.
    - Provide the firm's type of ownership and, if applicable, parent company or subsidiaries. Including date of any corporate mergers and/or acquisitions, including all present and former subsidiaries with dates of any and all restricting since the founding date. Also provide any licensure in Missouri.
    - Clarify the business address and telephone number o f the office(s) at which the work is to be accomplished (if different than item #A). Also include the name, address, and telephone number of the project manager, if different than item A.
    - Description of firms approach to CMAR pre-construction and construction management.

- Organizational Structure: Describe your firm's organizational structure and discuss how you anticipate organizing your project team for this engagement.

- Key staff resumes: Provide a listing of key project team members who will be involved highlighting their CMAR experience. Provide resumes for the project manager and other key managerial staff and technical information, which include work experience, education, and any work-related publications.

- Experience and qualifications: Set forth your experience and qualifications as they relate to the proposed project in terms of technical scope, tasks involved, and other elements of the work as they relate to the evaluation criteria and all requirements of this RFQ. Include total construction cost and the year stated and year completed for each project. The qualifications should provide all information which the Consultant considers pertinent to its qualifications for performing the work called for by the RFQ.

- References: Each firm must furnish a minimum of three (3) owner references. References should be listed for similar type work as requested in this RFQ. Each reference must identify and describe the project worked on and specify the originating and final project manager for the party providing the reference. References may or may not be reviewed or contacted, at the sole discretion of the City.

Submittals shall include up to a maximum of fifty (50) 8.5 x 11 single-sided pages or twenty-five (25) double-sided pages having a minimum font size of ten (10) point. The following

items will not count toward the page limitations: Cover page, Letter of interest and table of contents.

Step 1 SOQ submittals shall not include fee schedules or pricing structure of any kind.

SOQ Due Date
Sealed statement of qualifications with one (1) original and one (1) digital (PDF) copy will be received at the Parks Department no later than 10:00 a.m. central time on May 13, 2024. SOQ will not be accepted after this time. Failure to submit a complete SOQ will be considered non-responsive and will not be considered.

SOQ shall be addressed as follows:
For Mail or Hand Delivery
CITY OF JOPLIN
PAUL BLOOMBERG
DIRECTOR OF PARKS AND RECREATION
3301 WEST 1ST STREET
JOPLIN, MO 64801

Submitted envelopes should be marked: "REQUEST FOR QUALIFICATIONS – "OLS-Ewert23-01: Ewert Splash Park"

Inquiries
All inquiries on this Request for Qualifications should be directed to Paul Bloomberg at pbloomberg@joplinmo.org. The last day for questions prior to SOQ submittal deadline is May 6th, 2024 by 5:00 PM central time. Questions received after this deadline will not be answered.

Mandatory Pre-Submittal Conference Call Meeting
The city will conduct a mandatory pre-submittal conference call meeting on April 30th, 2024 at 10:00am Central Time. The meeting will be held via Zoom virtual meeting.
https://us06web.zoom.us/j/88536750700

CMAR process will be in accordance with RSMO 67.5050

Step 2 Submittal - After each SOQ has been scored for Step 1 submittals, the selection committee will select no more than five (5) firms for Step 2 where selected firms will be asked to provide additional information, at that time, such as:

- Project Management Plan/Interview

- Fee Proposal covering CMAR Services
    - Preconstruction Services Fee
    - Construction Phase Services – Construction Manager's Fee
    - General Conditions Fees

Upon evaluation of Step 2 submittals, the selection committee will select no more than three (3) firms to interview.

Project Schedule: (Tentative)

April 22nd, 2024 - Step 1 Issuance of Request for Qualifications (RFQ)

April 30th, 2024 - Mandatory Pre-Submission Conference Call Meeting

May 13th, 2024 - Step 1 Deadline for Receipt of SOQs

May 13th, 2024 - City Open SOQ and Reads Aloud Name of Firms

May 17th, 2024 Step 1 - City Shall notify all responsive Firms of Step 1 Selection Result and Request for Proposals (RFP)

June 4th, 2024 - Step 2 Selected Firms Deadline for Step 2 RFP Submittals.

June 11th to 14th,2024 - Interview Top 3 to 5 Firms and Final Selection

Qualification Evaluation and Selection:

Qualification Evaluation Process: Qualifications, which the City determines in its sole discretion, that are deemed responsive to this RFQ, will be reviewed and evaluated by the City. Qualifications will be evaluated, in part, according to whether the Firm meets the minimum qualifications and submits qualifications complying with all the requirements of this RFQ. Each firm's SOQ will be reviewed by a selection committee comprised of city staff and Landscape Architect/Engineer for the project.

Step 1 Selection Criteria - Evaluation of CMAR Firm qualifications will be based on the following criteria:

- 30 Points - Methodology - that the vendor will use to conduct work outlined in RFQ and evidence of ability to perform the work described herein. Including past performance, meeting budgets and schedule, and safety record.

- 40 Points - Experience – previous firm and personal experience performing related CMAR projects of complex nature, including, but not limited to, similar size and type of organization.
- 15 Points - References – will be based on references submitted as part of RFQ.
- 15 Points – Staff - capability and availability of firm to serve the City of Joplin in a competent and timely manner.
- 100 Points Total

Responsibility for Costs: The Firm shall be fully responsible for all costs associated with the development, preparation, transmittal, and submission of any proposal or material submitted in response to this RFQ. The City assumes no contractual or other obligations as a result of the issuance of this RFQ, the preparation or submission of a SOQ by a Consultant, the evaluation of SOQ, or the selection of any Consultant for further negotiations.

Contract Terms and Conditions:
The City may condition award of the Contract on the Firm's acceptance of the terms and conditions contained in the form of agreement attached hereto and made a part hereof as Exhibit B. Consultants may submit with its SOQ, written objections to the terms and conditions established in this RFQ and/or agreement by identifying the specific section(s) and paragraph(s) objected to, stating the reason(s) for the objection, and proposing alternative terms. Should Firm object to any of the terms and conditions established in this RFQ, including the form of agreement, the City reserves the right, in its sole discretion, to permit Firm to rescind any or all such exceptions at any time prior to award of a contract. The City, in its sole discretion, may evaluate proposals according to whether the Firm objects to terms and conditions and if Firm does object, the number and type of objections. In no event shall the City's selection of a Firm for further negotiations constitute acceptance of any objection or proposed alternative to the terms and conditions established in this RFQ. The City reserves the right, however, to add, delete, revise, or negotiate terms and conditions different than those included in the RFQ, if, in the sole judgment of the City, it is in the best interest of the City to do so.

Format and Content of Proposal

SOQ Terms and Conditions: The following terms and conditions apply to submitting Qualifications in response to this Request for Qualification:

Interviews: The City reserves the right to conduct personal interviews or require presentations of any or all proposers prior to selection. The City will not be liable for any costs incurred by the proposer in connection with such interviews/presentations (i.e. travel, accommodations, etc.)

Request for Additional Information: The proposer shall furnish such additional information as the City of Joplin may reasonably require. The City reserves the right to make investigations of the qualifications of the proposer as it deems appropriate.

Acceptance/Rejection/Modification to Step 1 SOQ and Step 2 Proposals: The City reserves the right to negotiate modifications to RFQ and RFP that it deems acceptable, reject any and all SOQ and Proposals, and to waive minor irregularities in the procedures.

Proposals Binding: All Step 2 proposals submitted shall be binding for one hundred twenty (120) calendar days following the opening.

Proposer's Certification: By submitting a Step 2 proposal, the proposer certifies that the proposal has been fully read and understood. The proposer has full knowledge of the scope and nature and quality of work to be performed. The proposer further certifies that no employee of the City has any direct or indirect financial interest in any resultant contract, and that no gratuities will be offered or provided to the City of Joplin employees or their family members.

Non-exclusive Contract: The agreement resulting from this RFQ shall be a non-exclusive contract, and the City reserves the right to purchase same or like services from other sources the City deems necessary and appropriate.

Late Submittals: SOQ and Proposals received by the City after the time specified for receipt will not be considered. Proposers shall assume full responsibility for timely delivery of the proposals to the location designated for receipt of proposals. The City of Joplin is not responsible for the U.S. Mail or private couriers regarding mail being delivered by the specified time so that a proposal can be considered. All proposals will be received at the time and place specified and made available for public inspection when an award decision is made.

Completeness: All information required by the Step 1 Request for Qualifications and Step 2 Request for Proposal must be supplied to constitute A legitimate SOQ and proposal. The City of Joplin reserves the right to use any and all information presented in any response to the Request for Proposal. Acceptance or rejection of the RFQ does not affect this right.

Execution of Agreement: It is anticipated the City will make their selection of a firm by June 14, 2024. The successful proposer shall enter into a contract with the City for the performance of work awarded to them and shall simultaneously provide any required bonds, indemnities and insurance certificates prior to the commencement of work. A copy of the sample agreement is attached in exhibit B. Failure to comply within the established deadline for submittal of required documents may be grounds for cancellation of the award.

SUBMISSION OF QUALIFICATIONS

In order for the City to adequately compare SOQ and evaluate them uniformly and objectively, all proposals shall be submitted in accordance with this format. The SOQ should be prepared simply and economically, providing straight-forward and concise information as requested.

