CITY OF JOPLIN
ADDENDUM NUMBER 2

Issued to all Bid Document Holders of Record.

Date: 7/20/2021

Project Name: Maintenance Agreement for Traffic Signals and Lighting 2021 & 2022 & 2023

This addendum forms a part of the contract described above. The original Contract Documents and any prior addenda remain in full force and effect as modified by the following that shall take precedence over any contrary provisions in the prior documents.

1) **Revised Bid Date:** Due to Changes being made in bid proposal, the bid is being delayed allowing for questions and time to develop pricing for new and amended items. The new bid opening date will be Thursday, July 29th, 2021 at 1:00 PM In the 4th Floor Conference room of City Hall.

2) An updated Bid Proposal has been attached. All new and amended items are written in red text. Items in which the City of Joplin will provide materials for have been indicated with a single asterisk (*).

3) Note 7 has been amended to reflect the addition of equipment items to the bid proposal.

4) The term of contract has been modified to the following:

27. **TERM OF CONTRACT** -Term of contract will run for one (1) year from the notice to proceed date. Both parties reserve the right to extend the contract for up to three (3) years if mutually agreed upon. Contract shall not extend for more than 3 years after initial notice to proceed date.

This change is also reflected in the agreement that will be signed by both parties. The updated Agreement is attached.

David K. Hertzberg, PE
Director of Public Works

7/20/2021
Date

Each bidder shall acknowledge receipt of this addendum by affixing his signature below by noting this addendum on his bid form, and by attaching this addendum to his bid.

ACKNOWLEDGEMENT
The undersigned acknowledges receipt of this addendum and the Bid submitted in accordance with information, instructions and stipulations set forth herein.

Bidder: _____

Signed By: _____

Date: _____

PROPOSAL

THE UNDERSIGNED hereby proposed to furnish the labor and material for:

MAINTENANCE AGREEMENT FOR TRAFFIC SIGNALS 2021 & 2022 & 2023

In the City of Joplin, Missouri, according to Plan No. 001, and the City's general specifications for such work on file in the office of the City Engineer and Director of Public Works, together with the terms and conditions to be stipulated in the general contract forms, now adopted by the City of Joplin, as advertised to be let on the 29th day of July, 2021 at 1:00 p.m. at the following prices to-wit.

REMOVALS

	Item	Quantity	Unit	Unit Price	Total Price
1	Concrete Pull box, standard	3	EA		
2	Class I Pull Box, preformed	3	EA		
3	Class II Pull Box, preformed	3	EA		
4	Class III Pull Box, preformed	3	EA		
5	Full/Partial Base Removal Type "A" Base	2	EA		
6	Full/Partial Base Removal Type "F" Base	2	EA		
7	Full/Partial Base Removal Type "C" Base	2	EA		
8	Full "EV" Controller Base Removal**	3	EA		
9	Partial "EV" Controller Base Removal	3	EA		
10	Full Controller Cabinet Removal	3	EA		
11	4" PCC Sidewalk- 60 SF or less	50	SF		
12	4" PCC Sidewalk- more than 60 SF	100	SF		
13	6" PCC (Wheelchair Ramps, Driveways)	50	SF		
14	This item is intentionally left blank	-	-	-	-
15	PCC Curb and Gutter – 10 LF or less	100	LF		
16	PCC Curb and Gutter – more than 10 LF	100	LF		
17	Disconnect, Remove and Dispose of Decorative Luminaire and Pole 10'-15'	5	EA		
18	Disconnect, Remove and Dispose of Decorative Luminaire and Pole 16'-25'	5	EA		

19	Disconnect, Remove and Dispose of Decorative Luminaire and Pole 26'-40'	5	EA		
20	Disconnect, Remove and Dispose of 30' Meter Pole and Power Supply	4	EA		
21	Disconnect, Remove and Dispose of Type II Power Supply	4	EA		
22	Remove Cable from Existing Conduit, Swab conduit 0 to 250 Feet	200	LF		
23	Remove Cable from Existing Conduit, Swab conduit 250.1 to 500 Feet	250	LF		
24	Remove Cable from Existing Conduit, Swab conduit 500.01 to 1000 Feet	500	LF		
25	Remove Cable from Existing Conduit, Swab conduit 1000.01 plus Feet	1000	LF		
	Removals Subtotal				

