



RE: RIVERTON PARK DRAINAGE REPAIRS

RESOLUTION #2024-61

Background:

In 2022, plans were approved for the Riverton Park development. To accommodate this development, a new box culvert was installed to convey stormwater under North Street to the south as it had historically traveled.

Analysis:

Since the installation of this box culvert, erosion has begun to undermine the structure. Without repairs this erosion will continue to deteriorate the surrounding area resulting in the potential for catastrophic failure to the culvert and potentially the roadway.

Recommendation:

With Council's permission, staff would like to solicit bids to repair this drainage area and install protective measures to prevent future damages.

MEMO PREPARED BY:

Jeff Roussell | Street Superintendent

jroussell@nixa.com | 417-725-2353

RESOLUTION NO. 2024-61

A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE CITY ADMINISTRATOR TO SOLICIT BIDS FOR CONSTRUCTION SERVICES FOR REPAIRS TO A CERTAIN BOX CULVERT LOCATED UNDER NORTH STREET.

WHEREAS the Nixa City Code authorizes the City Administrator to purchase supplies, materials, equipment, and services on behalf of the City when a competitive procurement method is utilized; and

WHEREAS said provisions require the City Administrator to obtain an authorizing resolution from the City Council prior to soliciting for purchases totaling \$10,000.00 or more; and

WHEREAS City staff is seeking authorization to solicit bids for construction services for repairs to a certain box culvert located under North Street; and

WHEREAS the City Council desires to authorize City staff to undertake the purchase described herein.

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

SECTION 1: The City Administrator, or designee, is hereby authorized, pursuant to the provisions of Chapter 2, Article VI, of the Nixa City Code, to solicit and undertake the purchase described in "Resolution Exhibit A," which said Exhibit is attached hereto and incorporated herein by this reference.

SECTION 2: The City Administrator and the officers of the City are hereby authorized to do all things necessary or convenient to carry out the terms and intent of this Resolution.

SECTION 3: This Resolution shall be in full force and effect from and after its final passage by the City Council and after its approval by the Mayor, subject to the provisions of section 3.11(g) of the City Charter.

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

RESOLUTION NO. 2024-61

47 **ADOPTED BY THE COUNCIL THIS 17th DAY OF December 2024.**

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ATTEST:

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52 _____
PRESIDING OFFICER

CITY CLERK

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

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ATTEST:

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60 _____
MAYOR

CITY CLERK

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63 APPROVED AS TO FORM:

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66 _____
CITY ATTORNEY



RFB-034-2024/Street

Riverton Stormwater Improvements

Issue Date: 12/17/2024

Questions Deadline: 1/3/2025 12:00 PM (CT)

Response Deadline: 1/8/2025 10:00 AM (CT)

Contact Information

Contact: Stephanie Ewing
Address: Purchasing
715 W. Mt. Vernon Street
PO Box 395
Nixa, MO 65714
Phone: (417) 449-0555
Email: sewing@nixa.com

Event Information

Number: RFB-034-2024/Street
Title: Riverton Stormwater Improvements
Type: Request for Bid
Issue Date: 12/17/2024
Question Deadline: 1/3/2025 12:00 PM (CT)
Response Deadline: 1/8/2025 10:00 AM (CT)
Notes: The City of Nixa is issuing a Request for Bid for the construction of stormwater improvements located on North Road in Nixa, MO.

The City highly encourages electronic submissions via this online bidding system as it expedites the process and helps to alleviate errors.

Paper bids will still be accepted. All bid content must be in a sealed envelope, if submitting via mail or in person. Bids must be delivered by the stated close date and time. **NO EMAILED OR FAXED** bids will be accepted.

The Response Deadline is the date and time public unsealing of bid responses will be held.

Public unsealing of bid responses will take place at:
City of Nixa
Purchasing
715 W. Mt. Vernon St.
Nixa, MO 65714

The City of Nixa reserves the right to accept or refuse any or all bids.

Ship To Information

Contact: Jeff Roussell
Address: Street
1111 Kathryn Street
PO Box 395
Nixa, MO 65714
Phone: (417) 725-2353
Email: jroussell@nixa.com

Billing Information

Contact: Accounts Payable
Address: Finance
City Hall
715 W. Mt Vernon St.
PO Box 395
Nixa, MO 65714
Phone: (417) 725-3785
Email: accountspayable@nixa.com

Bid Attachments

Scope of Work.pdf

Scope of Work

[View Online](#)

Construction Contract_Aug 2024.docx

Contract for Project

[View Online](#)

Affidavit of Business Entity.pdf

E-Verify

[View Online](#)

Terms_and_Conditions-Formal.pdf

Terms and Conditions

[View Online](#)

W-9.pdf

W-9

[View Online](#)

Vendor Application.pdf

Vendor Application Form

[View Online](#)

ACH Authorization Form.pdf

ACH Authorization Form

[View Online](#)

Requested Attachments

E-Verify

(Attachment required)

Please download the "Affidavit of Business Entity", located on the Attachment tab. Complete the document and upload it here.

Vendor Application Form/W-9/ACH

If you have never done business with the City of Nixa, or if it has been over a year since any business was completed, please download the Vendor Application, the ACH Authorization Form, and W-9 forms from the "Attachments tab" and upload the completed forms here.

Other Attachment

If you have additional documentation you wish to provide, please upload it here. File size limitation is 250MB. If your files are larger than the limitation, a zip file containing the documents can also be uploaded.

Bid Attributes

1 Introduction

There are attributes, including this one, associated with this proposal. Some are notes and require no response, but most have a required response. **Please select each page on the right-hand side of the blue bar below (at the bottom of this list of attributes) in order to view the next page of Bid Attributes, if applicable.**

2 RFB Submission Response

The City of Nixa prefers responses to be submitted online via our electronic system. Submissions may be submitted manually. Manual submissions must be delivered to the Purchasing Department, in a sealed envelope by the date and time stated. No fax or email submissions will be accepted. Only one format is needed. For any questions, please contact the Purchasing Department at 417.449.0555.

3 Bid Opening

Any bid received later than the specified time shall be disqualified.

Questions pertaining to the proposal should be addressed in the Questions Tab or directly to the Purchasing Department at 417.449.0555.

If the City of Nixa office where bids/proposals are to be submitted is closed due to inclement weather, natural disaster, or for any other cause including if the electronic bid system is unavailable on the due date, the deadline for submission shall be extended until the next City calendar business day, unless the bidder is otherwise notified. The time of day for submission shall remain the same.

