

RE: PROPERTY VALUATION REPORT REVIEW SERVICES

RESOLUTION # 2024-47

Background:

As directed within the Strategic Plan under Reliable Infrastructure, Action Plans #1, #2 and #4, staff has secured assistance through Federal Funds to Engineer, Acquire Rights of Way, and construct improvements to Main St. from Tracker Rd. to State Hwy CC.

Criteria for these Federally funded projects not only require individual property valuations for needed right of way and easements, but also require appraisal reviews for each parcel. A list of pre-approved valuation companies and appraisal review firms that must be used is provided by the Department of Transportation for all Federally funded projects.

Analysis:

Roberts & Associates are on the Transportation Department pre-approved list and have been vendor verified by our Finance Department. They have agreed to provide this required service for a not to exceed fee of \$19,000.00

Recommendation:

Since this is one of the requirements for eligibility of funding, staff recommends approval of this Resolution.

MEMO PREPARED BY:

Jeff Roussell | Street Superintendent

jroussell@nixa.com | 417-725-2353

RESOLUTION NO. 2024-47

1 **A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE CITY**
2 **ADMINISTRATOR TO EXECUTE A CONTRACT IN AN AMOUNT NOT TO EXCEED**
3 **\$19,000.00 WITH ROBERTS & ASSOCIATES, INC., FOR APPRAISAL REVIEW**
4 **SERVICES.**

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6 **WHEREAS** the City has secured federal funding to assist with the acquisition and
7 construction of certain improvements to Main Street, between Tracker Road and State
8 Highway CC; and

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10 **WHEREAS** criteria for the use of federal funding requires the City to have property
11 valuations reviewed by another appraiser; and

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13 **WHEREAS** City staff desire to contract with Roberts & Associates, Inc., to provide
14 these services; and

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16 **WHEREAS** City Council desires to authorize the City Administrator to execute the
17 Contract attached hereto as "Resolution Exhibit A."

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19 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**
20 **NIXA, AS FOLLOWS, THAT:**

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22 **SECTION 1:** The City Council hereby authorizes the City Administrator, or
23 designee, to enter into a contract with Roberts & Associates, Inc. for property valuation
24 review services. Said contract shall be in substantially similar form as the document
25 attached hereto, and incorporated herein by this reference, as "Resolution Exhibit A." The
26 City Administrator and the officers of the City are hereby authorized to do all things
27 necessary or convenient to carry out the terms and intent of this Resolution.

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29 **SECTION2:** This Resolution shall be in full force and effect from and after its final
30 passage by the City Council and after its approval by the Mayor, subject to the provisions
31 of section 3.11(g) of the City Charter.

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33 **[Remainder of Page Intentionally Left Blank. Signature Page Follows.]**
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RESOLUTION NO. 2024-47

47 **ADOPTED BY THE COUNCIL THIS 13th DAY OF AUGUST 2024.**

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ATTEST:

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PRESIDING OFFICER

CITY CLERK

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55 **APPROVED BY THE MAYOR THIS _____ DAY OF AUGUST 2024.**

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ATTEST:

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MAYOR

CITY CLERK

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63 APPROVED AS TO FORM:

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CITY ATTORNEY

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Effective Date:
Termination Date:
Contract Number:

PROFESSIONAL SERVICES CONTRACT FOR APPRAISAL SERVICES

THIS PROFESSIONAL SERVICES CONTRACT FOR APPRAISAL SERVICES (“Contract”) is made and entered into upon its execution by the City of Nixa, Missouri, a constitutional charter city organized under the laws of the State of Missouri (“City”) and Roberts & Associates, Inc., a corporation organized under the laws of the State of Missouri (“Service Provider”).

WHEREAS the City desires to engage Service Provider to perform certain services under the terms and conditions of this Contract; and

WHEREAS the Service Provider desires to perform the Services described herein under the terms and conditions of this Contract.

NOW, THEREFORE, for the considerations herein expressed, it is mutually agreed by and between the City and the Service Provider as follows:

1. Services.

1.1. The Service Provider agrees to perform and undertake the Services described below (“Services”):

1.1.1. Service Provider shall provide appraisal review services by reviewing appraisals conducted by Southwest Valuation, LLC, on behalf of the City in connection with a public improvement project along North Main Street in Nixa, Missouri.