INSTALLATION

1	Concrete pull box, Standard	1	EA		
2	Class I pull box, preformed	1	EA		
3	Concrete pull box, Double	1	EA		
4	Class II pull box, preformed	1	EA		
5	Class III pull box, preformed	1	EA		
6	Type "A-10" Base	1	EA		
7	Type "A-13" Base	1	EA		
8	Type "B-10" Base	1	EA		
9	Type "B-13" Base	1	EA		
10	Type "C" Base	1	EA		
11	Type "EV" Controller Base **	1	EA		
12	Controller Cabinet *	3	EA		
13	1" PVC Conduit in Trench 50 feet or less	50	LF		
14	1" PVC Conduit in Trench 50.01 feet to 100 feet	100	LF		

15	1” PVC Conduit in Trench 100.01 feet plus	150	LF		
16	2” PVC Conduit in Trench 50 feet or less	50	LF		
17	2” PVC Conduit in Trench 50.01 feet to 100 feet	100	LF		
18	2” PVC Conduit in Trench 100.01 feet plus	150	LF		
19	3” PVC Conduit in Trench 50 feet or less	50	LF		
20	3” PVC Conduit in Trench 50.01 feet to 100 feet	100	LF		
21	3” PVC Conduit in Trench 100.01 feet plus	150	LF		
22	4” PVC Conduit in Trench 50 feet or less	50	LF		
23	4” PVC Conduit in Trench 50.01 feet to 100 feet	100	LF		
24	4” PVC Conduit in Trench 100.01 feet plus	150	LF		
25	2” RS Conduit in Trench 50 feet or less	50	LF		
26	2” RS Conduit in Trench 50.1 feet to 100 feet	100	LF		
27	2” RS Conduit in Trench 100 feet plus	150	LF		
28	2” PVC Conduit in - Bored 50 feet or less	50	LF		
29	2” PVC Conduit in - Bored 50.1 feet to 100 feet	100	LF		
30	2” PVC Conduit in Bored 100 feet plus	150	LF		
31	3” PVC Conduit in - Bored 50 feet or less	50	LF		
32	3” PVC Conduit in - Bored 50.1 feet to 100 feet	100	LF		
33	3” PVC Conduit in – Bored 100 feet plus	150	LF		
34	4” PVC Conduit in - Bored 50 feet or less	50	LF		
35	4” PVC Conduit in - Bored 50.1 feet to 100 feet	100	LF		
36	4” PVC Conduit in - Bored 100 feet plus	150	LF		
37	2” Interconnect Conduit in Trench Bored 50 feet or less	50	LF		
38	2” Interconnect Conduit in Trench Bored 50.1 feet to 100 feet	100	LF		

39	2” Interconnect Conduit in Trench Bored 100 feet plus	150	LF		
40	30’ Meter Pole and Type l Power Supply	1	EA		
41	Type l Power Supply on Existing Meter Pole	1	EA		
42	Type II Power Supply	1	EA		
43	Type II Power Supply w/Lighting Controller	1	EA		
44	Lighting Controller on Existing Meter Pole/Type II	1	EA		
45	6’ X 30’ Inductive loop detector Loop Cable, rectangle 3 turn	2	EA		
46	6’X30’ Inductive loop detector quadrupole	2	EA		
47	1c #6 Power Cable	100	LF		
48	1c #8 Power Cable	100	LF		
49	1c # 10 Luminaire Cable w/Fused Disconnects	100	LF		
50	2c#8 Luminaire Cable	100	LF		
51	2c #14 for Push buttons 50 feet or less	50	LF		
52	2c #14 for Push buttons 50.01 to 100 feet	100	LF		
53	2c #14 for Push buttons 100.01 plus	150	LF		
54	2c #14 for Shielded Look Lead-in 50 feet or less	50	LF		
55	2c #14 for Shielded Look Lead-in 50.01 to 100 feet	100	LF		
56	2c #14 for Shielded Look Lead-in 100.01 feet plus	150	LF		
57	3c # 16 Signal Cable 50 feet or less	50	LF		
58	3c # 16 Signal Cable 50.01 to 100 feet	100	LF		
59	3c # 16 Signal Cable 100.01 feet plus	150	LF		
60	4c # 18 Signal Cable 50 feet or less	50	LF		
61	4c # 18 Signal Cable 50.01 to 100 feet	100	LF		
62	4c # 18 Signal Cable 100.01 feet plus	150	LF		