4 Attachments Required

Be sure to upload all required documents and forms to the "Response Attachments" Tab.

5 General Terms and Conditions

Download the General Terms and Conditions, located on the "Attachments" tab. Thoroughly review and indicate below.

I have downloaded, read and understand.

(Required: Check if applicable)

6 Scope of Work

Download the Scope of Work, located on the "Attachments" tab. Thoroughly review and indicate below.

I acknowledge.

(Required: Check if applicable)

7 Bid Award

The City of Nixa reserves the right to award Bids by line item, group of items, all or none, or a combination thereof; to reject any and all Bids or waive any minor irregularity or technicality in Bids received.

Awards will be made to the Vendor whose Bid best serves the City's best interest.

I acknowledge.

(Required: Check if applicable)

8 Contract for Services

Download the Contract for Services, located on the "Attachments" tab. **If there are any changes you like to be made or addressed, please let us know at this time. Thoroughly review, upload any changes to the "Response Attachments-Additional Documentation". Indicate below you have read and understand the Contract will be used unless other terms have been agreed to prior to Bid Award.**

I have downloaded, read and agree.

(Required: Check if applicable)

9 Insurance Requirements

Please note!!

The City of Nixa has insurance requirements for this project. Please ensure you can meet these terms and fulfill the contract requirements.

14.1. Without limiting any of the other obligations or liabilities of the Contractor, Contractor shall at all times during the Term of this Contract, and for a period of three years thereafter, unless waived in writing by the City, at Contractor's sole cost and expense, at least the following types and amounts of insurance:

14.1.1. Commercial General Liability Insurance with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate, including bodily injury and property damage, which policy shall include contractual liability coverage insuring the activities of Contractor under this Contract;

14.1.2. Worker's Compensation Insurance with statutory coverage as provided for in RSMo. 287.010 et seq.;

14.1.3. Employers Liability Insurance with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate;

14.1.4. Commercial Automobile Liability with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate; and

14.1.5. 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 \$3,370,137.00 for all claims arising out of a single accident or occurrence and at least \$505,520.00 with respect to injuries and/or death of any one person in a single accident or occurrence. The Owner's and Contractor's Protective Liability Insurance must:

14.1.5.1. Be a separate policy with the named insured being: The City of Nixa, Missouri; and

14.1.5.2. Be with the same insurance company with which the Contractor carries its Commercial General Liability

Insurance and Automotive Liability Insurance; and

14.1.5.3. 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.

14.2. All insurance policies required pursuant to Paragraph 14 shall:

14.2.1. Be issued by insurance companies reasonably accepted by the City, able to transact business within the State of Missouri, and with an A.M. Best Rating of no less than B+ Rating;

14.2.2. Provide that such insurance carriers give the City at least 30 days' prior written notice of cancellation or non-renewal of policy coverage; provided that, prior to such cancellation, the Contractor shall have new insurance policies in place that meet the requirements of this Paragraph 14;

14.2.3. Waive any right of subrogation of the insurers against the City or any of its officials, employees, or agents;

14.2.4. Provide that such insurance be primary insurance and any similar insurance in the name of and/or for the benefit of the City shall be excess and non-contributory;

14.2.5. Name the City and its officials, employees, and agents, as additional insured;

14.2.6. Not be met by the use of a single limit policy.

14.3. Contractor shall provide the City with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Paragraph 14 at the time of execution of this Contract and shall not do anything to invalidate such insurance.

14.4. Failure of the Contractor to maintain the coverages set out in this Paragraph 14 shall not relieve it of any contractual responsibility or obligation or liability in general or under this Contract.

14.5. This Paragraph 14 shall not be construed in any manner as waiving, restricting, or limiting the liability of the Contractor for any obligations imposed under this Contract (including but not limited to, any provisions requiring a party hereto to indemnify, defend, and hold harmless under this Contract).

14.6. Subcontracts. In case any or all the performance of this Contract is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in this Paragraph 14. Contractor shall provide evidence of such insurance from said subcontractor.

14.7. Changes in policy limits. 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 Contract by legislative or judicial action or in the event that the Sovereign Immunity limits for a given calendar year, as published annually on the Missouri Register by the Missouri Department of Insurance are increased during the term of this Contract, 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 exposure as the result of increase. 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.

14.8. Survival. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

I acknowledge.

(Required: Check if applicable)

1
0 **Deviations and Exceptions**

If your company intends to deviate from the Specifications listed in the attached documents, all such deviations and exceptions must be listed here, with complete and detailed conditions and information included. The City will consider any deviations or exceptions in its bid award decisions. The City reserves the right to accept or reject any proposals based upon any deviations indicated below. If none, please enter N/A (Not Applicable).

(Required: Maximum 4000 characters allowed)

1
1 **Anti-Collusion Statement**

By offering a submission to this Bid, the bidder certifies the bidder has not divulged, discussed, or compared the Bid with other bidders and has not colluded with any other bidder or parties whatsoever. The bidder also certifies, and in the case of a joint Bid, each party thereto certifies as to their own organization, that in connection with this Bid:

Any prices and/or cost data submitted have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices and/or cost data, with any other bidder or with any competitor.

Any prices and/or cost data for this Bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed by the bidder prior to the scheduled opening directly or indirectly to any other bidder or to any competitor.

No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a Bid for the purpose of restricting competition.

The only person or persons interested in this Bid, principal or principals are named therein and that no person other than therein mentioned has any interest in this Bid or in the contract to be entered into.

No person or agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee exempting bona fide employees or established commercial agencies maintained by the Purchaser for the purpose of doing business.

I affirm that I am duly authorized to execute this contract; that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other Bidder, and that the contents of this bid as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this bid.

I agree.
(Required: Check if applicable)

1
2 **Vendor Application/W-9/ACH**

If you have never done business with the City of Nixa, or if it has been over a year since conducting business with the City, please download the Vendor Application Form, the ACH Authorization Form, and the W-9 Form located on the "Attachments" tab, complete and upload in the "Response Attachments" tab.