Amendments

If it becomes necessary to revise or amend any part of this Request for Qualification, the City will furnish the revision by written Amendment to all prospective proposers who received an original Request for Qualification. Any such addenda will be posted on:

https://www.joplinmo.org/Bids.aspx

The last day for posted addenda to the RFQ will be May 8th, 2024 at 5pm central time

Proposal Evaluation Process

The selection of a CMAR is a two-step competitive process.
Step 1 consists of submission of qualifications. After qualification submissions are received, they will be opened publicly by the City, and the names of the respondents will be read aloud. A selection committee will then review the qualification submissions. Following the review of the submissions, the City will select no more than five (5) firms to submit on Step 2

Step 2 consists of a short list of firms asked to submit proposals in direct response to the Request for Proposal (RFP). A selection committee will then review the proposal submissions. Following the review of the submissions, the City will select no more than three (3) firms to invite to interview. The City may begin contract negotiations with the firm submitting the best proposal as determined by the selection criteria where qualification submissions account for 45% and proposal submissions shall account for 55%. In the event a contract agreement cannot be reached, the Owner reserves the right to negotiate with the firm submitting the next best proposal.

Exhibits
The following exhibits are referenced in this RFQ, incorporated into and made a part of this RFQ:

- Exhibit A - Existing Conditions - Aerial
- Exhibit B - Standard Agreement and General Conditions (Draft)
- Exhibit C - Construction Manager at Risk (CMAR) Services Scope of Work (Draft)
- Exhibit D – Preliminary Design Schedule

Exhibit B

NOTICE OF REQUEST FOR QUALIFICATIONS ADDENDUM #1

REQUEST FOR QUALIFICATIONS NO: EWERT SPLASH PARK City Project #OLS-Ewert 23-01

DESCRIPTION

The City of Joplin invites qualified firms to submit sealed proposals for a Splash Park for the City of Joplin, Missouri.

RFQ Due Date: 10:00 A.M., CDST, Monday, May 13th, 2024

Location: Parks Department, 3301 West 1st Street, Joplin, MO 64801

Owner Representative: Paul Bloomberg Email: pbloombe@joplinmo.org

Phone: 417-625-4750

Addendum #1-Email correction for inquires

The City of Joplin is modifying the Ewert Splash Park RFQ by correcting the following item within the Ewert Splash Park RFQ Project # OLS-Ewert 23-01.

- *All inquires on this Request for Qualifications should be directed to Paul Bloomberg at **pbloombe@joplinmo.org.***

The undersigned hereby acknowledges receipt of this addendum, which by this reference is hereby incorporated in and becomes a part of the Request for Qualifications for the above referenced project. Please include a signed copy of this addendum with your qualification's submission.

_____
Company Name

_____
Signature

_____
Printed Name, Title

Request of Proposal - Ewert Splash Park

Request for Proposal (RFP) for Construction Manager At Risk (CMAR) services for the Ewert Splash Park Improvements – Step 2 Submittal

Address:
615 South murphy Boulevard
Joplin, MO 64801

May 17, 2024

City Project Number OLS-Ewert23-01

Request for Proposals

Proposal Submission Requirements:

Step 2 Submittal - You have been selected to move forward in the Step 2 RFP process. You must submit proposals that demonstrate their experience in performing similar projects. Submissions must include a response addressing the following information.

- Project Management Plan/Interview
- Fee Proposal covering CMAR Services
    - Preconstruction Services Fee
    - Construction Phase Services – Construction Manager's Fee
    - General Conditions Fees

Proposal Due Date
Sealed proposals with one (1) original and one (1) digital (PDF) copy will be received at the Parks Department no later than 10:00 a.m. central time on June 4th, 2024. Proposals will not be accepted after this time. Failure to submit a complete proposal will be considered non-responsive and will not be considered.

Proposal shall be addressed as follows:
For Mail or Hand Delivery
CITY OF JOPLIN
PAUL BLOOMBERG
DIRECTOR OF PARKS AND RECREATION
3301 WEST 1ST STREET
JOPLIN, MO 64801

Submitted envelopes should be marked: "REQUEST FOR PROPOSALS – "OLS-Ewert23-01: Ewert Splash Park"

Inquiries
All inquiries on this Request for Proposals should be directed to Paul Bloomberg at pbloombe@joplinmo.org.

Proposal Evaluation and Selection:

For Step 2 RFP submittals, selected firms are asked to provide the following items below. Step 2 submittals shall be evaluated and scored by selection committee, per points awarded based on the following allocations.

Project Management Plan and Interview (up to 100 points) – PMP Submittals shall include up to a maximum of twenty (20) single-sided or ten (10) double side 8.5 x 11 pages and shall include commentary on the following elements.

- Clear Statement of Scope and Success Measurement
- Outline of Deliverables and Work Breakout Structure
- Anticipated Schedule and Budget for CMAR Services
- CMAR Personnel Allocation and Roles
    - Project Manager
    - Pre-Construction Manager
    - Cost Estimator
    - Others (describe, if needed)
- Interviews with selected firms

Fee Proposal (up to 100 points)

- Fee Proposal covering CMAR Services
    - Preconstruction Services Fee
    - Construction Phase Services – Construction Manager's Fee
    - General Conditions Fees

Proposed Price for Preconstruction Services (for professional services defined in Scope of Work attached as Exhibit C)

- CMAR shall complete Proposal form in Exhibit E and include NTE fee for Pre-Construction Services.
- CMAR shall provide fee schedule for hourly rate basis, not to exceed (NTE) fee value for services defined in the Pre-Construction Scope of Work Exhibit C and shall be inclusive of administrative fees, overhead and profit and direct expenses.
- For reference the anticipated design schedule is attached as Exhibit D.
- For reference the project construction budget is $5,335,897.00

Construction Phase Services – Construction Manager's Fee

- CMAR shall complete Proposal form in Exhibit E and include % of total project budget.

Proposed Price of General Conditions

- CMAR Shall complete Exhibit E and provide a monthly not to exceed (NTE) fee % (percentage) for General Conditions (as a % of total construction costs) per month.
- General Conditions Costs are considered construction phase costs for onsite supervision, coordination and management of the work, including: equipment, temporary office facilities, administrative materials, minor expenses, utilities, fuel, sanitary, telephone, services, indirect costs.

CMAR shall Reference and sign Exhibit F Proposal Matrix for understanding of where CMAR Fee Proposal dollars are to be located within the bid

Fee proposal points – Points awarded for fee shall be determined where up to half of total points are awarded for the preconstruction and construction phase services and up to half of total points awarded for general conditions. Points awarded shall be determined by formula to normalize the CMAR cost value to the range of costs received.

Scores from Step 2 score will be combined with scores from the CMAR's Step 1 SOQ submittal (qualifications-based score) to determine a total Step 2 score. Step 2 scores shall be determined as:

Step 2 Total Score = 45% Step 1 SOQ & Step 2 Project Management Plan & Interview + 55% Step 2 Fee Proposal

Upon evaluation of Step 2 submittals, the selection committee will select no more than three (3) firms to interview with the selection committee. Interviews will be held in-person during the week of June 10th,2024. Scheduling details for interviews will be provided to selected firms, following Step 2 scoring. Final Step 2 scoring will be determined after interviews.

CMAR process will be in accordance with RSMO 67.5050

Liquidated Damages

Timely Substantial Completion is an essential condition of the Agreement. Liquidated damages in the amount of Three Thousand dollars ($3,000.00) per calendar day will be assessed for each day beyond Substantial Completion until Final Completion is achieved. Project schedule has been preliminarily created by Landscape Architect but will be further refined and agreed upon with CMAR following selection.

Insurance & Bond Requirements

The successful CMAR shall provide a statement from surety indicating the Construction Manager's bonding capacity/bonding ability along with certificates of insurance acceptable to the City evidencing compliance with the requirements in the Agreement.

- Builder's Risk: property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis.
- Commercial General Liability: $1,000,000.00 per occurrence; $2,000,000.00 aggregate
- Worker's Compensation: per Missouri State law.
- Employer's Liability: $1,000,000.00
- Commercial Automobile Liability: $1,000,000.00
- Umbrella Liability: limit of $5,000,000.00 per occurrence

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located. Payment Bond and Performance Bond equal to 100% of the GMP Total.

CMAR Bidding Requirements

The successful CMAR shall be required to publicly advertise all trade packages, work for bids or proposals in accordance with Missouri Law. The CMAR shall contract directly with all subcontractors. Only minor work included in the general conditions is not subject to public bid. The CMAR will be allowed to self-perform trade package work only if they are the successful bidder or proposer as determined by the City and only after public advertisement. Under no circumstances may the CMAR create any bid package that may provide them with an advantage in the public bidding process. The CMAR, City of Joplin and the Owner's consultants will review all trade package bids and proposals received and select those that provide the best value to the City. The results will not be publicly disclosed until after the award of the bid package or within seven (7) calendar days after the date of the selection of the successful bidder or proposer, whichever is later, subject to any differing requirement of applicable law.

If the CMAR reviews, evaluates, and recommends to the City a bid or proposal from a trade contractor or subcontractor, but the City requires another bid or proposal to be accepted, the City may compensate the CMAR by a change in price, time, or Guaranteed Maximum Price for any additional cost and risk that the CMAR may incur because of the Owner's requirement that another bid or proposal be accepted.

If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected, the CMAR itself may, without advertising, fulfill the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements with the Cities concurrence.

The CMAR will provide the city with a Guaranteed Maximum Price (GMP), detailing any allowances or contingencies included. The GMP will be established by the CMAR after the City has made such request and provided the CMAR with drawings, specifications, and other design documents. The CMAR shall assume all responsibility for all costs of construction in excess of the GMP. If the cost of construction is less than the GMP, then the difference will be refunded in full to the City. All records of the CMAR related to costs and expenses under the GMP are open in totality to the City.

The CMAR will provide performance and payment bonds, on the Owner's required form, each valued at 100% of the cost of construction.

Proposers shall hold their bids firm for at least one hundred and twenty (120) days after bid opening. The City reserves the right to refuse or reject any and all responses in its sole discretion and to waive, or not waive, at its discretion, any minor irregularities or informalities in the responses. Each bidder is requested to sign its response with ink, and, when in the name of a company, by some officer whose title is shown. The City may terminate its negotiations, dealings and any contract with the CMAR either for cause or for convenience without liability at any time.