63	5c # 12 Signal Cable 50 feet or less	50	LF		
64	5c # 12 Signal Cable 50.01 to 100 feet	100	LF		
65	5c # 12 Signal Cable 100.01 feet plus	150	LF		
66	5c # 14 Signal Cable 50 feet or less	50	LF		
67	5c # 14 Signal Cable 50.01 to 100 feet	100	LF		
68	5c # 14 Signal Cable 100.01 feet plus	150	LF		
69	7c # 12 Signal Cable 50 feet or less	50	LF		
70	7c # 12 Signal Cable 50.01 to 100 feet	100	LF		
71	7c # 12 Signal Cable 100.01 feet plus	150	LF		
72	7c # 14 Signal Cable 50 feet or less	50	LF		
73	7c # 14 Signal Cable 50.01 to 100 feet	100	LF		
74	7c # 14 Signal Cable 100.01 Plus	150	LF		
75	Beldon 8281 Cable	100	LF		
76	4” PCC Sidewalk 60 SF or less	50	SF		
77	4” PCC Sidewalk over 60 SF	100	SF		
78	6” PCC (Wheelchair Ramps, Driveways)	50	SF		
79	This item is intentionally left blank	-	-	-	-
80	PCC Curb & Gutter 10 LF or less	100	LF		
81	PCC Curb & Gutter more than 10 LF	100	LF		
82	Remove & Install Pedestrian Heads (Straight Rate/Labor Only) *	10	EA		
83	Remove & Install Signal Head (Straight Rate/Labor Only) *	8	EA		
84	Remove & Install Ped Button (Straight Rate/Labor Only) *	10	EA		
85	Install Luminaire and Pole 10’-15’ and connect wires *	8	EA		
86	Install Luminaire and Pole 16’-25’ and connect wires *	8	EA		

87	Install Luminaire and Pole 26'-40' and connect wires *	8	EA		
	Installations Subtotal				

LABOR AND EQUIPMENT

88	Straight Rates per Man/ No Material	30	HR		
89	Overtime Rates, Nights, Weekends, Holiday, and Emergency	10	HR		
90	One Time Daily Mobilization for Straight Rate Work	20	Day		
91	Small Bucket Truck	20	HR		
92	Large Bucket Truck	20	HR		
93	Auger Truck	10	HR		
94	Backhoe	20	HR		
95	Concrete Saw	10	HR		
96	Air Compressor	10	HR		
97	Jackhammer	10	HR		
	Labor and Equipment Subtotal				
	Total Bid				

*** Materials Supplied by City (excluding any additional wiring/cables)**
**** Includes Pad**

Note 1 It is understood by the undersigned that the quantities given in the preceding itemized proposal are not guaranteed and are used solely for the purpose of comparing bids and awarding the contract, and may or may not represent the actual quantities encountered on the job; and that the sum of the products of the quantities listed in the preceding itemized proposal, multiplied by the unit price bid, shall constitute the gross sum bid and agrees that payment will be on the basis of the unit prices shown herein, shall be made on quantities actually constructed and verified by field measurement.

Note 2 It is understood that this bid becomes a part of the specifications upon the signing of the contract and that failing to comply with any part of this bid will be taken as a failure to comply with said specifications and will be just cause for rejection of work.