I acknowledge.
(Required: Check if applicable)

Bid Lines

1 Please indicate your total cost to complete the proposed project for the Riverton Stormwater Improvement project.

(Response required)

UOM: Total cost for Service _____ Price: \$ _____ Total: \$ _____

Item Notes: **Awarded contractor is required to perform, provide and furnish all labor, materials, tools and equipment necessary to complete the work. Contractor shall be responsible for prompt removal and clean-up of all debris resulting from the work performed under this contract.**

No bid
 Additional notes
(Attach separate sheet)

Supplier Notes: _____

Ship To Information

Contact: Jeff Roussell
Address: Street
1111 W Kathryn
PO Box 395
Nixa, MO 65714
Phone: (417) 725-2353
Email: jroussell@nixa.com

Bill To Information

Contact: Accounts Payable
Address: Finance
City Hall
715 W. Mt Vernon St.
PO Box 395
Nixa, MO 65714
Phone: (417) 725-3785
Email: accountspayable@nixa.com

Supplier Information

Company Name: _____
Contact Name: _____
Address: _____

Phone: _____
Fax: _____
Email: _____

Supplier Notes

By signing below, the bidder shall hereby declare understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions. The bidder shall further agree that the language of this RFB shall govern in the event of a conflict with his/her bid. In addition, the bidder shall further agree that upon receipt of an authorized purchase order from the City of Nixa or when a Contract Resolution is signed and issued by an authorized official of the City of Nixa, a binding contract shall exist between the bidder and the City of Nixa.

Print Name

Signature

SCOPE OF WORK

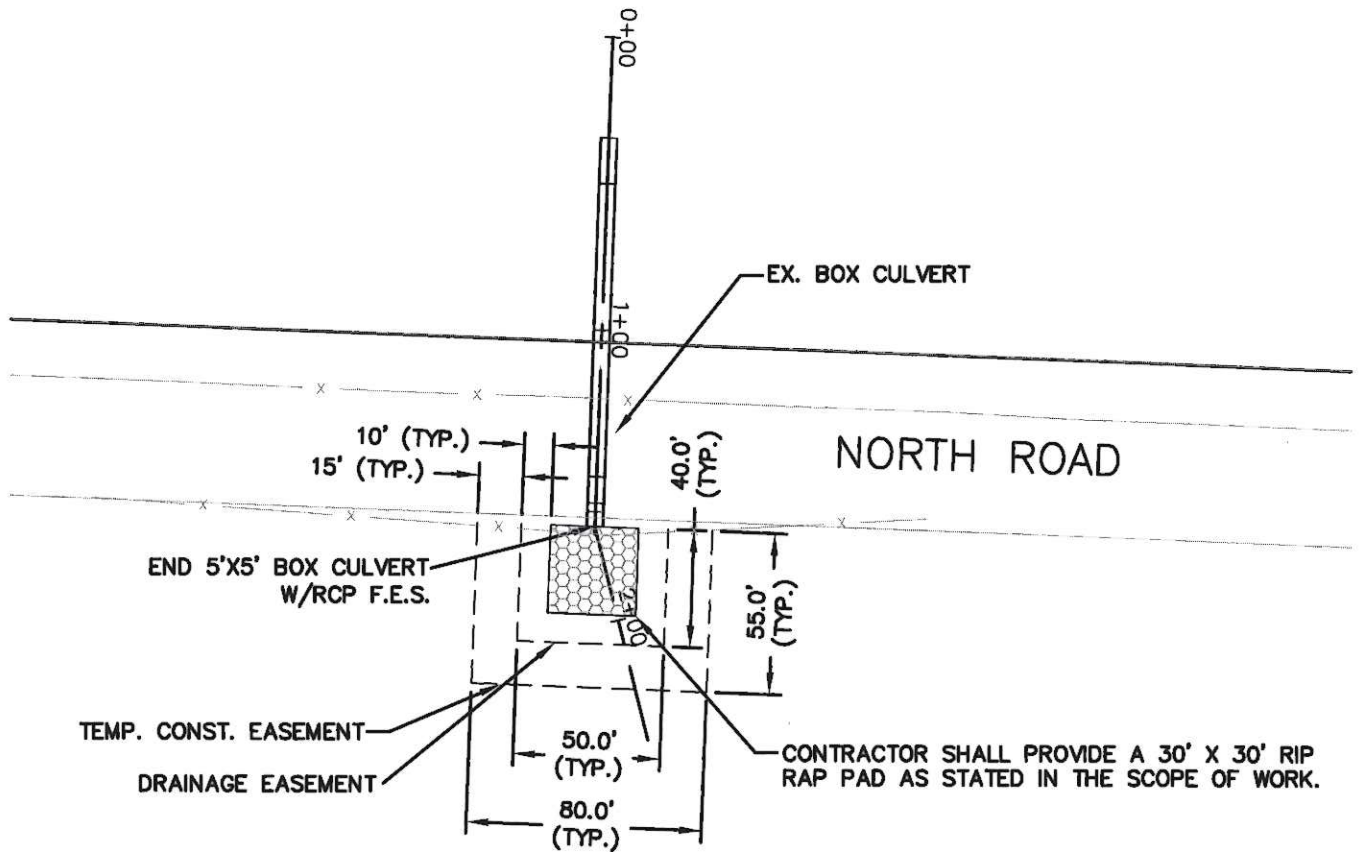
The Scope of Work for this project is for stormwater improvements to be completed at the property address: 1476 North Rd. Nixa Mo.

The awarded vendor shall provide all materials, equipment and provide the necessary manpower to repair and prevent erosion at south end of box culvert located approximately 2,200 feet east of the intersection of N. Cheyenne Rd. and North Rd.

Work shall be done from the roadway as the easement is not adequate for equipment to access from property. See Exhibit A below for easement description.

Work shall consist of:

- Flowable fill or other suitable material to repair erosion under existing box culvert.
- Provide 18 x 18-inch toe wall at end of box culvert.
- 12 to 18 inch plus Rip Rap rock in place within easement downstream of structure to alleviate future erosion. Grouting to hold rip rap in place, if necessary.
- Traffic control plan. Since work is being done on the roadway, an engineered traffic control plan shall be submitted for review. Work shall not commence until the plan is approved by City staff. If the road is to be closed to all traffic, a minimum of two weeks' notice is required before work begins.
- If the road is damaged during construction in a way that could cause potential premature deterioration of roadway asphalt, or a public safety hazard, both to be determined by City Inspectors, asphalt repairs shall be corrected.