1.1.2. Service Provider shall provide City with an electronic copy in PDF format of the appraisal reports.

1.2. The Service Provider shall perform said Services in accordance with the standard of care, skill, and expertise ordinarily used by other members of Service Provider’s profession in performing similar services.

1.3. Service Provider shall furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform the Services at Service Provider’s own expense in accordance with the contract documents, any applicable City ordinances, and any applicable state or federal laws.

2. Addition to Services. The City may add to the Services or delete therefrom services, provided that the total cost of such work does not exceed the total cost authorized herein. The Service Provider shall undertake such changed activities only upon the written direction of the City. All such directives and changes shall be in written form and shall be accepted and countersigned by the Service Provider.

3. Payment.

3.1. Provided that Service Provider performs the Services in the manner set forth herein, the City shall pay the Service Provider an hourly rate of **\$280.00** for every 60-minute hour of review or work, which shall constitute full and complete compensation for the Service Provider’s work.

3.2. Payments shall be made subject to receipt of a requisition for payment and a statement of the work provided by the Service Provider for the period covered by the requisition. Such requisition shall include an acknowledgement signed by both the City and the Service Provider that the Service Provider has fully performed the work to be paid for in such payment in conformance with the Contract.

3.3. The acceptance of any payment under this Contract expressly constitutes a release of the City by the Service Provider and its subcontractors from any and all claims which were made or could have been made by the Service Provider and its subcontractors against the City which may arise out of or are related to this Contract prior to the date of payment by City.

3.4. Payment Conditioned on acceptable performance. No payment shall be made by City unless Service Provider's performance for work which it seeks payment was completed in compliance with the provisions of this Contract. No partial payment to the Service Provider shall operate as approval of acceptance of all work completed by Service Provider prior to the date of payment.

3.5. Total compensation not to exceed. It is expressly understood that in no event shall the total compensation to be paid to the Service Provider under the terms of this Contract exceed the sum of **\$19,000.00** unless specifically and mutually agreed to in writing by both the City and the Service Provider.

4. Exchange of Data. All information, data, and reports in the City's possession and necessary for the carrying out of the Services, shall be furnished to the Service Provider without charge, and the parties shall cooperate with each other in every possible way in the carrying out of the Services.

5. Personnel. The Service Provider represents that Service Provider shall secure at Service Provider's own expense; all personnel required to perform the Services. Such personnel shall not be considered employees of the City. All the Services required hereunder shall be performed by the Service Provider or under Service Provider'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 Services covered by this contract shall be subcontracted without the prior written approval of the City.

6. Term. This Contract shall expire on December 31, 2024, or upon acceptance by the City of the appraisal report and final payment by City to Service Provider, whichever occurs first.

7. Termination.

7.1. Termination for breach. Failure of Service Provider to fulfill Service Provider's obligations under this Contract in a timely and satisfactory manner in accordance with the terms of this Contract shall constitute a breach of the Contract, and the City shall thereupon have the right to immediately terminate the Contract. The City shall give written notice of termination to the Service Provider. In the event of any litigation arising from breach of this Contract, the City shall be entitled to recover from the Service Provider all reasonable costs incurred for such litigation, including staff time, court costs, attorney fees, and all other related expenses incurred in such litigation.

7.2. Termination for Convenience. Either party shall have the right at any time upon 90 days written notice to the other to terminate and cancel this Contract, without cause, for convenience.

In such event final payment to the Service Provider shall be limited to services provided by the Service Provider as of the effective date of said termination.

7.3. Non-appropriation. This Contract shall be terminated upon the failure of the City Council of City to appropriate funds for this Contract in any term of said Contract.

7.4. Documents, reports, and data to be provided to City. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Service Provider related to this Contract shall, at the option of the City, become the property of the City, and the Service Provider shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Service Provider shall not be relieved of liability to the City for any damages sustained by the City by virtue of any breach of the Contract by the Service Provider.

8. City's Right to Proceed. In the event this Contract is terminated, the City may take over the work and prosecute the same to completion, by contract or otherwise, and Service Provider 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.

9. Confidentiality. Any reports, data, or similar information given to, prepared or assembled by the Service Provider under this Contract shall be considered the property of the City and shall not be made available to any individual or organization by the Service Provider without prior written approval of the City.