Exhibits
The following exhibits are referenced in this RFP, incorporated into and made a part of this RFP:

- Exhibit A - Existing Conditions - Aerial
- Exhibit B - Standard Agreement and General Conditions (Draft)
- Exhibit C - Construction Manager at Risk (CMAR) Services Scope of Work (Draft)
- Exhibit D – Preliminary Design Schedule
- Exhibit E – CMAR Proposal Form
- Exhibit F – Proposal Matrix

Project Name: Ewert Park Improvments

CMAR Firm Name: BRANCO

Evaluators Name: Korey Schulz

Date: 6/13/2024

A. Step I - Statement of Qualifications Submittal

Criteria	Description	Points Range	Score - AVG	SELECTION COMMITTEE									
				Staff #1	Staff #2	Staff #3	Staff #4	Staff #5	Staff #5	Olsson	Paragon	-	~~Water's Edge~~
[A.1] Methodology (30 pts total)	a. Letter of Interest	0-4	***3.9***	4	4	4	4	4	3	4	4	0	0
	b. Change Management	0-4	***3.5***	3	4	4	4	4	3	3	3	0	0
	c. Schedule Management	0-4	***3.6***	4	4	4	3	4	3	3.5	3.5	0	0
	d. Demonstrated CMAR project experience thru to completion	0-4	***3.6***	3	2	4	4	4	4	3.5	4	0	0
	e. Demonstrated years of CMAR experience	0-3	***2.8***	3	2	2	3	3	3	3	3	0	0
	f. Project scope and total cost similar ($5-6M)	0-4	***3.6***	4	3	4	4	4	3	3.5	3.5	0	0
	g. Construction Safety Record	0-3	***3.1***	3	4	3	3	3	3	3	3	0	0
	h. Guaranteed Maximum Price (GMP)/costs within budget estimates	0-4	***3.6***	4	3	4	4	4	3	3	3.5	0	0
[A.2] Experience (40 pts total)	a. Similar park projects	0-5	***3.5***	4	3	4	5	4	3	2.5	2.5	0	0
	b. Similar splash park projects	0-5	***4.1***	4	3	5	5	4	3	4	4.5	0	0
	c. Similar ice skate ribbon projects	0-4	***0.5***	0	0	0	1	2	1	0	0	0	0
	d. Greenscape/Hardscape Construction (Sports court surfacing, playground equipment and surfacing, splash park equipment and surfacing, ice ribbon equipment and surfacing, synthetic turf, landscaping)	0-5	***3.6***	5	2	4	3	4	4	3	3.5	0	0
	d. Architectural (Bathhouse renovations improvements, Covered basketball/multi-sport court structure, Amphitheater structure)	0-4	***3.8***	4	2	4	4	4	4	4	4	0	0
	e. Examples of Constructability / design innovations provided	0-5	***4.0***	4	5	4	3	3	4	4.5	4.5	0	0
	f. Efficient & practical inputs	0-4	***3.5***	4	4	3	3	3	3	4	4	0	0
	g. Aesthetics/Park renewal/Quality of work	0-4	***3.5***	4	4	4	3	3	3	3.5	3.5	0	0
	h. Community Expectations	0-4	***3.5***	4	4	3	3	3	3	4	4	0	0
[A.3] References (15 pts total)	a. Owner & CMAR relationship approach	0-5	***4.1***	4	2	5	5	5	3	4	5	0	0
	b. A/E & CMAR relationship approach	0-5	***3.9***	4	2	5	4	4	3	4	5	0	0
	c. Prior CMAR work with municipality as "Owner"	0-5	***3.8***	4	0	3	5	5	3	5	5	0	0
[A.4] Staff (15 pts total)	a. Team Organization Structure	0-5	***4.6***	5	4	5	5	4	4	5	5	0	0
	b. Office Location/key staff availability	0-5	***4.3***	5	5	4	4	4	4	4	4	0	0
	c. Management Personnel (experience and mgmt. style)	0-5	***4.6***	5	4	5	5	4	4	5	5	0	0
	A. Subtotal for Step I (AVG) = Qualifications Scores (pts):		**82.8**	88	70	87	87	86	74	83	87	0	0

Note: ONLY top 5 firms will be selected based on Step I Score to move to Step II submittal

B. Step II - PMP Proposal/Fee Submittal

Criteria	Description	Cost ($)
[B.1] Step II Fee Proposal	Lump sum fee for pre-construction SOW specified (Step II proposal)	***$5,000.00***
	% Construction Phase Service - Construction Manger's Fee (Step II proposal)	***2.50***
	General Conditions monthly fee (Step II proposal)	***$19,500.00***
	B.1.1 = Pre-Construction NTE ($) = Normalized Price*(pts) = 16.7+ ((1-[(CMAR cost - MIN cost) / (MAX cost - MIN cost)])x16.7 * highest cost and lowest cost used to normalize to 16.7 to 33.3 range for all costs received (i.e. highest cost proposal receives score of 16.7 pts, lowest cost proposal receives score of 33.3 pts and others are normalized within that range.	33.4
	B.1.2 = Percent (%) for Construction Phase = Normalized Price*(pts) = 16.7+ ((1-[(CMAR % - MIN %) / (MAX % - MIN %)])x16.7 * highest % and lowest % used to normalize to 16.7 to 33.3 range for all costs received (i.e. highest % proposal receives score of 16.7 pts, lowest % proposal receives score of 33.3 pts and others are normalized within that range.	16.7
	B.1.3 = General Conditions ($) = Normalized Price*(pts) = 16.6+ ((1-[(CMAR cost - MIN cost) / (MAX cost - MIN cost)])x16.6 * highest cost and lowest cost used to normalize to 16.6 to 33.3 range for all costs received (i.e. highest cost proposal receives score of 16.6 pts, lowest cost proposal receives score of 33.3 pts and others are normalized within that range.	33.2
	B.1 SUBTOTAL = Summation of Component PMP Scores (pts)	**83.3**

	MIN	MAX	
	2.25	2.50	% range of proposals
	$5,000	$12,800	$ range of proposals
	$19,500	$26,200	$ range of Monthly Cost

Criteria	Description	Points Range	Score	SELECTION COMMITTEE									
				Staff #1	Staff #2	Staff #3	-	Staff #4	Staff #5	Staff #6	Olsson	Paragon	~~Water's Edge~~
[B.2] Step II Project Management Plan (PMP) Score	a. Clear Scope Statement and Success Measurement: There is a well defined scope and specific, measurable success milestones.	0-10	***7.2***	8	9	10	0	10	8	10	8	9	0
	b. Outline of Deliverables and Work Breakdown Structure: There is a logical subdivision of project tasks presented to achieve the scope.	0-15	***9.9***	12	8	15	0	13	13	14	12	12	0
	c. Anticipated Schedule and Budget for CMAR Services: Draft, anticipated schedule CMAR services is presented.	0-15	***9.2***	13	9	12	0	14	12	12	12	8	0
	d. CMAR Personnel Allocation and Roles: Staff assignments defined and management/roles defined. (Project Manager, Pre-Construction Manager, Cost Estimator, Others)	0-10	***6.9***	7	9	10	0	9	8	9	8	9	0
	B.2 SUBTOTAL = Summation of Component PMP Scores (pts)		**41.5**	40	35	47	0	46	41	45	40	38	0

C. Interview

Criteria	Description	Points Range	Score	SELECTION COMMITTEE									
					Staff #1	Staff #2	-	Staff #3	Staff #4	Staff #5	Olsson	Paragon	Staff #6
(C) Interview	a. Management of Interview: questions, time management	0-15	***10.8***	0	15	12	0	13	13	12	15	15	13
	d. Team structure and Project Approach	0-15	***11.0***	0	15	15	0	14	13	12	14	13	14
	c. Competence & Expertise	0-20	***14.3***	0	18	18	0	18	18	15	19	20	17
	C SUBTOTAL = Summation of component Interview Scores (pts)		**45.1**	0	48	45	0	45	44	39	48	48	44

D. Best Value Determination

Qualification Scores	
(**A**) Statement of Qualifications	82.8
(**B.2**) Project Mgmt. Plan Basis	41.5
(**C**) Interview	45.1
Total Qualifications Score (pts)	169.4
Total Qualifications Score (%)	84.7%

Fee Proposal Scores	
(**B.1**) Fee Proposal	83.3
Total Fee Proposal Score (pts)	83.3
Total Fee Proposal Score (%)	83.3%

Total Scores	
Qualifications (45%)	38.1
Fee Proposal (55%)	45.8
D = FINAL BEST VALUE SCORE* for CMAR FIRM as combination of (**A**) Qualifications, (**B.2**) Project Management Plan, and (**C**) Interview Plus (B.1) Fee Proposal determined by:	**83.9**

* (**A**) + (**B.2**) + (**C**) x 45% + (**B.1**) x 55% = FINAL BEST VALUE SCORE out of total possible 100 pts