EXHIBIT

NOT TO SCALE

EFFECTIVE DATE:	TERMINATION DATE:	CONTRACT NUMBER:
<input type="checkbox"/> NEW CONTRACT		<input type="checkbox"/> ADDENDUM NUMBER:
CITY		CONTRACTOR
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	Name: Address: Phone: Email: Attn:	

CONSTRUCTION CONTRACT FOR RIVERTON STORMWATER IMPROVEMENTS

THIS CONSTRUCTION CONTRACT FOR RIVERTON STORMWATER IMPROVEMENTS ("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 _____, a _____ ("Contractor").

WHEREAS the City, after conducting a Request for Bid solicitation process, referenced as RFB-04-2024/Street desires to engage Contractor to perform stormwater improvements and

WHEREAS Contractor submitted one of the selected bid responses; and

WHEREAS the City desires to engage Contractor to perform such work under the terms and conditions of this Contract; and

WHEREAS the Contractor desires to perform such work 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 Contractor as follows:

1. Manner and Time for Completion. The Contractor agrees to perform and undertake the work described herein. The Contractor shall perform said work in accordance with the standard of care, skill, and expertise ordinarily used by members of the Contractor's profession in the performance of similar work. The work is described in Exhibit A, which is attached hereto and incorporated herein by this reference ("Services"). Contractor shall furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform the Services at Contractor's own expense in accordance with the contract documents, any applicable City ordinances, and any applicable state or federal laws by XX-XX-XXXX. The contractor shall be issued a Notice to Proceed by the City within 30 days after the date of execution of this Contract. If such order is not issued within 30 days after execution of this Contract, then this Contract shall terminate.

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 Contractor 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 Contractor.

3. Payment.

3.1. Progress Payments. Provided that Contractor performs the Services in the manner set

forth herein, the City shall pay the Contractor in accordance with the provisions set forth in Exhibit B, which shall constitute full and complete compensation for the Contractor's work. Such compensation shall be paid in progress payments, as established by the City, subject to receipt of a requisition for payment and a statement of the work provided by the Contractor for the period covered by the requisition. Such requisition shall include an acknowledgement signed 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 applicable, the City shall provide notice to the Contractor of any payment amount withheld and the reason for such withheld payment. The acceptance of any payment under this Contract expressly constitutes a release of the City by the Contractor and its subcontractors from any and all claims which were made or could have been made by the Contractor 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.

3.2. Retainage. City shall withhold 5% from each progress payment as retainage to ensure performance and completion of the Contract. Retainage amounts shall be paid as part of City's Final Payment to Contractor.

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

3.4. Total compensation not to exceed. It is expressly understood that in no event shall the total compensation and reimbursement to be paid to the Contractor under the terms of this Contract exceed the sum of [INSERT AMOUNT] unless specifically and mutually agreed to in writing by both the City and the Contractor.

3.5. Final Completion and Final Payment.

3.5.1. Final Completion is the point at which all work under this Contract has been completed by the Contractor in strict compliance with the terms of this Contract and the Contractor is ready to receive its Final Payment. Final Completion will only occur when all of the following conditions, unless waived in writing by the City, have been satisfied:

3.5.1.1. All work is complete and in compliance with this Contract.

3.5.1.2. Contractor has submitted to the City a Final Payment Application for all funds remaining due under the Contract.

3.5.1.3. Contractor has completed all of its obligations under this Contract, including, without limitation, provided all manufacturer's warranties or any other warranties which are part of the project, provided any manuals for the operation and maintenance of equipment and systems which are part of the project, provided any as-builts or other drawings, any documentation transferring to City ownership of all equipment and materials which are part of the project, and any other close-out requirements reasonably required by the City.

3.5.1.4. Contractor has delivered to the City a final claim statement setting forth in detail all claims of any kind pending against the City or any indemnitee connected with or arising out of this Contract that are pending but not yet resolved.

Any claim not specified by the Contractor, whether on behalf of itself or its subcontractors, shall be deemed waived.

3.5.2. The Contractor shall notify the City, in writing, when it considers Final Completion achieved. After receiving such notice, the City shall, within a reasonable time, thereafter, schedule an inspection of the work to determine if Final Completion has been achieved. If the City determines that Final Completion has not been achieved, the City shall promptly provide the Contractor with a list of items to be completed or corrected to enable City to certify that Final Completion has been achieved. The Contractor shall promptly perform such work and notify the City upon completion so another inspection can be scheduled. If the City determines that Final Completion has been achieved, the City shall promptly notify the Contractor that all requirements have been met.

3.5.3. The acceptance of Final Payment under this Contract expressly constitutes a release of the City by the Contractor and its subcontractors from any and all claims which were made or could have been made by the Contractor and its subcontractors against the City which may arise out of or are related to this Contract.

3.6. Liquidated Damages. The parties mutually and expressly agree that time of completion of work by the Contractor is of the essence due to the fact that _____. Should Contractor, or in the case of default, the surety, fail to substantially complete the work within the time specified in this Contract, or within such extra time as may be allowed, Contractor (or surety) shall be liable to the City in the amount of \$500 per day for each and every calendar day that the performance of this Contract remains uncompleted after the time allowed for substantial 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 funds otherwise due to Contractor from the City. The Services are not considered complete until final acceptance by the City.

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

5. Personnel. The Contractor represents that Contractor shall secure at Contractor'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 Contractor or under Contractor'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 commence upon its full execution by the Parties and shall continue until the completion and acceptance by the City of the Services, unless sooner terminated pursuant to Paragraph 7.

7. Termination.

7.1. Termination for breach. Failure of Contractor to fulfill Contractor'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 Contractor. In the event of any litigation arising from breach of this Contract, the City shall be entitled to recover from the Contractor all reasonable costs incurred for such litigation, including staff time, court costs, attorney fees, and all other related expenses incurred in such litigation.

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 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.

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

10. Conflict of Interest. Contractor 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. Neither party may assign, transfer, or delegate any or all of its rights or obligations under this Contract, including by operation of law, change of control, or merger, without the prior written consent of the other party. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer, or other conveyance in violation of the foregoing shall be null and void. This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

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

12.1. This Contractor 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 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.

13. Occupational License. The Contractor shall obtain and maintain an occupational license or business registration with the City of Nixa, Missouri, if required by city code and any required state or

federal requirement. The cost for this occupational license shall be borne by the Contractor.

