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.

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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