Project Name: Ewert Park Improvments

CMAR Firm Name: RE SMITH

Evaluators Name: Korey Schulz

Date: 6/13/2024

A. Step I - Statement of Qualifications Submittal

Criteria	Description	Points Range	Score - AVG	SELECTION COMMITTEE									
				Staff #1	Staff #2	Staff #3	Staff #4	Staff #5	Staff #6	Olsson	Paragon	-	~~Water's Edge~~
[A.1] Methodology (30 pts total)	a. Letter of Interest	0-4	***3.1***	3	1	2	4	4	4	3.5	3	0	0
	b. Change Management	0-4	***3.1***	3	3	3	3	3	3	3.5	3	0	0
	c. Schedule Management	0-4	***3.5***	3	3	3	4	4	3	4	4	0	0
	d. Demonstrated CMAR project experience thru to completion	0-4	***3.7***	4	4	3	3	4	4	3.5	4	0	0
	e. Demonstrated years of CMAR experience	0-3	***3.1***	3	4	2	3	3	4	2.5	3	0	0
	f. Project scope and total cost similar ($5-6M)	0-4	***4.0***	4	4	4	4	4	4	4	4	0	0
	g. Construction Safety Record	0-3	***2.3***	0	1	2	3	4	3	2.5	2.5	0	0
	h. Guaranteed Maximum Price (GMP)/costs within budget estimates	0-4	***2.4***	1	0	3	3	3	3	3	3.5	0	0
[A.2] Experience (40 pts total)	a. Similar park projects	0-5	***4.1***	5	3	5	4	4	4	4	4	0	0
	b. Similar splash park projects	0-5	***3.6***	4	1	4	4	4	4	4	4	0	0
	c. Similar ice skate ribbon projects	0-4	***0.8***	0	0	0	1	2	3	0	0	0	0
	d. Greenscape/Hardscape Construction (Sports court surfacing, playground equipment and surfacing, splash park equipment and surfacing, ice ribbon equipment and surfacing, synthetic turf, landscaping)	0-5	***3.9***	5	4	4	3	3	4	4	4	0	0
	d. Architectural (Bathhouse renovations improvements, Covered basketball/multi-sport court structure, Amphitheater structure)	0-4	***3.8***	4	2	4	4	4	4	4	4	0	0
	e. Examples of Constructability / design innovations provided	0-5	***3.8***	5	3	4	3	4	3	4.5	4	0	0
	f. Efficient & practical inputs	0-4	***3.3***	4	3	3	3	3	4	3	3.5	0	0
	g. Aesthetics/Park renewal/Quality of work	0-4	***3.9***	4	4	3	3	4	4	4	4	0	0
	h. Community Expectations	0-4	***3.6***	4	4	3	3	3	4	4	4	0	0
[A.3] References (15 pts total)	a. Owner & CMAR relationship approach	0-5	***4.1***	5	3	4	4	4	3	4.5	5	0	0
	b. A/E & CMAR relationship approach	0-5	***4.1***	5	3	4	4	4	3	4.5	5	0	0
	c. Prior CMAR work with municipality as "Owner"	0-5	***4.0***	5	0	4	5	5	3	5	5	0	0
[A.4] Staff (15 pts total)	a. Team Organization Structure	0-5	***4.2***	5	4	4	4	4	4	4.5	4	0	0
	b. Office Location/key staff availability	0-5	***4.8***	5	5	5	4	5	4	5	5	0	0
	c. Management Personnel (experience and mgmt. style)	0-5	***4.5***	5	5	5	4	3	4	5	5	0	0
	A. Subtotal for Step I (AVG) = Qualifications Scores (pts):		**81.3**	86	64	78	80	85	83	86.5	87.5	0	0

Note: ONLY top 5 firms will be selected based on Step I Score to move to Step II submittal

B. Step II - PMP Proposal/Fee Submittal

Criteria	Description	Cost ($)
[B.1] Step II Fee Proposal	Lump sum fee for pre-construction SOW specified (Step II proposal)	***$12,800.00***
	% Construction Phase Service - Construction Manger's Fee (Step II proposal)	***2.25***
	General Conditions monthly fee (Step II proposal)	***$26,200.00***
	B.1.1 = Pre-Construction NTE ($) = Normalized Price*(pts) = 16.7+ ((1-[(CMAR cost - MIN cost) / (MAX cost - MIN cost)])x16.7 * highest cost and lowest cost used to normalize to 16.7 to 33.3 range for all costs received (i.e. highest cost proposal receives score of 16.7 pts, lowest cost proposal receives score of 33.3 pts and others are normalized within that range.	16.7
	B.1.2 = Percent (%) for Construction Phase = Normalized Price*(pts) = 16.7+ ((1-[(CMAR % - MIN %) / (MAX % - MIN %)])x16.7 * highest % and lowest % used to normalize to 16.7 to 33.3 range for all costs received (i.e. highest % proposal receives score of 16.7 pts, lowest % proposal receives score of 33.3 pts and others are normalized within that range.	33.4
	B.1.3 = General Conditions ($) = Normalized Price*(pts) = 16.6+ ((1-[(CMAR cost - MIN cost) / (MAX cost - MIN cost)])x16.6 * highest cost and lowest cost used to normalize to 16.6 to 33.3 range for all costs received (i.e. highest cost proposal receives score of 16.6 pts, lowest cost proposal receives score of 33.3 pts and others are normalized within that range.	16.6
	B.1 SUBTOTAL = Summation of Component PMP Scores (pts)	**66.7**

	MIN	MAX	
	2.25	2.50	% range of proposals
	$5,000	$12,800	$ range of proposals
	$19,500	$26,200	$ range of Monthly Cost

Criteria	Description	Points Range	Score	SELECTION COMMITTEE									
				Staff #1	Staff #2	Staff #3	-	Staff #4	Staff #5	Staff #6	Olsson	Paragon	~~Water's Edge~~
[B.2] Step II Project Management Plan (PMP) Score	a. Clear Scope Statement and Success Measurement: There is a well defined scope and specific, measurable success milestones.	0-10	***5.9***	7	9	8	0	9	5	9	7	5	0
	b. Outline of Deliverables and Work Breakdown Structure: There is a logical subdivision of project tasks presented to achieve the scope.	0-15	***9.1***	13	7	12	0	12	12	12	9	14	0
	c. Anticipated Schedule and Budget for CMAR Services: Draft, anticipated schedule CMAR services is presented.	0-15	***8.1***	10	8	15	0	13	12	12	5	6	0
	d. CMAR Personnel Allocation and Roles: Staff assignments defined and management/roles defined. (Project Manager, Pre-Construction Manager, Cost Estimator, Others)	0-10	***7.0***	8	8	12	0	9	8	8	9	8	0
	B.2 SUBTOTAL = Summation of Component PMP Scores (pts)		**37.6**	38	32	47	0	43	37	41	30	33	0

C. Interview

Criteria	Description	Points Range	Score	SELECTION COMMITTEE									
				-	Staff #1	Staff #2	-	Staff #3	Staff #4	Staff #5	Olsson	Paragon	Staff #6
(C) Interview	a. Management of Interview: questions, time management	0-15	***10.3***	0	13	12	0	12	12	13	13	15	13
	d. Team structure and Project Approach	0-15	***10.0***	0	13	12	0	14	13	13	11	12	12
	c. Competence & Expertise	0-20	***13.4***	0	15	18	0	17	18	13	19	19	15
	C SUBTOTAL = Summation of component Interview Scores (pts)		**42.1**	0	41	42	0	43	43	39	43	46	40

D. Best Value Determination

Qualification Scores	
(**A**) Statement of Qualifications	81.3
(**B.2**) Project Mgmt. Plan Basis	37.6
(**C**) Interview	42.1
Total Qualifications Score (pts)	161.0
Total Qualifications Score (%)	80.5%

Fee Proposal Scores	
(**B.1**) Fee Proposal	66.7
Total Fee Proposal Score (pts)	66.7
Total Fee Proposal Score (%)	66.7%

Total Scores	
Qualifications (45%)	36.2
Fee Proposal (55%)	36.7
D = FINAL BEST VALUE SCORE* for CMAR FIRM as combination of (**A**) Qualifications, (**B.2**) Project Management Plan, and (**C**) Interview Plus (B.1) Fee Proposal determined by:	**72.9**

* (**A**) + (**B.2**) + (**C**) x 45% + (**B.1**) x 55% = FINAL BEST VALUE SCORE out of total possible 100 pts

Project Name: Ewert Park Improvments

CMAR Firm Name: HCC

Evaluators Name: Korey Schulz

Date: 5/17/2024

A. Step I - Statement of Qualifications Submittal

Criteria	Description	Points Range	Score - AVG	SELECTION COMMITTEE									
				Staff #1	Staff #2	Staff #3	Staff #4	Staff #5	Staff #6	Olsson	Paragon	-	~~Water's Edge~~
[A.1] Methodology (30 pts total)	a. Letter of Interest	0-4	2.0	2	1	2	3	3	1	2	2	0	0
	b. Change Management	0-4	1.8	1	2	2	2	3	1	1.5	1.5	0	0
	c. Schedule Management	0-4	2.0	1	2	2	2	3	1	2.5	2.5	0	0
	d. Demonstrated CMAR project experience thru to completion	0-4	1.3	0	0	0	3	3	1	1.5	2	0	0
	e. Demonstrated years of CMAR experience	0-3	0.9	0	0	0	2	2	1	1	1.5	0	0
	f. Project scope and total cost similar ($5-6M)	0-4	0.9	0	0	0	2	2	1	1	1.5	0	0
	g. Construction Safety Record	0-3	0.9	0	0	2	1	2	1	0.5	0.5	0	0
	h. Guaranteed Maximum Price (GMP)/costs within budget estimates	0-4	1.3	0	0	2	2	2	1	1.5	1.5	0	0
[A.2] Experience (40 pts total)	a. Similar park projects	0-5	2.1	1	1	3	3	3	1	2	3	0	0
	b. Similar splash park projects	0-5	2.4	1	3	3	3	3	1	2.5	3	0	0
	c. Similar ice skate ribbon projects	0-4	0.5	0	0	0	1	2	1	0	0	0	0
	d. Greenscape/Hardscape Construction (Sports court surfacing, playground equipment and surfacing, splash park equipment and surfacing, ice ribbon equipment and surfacing, synthetic turf, landscaping)	0-5	2.4	1	2	3	2	3	1	3.5	4	0	0
	d. Architectural (Bathhouse renovations improvements, Covered basketball/multi-sport court structure, Amphitheater structure)	0-4	2.0	1	1	2	3	3	1	2.5	2.5	0	0
	e. Examples of Constructability / design innovations provided	0-5	2.6	1	4	3	2	3	1	3.5	3.5	0	0
	f. Efficient & practical inputs	0-4	2.1	1	2	2	2	2	1	3	4	0	0
	g. Aesthetics/Park renewal/Quality of work	0-4	2.2	2	1	2	3	3	1	2.5	3	0	0
	h. Community Expectations	0-4	2.3	3	0	2	2	2	1	4	4	0	0
[A.3] References (15 pts total)	a. Owner & CMAR relationship approach	0-5	1.8	1	0	2	3	3	1	2	2	0	0
	b. A/E & CMAR relationship approach	0-5	1.8	1	0	2	3	3	1	2	2	0	0
	c. Prior CMAR work with municipality as "Owner"	0-5	2.0	1	0	2	4	4	1	2	2	0	0
[A.4] Staff (15 pts total)	a. Team Organization Structure	0-5	2.8	1	3	3	3	4	2	3	3	0	0
	b. Office Location/key staff availability	0-5	2.7	1	3	2	4	4	2	3	2.5	0	0
	c. Management Personnel (experience and mgmt. style)	0-5	3.3	1	4	3	4	4	2	4	4	0	0
	A. Subtotal for Step I (AVG) = Qualifications Scores (pts):		**43.9**	21	29	44	59	66	26	51	55.5	0	0