14. Insurance Requirements.

14.1. Without limiting any of the other obligations or liabilities of the Contractor, Contractor shall at all times during the Term of this Contract, and for a period of three years thereafter, unless waived in writing by the City, at Contractor's sole cost and expense, at least the following types and amounts of insurance:

14.1.1. Commercial General Liability Insurance with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate, including bodily injury and property damage, which policy shall include contractual liability coverage insuring the activities of Contractor under this Contract;

14.1.2. Worker's Compensation Insurance with statutory coverage as provided for in RSMo. 287.010 et seq.;

14.1.3. Employers Liability Insurance with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate;

14.1.4. Commercial Automobile Liability with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate; and

14.1.5. 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 \$3,370,137.00 for all claims arising out of a single accident or occurrence and at least \$505,520.00 with respect to injuries and/or death of any one person in a single accident or occurrence. The Owner's and Contractor's Protective Liability Insurance must:

14.1.5.1. Be a separate policy with the named insured being: The City of Nixa, Missouri; and

14.1.5.2. Be with the same insurance company with which the Contractor carries its Commercial General Liability Insurance and Automotive Liability Insurance; and

14.1.5.3. 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.

14.2. All insurance policies required pursuant to Paragraph 14 shall:

14.2.1. Be issued by insurance companies reasonably accepted by the City, able to transact business within the State of Missouri, and with an A.M. Best Rating of no less than B+ Rating;

14.2.2. Provide that such insurance carriers give the City at least 30 days' prior written

notice of cancellation or non-renewal of policy coverage; provided that, prior to such cancellation, the Contractor shall have new insurance policies in place that meet the requirements of this Paragraph 14;

14.2.3. Waive any right of subrogation of the insurers against the City or any of its officials, employees, or agents;

14.2.4. Provide that such insurance be primary insurance and any similar insurance in the name of and/or for the benefit of the City shall be excess and non-contributory;

14.2.5. Name the City and its officials, employees, and agents, as additional insured;

14.2.6. Not be met by the use of a single limit policy.

14.3. Contractor shall provide the City with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Paragraph 14 at the time of execution of this Contract and shall not do anything to invalidate such insurance.

14.4. Failure of the Contractor to maintain the coverages set out in this Paragraph 14 shall not relieve it of any contractual responsibility or obligation or liability in general or under this Contract.

14.5. This Paragraph 14 shall not be construed in any manner as waiving, restricting, or limiting the liability of the Contractor for any obligations imposed under this Contract (including but not limited to, any provisions requiring a party hereto to indemnify, defend, and hold harmless under this Contract).

14.6. Subcontracts. In case any or all the performance of this Contract is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in this Paragraph 14. Contractor shall provide evidence of such insurance from said subcontractor.

14.7. Changes in policy limits. 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 Contract by legislative or judicial action or in the event that the Sovereign Immunity limits for a given calendar year, as published annually on the Missouri Register by the Missouri Department of Insurance are increased during the term of this Contract, 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 exposure as the result of increase. 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.

14.8. Survival. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

15. Contractor's responsibility for subcontractors. The Contractor 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 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 Contract, 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.

16. Independent Contractor Clause. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor 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 Contractor shall retain sole and absolute discretion as to the judgment and 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 Contract shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City shall not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

17. Liability and Indemnity.

17.1. 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 Contractor under this contract.

17.2. 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.

17.3. The Contractor 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.

17.4. 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.

17.5. 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.

17.6. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this Contract in its contract price. Contractor'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 Contractor under this Contract.

17.7. 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.

17.8. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

18. Contract Documents.

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

18.1.1. This Contract;

18.1.2. Scope of Work (Exhibit A); and

18.1.3. Rate Sheet/Bid Response (Exhibit B).

18.2. The above listed documents are attached hereto and incorporated by their reference herein as though fully set forth herein.

18.3. 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.

18.4. In the event of a conflict between terms, the terms of this Contract, exclusive of its Exhibits, Attachments, or Schedules, shall control over the terms of any Exhibit, Attachment, or Schedule.

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

19.1. 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 RSMo.

19.2. 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.

20. Notices.

20.1. 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 Contractor 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: Street

To Contractor:

Name:
Address:
Phone:
Email:
Attn:

20.2. 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.

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

21. Right to Audit. Contractor 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. Contractor shall make available for the City's inspection all records covering or relating charges submitted to the City for payment. Contractor shall make appropriate adjustments in the event that discrepancies are found. The City shall have the right to audit the Contractor's records pertaining to the work/product for a period of three (3) years after final payment. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

22. 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.

23. 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.

24. No Third-Party Beneficiaries. This Contract is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Contract.

25. Jurisdiction. This Contract and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri, without giving effect to any choice or conflict of law provision or rule which would cause the application of the laws of any jurisdiction other than

those of the State of Missouri. Should any part of this Contract be litigated, venue shall be proper only in the Courts of Christian County, Missouri. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

26. Waiver of Jury Trial. Each party irrevocably and unconditional waives any right it may have to a trial by a jury in respect to any legal action arising out of or relating to this Contract or the transaction contemplated thereby. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

27. Severability. If any term or provision of this Contract is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision.

28. Headings. The headings in this Contract are for reference only and shall not affect the interpretation of this Contract.

29. Interpretation. This Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

30. Payment for Labor and Materials. The Contractor shall pay for all labor and materials used in the provision of the Services.

31. Performance and Payment Bonds.

31.1. The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on forms approved by the City, each bond shall be in the amount of \$INSERT CONTRACT AMOUNT (full amount of contract) conditioned upon the full and faithful performance of all terms and conditions of this Contract and payment of all labor and material suppliers.

31.2. It is further mutually agreed between the parties that if at any time after the execution of this Contract the City deems 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 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.

31.3. 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.

32. Prevailing Wage. In compliance with sections 290.210 through 290.340 RSMo, all workers performing work under this Contract shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality or the public works contracting minimum wage, whichever is applicable, as set out in the Wage Order. If at any time the Contractor is found to not have paid prevailing wages, the Contractor shall forfeit as a penalty to the City \$100.00 for each calendar day or portion of a calendar day for each worker paid less than the stipulated required rates for any

work done under this Contract by the Contractor or by any subcontractor under the Contractor. Notwithstanding the foregoing, if the engineer's estimate of the total project cost or the bid accepted by the City is \$75,000.00 or less, then all labor utilized in the construction of the improvements shall not be required to pay the "prevailing rate of wages" or the public works minimum wage. However, if the project becomes subject to a change order that increases the total project cost to more than \$75,000.00, a "prevailing hourly rate of wages" or the public works contracting minimum wage, whichever is applicable, shall be paid for all labor utilized in the construction of the improvements but only for that portion of the project which exceeds \$75,000.00.

