REQUEST FOR PROPOSAL

RFP NO. 2018-RFP-12
VISITOR PROFILE & ECONOMIC IMPACT STUDIES FOR THE JOPLIN REGIONAL TOURISM MARKET

Proposal Due Date: NOON, Tuesday, September 25, 2018

Location: JCVB of Joplin
Convention & Visitors Bureau
602 South Main
Joplin, MO 64801

Staff: Patrick W. Tuttle, Director
Email: ptuttle@joplinmo.org

Phone: 417.625.4789

Proposals will be received by the Joplin Convention & Visitors Bureau at the specified location until the time and date cited above. Only proposals received by the correct time and date will be recorded.

Proposals must be submitted in an envelope with the Request for Proposal number and the Vendor's name and address clearly indicated on the envelope. All proposals must be completed in ink or typewritten, on company letterhead and submitted by the time and date above.

Consultants are strongly encouraged to carefully read the entire Request for Proposal.

NOTICE TO BIDDERS

The Joplin Convention & Visitors Bureau, City of Joplin, Missouri will accept sealed bid proposals until **NOON, Tuesday, September 25, 2018**, at the Convention & Visitors Bureau located at 602 S Main**,** Joplin, Missouri, 64801 to PURCHASE the following:

VISITOR PROFILE & ECONOMIC IMPACT STUDIES FOR THE JOPLIN REGIONAL TOURISM MARKET

The Joplin Convention & Visitors Bureau (JCVB) seeks to retain a consultant to complete a Visitor Profile & Economic Impact Studies of the Joplin regional tourism market, to include but limited to the leisure, business, group, international and sports markets.

Companies who respond to this request are invited to submit written proposals for research services to conduct one or both of the following: 1) a visitor profile study, and 2) an economic impact study for the Joplin regional tourism market. Note: Agencies can propose to conduct only one of the studies (visitor profile or economic impact) or both studies. Two agencies may work in conjunction to complete the research studies either as partners or in a contractor/subcontractor agreement. These roles must be clearly defined in the proposal.

Specifications and bid forms are available from **Patrick W Tuttle, Director, Convention & Visitor Bureau** by calling **417.625.4789** or by writing to the address indicated above. Any bids received after the specified deadline will be returned to the vendor.

The City reserves the right to evaluate all bids, to reject any or all bids and re-bid at a later date. The City may waive any irregularities in the bid or negotiate variances from specifications and make awards that are in the best interests of the City. The City will have final decision in all matters regarding 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: August 24, 2018

CITY OF JOPLIN, MISSOURI
STANDARD INSTRUCTIONS TO PROPOSERS
AND CONDITIONS OF REQUEST FOR PROPOSAL

1. **PREPARATION OF PROPOSALS**

   A. Proposers are expected to examine the scope of services, delivery schedule, requirements and all instructions of the Request for Proposal. Failure to do so will be at Proposer's risk. In case of a mistake in extension, the unit price(s) will govern.

   B. All research, reports, and studies offered in a proposal must be new and of current tourism trends unless the Request for Proposal clearly specifies that previously collected data is acceptable.

   C. Firm fixed prices shall be bid and include all travel and printing cost.

   D. Unless otherwise indicated prices quoted shall be firm for acceptance for one hundred twenty days from proposal opening and for the specified contract period.

2. **SUBMISSION OF PROPOSALS**

   A. A proposal submitted by a Proposer must (1) be manually signed by the Proposer; (2) contain all information required by the Request For Proposal; (3) be priced as required; (4) be sealed in an envelope or container; (5) and be delivered to the specified department and officially clocked in no later than the exact time and date specified on the Request For Proposal.

   B. The sealed envelope or container containing a proposal should be clearly marked on the outside left corner with the official Request for Proposal number.

   C. Do not submit proposals in response to other solicitations in the same sealed envelope. If more than one proposal is submitted in the same container, your proposal may be rejected as non-responsive.