10. Conflict of Interest. Service Provider certifies that no member or officer of its firm or organization is an officer or employee of the City of Nixa, Missouri, or any of its boards or agencies, and further that no officer or employee of the City has any financial interest in this contract which would violate any applicable federal regulations or the provisions of RSMo Section 105.450 et seq or the provisions of Nixa City Charter Section 13.1.

11. Assignment. The Service Provider 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, provided, however, that claims for money due or to become due to the Service Provider 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 Contract, 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 Contract.

12. Nondiscrimination. The Service Provider 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 Service Provider 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) and 41 C.F.R. § 60-741.5(a), if applicable.

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

12.2. This Service Provider 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.

13. Paragraph intentionally deleted.

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

15. Independent Contractor Clause. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Service Provider shall 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 Service Provider shall retain sole and absolute discretion as to the judgment and manner and means of carrying out the Service Provider's activities and responsibilities hereunder. The Service Provider 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 Contract shall not be construed as creating any joint employment relationship between the Service Provider and the City, and the City shall not be liable for any obligation incurred by the Service Provider, including but not limited to unpaid minimum wages and/or overtime premiums.

16. Liability and Indemnity.

16.1. In no event shall the City be liable to the Service Provider 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 Service Provider under this contract.

16.2. The Service Provider 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 Service Provider 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 Service Provider, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

16.3. The Service Provider shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this Contract 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.

16.4. The indemnification obligations of Service Provider hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Service Provider, 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.

16.5. 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.

16.6. Service Provider affirms that it has had the opportunity to recover the costs of the liability insurance required in this Contract in its contract price. Service Provider's obligation under this Contract 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 Service Provider under this Contract.

16.7. The Service Provider 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.

17. Contract Documents.

17.1. The entire Contract of the parties shall consist of the following documents:

17.1.1. This Contract.

17.2. No modification, amendment, or waiver of any of the provisions of this Contract shall be effective unless in writing specifically referring hereto and signed by both parties.

17.3. In the event of a conflict between terms, the terms of this Contract shall control over the terms of the exhibits.

18. Nonresident/Foreign Service Providers. The Service Provider shall procure and maintain during the life of this Contract:

18.1. If the Service Provider 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 RSMo.

18.2. 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.

19. Notices.

19.1. All notices required or permitted hereinunder and required to be in writing may be given by Electronic Mail or by first class mail addressed to City and Service Provider at the addresses shown below:

To City:

Name: City of Nixa, Missouri
Address: 715 W. Mt. Vernon St., PO Box 395, Nixa MO 65714
Phone: 417.725.3785
Email: jroussell@nixa.com
Attn: Jeff Roussell
Dept: Public Works

To Service Provider:

Name: Roberts and Associates, Inc.
Address: 1300 W. Poplar St., Suite 200, Springfield, MO 65802
Phone: 417.881.1533
Email: ericrobertsmai@aol.com
Attn: Eric Roberts

19.2. 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 Electronic Mail 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.

19.3. Notice information may be updated by the respective party upon reasonable notice of such change to the other party.

20. Right to Audit. Service Provider agrees to furnish sufficient supporting details as may be required by the City to support any charges or invoices submitted to the City for payment under this Contract. Service Provider shall make available for the City's inspection all records covering or relating to charges submitted to the City for payment. Service Provider shall make appropriate adjustments if discrepancies are found. The City shall have the right to audit the Service Provider's records pertaining to the Services for a period of three (3) years after final payment.

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

22. City Benefits. The Service Provider 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.

23. Jurisdiction. This Contract and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this Contract be litigated, venue shall be proper only in the Circuit Court of Christian County, Missouri.

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

[Remainder of page intentionally left blank. Signatures follow on next page.]

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

THE CITY OF NIXA, MISSOURI

SERVICE PROVIDER

Jimmy Liles, City Administrator

Date: _____

Printed Name

ATTEST:

Title

Rebekka Coffey, City Clerk

Date: _____

Approved as to form:

Nick Woodman, City Attorney

Director of Finance Certification:

I certify that this contract is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefore, and that the appropriate accounting entries have been made.

Jennifer Evans, Director of Finance

SERVICE PROVIDER VERIFICATION

STATE OF MISSOURI)
) ss
COUNTY OF CHRISTIAN)

On this ____ day of _____, 20____, before me personally appeared _____, for _____, known to me to be the person described in and who executed the above agreement and acknowledged to me that they executed the same as their free act and deed on behalf of said entity.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid, the day and year first above written.

Notary Public

My commission expires: _____.