Note 3 As a condition of submitting this bid and in consideration of the City permitting the bid to be submitted, the bidder hereby agrees that this bid shall be irrevocable for a period of sixty (60) days and that the bid shall not be withdrawn during the sixty (60) day period for the date of the bid opening specified in the bid notice.

Note 4 In submitting this bid, it is understood that the right is reserved by the City of Joplin to reject any and all bids, to waive any irregularities in the bidding, and to increase or decrease the amount of any class or portion of the work.

Note 5 In accepting this contract, Contractor certifies that no employee, member or officer of the firm or corporation is a salaried officer or employee of the City of Joplin or any of its boards or agencies and that no salaried officer or employee of the City has any financial interest, direct or indirect, in this Contract.

Note 6 The undersigned, as bidder, understands that the bidder awarded the contract will be required to comply, and to cause his subcontractors, if any, to comply will all federal statutes, regulations, and directives against discrimination against any person in connections with the contract, on account of race, color or national origin, and that such discrimination extends to procurement of materials and lease of equipment for use in connection with the contract.

Note 7 Equipment used shall be paid on hourly basis in accordance with bid prices. Any equipment used outside of what is included in the bid proposal shall be paid at rate of similar equipment.

The undersigned agrees to enter into a contract within fifteen (15) days from notice of award should this proposal be accepted and enter into bonds with good and sufficient securities. In order to pay all labor employed and materials used in connection with this work and to adjust all claims or liens that may arise in consequence of said work, to the satisfaction of the Director of Public Works, above said bonds shall also indemnify and save harmless the said City from all damages or injuries to any person or persons, either in the employment of the contractor, his agents, servants or employees.

In the event of failure of the undersigned to enter into such contract within ten days of the award, then the deposit or certified check of five percent (5%) of the total bid amount as surety is therefore forfeited to the City of Joplin.

Dated this _____ day of _____, 2021

Company _____

By (signature) _____

Complete Address

_____

AGREEMENT
BETWEEN
CITY OF JOPLIN AND

CITY		CONTRACTOR	
CITY OF JOPLIN **602 S. MAIN STREET** **JOPLIN, MO 64801**		Name: Address:	
Attention:		Attention:	
Department:		Phone:	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:

MAINTENANCE AGREEMENT FOR TRAFFIC SIGNALS 2021 & 2022 & 2023

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. Term of contract will run for one (1) year from the notice to proceed date. Both parties reserve the right to extend the contract for up to three (3) years if mutually agreed upon. Contract shall not extend for more than 3 years after initial notice to proceed date.

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 maintain adequate insurance coverage at all times 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, 2020, 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 Two Million Nine Hundred Forty Thousand Eight Hundred Sixty-eight and no/100 Dollars ($2,940,868.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Forty-one Thousand One Hundred Thirty and no/100 Dollars ($441,130.00) 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 Two Million Nine Hundred Forty Thousand Eight Hundred Sixty-eight and no/100 Dollars ($2,940,868.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Forty-one Thousand One Hundred Thirty and no/100 Dollars ($441,130.00) 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 Two Million Nine Hundred Forty Thousand Eight Hundred Sixty-eight and no/100 Dollars ($2,940,868.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Forty-one Thousand One Hundred Thirty and no/100 Dollars ($441,130.00) 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 $10,000.00 (Ten Thousand and no/100 Dollars) 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, (https://www.joplinmo.org/DocumentCenter/View/7374/Standard-Specs_050119?bidId=) Contractor (or surety) shall be liable to the City in the amount of $200.00 per day for each and every calendar day and Emergency Call-Out Response (as defined in special provision 25) $100.00 per hour 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. Proposal
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 ORIGINAL CONTRACT AMOUNT WRITTEN OUT ($) 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:

By: _____

Name _____

Title

CITY OF JOPLIN, MISSOURI

By: _____
David Hertzberg PE, Public Works Director