   D. The Contractor 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 RFP. The JCVB assumes no contractual or other obligations as a result of the issuance of this RFP, the preparation or submission of a Proposal by a Contractor, the evaluation of Proposals, or the selection of any Contractor for further negotiations.

3. **MODIFICATION OR WITHDRAWAL OF PROPOSALS**

   A. Proposals may be modified or withdrawn by written or telegraphic notice received prior to the official closing date and time specified. A proposal may also be withdrawn or modified in person by the Proposer or his authorized representative provided proper identification is presented before the official closing date and time. Verbal phone requests to withdraw or modify a proposal will not be considered.

   B. After the official closing date and time, no proposal may be modified or withdrawn.

   C. The proposal is firm for acceptance for one hundred-twenty (120) days after proposal opening.

4. **PROPOSAL OPENING**

A. Proposal openings shall be public on the date and at the time specified on the proposal form. It is the Proposer's responsibility to assure that their proposal is delivered at the proper time and place of the proposal opening. Proposals which for any reason are not so delivered will be not considered. Offers by telegram, telephone, email, or facsimile will not be accepted, unless specifically authorized by the Request for Proposal. Proposal files may be examined during normal working hours by appointment.

5. **AWARDS**

A. Unless otherwise stated in the Request for Proposal, cash discounts for prompt payment of invoices will not be considered in the evaluation of prices, if part of the proposal. However, such discounts are encouraged to motivate prompt payment.

B. As the best interest of the JCVB, the right is reserved to make awards; to reject any and all proposals or waive any minor irregularity of technicality in proposals received.

C. Awards will be made to the Proposer whose proposal (1) meets the specifications and all other requirements of the Request for Proposal and (2) is the best proposal, considering price, responsibility of the Proposer and all other relevant factors in the criteria for award.

D. Each proposal is received with the understanding that the acceptance in writing by the JCVB of the offer to furnish any or all materials, equipment, supplies or services described therein shall constitute a contract between the Proposer and the JCVB; and shall bind the Proposer to furnish and deliver at the price, and in accordance with the conditions of said accepted proposal and detailed specifications.

6. **OPEN COMPETITION**

A. It is the intent and purpose of the Division of Purchases that the Request for Proposal permits free and open competition. However, it shall be the Proposer's responsibility to advise the Division of Purchases if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirement to a single source or otherwise prohibits the submission of a proposal.

B. The notification should be received by the specified department at least ten days prior to the Request for Proposal closing date and time. The Proposer may submit a notification after the proposal closing provided sufficient time is permitted for a thorough review by the Division of Purchases and its decision will be final.

CITY OF JOPLIN, MISSOURI
STANDARD TERMS AND CONDITIONS OF PURCHASE

This contract expresses the complete agreement of the parties and performance shall be governed solely by the terms and conditions contained herein. Changes, additions or modifications hereto must be in writing and signed by the Purchasing Agent.

A. **INVOICES**: An original of the invoice shall be submitted and shall show the purchase order number or contract and contract release number and contain full descriptive information of item or services furnished.

B. **BANKRUPTCY OR INSOLVENCY**: In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including the warranties of the Seller, JCVB may cancel this contract or affirm the contract and hold Seller responsible in damages.

C. **COMPLIANCE WITH APPLICABLE LAWS**: The Seller warrants it has complied with all applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

D. **INTERPRETATION OF CONTRACT AND ASSIGNMENTS**: The contract shall be construed according to the laws of the State of Missouri. The contract, or any rights, obligations or duties hereunder may not be assigned by Seller without the JCVB's written consent or any attempted assignment without such consent shall be void.

E. **TERMINATION OF CONTRACT**: The JCVB reserves the right to terminate the contract at any time if any of the provisions of the contract are violated by the Contractor or by any of his Subcontractors, in the sole judgment and discretion of the JCVB. In the event of such termination, the Contractor shall be liable for any excess costs incurred by the JCVB. If the contract is so terminated, the JCVB may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to those so terminated, and that the Contractor will be liable for excess costs occasioned thereby.