Note: ONLY top 5 firms will be selected based on Step I Score to move to Step II submittal

B. Step II - PMP Proposal/Fee Submittal

Criteria	Description	Cost ($)
[B.1] Step II Fee Proposal	Lump sum fee for pre-construction SOW specified (Step II proposal)	$0.00
	% Construction Phase Service - Construction Manger's Fee (Step II proposal)	0.00
	General Conditions monthly fee (Step II proposal)	$0.00
	B.1.1 = Pre-Construction NTE ($) = Normalized Price*(pts) = 16.7+ ((1-[(CMAR cost - MIN cost) / (MAX cost - MIN cost)])x16.7 * highest cost and lowest cost used to normalize to 16.7 to 33.3 range for all costs received (i.e. highest cost proposal receives score of 16.7 pts, lowest cost proposal receives score of 33.3 pts and others are normalized within that range.	#DIV/0!
	B.1.2 = Percent (%) for Construction Phase = Normalized Price*(pts) = 16.7+ ((1-[(CMAR % - MIN %) / (MAX % - MIN %)])x16.7 * highest % and lowest % used to normalize to 16.7 to 33.3 range for all costs received (i.e. highest % proposal receives score of 16.7 pts, lowest % proposal receives score of 33.3 pts and others are normalized within that range.	#DIV/0!
	B.1.3 = General Conditions ($) = Normalized Price*(pts) = 16.6+ ((1-[(CMAR cost - MIN cost) / (MAX cost - MIN cost)])x16.6 * highest cost and lowest cost used to normalize to 16.6 to 33.3 range for all costs received (i.e. highest cost proposal receives score of 16.6 pts, lowest cost proposal receives score of 33.3 pts and others are normalized within that range.	#DIV/0!
	B.1 SUBTOTAL = Summation of Component PMP Scores (pts)	**#DIV/0!**

MIN	MAX	
0.00	0.00	% range of proposals
$0	$0	$ range of proposals
$0	$0	$ range of Monthly Cost

Criteria	Description		Score	SELECTION COMMITTEE									
[B.2] Step II Project Management Plan (PMP) Score	a. Clear Scope Statement and Success Measurement: There is a well defined scope and specific, measurable success milestones.	0-10	0.0	0	0	0	0	0	0	0	0	0	0
	b. Outline of Deliverables and Work Breakdown Structure: There is a logical subdivision of project tasks presented to achieve the scope.	0-15	0.0	0	0	0	0	0	0	0	0	0	0
	c. Anticipated Schedule and Budget for CMAR Services: Draft, anticipated schedule CMAR services is presented.	0-15	0.0	0	0	0	0	0	0	0	0	0	0
	d. CMAR Personnel Allocation and Roles: Staff assignments defined and management/roles defined. (Project Manager, Pre-Construction Manager, Cost Estimator, Others)	0-10	0.0	0	0	0	0	0	0	0	0	0	0
	B.2 SUBTOTAL = Summation of Component PMP Scores (pts)		**0.0**	0	0	0	0	0	0	0	0	0	0

C. Interview

Criteria	Description		Score	SELECTION COMMITTEE									
(C) Interview	a. Management of Interview: questions, time management	0-15	0.0	0	0	0	0	0	0	0	0	0	0
	d. Team structure and Project Approach	0-15	0.0	0	0	0	0	0	0	0	0	0	0
	c. Competence & Expertise	0-20	0.0	0	0	0	0	0	0	0	0	0	0
	C SUBTOTAL = Summation of component Interview Scores (pts)		**0.0**	0	0	0	0	0	0	0	0	0	0

D. Best Value Determination

Qualification Scores	
(**A**) Statement of Qualifications	43.9
(**B.2**) Project Mgmt. Plan Basis	0.0
(**C**) Interview	0.0
Total Qualifications Score (pts)	43.9
Total Qualifications Score (%)	22.0%

Fee Proposal Scores	
(**B.1**) Fee Proposal	#DIV/0!
Total Fee Proposal Score (pts)	#DIV/0!
Total Fee Proposal Score (%)	#DIV/0!

Total Scores	
Qualifications (45%)	9.9
Fee Proposal (55%)	#DIV/0!
D = FINAL BEST VALUE SCORE* for CMAR FIRM as combination of (**A**) Qualifications, (**B.2**) Project Management Plan, and (**C**) Interview Plus (B.1) Fee Proposal determined by: * (**A**) + (**B.2**) + (**C**) x 45% + (**B.1**) x 55% = FINAL BEST VALUE SCORE out of total possible 100 pts	**#DIV/0!**

Project Name: Ewert Park Improvments

CMAR Firm Name:

Evaluators Name: Korey Schulz

Date:

A. Step I - Statement of Qualifications Submittal

Criteria	Description	Points Range	Score - AVG	Paul Bloomberg	Greg Bertoncino	Tony Robyn	Leslie Haase	Dakota Rusk	Robert Beachner	Patrick Tuttle	Olsson	Paragon	Water's Edge
				SELECTION COMMITTEE									
[A.1] Methodology (30 pts total)	a. Letter of Interest	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	b. Change Management	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	c. Schedule Management	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	d. Demonstrated CMAR project experience thru to completion	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	e. Demonstrated years of CMAR experience	0-3	*0.0*	0	0	0	0	0	0	0	0	0	0
	f. Project scope and total cost similar ($5-6M)	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	g. Construction Safety Record	0-3	*0.0*	0	0	0	0	0	0	0	0	0	0
	h. Guaranteed Maximum Price (GMP)/costs within budget estimates	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
[A.2] Experience (40 pts total)	a. Similar park projects	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	b. Similar splash park projects	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	c. Similar ice skate ribbon projects	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	d. Greenscape/Hardscape Construction (Sports court surfacing, playground equipment and surfacing, splash park equipment and surfacing, ice ribbon equipment and surfacing, synthetic turf, landscaping)	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	d. Architectural (Bathhouse renovations improvements, Covered basketball/multi-sport court structure, Amphitheater structure)	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	e. Examples of Constructability / design innovations provided	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	f. Efficient & practical inputs	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	g. Aesthetics/Park renewal/Quality of work	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
	h. Community Expectations	0-4	*0.0*	0	0	0	0	0	0	0	0	0	0
[A.3] References (15 pts total)	a. Owner & CMAR relationship approach	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	b. A/E & CMAR relationship approach	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	c. Prior CMAR work with municipality as "Owner"	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
[A.4] Staff (15 pts total)	a. Team Organization Structure	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	b. Office Location/key staff availability	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	c. Management Personnel (experience and mgmt. style)	0-5	*0.0*	0	0	0	0	0	0	0	0	0	0
	A. Subtotal for Step I (AVG) = Qualifications Scores (pts):		**0.0**	0	0	0	0	0	0	0	0	0	0

Note: ONLY top 5 firms will be selected based on Step I Score to move to Step II submittal

B. Step II - PMP Proposal/Fee Submittal

Criteria	Description	Cost ($)
[B.1] Step II Fee Proposal	Lump sum fee for pre-construction SOW specified (Step II proposal)	*$0.00*
	% Construction Phase Service - Construction Manger's Fee (Step II proposal)	*0.00*
	General Conditions monthly fee (Step II proposal)	*$0.00*
	B.1.1 = Pre-Construction NTE ($) = Normalized Price*(pts) = 16.7+ ((1-[(CMAR cost - MIN cost) / (MAX cost - MIN cost)])x16.7 * highest cost and lowest cost used to normalize to 16.7 to 33.3 range for all costs received (i.e. highest cost proposal receives score of 16.7 pts, lowest cost proposal receives score of 33.3 pts and others are normalized within that range.	#DIV/0!
	B.1.2 = Percent (%) for Construction Phase = Normalized Price*(pts) = 16.7+ ((1-[(CMAR % - MIN %) / (MAX % - MIN %)])x16.7 * highest % and lowest % used to normalize to 16.7 to 33.3 range for all costs received (i.e. highest % proposal receives score of 16.7 pts, lowest % proposal receives score of 33.3 pts and others are normalized within that range.	#DIV/0!
	B.1.3 = General Conditions ($) = Normalized Price*(pts) = 16.6+ ((1-[(CMAR cost - MIN cost) / (MAX cost - MIN cost)])x16.6 * highest cost and lowest cost used to normalize to 16.6 to 33.3 range for all costs received (i.e. highest cost proposal receives score of 16.6 pts, lowest cost proposal receives score of 33.3 pts and others are normalized within that range.	#DIV/0!
	B.1 SUBTOTAL = Summation of Component PMP Scores (pts)	**#DIV/0!**