33. 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. The Contractor shall provide an acceptable notarized affidavit stating that Contractor has verified the completion of a 10-hour constructions safety program with respect to the employees working in connection with the contracted services. Contractors and subcontractors in violation of this provision will forfeit to the public body \$2,500.00 plus \$100 a day for each employee who is employed without training. Public bodies and contractors may withhold assessed penalties from the payment due to those Contractors and subcontractors. The penalties shall not begin to accrue until the time periods in the statute have elapsed (60 days after notice to proceed and 20 days to produce documentation for employees found in violation).

34. 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.

35. Compliance with Anti-Discrimination against Israel Act. Pursuant to Section 34.600 RSMo, if this Contract exceeds the amount of \$100,000 for Contractors with ten or more employees, Contractor, by executing this Contract, certifies that the Contractor is not currently engaged in and shall not for the duration of the contract, engage in a boycott of goods or services from the State of Israel; is not currently engaged in and shall not, for the duration of the contract, engage in a boycott of goods or services from companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or is not currently engaged in and shall not for the duration of this contract, engage in a boycott of goods or services from persons or entities doing business in the state of Israel.

[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.

CITY

CONTRACTOR

Jimmy Liles, City Administrator

Authorized Singer

Date: _____

Date: _____

ATTEST:

Printed Name

Rebekka Coffey, City Clerk

Title

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

CONTRACTOR VERIFICATION

State of _____

County of _____

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: _____.

**BUSINESS ENTITY CERTIFICATION, ENROLLMENT DOCUMENTATION,
AND AFFIDAVIT OF WORK AUTHORIZATION**

BUSINESS ENTITY CERTIFICATION:

The bidder/contractor must certify their current business status by completing either Box A or Box B or Box C on this Exhibit.

- BOX A:** To be completed by a non-business entity as defined below.
- BOX B:** To be completed by a business entity who has not yet completed and submitted documentation pertaining to the federal work authorization program as described at http://www.dhs.gov/files/programs/gc_1185221678150.shtm.
- BOX C:** To be completed by a business entity who has current work authorization documentation on file with a Missouri state agency including Division of Purchasing and Materials Management.

Business entity, as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, is any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term “**business entity**” shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term “**business entity**” shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit. The term “**business entity**” shall not include a self-employed individual with no employees or entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

Note: Regarding governmental entities, business entity includes Missouri schools, Missouri universities (other than stated in Box C), out of state agencies, out of state schools, out of state universities, and political subdivisions. A business entity does not include Missouri state agencies and federal government entities.

BOX A – CURRENTLY NOT A BUSINESS ENTITY

I certify that _____ (Company/Individual Name) **DOES NOT CURRENTLY MEET** the definition of a business entity, as defined in section 285.525, RSMo pertaining to section 285.530, RSMo as stated above, because: (check the applicable business status that applies below)

- I am a self-employed individual with no employees; **OR**
- The company that I represent employs the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

I certify that I am not an alien unlawfully present in the United States and if _____ (Company/Individual Name) is awarded a contract for the services requested herein under _____ (Bid/SFS/Contract Number) and if the business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, then, prior to the performance of any services as a business entity, _____(Company/Individual Name) agrees to complete Box B, comply with the requirements stated in Box B and provide the _____(insert agency name) with all documentation required in Box B of this exhibit.

Authorized Representative’s Name (Please Print)

Authorized Representative’s Signature

Company Name (if applicable)

Date

(Complete the following if you DO NOT have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box B, do not complete Box C.)

BOX B – CURRENT BUSINESS ENTITY STATUS

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530.

Authorized Business Entity Representative's Name (Please Print)

Authorized Business Entity Representative's Signature

Business Entity Name

Date

E-Mail Address

As a business entity, the bidder/contractor must perform/provide each of the following. The bidder/contractor should check each to verify completion/submission of all of the following:

- Enroll and participate in the E-Verify federal work authorization program (Website: http://www.dhs.gov/files/programs/gc_1185221678150.shtm; Phone: 888-464-4218; Email: e-verify@dhs.gov) with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- Provide documentation affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program. Documentation shall include EITHER the E-Verify Employment Eligibility Verification page listing the bidder's/contractor's name and company ID OR a page from the E-Verify Memorandum of Understanding (MOU) listing the bidder's/contractor's name and the MOU signature page completed and signed, at minimum, by the bidder/contractor and the Department of Homeland Security – Verification Division. If the signature page of the MOU lists the bidder's/contractor's name and company ID, then no additional pages of the MOU must be submitted; AND
- Submit a completed, notarized Affidavit of Work Authorization provided on the next page of this Exhibit.

AFFIDAVIT OF WORK AUTHORIZATION:

The bidder/contractor who meets the section 285.525, RSMo, definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now _____ (Name of Business Entity Authorized Representative) as _____ (Position/Title) first being duly sworn on my oath, affirm _____ (Business Entity Name) is enrolled and will continue to participate in the E-Verify federal work authorization program with respect to employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530, RSMo. I also affirm that _____ (Business Entity Name) does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services provided under the contract(s) for the duration of the contract(s), if awarded.

In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)

_____	_____
Authorized Representative's Signature	Printed Name
_____	_____
Title	Date
_____	_____
E-Mail Address	E-Verify Company ID Number

Subscribed and sworn to before me this _____ of _____. I am
(DAY) (MONTH, YEAR)
commissioned as a notary public within the County of _____, State of
(NAME OF COUNTY)
_____, and my commission expires on _____.
(NAME OF STATE) (DATE)

_____	_____
Signature of Notary	Date

(Complete the following if you have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box C, do not complete Box B.)

BOX C – AFFIDAVIT ON FILE - CURRENT BUSINESS ENTITY STATUS

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, and have enrolled and currently participates in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri. We have previously provided documentation to a Missouri state agency or public university that affirms enrollment and participation in the E-Verify federal work authorization program. The documentation that was previously provided included the following.

- ✓ The E-Verify Employment Eligibility Verification page OR a page from the E-Verify Memorandum of Understanding (MOU) listing the bidder’s/contractor’s name and the MOU signature page completed and signed by the bidder/contractor and the Department of Homeland Security – Verification Division
- ✓ A current, notarized Affidavit of Work Authorization (must be completed, signed, and notarized within the past twelve months).