F. **NON-DISCRIMINATION IN EMPLOYMENT**: In connection with the furnishing of supplies or performances or work under this contract, the Contractor agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder.

G. **PROVISIONS BY LAW DEEMED INSERTED**: Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will read and be enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.

H. **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 JCVB thereto. Provided, however, that claims for money due or to become due to the Contractor from the JCVB 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 JCVB. Any such assignment is expressly subject to all rights and remedies of the JCVB 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 JCVB to give any notice to any such assignee of any actions which the JCVB may take under this agreement, though JCVB will attempt to so notify any such assignee.

1.0 GENERAL INFORMATION

1.1 The Joplin Convention & Visitors Bureau (JCVB) seeks proposals for a qualified consulting firm with proven experience, resources, and expertise to complete a Visitor Profile & Economic Impact Studies of the Joplin regional tourism market, to include but limited to the leisure, business, group, international and sports markets. Agencies can propose to conduct only one of the studies (visitor profile or economic impact) or both studies.

Note: Two agencies may work in conjunction to complete the research studies either as partners or in a contractor/subcontractor agreement. These roles must be clearly defined in the proposal.

1.2 JCVB, as part of the City of Joplin, is seeking a research partner to provide a Visitor Profile study concerning the tourism region's overall ability to: attract the right visitors, provide the best experiences, and generate longer and more frequent visits, while working to sustain and nurture existing stakeholders, and attracting new, potential tourism growth.

2.0 BUREAU BACKGROUND

2.1 The JCVB was formed in 1998 through a 2% lodging tax. A second 2% was favorably supported by the voters in 2000. The current 4% collects $1.3 million annually. 70% of these funds are managed directly by the JCVB, a department of the City, while 30% fund the Joplin Sports Authority (JSA), an independent sports marketing agency. Both agencies are accountable to the City of Joplin and operate solely off the lodging tax and receive no funds from the city's General Fund.

2.2 Joplin is located in the southwest corner of Missouri and shares borders with Oklahoma and Kansas. The tourism region primarily impacts Jasper and Newton Counties in Missouri, Ottawa County, Oklahoma, and Cherokee County, Kansas. The conjuncture which links the tourism region is Interstates 44 & 49, and historic Route 66. The history of the region dates to the mid-1800s as the Tri-State Mining District, mining the world's largest deposits of Lead & Zinc ore. Though mining ended in the 1960s, Joplin continues to be the regional economic hub.

2.3 For tourism today, Joplin's 23 hotel properties account for just under 2,000 rooms (the largest in the market), a regional airport, all levels of retail, plus over 200 restaurants. More details are available at VisitJoplinMO.com.

3.0 SCOPE OF WORK

3.1 Though some informal research has been collected in the past, these samplings have been small. An extensive visitor profile and economic impact studies has never been completed in the JCVB 30-year history.

3.2 The analysis, reports, and work products of this profile will be used to enhance stakeholder knowledge and to improve communication with stakeholder, elected officials, economic development organizations, and community leaders. Additionally, the findings will be used by the JCVB sustain existing program and attract new tourism opportunities.

3.3 The selected consultant will analyze and estimate the effect of tourism to the Joplin regional tourism market as, but not limited to:

- Demographic and trip specific data such as: where visitor resides, purpose of stay, mode of travel, accommodation while in the market, visitor satisfaction, visitor income level, favorite activities, and travel influencers.
- Visit estimates, average party size, average length of stay, day trip or overnight, average party spending, reach of daily activities.
- Seasonality and regional casinos impact should be factored in as well.

3.4 In the past three years, the JCVB has completed DI Destination NEXT, TwoSix Digital Marketing Survey and a Tourism Study (Design Workshop). Additionally, 2-years of VisaVue reporting is available. These findings should be included in the data collection phase. The Bureau has 300+ raw results are on file from a conversion survey following requests for the JCVB Visitors Guide.