MIN	MAX	
0.00	0.00	% range of proposals
$0	$0	$ range of proposals
$0	$0	$ range of Monthly Cost

Criteria	Description	Points Range	Score	Paul Bloomberg	Greg Bertoncino	Tony Robyn	Leslie Haase	Dakota Rusk	Robert Beachner	Patrick Tuttle	Olsson	Paragon	Water's Edge
				SELECTION COMMITTEE									
[B.2] Step II Project Management Plan (PMP) Score	a. Clear Scope Statement and Success Measurement: There is a well defined scope and specific, measurable success milestones.	0-10	*0.0*	0	0	0	0	0	0	0	0	0	0
	b. Outline of Deliverables and Work Breakdown Structure: There is a logical subdivision of project tasks presented to achieve the scope.	0-15	*0.0*	0	0	0	0	0	0	0	0	0	0
	c. Anticipated Schedule and Budget for CMAR Services: Draft, anticipated schedule CMAR services is presented.	0-15	*0.0*	0	0	0	0	0	0	0	0	0	0
	d. CMAR Personnel Allocation and Roles: Staff assignments defined and management/roles defined. (Project Manager, Pre-Construction Manager, Cost Estimator, Others)	0-10	*0.0*	0	0	0	0	0	0	0	0	0	0
	B.2 SUBTOTAL = Summation of Component PMP Scores (pts)		**0.0**	0	0	0	0	0	0	0	0	0	0

C. Interview

Criteria	Description	Points Range	Score	Paul Bloomberg	Greg Bertoncino	Tony Robyn	Leslie Haase	Dakota Rusk	Robert Beachner	Patrick Tuttle	Olsson	Paragon	Water's Edge
				SELECTION COMMITTEE									
(C) Interview	a. Management of Interview: questions, time management	0-15	*0.0*	0	0	0	0	0	0	0	0	0	0
	d. Team structure and Project Approach	0-15	*0.0*	0	0	0	0	0	0	0	0	0	0
	c. Competence & Expertise	0-20	*0.0*	0	0	0	0	0	0	0	0	0	0
	C SUBTOTAL = Summation of component Interview Scores (pts)		**0.0**	0	0	0	0	0	0	0	0	0	0

D. Best Value Determination

Qualification Scores	
(**A**) Statement of Qualifications	0.0
(**B.2**) Project Mgmt. Plan Basis	0.0
(**C**) Interview	0.0
Total Qualifications Score (pts)	0.0
Total Qualifications Score (%)	0.0%

Fee Proposal Scores	
(**B.1**) Fee Proposal	#DIV/0!
Total Fee Proposal Score (pts)	#DIV/0!
Total Fee Proposal Score (%)	#DIV/0!

Total Scores	
Qualifications (45%)	0.0
Fee Proposal (55%)	#DIV/0!
D = FINAL BEST VALUE SCORE* for CMAR FIRM as combination of (**A**) Qualifications, (**B.2**) Project Management Plan, and (**C**) Interview Plus (B.1) Fee Proposal determined by: * (**A**) + (**B.2**) + (**C**) x 45% + (**B.1**) x 55% = FINAL BEST VALUE SCORE out of total possible 100 pts	**#DIV/0!**

SUMMARY OF FINALIST INTERVIEWS FOR CMAR CONTRACTOR

EWERT SPLASH PARK PROJECT

JUNE 13, 2024

BRANCO ENTERPRISES INC.

- Showed project experience and tied to the Ewert park scope.
- Thinking ahead on project logistics for completing the projects.
- Reviewed the design schedule and aligned their schedule to it.
- Understand how the process of the building remodel will be complete.
- Attention to detail was impressive and overall knowledge better.
- Thought their community engagement was thoughtful, their team seemed very knowledgeable and prepared.

RE SMITH CONSTRUCTION COMPANY

- Didn't hear from whole team, did not get a good comfort level.
- Committed to service on projects.
- Safety was big for them which is important.
- Schedule did not detail how it would connect to the design schedule. More general assumptions on timeline.
- Talked about break out of bid packages to get work completed.
- Although knowledgeable of large project components, didn't address project specific or emphasize the community engagement or communication piece as concisely.

CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
AN ORDINANCE approving a Memorandum of Understanding by and between the City of Joplin Police Department and Ozark Center for the purpose of integrating a social work program within police department.

MEETING DATE
August 5, 2024

ORIGINATING DEPT
Police Department

ATTACHMENTS
Council Bill 2024-620, Memorandum of Understanding between Ozark Center and City of Joplin, and Business Associate Agreement.

REVIEWED BY
Dept. Head: Police Chief Richard Pearson; City Attorney: Peter Edwards; City Manager: Nicholas Edwards

SUMMARY
This Council Bill approves the Memorandum of Understanding between Ozark Center and the City of Joplin for the purpose of establishing a social work program and collaborative partnership between City of Joplin, Joplin Police Department, and Ozark Center.

BACKGROUND
The Joplin Police Department routinely comes into contact with members of the community dealing with homelessness, substance abuse, mental illness, and other crisis situations. Currently we have no means to provide for the needs of these individuals, often resulting in their arrest. To combat this problem, the Joplin Police will partner with a variety of local social service providers to offer more options to individuals in crisis and better provide for their needs. The Ozark Center has agreed to assist in this effort by providing three (3) social service workers to the Joplin Police and create a co-responder initiative when needed for specific calls-for-service. This partnership will provide a varied, and robust service for residents in need.

FUNDING SOURCE
Ozark shall be solely responsible for the payment of compensation of Ozark personnel and contractors performing services hereunder and Ozark's personnel and contractors are not entitled to the provision of any City/JPD employee benefits. No City funding required.

RECOMMENDATION
Staff recommends adoption of this Council Bill on first reading.

BUSINESS ASSOCIATE AGREEMENT

This **BUSINESS ASSOCIATE AGREEMENT** ("**Agreement**") is made and entered into as of the 25th day of June, 2024 ("**Effective Date**") by and between **Ozark Center** ("**Covered Entity**") and **City of Joplin Police Department** ("**Business Associate**"). Business Associate and Covered Entity may be referred to individually herein as a "**Party**" and, collectively, the "**Parties**."

RECITALS

WHEREAS, Covered Entity and Business Associate are parties to an agreement pursuant to which Business Associate provides certain services to Covered Entity and, in connection with those services, Covered Entity discloses to Business Associate certain information ("**Protected Health Information**" as further defined in Section 1 below) that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), Public Law 104-191 and regulations promulgated thereunder, including 45 C.F.R. Part 160 and Part 164, Subparts A, C, and E, as those regulations may be amended from time to time, including, without limitation, as the regulations were amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (the "**HITECH Act**") and the American Recovery and Reinvestment Act of 2009 ("**ARRA**"), collectively the "**HIPAA Regulations**";

WHEREAS, Covered Entity is a "covered entity" while Business Associate, as a recipient of PHI from Hospital, is a "business associate" as these terms are defined in the HIPAA Regulations. Subcontractors of business associates are also responsible for PHI protection and are defined as business associates if they create, receive, maintain or transmit PHI. Further, their subcontractors, if they meet the same criteria have the same compliance obligations under the HIPAA Regulations that business associates have. Just as covered entities are held responsible for breaches or violations of their business associates, so, now business associates are held responsible for the compliance of their subcontractors. Every connected contractor and subcontractor is now directly liable to HHS for breaches;

WHEREAS, Pursuant to the HIPAA Regulations, all business associates of Covered Entity must, as a condition of doing business with Covered Entity, agree in writing to certain mandatory provisions regarding, among other things, the use and disclosure of PHI provided by the Covered Entity to Business Associate and its subcontractors or created by Business Associate for Covered Entity. Business associates must develop Business Associate Agreements with all their relevant subcontractors, and covered entities must require their business associates to do so with the knowledge that if an entity meets the definition of a business associate, the entity is liable for HIPAA violations, even if it has not entered into a Business Associate Agreement;

WHEREAS, The purpose of this Agreement is to satisfy the requirements of the HIPAA Regulations, including, but not limited to *45 C.F.R. §§ 164.504 (e) and 164.314(a)*, as the same may be amended from time to time and the HIPAA privacy and security rules released on January 17, 2013 effective on March 26, 2013; and

WHEREAS, All covered entities and their business associates must comply with the HIPAA privacy and security rules. HIPAA obligations make business associates directly responsible for adhering to most privacy and security provisions and are subject to the same penalties as covered entities for noncompliance

NOW, THEREFORE, the Parties do hereby agree to the terms as set forth below.

AGREEMENTS

1. Applicability

This agreement applies only to disclosures of PHI by the Covered Entity to Business Associate for which a business associate agreement is required by HIPAA, e.g. in regard to the prior authorization process. However, as a medical device manufacturer, Business Associate may also receive PHI from covered entity for purposes which do not require a business associate agreement, e.g. disclosures to meet FDA requirements for device tracking and adverse event reporting. This agreement does not apply to those types of disclosures.

2. Definitions

All terms used, but not otherwise defined, in this Agreement shall have the same meaning as the respective terms in 45 C.F.R. §§ 160.103, 164.103, 164.304, 164.402 and 164.501.

3. Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or further disclose PHI other than as required by law, or as permitted or required by this Agreement.

(b) Business Associate agrees to use appropriate safeguards, and comply, where applicable with Subpart C of 45 C.F.R. Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI other than as provided for by this Agreement.