Name of **Missouri State Agency** or **Public University*** to Which Previous E-Verify Documentation Submitted: _____

(*Public University includes the following five schools under chapter 34, RSMo: Harris-Stowe State University – St. Louis; Missouri Southern State University – Joplin; Missouri Western State University – St. Joseph; Northwest Missouri State University – Maryville; Southeast Missouri State University – Cape Girardeau.)

Date of Previous E-Verify Documentation Submission: _____

Previous **Bid/Contract Number** for Which Previous E-Verify Documentation Submitted: _____

(if known)

Authorized Business Entity Representative’s Name (Please Print)

Authorized Business Entity Representative’s Signature

E-Verify MOU Company ID Number

E-Mail Address

Business Entity Name

Date

FOR STATE USE ONLY

Documentation Verification Completed By:

Buyer

Date

CITY OF NIXA, MISSOURI
GENERAL TERMS AND CONDITIONS OF BIDDING

1. **Opening Location:** Sealed proposals will be received at Nixa City Hall, 715 W. Mt. Vernon St., Nixa, MO 65714, until the proposal closing date and time indicated above.
2. **Opening of advertised proposals:** The vendor and public are invited, but not required, to attend the opening of proposals. No decision related to an award of a contract or purchase order will be made at the opening.
3. **Submittal of Proposals:** Proposals delivered in person or by mail must be submitted in a sealed envelope identified with the bid title and date of closing on the outside. Facsimile, telephone and email proposals will NOT be considered. Proposals will not be accepted after the due date and time.
4. All proposals shall be submitted FOB Destination Nixa, Missouri 65714, freight prepaid (unless otherwise stated).
5. **Prices Bid:** Give unit price, extended total or both if applicable. Price must be stated in units of quantity specified in the bidding specifications. In case of discrepancy in computing the amount of the Bid, the unit price of the Bid will govern. Each item must be bid separately and no attempt is to be made to tie any item or items in with any other item or items.
6. **Taxes:** Do NOT include Federal Excise Tax or Sales and Use Tax in the bid prices, as the City is exempt from them by law. Tax Exemption Certificate will be furnished if required.
7. **Estimated Quantities:** The estimated quantities indicated in this Request for Proposal represent anticipated requirements only. The right is reserved to exceed or diminish these estimates.
8. **Bid Forms, Variances, and Alternates:** Bids must be submitted on attached City bid forms, although additional information may be attached. Bidders must indicate any variances from the City requested specifications and/or terms and conditions, on the Affidavit of Compliance. Otherwise, bidders must fully comply with the City requested specifications and terms and conditions. Alternate Bids may or may not be considered at the sole discretion of the City of Nixa.
9. **“Or Equal” Interpretation:** When a particular manufacturer’s name or brand is specified along with the words “or equal”, Quotations will be considered on other brands or the product of other manufacturers. On all such Quotations the bidder shall indicate clearly the product (brand and model number) on which he is bidding, and shall supply a sample or sufficient data in detail to enable an intelligent comparison to be made with the particular brand or manufacturer specified. Catalog cuts and technical descriptive data shall be attached to the original copy of the quote where applicable. Failure to submit the above information may be sufficient grounds for the rejection of quote.
10. **Withdrawal of Bids:** Bids or proposals may be revised, modified, or withdrawn by the bidder at any time prior to opening. Any such revision, modification, or withdrawal shall be in writing. After the bids are opened, they shall be irrevocable for the period sixty (60) days. Bids or proposals may not be withdrawn or revised after opening unless specified in the RFP.
11. **Clarification and Addenda:** Each bidder shall examine all Bid documents and shall judge all matters relating to the adequacy and accuracy of such documents. Any inquiries or suggestions, concerning interpretation, clarification, or additional information pertaining to the Request for Proposal shall be made through the Purchasing Department in writing or through email. The Purchasing Department shall not be responsible for oral interpretations given by any City employee, representative, or others. The issuance of written addenda is the official method whereby interpretation, clarification, or additional information can be given. It shall be the responsibility of each bidder, prior to submitting their Bid, to contact the Purchasing Department at phone number 417-449-0555 or email, to determine if addenda were issued and to make such addenda a part of their Bid. Any and all addendums will be posted on the City’s electronic bidding web site (<https://nixa.ionwave.net/HomePage.aspx>).
12. **Contract Forms:** Any agreement, contract, or purchase order resulting from the acceptance of a Bid shall be on forms either supplied by or approved by the City.
13. **Reserved Rights:** The City reserves the right to make such investigations as it deems necessary to make the determination of the bidder’s responsiveness and responsibility. Such information may include, but shall not be limited to: current financial statement, verification of availability of equipment and personnel, and past performance records.
14. **The Right to Audit:** The bidder agrees to furnish supporting detail as may be required by the City to support charges or invoices, to make available for audit purposes all records covering charges pertinent to the purchase, and to make appropriate adjustments in the event discrepancies are found.

15. **Applicable Law:** All applicable laws and regulations of the State of Missouri and the City will apply to any resulting agreement, contract, or purchase order.
16. **Right to Protest:** Protestors shall seek resolution of their complaints initially with the City Purchasing Agent. Any protest must state the basis upon which the solicitation or award is contested and shall be submitted within ten (10) calendar days after such aggrieved person knew or could have reasonably been expected to know of the facts giving rise thereto.
17. **Quality Guaranty:** If any product delivered does not meet applicable specifications or if the product will not produce the effect that the bidder represents to the City, the bidder shall pick up the product from the City at no expense. Also, the bidder shall refund to the City any money which has been paid for same. The bidder will be responsible for attorney fees in the event the bidder defaults and court action is required.
18. **Quality Terms:** The City reserves the right to reject any or all materials if, in its judgment, the item reflects unsatisfactory workmanship, manufacturing, or shipping damages.
19. **Bid Tabulation:** Bidders may request a copy of the bid tabulation of the Request for Bid through the City's purchasing department.
20. **Expenses:** All expenses for making Proposals to the City of Nixa are to be borne by the bidder.
21. **Collusion:** By offering a submission to this Request for Bid, the bidder certifies the bidder has not divulged, discussed, or compared the Bid with other bidders and has not colluded with any other bidder or parties to this RFB whatsoever. Also, the bidder certifies, and in the case of a joint Bid, each party thereto certifies as to their own organization, that in connection with this RFB:
 - a. Any prices and/or cost data submitted have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices and/or cost data, with any other bidder or with any competitor.
 - b. Any prices and/or cost data for this Bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed by the bidder prior to the scheduled opening directly or indirectly to any other bidder or to any competitor.
 - c. No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a Bid for the purpose of restricting competition.
 - d. The only person or persons interested in this Bid, principal or principals are named therein and that no person other than therein mentioned has any interest in this Bid or in the contract to be entered into.
 - e. No person or agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee exempting bona fide employees or established commercial agencies maintained by the Purchaser for the purpose of doing business.
22. **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.
 - 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.