3.5 The consultant will be expected to make formal presentations in Joplin on or near the start, and conclusion, to present the course of the research, and summarize the project and communicate findings, respectively, before JCVB Advisory Board & stakeholders, and elected officials.

4.0 DELIVERABLES

4.1 Through a Visitor Profile and Economic Impact Studies, the JCVB seeks to have a clearer understanding of who is visiting the Joplin market, why they are visiting, how long is their visit(s), what portion of the market are they impacting, which travel & hospitality assets are economically benefiting, which portion(s) of the market are being underutilized, which trends will have immediate and lasting impacts on the market. **In short: The Visitor Profile & Economic Impact Studies should clearly define who is visiting the Joplin regional tourism market and the economic impact their visits are having** .

4.2 A Visitor Profile & Economic Impact Studies should take into consideration assets such as hotels, restaurants, nightlife, retail, air and ground transportation, geography location, trails and recreation, and sporting events. Weigh the (+/-) impact tribal casinos across the Oklahoma & Kansas borders present. Which existing guest services should be capitalized upon and which resources should be dedicated for improvement others.

5.0 PROPOSAL PACKAGE

5.1 In order to provide an equable review of the proposals received, please follow the below proposal template:

1. Cover Page
2. Business Profile & Legal Structure
3. Professional Tourism Experience (with 2 recent tourism references)
4. Personnel (identify lead and support roles)
5. Research Approach
    a. Well-formulated procedures
    b. Knowledge of the tourism industry
    c. Related research practices & validation
    d. Sound methodology for collecting & analyzing data
    e. Organized approach for results documents used to communicate with stakeholders, elected officials and public
    f. Metrics, both quantitative & qualitative
    g. Quality measures to assure the accuracy of the final product
    h. Any unique practices or tools that give your agency a competitive edge over others
6. Timeline of Work
    a. Starting on/after November 1, 2018
        i. City of Joplin FY is November to October
7. Final Product
    a. Documentation
    b. Public presentations
8. Total Cost
    a. Breakdown of services
9. City of Joplin Documents
    a. Affidavit of Compliance
    b. No Submission Statement (if applicable)

6.0 SELECTION PROCESS & CRITERIA

6.1 Proposals will be evaluated by the JCVB director and staff, in consultation with the JCVB Advisory Board. During the evaluation process, the JCVB reserves the right to request additional information or clarifications from those submitting proposals. The JCVB will award the contract based on the following selection criteria:

1) Completeness, technical competence, and clarity of the proposal (25%).
2) Cost (25%).
3) Knowledge & experience working similar projects including evidence of satisfactory completion on time and within budget (20%).
4) Tourism related references & the depth of their study (15%).
5) Quality & experience of the personnel to be assigned to our project (15%).

6.2 Based on the number of responses, a short-list may be selected for telephone interviews. The JCVB and its Advisory Board may interview none, one or all agencies who submitted proposals. The final selection decision rest with the JCVB Director.

7.0 FORMAT AND CONTENT OF PROPOSAL

7.1 Proposal Terms and Conditions

The following terms and conditions apply to submitting proposals in response to this Request for Proposal:

7.3 Request for Additional Information

The proposer shall furnish such additional information as the JCVB of Joplin may reasonably require. This includes information which indicates financial resources as well as ability to provide and maintain the system and/or services. The JCVB reserves the right to make investigations of the qualifications of the proposer as it deems appropriate.

7.4 Acceptance/Rejection/Modification to Proposals

The JCVB reserves the right to negotiate modifications to proposals that it deems acceptable, reject any and all proposals, and to waive minor irregularities in the procedures.

7.6 Proprietary Information

In accordance with Public Records Law, and except as may be provided by other applicable State and Federal law, all proposers should be aware that Requests for Proposals and the responses thereto are in the public domain. However, the proposers are requested to identify specifically any information contained in their proposals which they consider confidential and/or proprietary and which they believe to be exempt from disclosure, citing specifically the applicable exempting law.

7.6 Proprietary Information continued

All proposals received from proposers in response to this Request for Proposal will become the property of the JCVB of Joplin and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the JCVB.

7.7 Non-exclusive Contract

The agreement resulting from this RFP shall be a non-exclusive contract, and the JCVB reserves the right to purchase same or like services from other sources the JCVB deems necessary and appropriate.

7.8 Late Proposals

Proposals received by the JCVB 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 JCVB, City of Joplin is not responsible for the U.S. Mail or private couriers in regard to 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.

7.9 Completeness

All information required by the Request for Proposal must be supplied to constitute a legitimate proposal. The JCVB 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 RFP does not affect this right.

7.10 Execution of Agreement

It is anticipated the JCVB will make their selection October 02, 2018. The successful proposer shall enter into a contract with the JCVB for the performance of work awarded. A copy of the sample agreement is attached. Failure to comply within the established deadline for submittal of required documents may be grounds for cancellation of the award.

8.0 Proposal Due Date

Sealed proposals with five (5) complete copies must be received at the City of Joplin no later than Noon, Tuesday, September 25, 2018. Proposals will not be accepted after this time. Proposals are to be addressed to (f**or Mail or Hand Delivery):**

JOPLIN CONVENTION & VISITORS BUREAU
PATRICK TUTTLE, DIRECTOR
602 SOUTH MAIN
JOPLIN, MO 64801

Submitted envelopes should be marked: "REQUEST FOR PROPOSAL NO. #2018-RFP-12, Tuesday, November 25, 2018" **VISITOR PROFILE & ECONOMIC IMPACT STUDIES FOR THE JOPLIN REGIONAL TOURISM MARKET** ".

9.0 Forms and Attachments

The following Affidavit of Compliance Form is required with your proposal. Any exceptions to the RFP terms, conditions and requirements shall be stated on this form. Any amendments to the RFP shall be acknowledged on this form.

AFFIDAVIT OF COMPLIANCE

RFP# 2018-RFP-12

To be submitted with vendor's Proposal

_____ We **DO NOT** take exception to the RFP Documents/Requirements.

_____ We **TAKE** exception to the RFP Documents/Requirements as follows:

_____

_____

_____

_____

_____

I have carefully examined the Request for Proposal and agree to abide by all submitted pricing, delivery, terms and conditions of this bid unless otherwise stipulated herein.

Company Name _____ **ADDENDA**

By _____ Bidder acknowledges receipt of the following amendment:

(Authorized Person's Signature)

Addendum No. _____ Date

_____

(Print or type name and title of signer) Addendum No. _____ Date

Company Address_____ Addendum No. _____ Date

_____ Addendum No. _____ Date

_____ Addendum No. _____ Date

Telephone Number _____ Email _____

FAX: _____ FEID No._____

Date: _____

CITY OF JOPLIN
STATEMENT OF NO PROPOSAL
REQUEST FOR PROPOSAL # 2018-RFP-12

IF YOU DO NOT INTEND TO BID ON THIS REQUIREMENT, PLEASE COMPLETE AND RETURN THIS FORM PRIOR TO DATE SHOWN FOR RECEIPT OF PROPOSALS TO: CITY OF JOPLIN, CONVENTION & VISITORS BUREAU, 602 S. MAIN, JOPLIN, MO 64801.

WE, THE UNDERSIGNED, HAVE DECLINED TO BID ON YOUR RFP NO. 2018-RFP-xx FOR DESCRIPTION FOR THE FOLLOWING REASON(S):

_____ SPECIFICATIONS ARE TOO "TIGHT", I.E. GEARED TOWARD

ONE BRAND OR MANUFACTURER ONLY (PLEASE EXPLAIN REASON BELOW)

_____ INSUFFICIENT TIME TO RESPOND TO INVITATION FOR BID.

_____ WE DO NOT OFFER THIS PRODUCT/S OR EQUIVALENT.

_____ REMOVE US FROM YOUR BIDDERS' LIST FOR THIS COMMODITY OR SERVICE

_____ OUR PRODUCT SCHEDULE WOULD NOT PERMIT US TO PERFORM.

_____ UNABLE TO MEET SPECIFICATIONS.

_____ UNABLE TO MEET INSURANCE REQUIREMENTS.

_____ SPECIFICATIONS UNCLEAR (PLEASE EXPLAIN BELOW).

_____ OTHER (PLEASE SPECIFY BELOW).

REMARKS: _____

_____

WE UNDERSTAND THAT IF THIS "NO BID" LETTER IS NOT EXECUTED AND RETURNED, OUR NAME MAY BE DELETED FROM THE LIST OF QUALIFIED BIDDERS' FOR THE JCVB OF JOPLIN FOR FUTURE PROJECTS OR COMMODITIES.

COMPANY NAME _____

ADDRESS _____

SIGNATURE AND TITLE _____

PHONE NUMBER _____ DATE _____

"NOTICE: This Agreement is included as a sample only and should not be considered a final document. Any agreement between the City of Joplin and a successful bidder may be significantly different than the agreement attached following legal review.

EXHIBIT A

CONTRACT NO._____

ADDRESS & PHONE OF JCVB
Convention & Visitors Bureau
602 South Main
Joplin, MO
417.625.4789

NAME, ADDRESS & PHONE OF CONTRACTOR

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2018, by and between the City of Joplin, a municipal corporation of the State of Missouri, hereinafter referred to as the "CITY" with offices at 602 South Main, Joplin, Missouri and _____ hereinafter referred to as the "Consultant."

WITNESSETH:

WHEREAS, the City of Joplin desires to engage the Consultant to render certain services hereinafter described in Request for Proposal 2018-RFP-xx which Request for Proposal is attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the Consultant submitted a proposal dated _____ which proposal is attached hereto and incorporated herein as Exhibit B; and

WHEREAS, the Consultant has become the lowest and best Offeror for performing the services listed in the Notice of Award, which Notice of Award is attached hereto and incorporated herein as Exhibit xx;

NOW, THEREFORE, the parties to the contract agree to the following:

1. The City agrees to engage the Consultant and the Consultant agrees to perform, in strict accordance with Exhibit A, and within the time specified therein, the services set forth in Exhibit xx.
2. The services of the Consultant shall commence only as authorized in writing by City purchase order or other written notice and shall be undertaken and completed as promised by the Consultant in Exhibit B. The term of the Agreement shall be for the period specified in Exhibit xx.
3. The City agrees to pay the Consultant in accordance with the prices and terms set forth in Exhibit xx for work authorized by City purchase order or other written Notice by the City upon presentation of proper invoice and inspection by the scope of work completed by the Consultant.
4. All information, data, and reports as are existing, available and necessary for the carrying out of the work, shall be furnished to the Consultant without charge, and the parties shall cooperate with each other in every way possible in carrying out the scope of services.
5. The Consultant shall fully coordinate its activities in the performance of the contract with the activities of the City.

6. The Consultant represents that Consultant will secure 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 the City except as employees of the Consultant. All of the services required hereunder will be performed by the 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 the City.

7. **Termination:** If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner Consultant's obligations under this contract, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this contract, the City shall thereupon have the right to terminate this contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective day of such termination. The City may, without cause, terminate this contract upon 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 the City become its property.** The Consultant shall be entitled to receive just and equitable compensation for any satisfactory work completed. Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Consultant.

8. **Assignment:** The Consultant 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 Consultant from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee.

9. 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.

10. **Modification of Contract:** The Scope of Work to be done under the Contract shall be subject to modification and supplementation upon the written Agreement of the duly authorized representatives of the Contracting parties. No provision in the Contract shall be changed or modified without the execution of a formal amendment to the Contract, mutually agreed to by the City and the Consultant and processed through the Division of Purchases. Upon request by the City, the Consultant shall provide an estimate of cost of any additional work or services to be incorporated by a modification to the Scope of Work and the Contract.

11. **Contract Documents:** The agreement between the City of Joplin and the Consultant shall consist of (1) The Contract form which embodies the requirements contained herein, (2) the Request for Proposal, and any amendments thereto and, (3) the proposal, as accepted, submitted in response to the Request for Proposal. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the Contract shall govern over all other documents, and the Request for Proposal and amendments thereto shall govern over the Consultant's Proposal and amendments thereto. However, the City reserves the right to clarify any Contractual relationship in writing with the concurrence of the Consultant, and such written clarification shall govern in case of conflict with the applicable requirements stated in the Request for Proposal or the Consultant's proposal. In all other matters not affected by the written clarification, if any, the Request for Proposal shall govern.

The Consultant is cautioned that the proposal shall be subject to acceptance without further clarification.

12. **Appropriation of Funds:** In the event that funds are not appropriated by the Council of the City of Joplin for any term of the contract or extension thereto or portion of any term of the contract which falls in a fiscal period other than a fiscal period for which funds have been appropriated, the contract shall terminate without notice at the end of the fiscal period for which funds are appropriated.

13. The Consultant agrees and understands that the City of Joplin's Agreement to the Contract may be predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) as identified and/or described in the Consultant's proposal. Therefore, the Consultant agrees that no substitution of such specific individuals and/or personnel qualifications shall be made without the prior written approval of the City. The Consultant further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the City's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The City of Joplin agrees that an approval of a substitution will not be unreasonably withheld.

14. **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 Contributions 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 is has a full opportunity to find other business, that is 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.

15. The Consultant shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Workers Compensation Program of the City.

16. **Certification of Non-Resident/Foreign Consultants:** If the Consultant is a foreign corporation or non-resident Consultant, it is agreed that the Consultant shall procure and maintain during the life of this contract:

    A. 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 RSMo.

    B. A certificate from the Missouri Director of Revenue evidencing compliance with transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.

17. **Nondiscrimination:** The Consultant agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Consultant or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

18. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this contract. The Consultant further covenants that in the performance of this contract no person having

such interest shall be employed.

19. **Consultant's Responsibility for Subcontractors** : It is further agreed that Consultant 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. 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, insofar as applicable to the work of subcontractors and to give Consultant the same power regarding termination of any subcontract as the City may exercise over Consultant under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between any subcontractor and the City or between any subcontractors.

20. The certificates of insurance, including evidence of the required endorsements of the policies shall be filed with the City of Joplin within ten (10) days of the date of receipt of the Award of the contract to the Consultant and prior to the start of work. 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 insurance. Such notices shall be mailed, return receipt requested to:

    City Attorney
    City of Joplin
    602 South Main
    Joplin, MO 64801

21. **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 there under (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.

    C. The Contractor shall indemnify and hold the City of Joplin 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.

22. **Conflict of Interest:** No salaried officer or employee of the City and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations and applicable provisions in RSMo. Chapter 105 shall not be violated.

23. **Entire Agreement:** This agreement, including the contract documents contained or referenced herein, constitutes the entire agreement between 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.

27. **Waiver:** No provision of the contract documents shall be construed, expressly or by implication, as a waiver by the City of any existing or future right or remedy available by law in the event of any claim of default or breach of contract.

25. **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.

26. **Notices:** All notices required or permitted hereunder and required to be in writing may be given by first class mail addressed to Division of Purchases, 602 South Main, Joplin, Missouri, 64801, and the Consultant at the address indicated on Affidavit of Compliance form. The date of delivery of any notice shall be the date falling on the second full day after the day of its mailing.

IN WITNESS WHEREOF the parties have hereunto set their hands and seal the date first above written.

CITY OF JOPLIN, MISSOURI

By: _____
Sam Anselm, City Manager

CONSULTANT

_____
Company Name

By: _____
Signature

Name: _____
Print or type

Title: _____

APPROVED AS TO FORM:

_____
Peter Edwards, City Attorney