(c) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware, including Breaches of Unsecured PHI as required at 45 C.F.R § 164.410, and any Security Incident of which it becomes aware. The Parties acknowledge and agree that this section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which no additional notice to Covered Entity shall be required. "Unsuccessful Security Incidents" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. The Parties agree that this Section satisfies any notice requirements of Business Associate to Covered Entity of the ongoing existence and occurrence of such attempted but Unsuccessful Security Incidents.

(d) In the event of a Breach of any Unsecured PHI that Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds or uses on behalf of Covered Entity, Business Associate shall provide notice of such Breach to Covered Entity immediately, but in any event not more than ten (10) days after discovering the Breach.

Notice of a Breach shall include, at a minimum: (i) the identification of each individual whose PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the Breach, (ii) the date of the Breach, if known, (iii) the scope of the Breach, and (iv) a description of the Business Associate's response to the Breach.

In the event of a Breach, Business Associate shall, in consultation with Covered Entity, mitigate, to the extent practicable, any harmful effect of such Breach that is known to Business Associate. In the event that Business Associate lacks any information required to be disclosed in the initial notice required under this Section, Business Associate shall provide regular updates to the notice as such information becomes available.

(e) Business Associate agrees to ensure that any agents and subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.

(f) Business Associate agrees to make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Regulations.

(g) Business Associate agrees to maintain and make available to Covered Entity, within thirty (30) business days following a written request, information necessary to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Unless otherwise required by the HIPAA Regulations, any accounting under this Section shall include the following information: (i) the date of such disclosure; (ii) the name of the entity or person who received the PHI and, if known, the address of such person or entity; (iii) a description of the PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably sets forth the legal basis for the disclosure.

(h) If Business Associate maintains information in a Designated Record Set, it agrees to make available to Covered Entity, within thirty (30) business days following a written request, PHI in such Designated Record Set, in order for Covered Entity to respond to individuals' requests for access to information about them in accordance with 45 C.F.R § 164.524.

(i) If Business Associate maintains information in a Designated Record Set, it agrees to make any amendments or corrections to PHI in such Designated Record Set within thirty (30) business days following a written request by the Covered Entity in accordance with 45 C.F.R. § 164.526.

(j) If Business Associate maintains, on behalf of Covered Entity, information in an electronic Designated Record Set, Business Associate shall provide such information in the electronic format to Covered Entity upon request, or, if directed by the Covered Entity, directly to a requesting individual. This provision shall not affect Business Associate's continuing obligation to provide information in other formats as set forth herein.

(k) To the extent Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E of 45 C.F.R. Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.

4. <u>Permitted Uses and Disclosures by Business Associate</u>

(a) Business Associate may use and disclose PHI as agreed to by the parties only if such use or disclosure is in compliance with each applicable requirement of Section 164.504(e) of the Privacy Rule, relating to business associate contracts.

(b) Business Associate may use or disclose PHI as required by law.

(c) Business Associate agrees to make uses and disclosures and requests for PHI in accordance with its minimum necessary policies.

(d) Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific uses and disclosures set forth below.

(e) Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

(f) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

5. Obligations of Covered Entity

(a) Covered Entity shall provide Business Associate notice of any limitation(s) in the notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

(b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's uses and disclosures of PHI.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

6. Term and Termination

(a) *Term.* The Term of this Agreement shall be effective as of the date of this Agreement, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, including when it is not advisable to do so in order to protect the legal interests of Covered Entity or Business Associate, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) *Termination by Covered Entity.* Business Associate authorizes termination of the Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement and Business Associate has not cured the breach or ended the violation within the time reasonably specified by Covered Entity.

(c) *Effect of Termination.* Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall**:**

(i) Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities or which Business Associate has deemed it infeasible to return or destroy.

(ii) Return to Covered Entity or destroy the remaining PHI that Business Associate still maintains in any form where such return or destruction is feasible.

(iii) Continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI.

(iv) Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at Section 2 of this Agreement, which applied prior to termination.

(v) Return to Covered Entity or destroy the PHI retained by Business Associate when it is feasible and when no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities, except for any such data that may be retained solely for archival purposes.

7. <u>Miscellaneous</u>

(a) *Regulatory References.* A reference in this Agreement to a section in the HIPAA Regulations means the section as in effect or as amended, and for which compliance is required.

(b) *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA Regulations and any other applicable law.

(c) *Survival.* The obligations of Business Associate shall survive the termination of this Agreement.

(d) *Interpretation.* Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Regulations and any other applicable law.

(e) *Notices.* Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or (other than for the delivery of fees) via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

_____

Attn: _____

Fax: _____

If to Covered Entity, to:

Freeman Health System
1102 W 32nd Street
Joplin, MO 64804

Attn: ***VP of Compliance***
Fax: ***417-347-0192***

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided.

IN WITNESS WHEREOF, the Parties hereto have caused this Business Associate Agreement to be executed by their duly authorized officers or representatives as of the date first written above.

Ozark Center	**City of Joplin Police Department**
Signature 	Signature _____
Samantha D. Bradshaw	***Name***: _____
Title: *VP of Corporate Compliance and Privacy Officer*	***Title:*** _____
Date: 6.25.2024	***Date***: _____

MEMORANDUM OF UNDERSTANDING

between

Ozark Center

(hereinafter referred to as "Ozark")

and

City of Joplin

(hereinafter referred to as "JPD")

This Memorandum of Understanding ("MOU") is entered into by and between the City of Joplin (hereinafter referred to as "City/JPD") and Ozark Center (herein referred to as "Ozark") on this ___ day of_____, 2024.

The purpose of this Memorandum of Understanding is to establish a collaborative partnership between the City of Joplin Police Department and Ozark Center. This initiative will integrate a dedicated social work program within the police department to support law enforcement's efforts in addressing various social determinants of health, with a particular emphasis on mental health and substance use issues. The program's primary goal is to enhance the quality of life for individuals and communities by providing comprehensive support and interventions, ultimately fostering positive engagement with law enforcement.

Ozark agrees to:

- Assure quality of care through appropriate licensing/certification staff.
- Providing on-site crisis intervention and de-escalation support to law enforcement officers.
- Conducting assessments, screenings and developing individualized intervention plans.
- Facilitating access to, and collaborating with, community-based resources and support services, including but not limited to local mental health and substance use treatment providers, housing and homeless shelters, domestic violence shelters, and other organizations dedicated to improving the quality of life of the community.
- Offering education and training to law enforcement personnel on mental health and substance use issues, as well as trauma-informed care and other relevant topics.
- Engaging in community outreach and prevention efforts.
- Maintaining accurate case records and documentation.
- Hire and train dedicated staff available during regular office hours, as well as evening and weekend coverage to respond to emergencies and provide on-call support to law enforcement officers.

  Police Social Work Team Lead (PSWTL)
  - Monday to Friday: 8:00 AM to 5:00 PM (Office Hours)
  - On-call availability during evenings and weekends on a rotating schedule

Police Behavioral Health Responder (PBHR)
- PBHR Monday to Friday, 12:00 Noon to 9:00 PM (Office Hours)
Police Peer Support Specialist (PPSS)
-PPSS: Tuesday to Saturday, 3:00 PM to 12:00 AM (Covering evenings and weekends)

- Provide back-up crisis response through the Access Crisis Intervention Team for non-office hours.
- Obtain required consents from clients to share PHI with JPD, when applicable.

City/JPD agrees to:

- The Police Social Work Program will be housed within the Joplin Police Department premises, ensuring seamless coordination and accessibility for law enforcement personnel. JPD will provide office space including office furnishings.
- Provide appropriate training in law enforcement policies and procedures as well as policies and procedures of the City of Joplin.
- Provide name badges for all Ozark staff assigned to the Joplin Police Social Work Program.
- Prior to requesting the social worker's assistance, the scene or situation has been deemed safe for the social work service delivery.
- Agree to not hire Ozark Center staff assigned to this program for at least a period of two (2) years post agreement termination.

Ozark and JPD mutually agree to:

- Develop strategic clinical and administrative goals and objectives as well as key performance indicators.
- Develop clear role/responsibility definitions and protocols for duties and chain-of-command.
- Regular program evaluations and monitoring will be conducted to assess the effectiveness of the Police Social Work Program and its impact on the community, resulting in quarterly reports.
- Develop clear and proactive lines of communication.
- Participate in relationships with other community service providers to access, integrate and coordinate service delivery.
- Work collaboratively to develop both proactive and reactive protocols.
- Follow all privacy and consent requirements.
- Comply with all state and federal law and City policies.
- Provide adequate management and supervision of all employees to fulfill the obligations under this agreement.
- Take all proactive and corrective action to prevent non-compliance with applicable legal requirements.
- Make adjustments to the program structure, staffing, or services made based on the evaluation findings to ensure continuous improvement and alignment with he program's goals.

- Provide adequate training and orientation to Ozark policies and procedures including clinical documentation and billing requirements.

Insurance:

At all times while this Agreement is in effect, Ozark and City/JPD shall each, at their sole cost and expense, procure and maintain, either through commercial policies or self-funded coverage: (i) professional liability coverage for losses arising out of the acts or omissions of each party or its employees in the minimum amounts of One Million Dollars ($1,000,000.00) per occurrence and Three Million Dollars ($3,000,000.00) annual aggregate, (ii) commercial general liability coverage for losses arising out of acts or omissions of each party in the minimum amounts of One Million Dollars ($1,000,000.00) per occurrence and Two Million Dollars ($2,000,000.00) annual aggregate, and (iii) workers' compensation coverage for its employees. In the event that either party provides professional liability coverage on a claims-made basis, that party shall, after the expiration or termination of this Agreement for any reason, maintain professional liability coverage (which may include self-insurance coverage) for professional liability coverage resulting from acts or omissions of each party or each party's employees occurring while their agreement was in effect, up to the limits of the party's applicable policy limit or self-insured retention as of the date the claim is made, as applicable, but in no event shall such limits be less than One Million Dollars ($1,000,000.00) per occurrence and Three Millions Dollars ($3,000,000.00) annual aggregate of all claims. Such coverage shall be maintained for the length of the applicable state medical malpractice statute of limitations for the patient population treated by the party maintaining the continuing coverage. Upon either party's request, the other party shall provide the requesting party with certificates issued by the insurance carrier(s) or their agents evidencing the insurance policies required by this section and will provide the other party at least thirty (30) days' advance notice of any changes or cancellation of such insurance coverage.