23. **Bid Information is Public:** All documents submitted with any bid or proposal shall become public documents and subject to Missouri State Statute Chapter 610 RSMo., which is otherwise known as the “Missouri Sunshine Law”. By submitting any document to the City of Nixa in connection with a bid or proposal, the submitting party recognizes this and waives any claim against the City of Nixa and any of its officers and employees relating to the release of any document or information submitted. Each submitting party shall hold the City of Nixa and its officers and employees harmless from any claims arising from the release of any document or information made available to the City of Nixa arising from any bid opportunity.
24. **Authorized Product Representation:** The successful bidder(s) by virtue of submitting the name and specifications of a manufacturer’s product will be required to furnish the named manufacturer’s product. By virtue of submission of the stated documents, it will be presumed by the City that the bidder(s) is legally authorized to submit and the successful bidder(s) will be legally bound to perform according to the documents.
25. **Regulations:** It shall be the responsibility of each bidder to assure compliance with OSHA, EPA, Federal, State of Missouri, and City rules, regulations, or other requirements, as each may apply.
26. **Awards:**
 - a. Unless otherwise stated in the Request for Bid, cash discounts for prompt payment of invoices will not be considered in the evaluation of prices. However, such discounts are encouraged to motivate prompt payment.
 - b. As the best interest of the City may require, the right is reserved to make awards by item, group of items, all or none, or a combination thereof; to reject any and all Bids or waive any minor irregularity or technicality in Bids received.
 - c. Awards will be made to the Bidder whose Bid (1) meets the specifications and all other requirements of the Request for Bid and (2) is the lowest and best Bid, considering price, delivery, responsibility of the bidder, and all other relevant factors.
27. **Termination of Award:** Any failure of the bidder to satisfy the requirements of the City shall be reason for termination of the award. Any Bid may be rejected in whole or in part for good cause when in the best interest of the City.
28. **Budgetary Constraints:** The City reserves the right to reduce or increase the quantity, retract any item from the Bid, or upon notification, terminate entire agreement without any obligations or penalty based upon availability of funds.
29. **Certificate of Compliance with 34.600 RSMo. (Anti-Discrimination Against Israel Act).** Pursuant to Missouri Revised Statute Sections 34.600 et., seq., a Contractor must provide a written certification of compliance with the Anti-Discrimination Against Israel Act, RSMo. 34.600 et. seq., that the contractor is not currently engaged in and shall not, for the duration of the contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. This section shall not apply to contracts with a total potential value of less than one hundred thousand dollars or to contractors with fewer than ten employees.
30. **Additional Purchases by Other Public Agencies:** The bidder by submitting a Bid authorizes other public agencies to “Piggy-Back” or purchase equipment and services being proposed in this Request for Bid unless otherwise noted on the Affidavit of Compliance Form.



VENDOR APPROVAL APPLICATION

All vendor information must be complete for your company to be an approved vendor. A completed and signed W-9 form must accompany the application. The form is available at this link: www.irs.gov/pub/irs-pdf/fw9.pdf. Please provide ACH instructions to receive payment by completing the ACH Authorization form. (NOTE: U.S. based bank is required) If you will be performing work on City property, please include a copy of your current workers compensation certificate of insurance. **Email all to: jgerhauser@nixa.com**

City of Nixa Department/Employee you have been working with: _____

If none, would you like to be added to our distribution list? _____

VENDOR INFORMATION:

Company Name as recorded with the IRS: _____

DBA Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Billing Address (if different): _____

City: _____ State: _____ Zip: _____

Phone: _____ Website: _____

Email: _____

Finance Contact: _____

Email: _____ Phone: _____

Terms: Net 30

Do you offer an early payment discount? Yes No

If so, what are the terms of the discount? _____

What type of work does your company provide? _____

Business Type: C-Corp Government Agency LLC Non-Profit
 S-Corp Trust/Estate Sole Proprietorship
 Other:

EIN/SSN for Tax Purposes: _____

If SSN, Name of Individual: _____

REFERENCES:

Bank Reference

Bank Name: _____ Contact: _____

Phone: _____ Email: _____

Address: _____

Trade References (2)

Company Name: _____ Contact: _____

Phone: _____ Email: _____

Address: _____

Company Name: _____ Contact: _____

Phone: _____ Email: _____

Address: _____

CERTIFICATION:

I certify that all information provided on this application is true and correct.

Signature: _____ Date: _____

Printed Name: _____

TO BE COMPLETED BY CITY OF NIXA FINANCE DEPARTMENT

Date Received: _____

Signed: _____ Date: _____

Approved Rejected Reason: _____



Vendor ACH Authorization Form

1. Please Check One:

NEW ACH Authorization CHANGE Authorization CANCEL ACH Authorization

2. Vendor/Payee Information

Name: _____

Address: _____

Contact Person's Name (if other than payee): _____

Telephone Number: _____

Email Address: _____

City of Nixa Account # (if needed) _____

3. Financial Institution Information

Bank Name: _____

Bank Address: _____

Name on Bank Account: _____

Bank Account Number: _____

Nine-Digit Bank Routing/Transit Number (ABA): _____

Type of Account: Checking Savings

4. Approvals/Authorizations - I certify that the information provided on this form is correct, and I hereby authorize the City of Nixa to electronically deposit payments to the bank account designated above. It is my responsibility to notify the City of Nixa (AccountsPayable@nixa.com or 417-724-5625) immediately if I believe there is a discrepancy between the amount deposited to my bank account and the amount of the invoice(s) paid. I understand that I must notify the City of Nixa in writing immediately of any changes in status or banking information. I understand that this authorization will remain in full force and effect until the City of Nixa has received written notification requesting a change or cancellation and has had reasonable opportunity to act on it.

Print Name: _____ Signature: _____ Date: _____

Important Information

Please return completed form via email: AccountsPayable@nixa.com

For Office of Accounts Payable Use Only**Date Stamp - Received**

AP Reviewed and Approved: _____