Term, Termination and Renewal:

A. The initial term of this Agreement shall begin on September 1, 2024 and will end on September 30, 2025.

B. This Agreement may be terminated in the event of a breach of the terms of this Agreement. In such an event, the non-breaching party shall provide the breaching party with written notice of the breach. The breaching party shall then have seven (7) days to cure said breach. If the breach is not cured within the time allotted, then the non-breaching party may terminate this Agreement immediately.

C. Notwithstanding the foregoing, either party shall have the option of terminating this Agreement, without cause and without penalty, by providing written notice of the same to the other party within thirty (30) days of termination.

General Provisions:

A. Independent Contractors. Employees of Ozark shall at all times remain independent contractors. Nothing contained herein shall be construed to create an agency, joint venture or joint enterprise relationship between the parties. Ozark and its personnel and contractors are not City/JPD personnel or agents and Ozark assumes full responsibility for their actions. Ozark shall comply with all laws governing the services being performed under this Agreement. Ozark, at its sole expense, shall obtain any and all licenses and permits required for the services performed by its personnel and contractors, including, but not limited to, any and all visas, work permits, etc. required by applicable law.

Ozark shall be solely responsible for the payment of compensation of Ozark personnel and contractors performing services hereunder and Ozark's personnel and contractors are not entitled to the provision of any City/JPD employee benefits. City/JPD shall not be responsible for payment of workers' compensation, disability or other similar benefits, unemployment or other similar insurance or for withholding income or other similar taxes or social security for any Ozark personnel and contractors, but such responsibility shall solely be that of Ozark.

B. Criminal Background Investigations. Ozark will require all personnel conducting business on behalf of Ozark to undergo criminal background investigations according to established City/JPD policies and procedures prior to allowing the employee to work on City/JPD property. Ozark shall not utilize any employee on City/JPD property who is a registered sex offender. This condition shall also apply to any subcontractors of Ozark.

C. Compliance with Board Policy and the Law. Ozark and all Ozark employees, personnel and contractors shall adhere to all of City/JPD's rules, regulations, policies and procedures when engaged in the performance of this Agreement.

D. E-Verify. Within seven (7) days of the execution of this Agreement, Ozark shall provide to City/JPD an affidavit containing the following:

i. A statement that Ozark has enrolled in and currently participating in E-Verify, a federal work authorization program, or any other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 (IRCA);

ii. A statement that Ozark does not knowingly employ any person who is an unauthorized alien in conjunction with the services being provided under this Agreement; and

iii. A notarized signature of the registered agent or legal representative of Ozark, or a corporate officer, including, but not limited to, the human resources director of Ozark or their equivalent.

E. Entire Agreement. This Agreement contains the entire Agreement of the parties, superseding all other representations, inducements, promises or agreements between them, oral or otherwise, prior to or contemporaneous, pertaining to the services called for under this Agreement.

F. Non-Waiver. No failure of either party to exercise any power or right this Agreement gives or to insist upon compliance with any obligation under this Agreement and no custom or practice of the parties that varies from the terms of this Agreement shall waive either party's right to demand full compliance with this Agreement.

G. Severability. In the event any court holds one or more clauses of this Agreement void or unenforceable, the parties shall treat the clause or those clauses as separate and shall treat the remainder of this Agreement as valid and in full force and effect.

H. Modifications. This Agreement may be modified, amended or changed only by a written document signed by both parties.

I. Headings. The various titles and headings used in this Agreement are used solely for convenience and are not to be used to interpret or construe any word, clause, paragraphs or subparagraph of this Agreement.

J. Governing Law, Jurisdiction and Venue. This Agreement shall be governed and interpreted in all respects according to the laws of the State of Missouri. In the event either party must bring a legal or equitable action to enforce any of its rights under this Agreement, the venue for such actions shall be the Circuit Court of Jasper County, Missouri.

K. Confidentiality. Ozark is a "covered entity" under the Health Insurance Portability and Accountability Act of 1996 (HIPPA) and, as such, it is required to have a Business Associates Agreement (BAA, Exhibit B) with all of its Business Associates. City/JPD shall sign this Business Associates Agreement upon execution of this Agreement. In the course of Ozark providing services on City/JPD property, City/JPD may come in contact with confidential personal health information (PHI). City/JPD agrees to maintain the confidentiality of all PHI in accordance with the BAA, even in the event this Agreement is terminated for any reason. Records showing PHI shall not be taken or removed from Ozark areas. City/JPD failure to maintain confidentiality of PHI may result in immediate termination of this Agreement. The parties agree to comply with all other laws, rules and regulations applicable to the services to be provided under this Agreement, including the confidentiality requirements applicable to student records.

L. Indemnification. Ozark shall defend, hold harmless and indemnify City/JPD, its governing Board, officers, agents and employees from every claim, demand, losses and expenses which may be made by reason of any injury to person or damage to

property sustained by any person, firm or corporation, caused by any negligent act or omission, or willful misconduct of Ozark or any person, firm or corporation, employed by Ozark, including any subcontractors, in connection with Ozark's performance under this Agreement. Ozark, at its own expense and risk, shall defend any legal proceeding that may be brought against City/JPD, its governing Board, officers, agents and employees on any such claim or demand and satisfy any judgment that may be rendered against City/JPD or its governing Board therein. Ozark also agrees to reimburse City/JPD, its agents and employees for any sum which required City/JPD to pay on account of such demand, claim or lawsuit, including attorney's fees.

To the extent permitted by law, and only to the extent that it will not be a waiver of City/JPD's sovereign immunity in any way, City/JPD, and its member schools, will indemnify, defend and hold harmless Ozark, including their respective officers, employees, agents, affiliates and other representatives (collectively, "indemnitees") from and against any and all loss, costs, penalties, fines, damages, claims, expenses, (including attorney's fees) or liabilities arising out of, resulting from, or in connection with the services contemplated by this Agreement. Nothing in this Agreement shall constitute any waiver of City/JPD's sovereign immunity pursuant to Missouri law, including, but not limited to, Section 537.600 et seq., of the Missouri Revised Statutes.

M. Sovereign Immunity. Nothing in this Agreement shall constitute any waiver of City/JPD's sovereign immunity for lawsuits, pursuant to Missouri law, including, but not limited to, Section 537.600 et seq., of the Missouri Revised Statutes.

N. Assignment. Ozark may not assign or transfer any of its rights burdens, duties or obligations under this Agreement without the written consent of City/JPD.

O. Subcontracting. Ozark may not subcontract any of its rights, burdens, duties or obligations under this Agreement without the written consent of City/JPD.

P. Authority of Signatories. The individuals signing this Agreement below certify they have obtained the appropriate authority to execute this Agreement on behalf of the respective parties.

Q. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and which, when taken together, shall constitute one entire Agreement. It shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signatures of all the parties to this Agreement.

R. Fax Signatures. For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine or telecopier is to be treated as an original document. The signature of any party thereon, for purposes hereof, is to be considered an original signature, and the documents transmitted is to be

considered to have the same binding effect as an original signature on an original document. At the request of any party, any facsimile or telecopy document is to be re-executed in original form by the parties who executed the facsimile or telecopy document. No party may raise the use of a facsimile machine or telecopier or the fact that a signature was transmitted through the use of a facsimile or telecopier machine as a defense to the enforcement to this Agreement or any amendment or other document executed in compliance with this paragraph.

S. In the event it should become impossible for either party to perform its obligations under this Agreement at any time or times because of Acts of God, government restriction, unavailability of fuel, parts or supplies, fire, riot, war, civil commotion or any similar conditions, the party shall be excused from performance; provided that such nonperformance is not due solely to the party's own fault or negligence.

IN WITNESS WHEREOF, the parties have executed this Agreement the date set forth herein.

_____	_____
Vicky Mieseler, CAO Ozark Center	Signature of City of Joplin Representative
_____	_____
Date	Date

COUNCIL BILL NO. 2024-620

AN ORDINANCE approving a Memorandum of Understanding by and between the City of Joplin Police Department and Ozark Center for the purpose of integrating a social work program within police department.

WHEREAS, The program will support law enforcement's efforts in addressing various social determinants of health, with a particular emphasis on mental health and substance use issues. The program's primary goal is to enhance the quality of life for individuals and communities by providing comprehensive support and interventions, ultimately fostering positive engagement with law enforcement and,

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

Section 1. That the Memorandum of Understanding by and between the City of Joplin Police Department and Ozark Center for the purpose of integrating a social work program within police department, a true and accurate copy of said agreement being attached hereto and incorporated herein by reference as Exhibit "A", be, and the same is, hereby approved.

Section 2. That the City Manager or his designee is hereby authorized and directed, upon recommendation and approval of the City Attorney, to execute said Contract, in substantially similar form, by and on behalf of the City of Joplin, Missouri.

Section 3. That this ordinance shall be in full force and effect from and after its passage and approval by the Mayor and City Council.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this 19th day of August 2024.

_____
Keenan T. Cortez, Sr., Mayor

ATTEST:

_____
Holly Nagy, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney