

**COUNCIL WORKSHOP MEETING
MONDAY, MARCH 7, 2022 – 6:00 p.m.
COUNCIL CHAMBER
405 JEFFERSON STREET
WASHINGTON, MO**

INTRODUCTORY ITEMS:

Roll call/Pledge of Allegiance

ACTION:

1. APPROVAL OF MINUTES:

Approval of the February 7, 2022 Workshop minutes

Approve/Mayor

2. PRESENTATIONS:

3. REPORT OF DEPARTMENT HEADS:

A. Administration Department –

- a. Additional Hangars at the Washington Regional Airport
- b. Freight Depot

Discussion

Discuss-Send to Council

B. Communications Department –

- a. Installation of a Motorbo UHF-VHF Gateway

Discuss-Send to Council

C. Parks Department –

- a. 2022 Aquatic Complex Fees
- b. Ground Maintenance Services 2022

Discussion

Discuss-Send to Council

4. EXECUTIVE SESSION:

Public vote on whether or not to hold a closed meeting to discuss personnel, legal or real estate matters pursuant to Section 610.021 RSMo (2000)

ROLL CALL VOTE

5. ADJOURNMENT:

POSTED ON CITY HALL NOTICE BOARD BY SHERRI KLEKAMP, CITY CLERK, MARCH 4, 2022
A COPY OF THIS NOTICE IS ALSO AVAILABLE ONLINE AT www.washmo.gov.

**MINUTES OF THE
CITY OF WASHINGTON, MISSOURI
COUNCIL WORKSHOP MEETING
FEBRUARY 7, 2022**

The Council Workshop Meeting was held on Monday, February 7, 2022 at 6:00 p.m. in the Council Chamber, 405 Jefferson Street, Washington, Missouri. Mayor Lucy opened the meeting with roll call and Pledge of Allegiance.

Mayor:	Sandy Lucy	Present	
Council Members:	Ward I	Steve Sullentrup	Present (6:01 p.m.)
		Duane Reed	Present
	Ward II	Mark Wessels	Present
		Mark Hidritch	Present (6:01 p.m.)
	Ward III	Jeff Patke	Present
		Greg Skornia	Present
	Ward IV	Gretchen Pettet	Present
		Joe Holtmeier	Present
	Also Present:	City Attorney	Mark Piontek (6:58 p.m.)
		City Administrator	Darren Lamb
		City Clerk	Sherri Klekamp
		Library Director	Nelson Appell
Finance Director		Mary Sprung	
Building Official		Tom Neldon	
Water/Wastewater Superintendent		Kevin Quaethem	
Street Superintendent		Tony Bonastia	
Public Works Director		John Nilges	
Economic Development Director		Sal Maniaci	
Parks Director		Wayne Dunker	
Communications Director		Lisa Moffitt	
Fire Chief	Tim Frankenberg		
Police Chief	Ed Menefee		

Approval of Minutes

A motion to approve the minutes from the January 3, 2022 Workshop meeting as presented made by Patke, seconded by Holtmeier passed without dissent.

Presentations

A. International Shoe Factory Wrap-Up

Economic Development Director Sal Maniaci updated Council on the status of the International Shoe Factory. ELS Properties has signed over the deed to the City for the 11 Year Tax Abatement. With 84 units, it is 100% occupied with 10 people on the waiting list; 82% of the units are occupied with people that are ages 35 and under. Brief discussions ensued regarding the range of rent and Locust Street Development.

February 7, 2022

*Economic Development Director Sal Maniaci updated Council on the 10-Year City Comprehensive Plan for the years 2023 to 2033. Request for Proposals were sent out and staff received four. The Planning and Zoning Commission will act as the Interview Committee and interviews are scheduled for next week.

Report of Department Heads

A. Administration Department -

a. Code Amendment – Electric Bicycles

January 24, 2022

Honorable Mayor & City Council

City of Washington

Washington, MO 63090

RE: Code Amendment

Honorable Mayor and Council:

The attached ordinance adds the following definition of Electric Bicycles to Section 300.010 of the Code of the City of Washington, Missouri due to Missouri State Legislature Changes.

We recommend approval of the attached ordinance.

Respectfully submitted,

Sherri Klekamp, MRCC

City Clerk

After City Clerk Sherri Klekamp discussed the amendment, a motion to forward to Council made by Holtmeier, seconded by Pettet, passed without dissent.

b. Re-Use of ARPA Funds

City Administrator Darren Lamb updated Council on the re-use of ARPA Funds. All of the funds that the City receives through ARPA are now essentially non-restricted and can be used for any City purpose. Topics of discussion were Tourism, PD/FD/Field Employees/Support Staff, Replacement of Lost Revenue, Water, Sewer and Investments and Library HVAC Replacement. Discussion ensued regarding the Library HVAC. For the record, City Administrator Darren Lamb stated that system is 10 years old.

B. Engineering Department -

a. 2022 Snap-Tite Culvert Lining Project

January 14, 2022

Honorable Mayor and City Council

City of Washington

Washington, MO 63090

RE: 2022 Snap-Tite Culvert Lining Project

Dear Mayor and City Council Members:

On January 7, 2022 the City received the following bids for this project:

<i>Girdner Contracting, LLC</i>	<i>\$102,500.00</i>
<i>Ballmann Earthworks, LLC</i>	<i>\$145,000.00</i>
<i>Hank's Excavating and Landscaping, Inc.</i>	<i>\$155,000.00</i>
<i>SCE, Inc.</i>	<i>\$177,395.00</i>
<i>Kelpe Contracting, Inc.</i>	<i>\$178,700.00</i>
<i>KJU, Inc.</i>	<i>\$185,000.00</i>
<i>Engineer's Estimate</i>	<i>\$140,000.00</i>

February 7, 2022

Find in this packet an ordinance for your consideration that would allow the City to enter into a contract with Girdner Contracting, LLC. in the amount of \$102,500.00. The contractor will have a February 25, 2022 completion date. The project includes installing new 36" Snap-Tite pipe through existing 48" CMP, grouting voids, installing new flap gates, and repairing eroded areas with rip-rap.

*Respectfully submitted,
Andrea F. Lueken, P.E.
Assistant City Engineer*

After Public Works Director John Nilges discussed the project, discussion ensued. A motion to forward to Council made by Patke, seconded by Pettet, passed without dissent.

b. Bulk Trash Collection Contract Change

January 24, 2022

Honorable Mayor and City Council

City of Washington

Washington, MO 63090

RE: Bulk Trash Collection – Contract Change

Dear Mayor and City Council Members:

A year ago, I presented a proposal that would modify and improve the way the City handles bulky waste pick up. Currently, the City holds two events a year in which residents essentially set out whatever they choose to be collected. As presented, the following are issues that have been ongoing and have seemingly increased in occurrence over the last few years:

- 1. Advertisement - "Pickers" ascend on the City and go through everyone's stuff prior to pickup. Creates a scattered trash scenario, in which, we do not pick up. Creates an environment in which damage to private property, etc. is occurring.*
- 2. Regional service – Allows for unlimited amounts of bulky items. We are seeing 8 mattresses at addresses, multiple tables and furniture, etc. While not the majority, there are locations where, we believe, the outside community is hauling trash into Washington to be placed at addresses to which the service applies. Essentially, we are providing bulk services for non-citizens.*
- 3. Event held twice a year – Each citizen has to hold on to their bulky items until the bi-annual event.*

The following solution, staff feels, will solve the majority of the issues identified and will improve on the operation by providing a pickup option for bulky items once a month.

Bulky Item collection shall be as follows:

- 1. Residences served by dumpster:
 - a. Third week in April and third week in October on the residences scheduled pickup day.**
- 2. All other residences:
 - a. Last scheduled collection date of each month. Each residence shall be allowed two (2) bulky items per month to be collected curbside.**

This will allow an opportunity for the majority of residences to get rid of their items (2 per month) throughout the year, rather than hold on to them for 6+ months. Allows for 24 bulky items per year.

Additional information. We are not proposing a change, and this is meant for information only:

- 1. Bulky Item Definition - Any item measuring in excess of either forty-eight (48) inches in length or sixty (60) pounds in weight, including, but not limited to, chairs, couches,*

February 7, 2022

- mattresses, box springs, tables, shelves, toys, bikes, outdoor/garden equipment, and other similar household items.*
2. *Bulky items does not include construction and demolition waste, auto parts, tires, and hazardous materials.*
 3. *All other residential trash must be contained in accordance with City Code. Loose trash will not be picked up.*

This updated service would begin at the end of February.

Thank you for your consideration

Respectfully submitted,

John Nilges, P.E.

Public Works Director

After Public Works Director John Nilges discussed the contract change, discussion ensued. A motion to forward to Council made by Patke, seconded by Holtmeier, passed without dissent.

C. Finance Department -

a. Code Repeal – Landfill Fees

To: Mayor and City Council

From: Mary Sprung

Date: January 25, 2022

Re: City Code Change-Landfill

Section 220.015 Use of Municipal Landfill A.4. currently states that a landfill bill is considered delinquent after 20 days from the date of billing.

We are requesting to change this from 20 to 30 days which is standard business practice for collection of accounts receivable. This will enable more of our customers to be able to pay on time without being charged additional fees.

We do offer free automatic bank drafting and we are looking into the cost for online credit card payment as an option in the near future, which will also help customers to more conveniently make payments to the City.

After Finance Director Mary Sprung discussed the code repeal, a motion to forward to Council made by Sullentrup, seconded by Reed, passed without dissent.

Miscellaneous:

*Building Inspector Tom Neldon discussed the 2021 Building Report. A brief discussion ensued regarding Outdoor Wood Furnaces.

*Fire Chief Tim Frankenberg discussed the 2021 Fire Department Report. Brief discussions ensued regarding training, the number of active Firefighters and false alarms.

Adjournment

With no further business to discuss, a motion to adjourn made at 7:02 p.m. by Patke, seconded by Pettet, passed without dissent.

February 7, 2022



March 7, 2022

Honorable Mayor and City Council
City of Washington
405 Jefferson Street
Washington, MO 63090

Re: Architectural and Engineering Services – Freight Depot

Honorable Mayor and Council,

In January 2022, the City received a proposal for the potential use and lease of the Freight Depot. In order to get the building "white box" ready for the potential tenant, City staff solicited requests for qualifications for standard architectural and engineering services. Staff reached out to local engineering firms for qualifications and received one proposal, from Cochran Engineering. After reviewing the proposal, staff recommends entering into a contract with Cochran Engineering for architectural and engineering services for \$23,800.

Since the Main Stage Roof will not be completed in this fiscal year, staff is recommending to utilize those funds for this project.

Sincerely,

for 
Wayne Dunker, CPRP
Director of Parks & Recreation

BILL NO. _____

INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL FOR STANDARD ARCHITECTURAL/ENGINEERING SERVICES FOR INTERIOR ALTERATIONS WITH COCHRAN ENGINEERING FOR THE FREIGHT DEPOT

Be It Ordained by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is hereby authorized and directed to accept the proposal with Cochran Engineering, 530A East Independence Drive, Union, Missouri, to provide Standard Architectural/Engineering Services for Interior Alterations for the Freight Depot. A copy of said proposal is attached hereto and marked as Exhibit A.

SECTION 2: Vendor shall meet all specifications as indicated in specifications.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall take effect and be in full force from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri



February 18, 2022

Sal Maniaci
City of Washington
Community & Economic Development Director
405 Jefferson St
Washington, MO 63090

Sent Via Email: smaniaci@washmo.gov

RE: Proposal – Professional Design Services
Freight Depot Renovations

Dear Mr. Maniaci

Cochran is pleased to present this proposal for architectural and engineering services for your project. Per our discussion, the following is an outline of our services.

SCOPE OF WORK

Project consists of the renovation and design for a "white box" tenant finish for the existing Freight Depot on Front Street. We have included the following:

1. Provide insulation and framing at exterior walls in freight room.
2. Remove existing interior walls and ceiling in the finished portion of the building as necessary to provide new white box layout.
3. Repair finish flooring as required or provide new.
4. Provide a finished ceiling and insulate the roof as necessary.
5. Provide handicapped ramp from finished portion of the building to the freight room.
6. Seal the building weather tight at the existing sliding doors in freight room.
7. Provide all new HVAC units.
8. Provide new electrical panel and new general power and lights. Re-use existing power receptacles if possible.
9. Provide (2) restrooms and a janitor closet.
10. Provide structural analysis and modifications as follows:
 - a. Field investigate existing crawl space structure, and provide renovations as necessary to fix structural deficiencies.
 - b. Determine cause of bowed west exterior wall and provide solution for stabilizing.
 - c. Analyze any structural deficiencies in the floor structure or sheathing and provide details to fix and stabilize.

DESIGN AND CONSTRUCTION DOCUMENTS

1. Programming - We will gather and document information regarding services, spaces, equipment and layout. We will meet with owner to as required.
2. We will field measure the existing building, and provide as-built.
3. Conceptual Design - Based on information gathered in the programming stage, we will develop the crawl space plan, floor plan, and building section.
4. We have included one set of revisions to the conceptual design.
5. Based on approved conceptual design, we will develop construction drawings and full specifications.
6. All current building codes and local ordinances will be reviewed and followed.
7. We will coordinate all drawings prepared for the project.
8. We will select interior colors and finishes.
9. Architectural drawings will include the following:
 - a. Cover Sheet
 - b. Floor Plans & Roof Plan
 - c. Reflected Ceiling Plan
 - d. Building Sections
 - e. Wall Sections
 - f. Interior Elevations and Details for restrooms.
 - g. Door and Hardware Schedules

8 East Main Street
Wentzville, MO 63385
Phone: 636-332-4574
Fax: 636-327-0760

737 Rudder Road
Fenton, MO 63026
Phone: 314-842-4033
Fax: 314-842-5957

530A East Independence Drive
Union, MO 63084
Phone: 636-584-0540
Fax: 636-584-0512

1163 Maple Street
Farmington, MO 63640
Phone: 573-315-4810
Fax: 573-315-4811

2804 N. Biagio Street
Ozark, MO 65721
Phone: 417-595-4108
Fax: 417-595-4109

905 Executive Drive
Osage Beach, MO 65065
Phone: 573-525-0299
Fax: 573-525-0298

- h. Partition Types & Details
- i. Ramp Details.
- j. Details and Sections as required
10. Structural drawings will include the following:
 - a. Repair and stabilization of existing structural deficiencies.
 - b. General Notes & Typical Details
11. Mechanical Design will include:
 - a. Mechanical equipment sizing and location. It is assumed packaged split systems will be used for this.
 - b. Ductwork layout and distribution.
12. Plumbing design will include:
 - a. Water line design and distribution.
 - b. Plumbing fixture specifications.
 - c. We will connect sanitary sewer to the existing located in the crawlspace.
13. Electrical design will include:
 - a. Provide new electrical panel.
 - b. Lighting layout and wiring.
 - c. Wiring and electrical distribution for outlets, exhaust fans, mechanical units, and other miscellaneous electrical items.
14. Clarifications with local and state authorities during permitting.

Bidding and Construction Administration

These services will be billed hourly as requested, and will be billed at the attached hourly rate schedule.

Bidding Administration

1. Questions and answers during the bid process.
2. Preparation and distribution of Addenda as required.

Construction Administration

1. Review of shop drawings and submittals.
2. Preconstruction meetings.
3. Periodic site visits to review construction progress.
4. Monthly review of pay requests.
5. Prepare and distribute clarification documents and interpretations for contractors.

SERVICES NOT INCLUDED

1. Zoning variances, or any other public zoning, annexation or public approval process associated with the site or building, or attendance at public meetings, other than indicated above. Any additional preparation or meetings will be billed hourly as necessary.
2. Tenant finish drawings for specific tenant.
3. Value engineering for budget reduction.
4. Security system design. We will accommodate electrical and conduit for owner's system.
5. Telephone/Data/IT system design. We will accommodate electrical and conduit for owner's system.
6. Sitework.
7. Upgrade existing electrical service.
8. Exterior building work.
9. Bidding & Construction Administration.
10. Environmental/Asbestos/Lead Paint/Mold Studies or Reports.
11. Any Items not listed in the above scope of work.
*Cochran may provide under separate contract.

OWNERS RESPONSIBILITY

1. The Owner shall give prompt and thorough consideration to all sketches, drawings, bid documents and other documents laid before him. Prompt decisions will be required if project is to proceed on schedule.
2. General day-to-day review of construction.

Initials _____

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FEE

Design and Construction Documents

<i>Architectural Design</i>	\$ 9,800.00
<i>Structural Design (Budget estimate, billed hourly as necessary)</i>	\$ 4,000.00
<i>Mechanical/Electrical/Plumbing Design</i>	\$ 4,500.00
<i>Bid & Construction Administration (Budget estimate, billed hourly as necessary)</i>	\$ 5,500.00

Total Architectural & Engineering Fee **\$ 23,800.00**

Reimbursable Expenses Budget \$ 1,000.00

If additional services are required and requested, Cochran will provide a change order prior to performing any work. They will be billed according to an agreed upon fixed fee, or on an hourly basis with the following hourly rate schedule.

Reimbursable Expenses

Expenses such as printing, long distance communications, travel, filing of building permit, etc. will be provided on an as-needed basis and will be billed monthly with a 10% administrative charge.

2021 Hourly Fee Schedule

The following is a list of hourly rates for our Fee Service Contracts.
 Effective August 1, 2021, these rates will apply to all projects performed on a time and expense basis.

<u>Title</u>	<u>Charge-Out</u>
Principal	\$ 175.00
Managing Engineer	\$ 150.00
Engineer 1	\$ 140.00
Engineer 2	\$ 130.00
Engineer 3	\$ 115.00
Engineer 4	\$ 105.00
Engineer 5	\$ 95.00
Senior Architect	\$ 150.00
Architect 1	\$ 125.00
Architect 2	\$ 115.00
Architect 3	\$ 105.00
Managing Surveyor	\$ 140.00
Surveyor 1	\$ 130.00
Surveyor 2	\$ 120.00
Surveyor 3	\$ 110.00
Senior Manager	\$ 85.00
Secretary	\$ 55.00
Field Manager	\$ 75.00
Inspector	\$ 70.00
Technician	\$ 55.00
MoDOT Certified Technician	\$ 60.00

Initials _____

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Drafter/Survey Tech 1	\$ 105.00
Drafter/Survey Tech 2	\$ 95.00
Drafter/Survey Tech 3	\$ 85.00
Drafter/Survey Tech 4	\$ 70.00
One Man Survey Crew	\$ 120.00

Note:

- *Survey Field crew prices will vary depending upon the Survey Tech assigned to the project.
*Overtime rate of 1.5 times the regular rate will be charged for hours worked after 8 hours per day, Saturdays, Sundays, or Holidays.

PAYMENT

1. An invoice for progress payments will be submitted monthly during the performance period of this contract for professional services rendered. It is agreed that monthly progress payments for fees earned under this agreement are due and payable within fifteen (15) days of submission of invoices.
2. Any invoices remaining unpaid beyond fifteen (15) days will accrue interest at the rate of one and one-half (1½%) per month on the unpaid balance.
3. It is further understood that if the project is abandoned, or if any work being performed is suspended in whole or in part prior to the completion of any phase, payment will be due in direct proportion to the amount of work accomplished.
4. In addition, payment will be due for all reimbursable expenses incurred prior to receipt of written notice or such abandonment or suspension.

SCHEDULE

Project schedule will be defined during the initial project meeting. The project schedule will outline the approximate time required for each task. The project schedule will provide a logical progression of activities and key meetings to complete the design.

TERMS AND CONDITIONS

Attached to this proposal is a copy of the Cochran Standard Terms and Conditions. These terms and conditions shall apply to this proposal for professional services, which can also serve as a letter agreement. This document is enclosed for your review and reference.

GENERAL:

The terms and conditions of this contract shall apply to all work performed for the benefit of the project, any contiguous property that may be acquired at a later date, and any work performed off the site that benefits the project (permits, licenses, easements, etc.).

Cochran's reputation is based on understanding and meeting all the project objectives of our clients. We look forward to having an opportunity to demonstrate that responsiveness by providing timely and cost-effective professional services.

If you would like to authorize Cochran to perform the professional services outlined in this proposal, please indicate your acceptance of the terms of this letter agreement by signing in the space provided below **AND** initializing **ALL** other pages. Return one (1) copy for our contract files.

Thank you for considering Cochran for your architectural and engineering needs. We look forward to working with you on this project. Please call me to schedule a kick-off meeting to discuss the project.

Initials _____

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THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED AT COCHRAN'S OPTION.

Sincerely,



Joseph A. McGowan, Chief Architectural Officer
Cochran

Acceptance:

By: _____

Title: _____

Date: _____

Attachments: Cochran Terms & Conditions

COCHRAN STANDARD TERMS AND CONDITIONS

1. Unless expressly stated in the attached proposal letter (“Proposal”), the Proposal must be accepted in writing within thirty days or the Proposal is void and unenforceable.
2. The acceptance of the Proposal is conditioned upon these Terms and Conditions and the terms of the Proposal, which shall be the only terms and conditions applicable to any agreement between Cochran and Client. Requesting performance of the work by Cochran, sending a notice to proceed with the work, or an acknowledgment of the Proposal by the issuance of a purchase order by Client, notwithstanding any terms additional to or different from those contained herein, shall be deemed to be an acceptance of these Terms and Conditions by Client.
3. The Proposal and these Terms and Conditions constitute the entire agreement (“Contract”) between Cochran and the Client for the services identified in the Proposal. All prior proposals, negotiations, representations, recommendations, statements or agreements made or entered into prior to or contemporaneously with this Contract, whether oral or in writing, are superseded by this Contract unless they are expressly incorporated herein by reference. Any terms contained in any communication from Client which are inconsistent with the Contract shall not be binding upon Cochran.
4. Cochran may submit invoices on not less than a monthly basis. Cochran’s invoices are due and payable within fifteen (15) days of the submission of each invoice. Interest will accrue at the rate of one and one-half percent (1.5%) per month on all unpaid invoices from the date payment was due. In the event that Client disputes an invoice, Client will pay the undisputed portion of the invoice and provide a written explanation to Cochran of the basis for Client’s dispute. If Client fails to pay in full any of Cochran’s invoices, Cochran may immediately, without waiving any other rights it may have, suspend work pending resolution of the payment dispute. Client’s failure to pay any of Cochran’s invoices in full shall be considered a material breach of this Contract.
5. Unless specifically stated to the contrary in the Proposal, reimbursable expenses are in addition to the amounts identified for Cochran’s fees for basic and additional services. Reimbursable expenses shall include, but are not limited to: Client-authorized out-of-town travel, transportation, and subsistence expenses; fees paid for securing approval of jurisdictional authorities; postage, courier, or other delivery fees; material costs for models, mock-ups, or other presentation media; photographic film and development expenses.
6. This Contract is binding upon the heirs, successors and assigns of the parties hereto and may not be assigned by either party without the prior written consent of the other party.
7. Nothing in this Contract is intended to create any enforceable third party rights against Client or Cochran.
8. Cochran will perform all of its services consistent with that degree of skill and learning ordinarily used under the same or similar circumstances by the members of Cochran’s profession working in the same locale.
9. If, and to the extent that Cochran’s scope of work includes construction phase services, any such services shall be provided in accordance with and governed by the applicable terms of AIA Document A201 General Conditions of the Contract for Construction, 2007 Edition (“General Conditions”) If there is a conflict between the General Conditions and this Contract, this Contract will control.
10. When making any interpretation or decision as required by the General Conditions, Cochran will not show partiality to any party, and shall not be liable for interpretations or decisions rendered in good faith.
11. Cochran has no responsibility or obligation to supervise or direct the work activities of the Client’s employees and representatives, or any construction contractors, sub-contractors or any of their employees, or other persons not employed by Cochran.
12. Cochran will abide by any job-site safety programs identified in writing by the Client but will not be responsible for job-site safety of any persons not directly employed by Cochran.
13. Cochran has no responsibility or obligation with respect to the construction means, methods, sequencing or procedures of any construction contractors, sub-contractors or any of their employees.
14. Cochran is not responsible for the failure of any contractor to perform work properly and in accordance with any applicable documents, plans, specifications, codes or standards.
15. Cochran is not responsible for the identification of unsafe conditions, nor for the identification, handling, or removal of hazardous and/or toxic substances found on or brought to the site. Prior to the start of work, the Client shall disclose and identify in writing to Cochran, to the best of Client’s knowledge, all hazardous and/or toxic substances located on the site. Client agrees to defend, indemnify and hold Cochran harmless from and against all claims, demands and liabilities of any kind or nature resulting from any hazardous and/or toxic substances that are found on the site and which were not identified by Client – even if not known by Client.

16. Cochran will have no obligation to commence its work until receipt of a written notice-to-proceed from Client and all other information required to be provided by Client. Cochran shall complete its work within any time limits identified in the Proposal. Cochran shall be entitled to an extension of time for performance of its work due to any delays that are due to any cause beyond Cochran's reasonable control. In no event will Client be entitled to any costs, losses, expenses or damages (including, but not limited to, claims or damages attributable to home office overhead costs, loss of profits, loss of business opportunities and/or additional financing costs) as a result of any delay caused or attributable to Cochran.
17. Cochran and Client waive any and all claims against each other for consequential, indirect, incidental and special damages arising out of or relating to this Contract, the alleged breach thereof, and/or Cochran's work; including, but not limited to, lost profits, loss of business, financing costs, extended home office overhead and similar types of damages.
18. Provided that written notice of a material breach of this Contract has been provided to the defaulting party and the defaulting party has failed to cure or taken reasonable efforts to cure its default within seven (7) calendar days of its receipt of the notice, the non-defaulting party may terminate this Contract by sending notice of termination to the defaulting party.
19. If the Contract is terminated for any reason not attributable to Cochran, Client will pay for the work performed by Cochran up to the date of termination plus all of Cochran's costs related to the termination (e.g., close-out costs, costs of terminating contracts with consultants, etc.).
20. In the event that there are any changes in applicable laws, codes or regulations after the Contract is executed that result in the need for Cochran to perform additional services and/or incur additional costs, Client shall pay Cochran for said services and costs at the rates set forth in the Proposal.
21. All documents and electronic media produced by Cochran under this Contract ("Instruments of Service") shall remain the property of Cochran, and Cochran shall retain all rights to the same, including copyrights, and they may be used by the Client only for the project identified in the Proposal. In the event of the termination of this Contract, the Client shall return the Instruments of Service to Cochran, and the Instruments of Service may not be used by the Client or a third party to complete the project without the written consent of Cochran.
22. Client and Cochran waive all rights against each other, any contractors and other professionals, and any of their respective consultants, contractors, suppliers, subcontractors, agents and employees, for damages caused by perils to the extent covered by insurance, except such rights as they may have to the insurance proceeds.
23. This Contract and the rights of the parties shall be governed by the laws of the State of Missouri.
24. Any claims, disputes, or other matters in question arising out of or relating to this Contract, the alleged breach thereof, and/or Cochran's work, at Cochran's sole election and discretion, shall be decided by binding arbitration in accordance with the Construction Industry Arbitration Rules of the AAA. A demand for arbitration must be made within a reasonable time, and before the expiration of the applicable statute of limitations. Unless it consents in writing, Cochran may not be joined in any other arbitration involving the same project. The arbitration shall be held where the project is located.
25. In the event of any dispute, claim, arbitration or litigation arising out of or relating to this Contract, the alleged breach thereof, and/or Cochran's work, the prevailing party shall be awarded its attorney's fees, expert witness fees, expenses, arbitration fees and expenses, and court costs at the trial and all appellate levels; including costs and fees related to collection efforts. Determination of which party prevailed shall be made by the judge or arbitrator(s). The determination shall be made by reviewing the claims resolved at trial or arbitration (which excludes any claims resolved prior to the taking of evidence), and then determining which party achieved the greater success by quantifying the amounts awarded the party recovering damages or obtaining relief and comparing that result to the relief and/or damages requested by that party at the trial or arbitration. If that party received less than 50% of the relief and/or damages it sought, then the other party prevailed. If that party receives more than 50% of the relief and/or damages it sought, then it prevailed. The judge or arbitrator(s) may consider the percentage of recovery when determining the amount of fees and expenses to be awarded to the prevailing party. If more than one claim is presented, then the judge or arbitrator(s) may elect to evaluate who is the prevailing party on a claim by claim basis, or in the aggregate as they deem appropriate. In making the determination of which party prevailed, the judge or arbitrator(s) shall take into consideration any settlement offers or demands made prior to trial or arbitration.
26. **THE TOTAL LIABILITY OF COCHRAN AND ANY OF COCHRAN'S CONSULTANTS FOR ANY ACTIONS, DAMAGES, CLAIMS, DEMANDS, JUDGMENTS, LOSSES, COSTS, OR EXPENSES (INCLUDING ATTORNEY'S FEES AND COURT OR ARBITRATION COSTS AND FEES) ARISING OUT OF OR RESULTING FROM COCHRAN'S OR ITS CONSULTANTS' NEGLIGENT ACTS, ERRORS, OMISSIONS OR BREACHES OF CONTRACT IS LIMITED TO THE LESSER OF THE CONTRACT PRICE OR THE AMOUNT OF PROFESSIONAL LIABILITY INSURANCE MAINTAINED BY COCHRAN AND AVAILABLE TO PAY SAID CLAIM. THIS LIMITATION OF LIABILITY IS APPLICABLE TO ALL CLAIMS THAT MAY BE ASSERTED AGAINST COCHRAN OR ITS CONSULTANTS ARISING OUT OF OR RELATING TO THE PROJECT OR THIS CONTRACT, WHETHER THE CLAIMS ARISE IN CONTRACT, TORT, STATUTE, OR OTHERWISE.**

Updated 01/2016

Initials _____



February 28, 2022

Mayor Sandy Lucy
City Council Members
405 Jefferson St
Washington MO 63090

Dear Mayor and City Council Members,

Attached you will find an Ordinance/Budget Amendment/Purchase Agreement with RadioComm Co. (RCC), for the installation of a Motorbo UHF-VHF gateway. The cost of the equipment and FCC licensing is \$6,291.55. This was not a budgeted item; therefore, I am requesting to utilize Fair proceeds received from the Chamber.

RadioComm provides the radio communications for the Fair board during the Washington Town & Country Fair and events. Providing portable radios to not only communicate with each other on the fairgrounds but also communicate with the Communications Center for any incident needing emergency services during our Fair events.

Due to age of the existing portable radios, RCC is in the process of purchasing new portable radios to lease to the Fair board. These portable radios will operate on a new frequency platform, which requires a "gateway" to be installed in the Communications Center. This gateway allows for the conversion of UHF-VHF providing a seamless conversion to our existing Consolettes in our radio system.

I will be available March 7, 2022 to answer any questions.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Moffitt".

Lisa Moffitt,
Director of Communications

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL FROM RADIO COMM CO. FOR THE INSTALLATION OF A MOTORBO UHF-VHF GATEWAY AND AMEND THE 2021/2022 BUDGET

Be It Ordained by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is hereby authorized and directed to accept the proposal with Radio Comm Co. for the installation of a Motorbo UHF-VHF Gateway. A copy of the proposal is attached and marked Exhibit A.

SECTION 2: This ordinance shall amend the 2021/2022 Budget as follows:

General Fund 001 –

Add increase of \$5,641.55 for UHF-VHF Gateway utilizing proceeds received from the Washington Town & Country Fair (001-13-000-534200 Small Tools/Equipment)

Add increase of \$650.00 for FCC License modification-utilizing proceeds received from the Washington Town & Country Fair (001-13-000-520300 Technical Services)

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

Exhibit A



QUOTE: **211019-3**

DATE: 2/14/2022

TO: **City of Washington**

ATTN: Lisa Moffitt

PHONE: 636-231-4048

EMAIL: lmoffitt@washmo.gov

Proposal:

FAIR BOARD / FAIRCOM INTEROP EQUIPMENT



QUOTE VALID FOR 30 DAYS FROM DATE ABOVE

ITEM	QTY	ITEM	DESCRIPTION	UNIT PRICE	AMOUNT
1	2	GATEWAY	Mototrbo UHF-VHF dual protocol rackmount 1 channel gateway	\$2,251.30	\$4,502.60
2	2	YAGI-LMR200	450-470 MHz 7.1dB directional antenna, coax run, terminations	\$279.40	\$558.80
3	1	38190	20" sidearm antenna mount	\$201.50	\$201.50
4	2	DQIS50NXC2	Lightning arrestor	\$78.50	\$157.00
5	1	MISC	Install & weatherproofing materials	\$25.00	\$25.00
				SUBTOTAL	\$5,444.90
				TAX	
FCC license modification: add UHF repeater pair & (4) simplex frequencies				FCC FEE	\$650.00
				LABOR	(maint cont.)
				SHIPPING	\$196.65
				GRAND TOTAL	\$6,291.55

Please note a 5% convenience fee will be applied to quotes paid via credit card. Net 30 day terms.

Prepared By: Mark Pollock Email: mpollock@rccradio.com

BY SIGNING BELOW, CUSTOMER ACKNOWLEDGES AND ACCEPTS THE ABOVE AS A SALES AGREEMENT

Legal Name of Purchaser _____

PO Number _____

Authorized Signature _____

Title _____

Date _____



February 21, 2022

Honorable Mayor and City Council
City of Washington
405 Jefferson Street
Washington, MO 63090

RE: Fee Recommendation – 2022 Aquatic Complex Fees

Honorable Mayor and City Council,

In 2020 and early 2021, staff, the City Administrator and Parks and Recreation Commission members formed an Aquatic Complex Fees and Charges Sub Committee to evaluate the City's fees and charges for the new Agnes Nolting Aquatic Center. After extensive hours of research and several meetings, the Committee recommended amending the Park Facilities User Fee Schedule for the new aquatic complex.

Below are the aquatic complex fees and charges the Committee recommended to City Council in February 2021.

- \$7.00 daily admission (3 and over)
- \$50 punch/visit card (10 punches) *Available after June 1, 2021.
- \$500 after hours pool rental (2 hour limit), \$200 rental deposit

The Parks and Recreation staff also requested a Grand Opening Discount off the pool punch card. This promotional discount allowed people to purchase a 20 punch/visit card for \$85. This was a one-time discount. After June 1, the punch/visit card options were 10 visits for \$50 or 20 visits for \$100.

At the February 8th Parks and Recreation Commission meeting, the Commission made a recommendation not to amend the Aquatic Complex User Fees and Charges for the upcoming 2022 pool season, based on record pool attendance in 2021 and the intensive research the Committee recently completed.

Respectfully,

Sparky Stuckenschneider
Park & Recreation Commission Co-President

APPROVED

2-22-22

8a

3Ca

ESTIMATED Pool Revenue & Expenses 2021

Estimates completed January 2021

Estimated Expenses	
Item	Amount
Guards & Pool Ops & Management	\$145,000-\$165,000
Utilities	\$ 10,500.00
Guards for Programming/Rentals	\$ 18,000.00
Cashiers/Admissions Staff	\$ 15,000.00
Concession Stand Staff	\$ 15,000.00
Concession Stand Product/Supplies	\$ 15,000.00
Insurance	\$ 12,700.00

TOTAL Est. Expenses \$231,000 - \$251,200

Anticipate a 30% increase in attendance for 2021

Estimated Revenue	
Item	Amount
Daily Fees	\$ 45,500.00
Punch Cards	\$ 32,500.00
Programs, Lessons, Rentals	\$ 20,000.00
Concession Sales	\$ 15,000.00
Birthday Parties Packages	\$ 2,000.00
Rentals - Swim Team & After Hrs	\$ 5,000.00

TOTAL Est. Revenue \$ 120,000.00

EST. PROFIT/LOSS: \$111,200 - \$131,200

Actual Attendance	
Year	Attendance
2019	8,790
2018	7,837
2017	10,218
2016	10,441
2015	9,235

* Pump went out

Anticipate a 30% increase in attendance for 2021

Net Operating Loss	
Year	Loss
2019	\$ 137,299.00
2018	\$ 123,749.00
2017	\$ 139,437.00
2016	\$ 122,433.00
2015	\$ 102,302.00

AVG. LOSS Per Year: \$125,000

ACTUAL Pool Revenue & Expense 2021

Actual Expenses	
Item	Amount
Guards & Pool Ops & Management	\$ 152,360.00
Utilities	\$ 8,658.00
Guards for Programming/Rentals	\$ 15,000.00
Admiss. Cashiers & Concession Staff	\$ 25,738.23
Pool Chemicals	\$ 3,900.12
Concession Stand Product/Supplies	\$ 20,985.04
Insurance	\$ 13,117.00

TOTAL Actual Expenses \$ 239,758.39

Actual Revenue	
Item	Amount
Daily Fees	\$ 75,126.00
Punch Cards	\$ 54,990.50
Programs & Lessons	\$ 11,462.00
Concession Sales	\$ 40,979.90
Birthday Parties Packages	\$ 2,336.25
Rentals - (Swim Team & After Hrs)	\$ 6,001.50
Camp Washington Pool Fees	\$ 3,498.00
TOTAL Actual Revenue	\$ 194,394.15

ACTUAL PROFIT/LOSS \$45,364.24

Actual Attendance	
Year	Attendance
2021	19,008
2019	8,790
2018	7,837
2017	10,218
2016	10,441
2015	9,235

Net Operating Loss	
Year	Loss
2021	\$ 45,364.24
2019	\$ 137,299.00
2018	\$ 123,749.00
2017	\$ 139,437.00
2016	\$ 122,433.00
2015	\$ 102,302.00



March 7, 2022

Honorable Mayor and City Council
City of Washington
405 Jefferson Street
Washington, MO 63090

RE: Recommendation – Ground Maintenance Services 2022

Honorable Mayor and City Council,

As you may recall, in 2020 proposals were solicited for contractual mowing of some Parks and Fire Departments properties. A three-year proposal was received from Klekamp Lawn & Landscape. In 2022, the cost to cut 13 park properties and 4 Fire Department properties is \$53,350.00. We are very happy with Klekamp Lawn & Landscape and they did great job they did in 2021. Klekamp's custom service was excellent and if an issue ever arose, it was addressed immediately. As I mentioned, the proposal is only for a portion of park properties. A mowing contract does not eliminate the Department's mowing needs however; it does help significantly.

As such, it is staff's recommendation with the support of the Fire Department, that Council consider the approval of the bid submitted by Klekamp Lawn and Landscape LLC in the amount of \$53,350.00.

As always, if you have any questions, concerns or would like additional information, please feel free to contact me prior to the City Council Meeting.

Respectfully,

Wayne Dunker

Wayne Dunker, CPRP
Director of Parks and Recreation

BILL NO. _____ INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE CONTRACTOR AGREEMENT FROM KLEKAMP LAWN AND LANDSCAPE LLC FOR GROUNDS MAINTENANCE SERVICES BY THE CITY OF WASHINGTON, MISSOURI

Be It Ordained by the Council of the City of Washington, Missouri, as follows:

SECTION 1: The Mayor is hereby authorized and directed to accept the Contractor Agreement from Klekamp Lawn and Landscape LLC for Grounds Maintenance Services in an amount of Fifty Three Thousand Three Hundred Fifty Dollars and No Cents (\$53,350.00). A copy of said contract is attached and marked as Exhibit A.

SECTION 2: Contractor shall complete all work as specified or indicated in the contractor agreement.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall take effect and be in full force from and after its passage and approval.

Passed: _____

ATTEST: _____

President of City Council

Approved: _____

ATTEST: _____

Mayor of Washington, Missouri

Exhibit A**CITY-CONTRACTOR AGREEMENT**

This **SERVICE AGREEMENT** ("Agreement") is entered into effective as of the 7th day of March, 2022 ("Effective Date") by and between Klekamp Lawn and Landscape LLC, a Missouri for-profit corporation with offices located at 527 La Zear Way, Gray Summit, MO 63039, a Missouri, ("Contractor"), and the City of Washington, Missouri (hereinafter called the "City") (Contractor and the City may hereafter individually be referred to as a "Party" or collectively referred to as the "Parties").

WHEREAS, the Parties desire to enter into a Service Agreement under which the Contractor is to provide general grounds maintenance services, of City-owned properties and rights-of-ways, and other areas as described in this Agreement, currently owned, managed, or otherwise under the stewardship of the City;

WHEREAS, the Contractor, has submitted documentation to the City, in the manner and time specified, a proposal in accordance with the terms of the Agreement, and;

WHEREAS, the City has examined and canvassed the proposal submitted, and as a result, has determined and declared the Contractor to be the best bidder for said Work, and has duly awarded to the said Contractor therefor, for the sums named in the proposal attached to and made a part of this contract:

NOW THEREFORE, THIS AGREEMENT WITNESSETH, in consideration of the recitals stated above, which all Parties agree are accurate and complete, the agreements, promises, and warranties set forth below, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**ARTICLE I.
SCOPE AND DEFINITIONS**

SECTION A. SCOPE OF THE AGREEMENT

Implementation of the Agreement

Paragraph 1.1. This Agreement, and its related Exhibits and Attachments, attached hereto and incorporated herein for all purposes, comprise the entire contract between the City and Contractor concerning the Work. It may be altered only by a written Modification or Change Order.

Paragraph 1.2. It is the intent of the Agreement to describe a complete Project.

produce the intended result shall be supplied by the Contractor at no additional cost to the City, whether or not it is specifically called for.

SECTION B. DEFINITIONS

Wherever used in the Agreement the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Paragraph 1.3. “Additional Work” or “Additional Services” means Work beyond the scope of services identified in the specifications described in Exhibit “A”.

Paragraph 1.4. “Agreement” or “Contract” means this signed written agreement between the City and Contractor covering the Work to be performed by Contractor, and other Addenda, attachments and Exhibits to this Agreement and made a part thereof as provided herein.

Paragraph 1.5. “Application for Payment” means the form approved by the City which is to be used by Contractor in requesting progress or final payment and which is to include such supporting documentations as is required by the Agreement.

Paragraph 1.6. “Bonds” means bid and/or performance bond or other instruments of security.

Paragraph 1.7. “Change Order” means a written order to Contractor signed by the City authorizing an addition, deletion, or revision in the Work, or an adjustment in the Contract Price issued after the Effective Date of the Agreement.

Paragraph 1.8. “Commencement Date” means the date upon which the Work shall begin.

Paragraph 1.9. “Contract Price” means the monies jointly and separately due and payable by the City to Contractor under this Agreement.

Paragraph 1.10. “Day” means a calendar day of twenty-four hours measured from midnight to the next midnight.

Paragraph 1.11. “Modifications” means (a) a written amendment of the Agreement signed by both Parties, or (b) a Change Order.

Paragraph 1.12. “Owner” means the City.

Paragraph 1.13. “Permit” means a written permit issued by any local, State, or Federal agency, or other legal authority, as required to conduct the Work.

Paragraph 1.14. “Person” means an individual, partnership, joint venture, corporation, limited liability company, or unincorporated organization.

Paragraph 1.15. "Project" means the total scope of Work specified in the Agreement.

Paragraph 1.16. "Report" means weekly, monthly, quarterly, or yearly report that demonstrates the tasks completed over that period of time.

Paragraph 1.17. "Subcontractor" means a Person having a direct contract with Contractor or with any other subcontractor for the performance of part of the Work.

Paragraph 1.18. "Third Party" or "Third Parties" means any Person other than a member of Contractor or the City.

Paragraph 1.19. "Unit" means a specific quantity of material or service (per park, per gallon, per tree, per mile, per track, per, acre, per sculpture, linear feet, square feet, etc.).

Paragraph 1.20. "Unit Price" means the dollar amount per Unit as quoted/bid in Exhibit "A".

Paragraph 1.21. "Work" means all of the services, labor, equipment and materials to be performed, provided, or furnished by Contractor as required by the Agreement.

ARTICLE II.

CONTRACT ADMINISTRATION

SECTION A. CONTRACT FORMATION, INTERPRETATION, ASSIGNMENT, AND SUBCONTRACTS

Subcontracting and Assignments

Paragraph 2.1. Contractor shall supply a complete list of any and all subcontractor(s) proposed to be used under the Agreement and shall not use any Subcontractor or other Person (including those who are to furnish the principal items of material or equipment), whether initially or as a substitute, without the prior written consent of the City.

Once a subcontractor(s) has been approved by the City, the Contractor shall submit a signed and dated Contract between the Contractor and the subcontractor indicating the total dollar amount of the subcontractor's Contract. Before any subcontractor can begin work on the project, whether originally subcontracted prior to the start of the project or subcontracted after the project has begun all provisions of this article must be complied with.

Paragraph 2.2. The City may assign this Agreement in part or in whole including all rights and obligations to any assignee at its sole discretion and without any prior notice

or consent from Contractor including but not limited to any entity that succeeds to any of the rights and obligations to provide governmental type services to the local community, including any city, county or state agency, and/or a newly formed municipality. Upon any such assignment by the City, this Agreement shall remain a valid and enforceable agreement and the original terms and conditions contained herein, or any properly amended terms and conditions shall remain valid and enforceable. Contractor shall not assign this Agreement, including to any Affiliates, without the City's prior written consent. Any purported assignment without such consent shall be void.

Paragraph 2.3. Contractor shall be fully responsible for all acts and omissions of its Subcontractors, of all Persons directly or indirectly employed by them and Persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of Persons directly employed by Contractor. Nothing in the Agreement shall create any contractual relationship between the City and any Subcontractor, except as may otherwise be required by law.

SECTION B. TERM

Paragraph 2.4. This Agreement shall be effective as of the Effective Date written on the first page of this Agreement. If the first page is undated, then the Effective Date shall be the date the first Work is commenced.

Paragraph 2.5. This Agreement shall continue from the Effective Date until terminated by the expiration of the Term as indicated in Exhibit "A" or by termination procedures as described in this Agreement.

Paragraph 2.6. If Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the City, or of an employee, or of a separate contractor employed by the City; or by a Change Order in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other caused beyond the Contractor's control; or by delay authorized by the City pending mediation and arbitration; or by other causes that the City determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the City may determine.

SECTION C. CONTRACT COMMUNICATION

Notices

Paragraph 2.6. All notices, requests, demands, and other communications specifically required or authorized by this Agreement shall be written and shall be (a) delivered personally, (b) mailed by registered mail or certified mail, return receipt requested, postage prepaid, (c) sent by facsimile transmission, or (d) sent by e-mail. All such communications shall use the receiving Party's contact information as contained in

this Article II Section C. A Party may change its contact information by sending a notice to the other Party complying with these notice requirements.

Paragraph 2.7. All other communications, including telephone, regular mail, e-mail, and other informal communication methods, shall be effective only when the responsible officer, director, manager, or supervisor of the receiving Party has actual knowledge of the communication.

Paragraph 2.8. Contractor's contact information is as follows:

KLEKAMP LAWN & LANDSCAPE LLC
Attn: Andrew Klekamp
Owner
527 La Zear Way
Gray Summit, Missouri 63039
Telephone: 636-667-0978
E-mail: klekamplawns@yahoo.com

Paragraph 2.9. City of Washington contact information is as follows:

CITY OF WASHINGTON
Attn: Wayne Dunker
Director of Parks and Recreation
405 Jefferson Street
Washington, Missouri 63090
Telephone: 636-390-1080
E-mail: wdunker@washmo.gov

SECTION D. CONTRACT PERFORMANCE

Work

Paragraph 2.10. Contractor, acting as an independent contractor, agrees to furnish at his/her own expense all supervision, labor, expertise, equipment, supplies, and other requirements as set forth herein and as more specifically described in Exhibit "A" and will provide such in a good and "Workmanlike Manner", the term Workmanlike Manner being defined as the rendition of services in a manner deemed proficient by those with the special knowledge, training, and experience to judge such services and in accordance with highest generally accepted standard of care in the industry.

Contractor as an Independent Contractor

Paragraph 2.11. At all relevant times to this Agreement, Contractor shall act as an independent contractor to the City in providing Work to the City. Nothing in this Agreement shall be interpreted to create any employment, partnership, or joint ventures. Except to the extent required to enable Contractor to perform his/her specific duties under this Agreement, Contractor shall not act as an agent of the City, by entering into this Agreement, the City in no way, assumes any liabilities, debts or obligations of the Contractor whether now existing or hereafter created.

Paragraph 2.12. Contractor shall not have the authority to incur or assume any debt, obligation, expense, or liability against the City, and shall not have the authority to bind or otherwise obligate the City to any contracts, agreements, warranties, or understandings.

Change Orders

Paragraph 2.13. Any Change Orders or Modifications to the Agreement must be approved by the City and be incorporated by written amendment to the Agreement. Contractor shall not have the authority to make, revise, alter, depart, or otherwise diverge from any of the terms, conditions, or places furnished to Contractor by the City and/or this Agreement absent consent of the City and written amendment to the Agreement.

Continuing the Work

Paragraph 2.14. Contractor shall carry on the Work and maintain the performance of the Work during all disputes or disagreements with the City, except upon the City's default hereunder. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the Parties may otherwise agree in writing.

Equipment Storage

Paragraph 2.15. Contractor shall be responsible for locating and providing storage for all equipment.

Permits

Paragraph 2.16. Contractor shall be solely responsible for obtaining and paying for all permits and licenses related to their performance of the Work.

Taxes and Fees

Paragraph 2.17. Contractor shall pay all taxes and fees which may be chargeable against the performance of the Work, or incident to the Agreement by a government agency, including but not limited to any employment related taxes, F.I.C.A. taxes, social security taxes, and other taxes and fees, directly to the appropriate governmental bodies. The City is a political subdivision of the State of Missouri and exempt from tax; The City agrees to make their tax-exempt certification available to the Contractor to the extent required to assure the City is not charged taxes which they are not responsible to pay. The City shall not be liable in any way for such fees or taxes and the Contractor

shall indemnify and hold the City, their Affiliates officers, directors, members, and employees and assigns harmless from and against all claims, demands, causes of action, suits or other litigation in connection with Contractor's failure to report such taxes and fees. No additional compensation will be paid to Contractor for taxes or fees.

Contract Price and Payment Procedures

Paragraph 2.18. Contract Price constitutes the total compensation (subject to authorized adjustments made by a Change Order) payable to Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at its expense without change in the Contract Price. Contract Price is described in the specification in Exhibit "A".

Paragraph 2.19. Contractor shall submit to the City monthly Applications for Payment that shows all applicable areas where the Work was performed. Failure to fully comply with the Application for Payment procedure will cause daily in processing payments.

Paragraph 2.20. On the twenty-fifth (25th) day of each month and no later than the thirtieth (30th) of the month during the Term of the Agreement, beginning with the first (1st) month after the Commencement Date, Contractor shall submit to the City the Application for Payment, accompanied by (a) the monthly Report, (b) a sworn statement by Contractor certifying (i) the Application for Payment is correct, (ii) all insurance required by this Agreement is in full force and effect, (iii) all Subcontractors and suppliers have been paid from previous Applications for Payment, (iv) Certified payroll, and (v) the Contractor is not in default under any provisions of the Agreement and that no event has occurred which with the passing of time or the giving of notice could be a default under the Agreement, and (c) any other documents, information or data which the City request be provided.

Paragraph 2.21. If the City disputes any portion of an Application for Payment, they shall, within thirty (30) Days of receipt of the Application for Payment, furnish the Contractor a reasonably detailed explanation of the objection, and may withhold payment on the portion in dispute. If Contractor objects to the withholding, it shall provide the City with written notice of its objection within ten (10) Days of receipt of the written explanation from the City. The Parties may then proceed to Dispute Resolution

as described in this Agreement as to any disputed amount. All undisputed amounts shall be paid within forty-five (45) Days of the receipt of the Application for Payment by the City.

Paragraph 2.22. Contractor shall notify the City in writing within ten (10) Days of their receipt of payment from the City, if there is any discrepancy based on a Contractor audit of the number of Units. This notice shall include the nature of the disagreement, the address of the location of the Unit in question, the type of service being provided, and the date such service began or ended. If the Contractor does not notify the City of a discrepancy within the ten (10) Day period, the discrepancy is waived, and the Contractor is afforded no further recourse, right or remedy as to the discrepancy.

Paragraph 2.23. At any time during the Term of the Agreement, the City may be Change Order alter the number of Units applicable to the Work. If the number of Units is increased, the Work on any additional Units will be paid to Contractor in an amount equal to the number of additional Units multiplied by the Unit Price herein. If the number of Units are decreased, the Contract Price will be reduced in an amount equal to the number of Units decreased multiplied by the Unit Price. Unit Price and Units are described in the specifications in Exhibit "A".

Paragraph 2.24. Final Payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the City to the Contractor when: the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work, and to satisfy other requirements, if any, which extend beyond final payment; and a final Certificate for Payment has been issued.

Liquated Damages

Paragraph 2.25. Contractor and City recognize that time is of the essence and that City may suffer financial loss if the Work is not completed within the times specified in Exhibit "A", plus any extensions thereof allowed. The Parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by City if the Work is not completed on time. Accordingly, instead of requiring any such proof, City and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay City \$500.00 for each day that expires after the time specified in Exhibit "A" above until the Work is complete.

Character and Conduct of Contractor's Employees and Subcontractors

Paragraph 2.26. The Contractor's employees and Subcontractors who normally and regularly come into direct contact with the public shall bear some means of company identification such as a company uniform with name badges, name tags or identification marks. Vehicles and equipment shall also bear some means of company identification (as identified in Exhibit "A").

Paragraph 2.27. The Contractor shall perform the Work with as little noise and as little disturbance to Third Parties and surrounding property owners as possible.

Paragraph 2.28. Care shall be taken by Contractor to prevent damage to property, including buildings, sidewalks, parking lots, trails, roads, pavilions, playgrounds, lawns, shrubs, flowers, trees, plants, etc. on City-Owned Property, Rights-of-Ways or of Third Parties.

Safety and Protection

Paragraph 2.29. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall appoint a qualified, experienced safety representative, whose duties shall be the prevention of accidents and the maintaining and supervision of the safety precautions and programs.

Injury or Damage

Paragraph 2.30. Contractor shall promptly notify the City of all damage to property belonging to the City or Third Parties, or injuries incurred by persons other than employees of Contractor in no case later than one (1) hour after the injury or damage occurred.

Paragraph 2.31. Contractor shall be responsible for any damage to the property, real or personal, of any Third Party or of the City that is caused by any act or omission of the Contractor in the performance under the Agreement. If the City finds that the Contractor has failed to completely reimburse the Third Party any amount and the City, and the City deems it necessary to compensate the Third Party for its damaged property, the City may pay the Third Party and deduct this amount from the amount due to Contractor under this Agreement. The City reserves the right to pay all fines, penalties, costs and assessments levied by any governmental authority against the Contractor and to withhold said amount from any payments due to Contractor under this Agreement. The terms and conditions of this paragraph shall survive the termination of this Agreement.

Additional Services

Paragraph 2.32. Contractor shall prepare a list of rates for special services not specified in Exhibit "A". Contractor shall supply the list from time to time, but not less than once per year.

Reports by Contractor

Paragraph 2.33. Contractor shall submit reports as identified in Exhibit "A" and upon request by the City provide a written report of equipment, staffing, emergencies, security problems or any related events. The Contractor shall cooperate with the City as necessary to review financial statements and/or audit Contractor's books and records

SECTION E. PERFORMANCE AND TERMINATION

Force Majeure

Paragraph 2.34. Contractor and the City shall be excused from complying with the terms and conditions of this Agreement if, to the extent, and for as long as, such Party's compliance is delayed or prevented by a Force Majeure event. A Force Majeure event will not excuse either Party from making payments, performing indemnity obligations (as applicable), or other duties not directly limited by the Force Majeure event, except as otherwise provided within this paragraph entitled "Force Majeure". "Force Majeure" includes acts of God, floods, blizzards, ice storms, and hurricanes; insurrection, revolution, piracy, and war. Strikes, slowdowns, walkouts, lockouts, industrial disturbances and labor disputes are not excused under this provision.

Provisions Surviving Termination

Paragraph 2.35. In the event of termination of this Agreement, the terms and conditions which expressly survive termination of this Agreement and those dealing with warranty, indemnities, audit, confidentiality, insurance, arbitration, disclaimer of consequential damages and any limitation of liability, shall survive termination and remain in full force and effect.

Termination by the City

Paragraph 2.36. The City may terminate the Agreement upon 1.) thirty (30) Days written notice for any reason, or 2.) upon any of the following events of default ("Events of Default") if after giving the Termination Notice described in Paragraph 2.36, the Contractor has not cured the Event of Default within the applicable cure period:

- A. If Contractor fails to fulfill or maintain in a timely and proper manner any obligations, duties or provision of the Agreement, and Contractor fails to cure such default to the satisfaction of the City within ten (10) Days of the Contractor's receipt of written notice from the City specifying the how the Contractor failed to perform in reasonable detail.
- B. If Contractor is adjudicated voluntarily bankrupt, or if Contractor is subject to the appointment of receiver or trustee and fails to have the receiver or trustee removed within sixty (60) Days, or if any assignment or Contractor's property shall be made for the benefit of creditors, or if Contractor becomes insolvent, or unable to pay its debts as they become due.
- C. If there is a change of Control of the Contractor, whether voluntarily or by operation of law, or substantially all the assets of the Contractor are sold or transferred voluntarily or otherwise, the Agreement shall terminate unless the City agrees by Change Order to continue the Agreement with the Contractor after the change of Control or disposition of assets. The Contractor shall

promptly notify the City of any actual or proposed change in, transfer of or acquisition by another party of Control of the Contractor. "Control" as used herein means the power, whether direct or indirect, to direct the affairs of the Contractor by whatever manner exercised. Any agreement by the City to continue this Agreement after the change in Control or disposition of assets shall be contingent upon the new controlling party or owner of the assets becoming a signatory to the Agreement and otherwise complying with all the terms and conditions herein, including but not limited to the submission of Bonds, if required by this Agreement, and certificates of insurance acceptable to the City.

Administrative Fee

Paragraph 2.37. If there is an Event of Default which the Contractor does not cure within the applicable cure period, the City may charge and the Contractor shall pay to the City an administrative fee to compensate the City for its costs associated with the Contractor's failure to perform the Work as required in this Agreement. The City may levy this administrative fee without terminating this Agreement. The fee shall be equal to 1.5 times the Unit Cost multiplied by the number of Days the Event of Default continues uncured after the expiration of the applicable cure period and shall be payable to the City by the Contractor upon written demand. The Parties stipulate that the fee is a reasonable estimate and is not to be construed as a fine or penalty, and shall be in addition to any other remedy the City may have at law, in equity or under the Agreement.

Termination Notice: Cancellation of Orders and Subcontracts

Paragraph 2.38. Upon the occurrence of an Event of Default subject to any applicable notice and cure period, the City should they elect to terminate the Agreement, will issue a written notice of termination (the "Termination Notice") to the Contractor. In addition, the City may issue a Termination Notice for any reason as so long as the Contractor is given thirty (30) Days' notice in the Termination Notice. Termination shall be effective upon the date specified in the Termination Notice, and upon said date this Agreement shall be deemed immediately terminated and thereafter neither Party shall have any rights or obligations under this Agreement except as expressly provided herein. Any termination of the Agreement shall not relieve the Contractor (a) from the obligation to pay any fees, taxes or other charges then due to the City or any other Third Party incident to the Agreement, (b) from the obligation to file any monthly, quarterly or annual Reports through termination, (c) from any claim from damages previously accrued or then accruing against the Contractor nor (d) from any provisions of this Agreement that expressly survive termination. Upon the effective date of termination as contained in the Termination Notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all Work and shall proceed to promptly cancel all existing orders and subcontracts for the Work. Contractor shall immediately submit an Application for Payment showing in detail the Work performed through the date of termination. The City agrees to compensate the Contractor for that portion of Work actually performed prior to the effective date of termination and not disputed under this Agreement and not previously paid, less any charges, deductions, or administrative fees. Termination of this Agreement shall not affect any rights or

remedies of the City against Contractor then existing or which may thereafter accrue. Any retention or payment of monies due Contractor by the City shall not release Contractor from liability.

Termination or Stop Work by Contractor and Remedies for Default by the City

Paragraph 2.39. If through no act or fault of Contractor, the Work is suspended for a period of more than ninety (90) Days by the City or under an order of court or other public authority, or the City fails for sixty (60) Days to pay Contractor any sum not in dispute, or if the City otherwise default hereunder, then Contractor may, (i) upon fifteen (15) Days written notice to the City, and provided the City does not remedy such suspension or failure to pay within that time, terminate this Agreement and recover payment from the City for the undisputed Work which Contractor completed prior to the effective date of termination, or (ii) upon seven (7) Days written notice to the City stop the Work until payment of all such amounts due Contractor are received, without termination of this Agreement as the Contractor's sole and exclusive remedies.

ARTICLE III.

CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

General Service Warranty

Paragraph 3.1. The general service warranty applies to all services performed by Contractor or its subcontractors. Contractor warrants it will perform all services in a good and Workmanlike Manner.

Contractor's Representations and Warranties

Paragraph 3.2. Contractor is familiar with the nature and extent of the Agreement, the Work, the locality, with all local conditions and federal, state, and local laws, ordinances, rules, and regulations including but not limited to all rules, regulations, and the restrictive covenants governing the land within the jurisdiction of the City, that in any manner may affect cost, progress or performance of the Work.

Paragraph 3.3. The person signing this Contract on behalf of the Contractor is authorized by Contractor to do so.

Paragraph 3.4. Contractor's representations and warranties under this Article III of the Agreement entitled Contractor's Representations and Warranties will survive the termination of this Agreement.

ARTICLE IV.
FINANCIAL ADMINISTRATION

SECTION A. APPLICATIONS FOR PAYMENT AND PROCEDURES

Compensation

Paragraph 4.1. Contractor's compensations shall be set forth in the specifications in Exhibit "A".

Contractor's Invoices

Paragraph 4.2. Applications for Payment shall be submitted in such form and accompanied by such certification and documentation as the City may reasonably request, including the following as applicable: (a) Daily rate and the number of day worked in performing the Work, (b) the type and quantities of materials or supplies furnished by Contractor and utilized in performing the Work (e.g. chemicals), (c) the dates and hours equipment or machinery was employed in performing the Work, (d) Report on number of acres cleared, and (e) any charges for extra services authorized by the City (Each service must be individually listed next to its charge and approved proposals or Change Orders must be included).

Payment of Application for Payment

Paragraph 4.3. Except as provided in the paragraph entitled "Disputed Invoices," the City agrees to pay Contractor's Application for Payment within forty-five (45) Days after the City's receipt of the Application for Payment.

Remedies for Unpaid Invoices

Paragraph 4.4. Undisputed Applications for Payment or the undisputed part of an Application for Payment remaining unpaid after forty-five (45) Days from receipt by the City shall accrue simple interest at the rate of 10% per annum (or the maximum interest rate allowed by applicable law, whichever is less), from the 46th day after receipt by the City through the day the City mails payment to the Contractor.

Disputed Applications for Payment

Paragraph 4.5. If the City, in good faith, disputes any Application for Payment in whole or in part, the City shall notify Contractor of the dispute within the time required for payment and shall timely pay any undisputed portion. Interest shall not accrue on the amounts disputed in good faith.

City Payment Does Not Constitute Waiver

Paragraph 4.6. The City payment of an Application for Payment shall not prevent it from later filing claims against Contractor or waive its rights to recover money previously paid to Contractor. Without limiting the generality of the preceding sentence, the City may recover any sums paid to Contractor by mistake of law or of fact.

SECTION B. LIENS AND CLAIMS**Contractor's Obligations Concerning Liens and Claims**

Paragraph 4.7. Contractor shall pay all valid claims for its labor, materials, services, supplies, and products as they become due. Whether a claim is valid or invalid, no lien, privilege, charge, or similar encumbrance shall become fixed upon the City lands, fixtures, improvements, or other property because of Contractor's failure to pay for goods or services provided for hereunder. After being notified of the existence of such claims, charges, liens, privilege, or encumbrances, Contractor agrees to take all necessary steps to obtain the release of such lien, privilege, or encumbrance.

Paragraph 4.8. If Contractor fails or refuses to pay its claims or indebtedness, then the City shall have the right to pay any such claims or indebtedness out any money due or to become due to Contractor under this Agreement; provided, however, the City shall not pay any such claim or indebtedness as long as Contractor is actively contesting it and has taken all actions necessary (including the posting of a bond or security if appropriate) to protect the City's property interests and the interests of other Persons in that same property.

Paragraph 4.9 Before the City pays any Application for Payment, the City may require Contractor to certify that there are no unsatisfied claims for labor, materials, equipment, supplies, or products.

**ARTICLE V.
RISK MANAGEMENT****SECTION A. GENERAL INDEMNIFICATION****Release, Defense, and Indemnity**

Paragraph 5.1. To the fullest extent permitted by law, Contractor shall indemnify and hold harmless City and its officers, directors, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such

claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.

Paragraph 5.2. Contractor agrees to release, protect, defend, indemnify, and hold harmless the City or any of its officers, directors, employees, agents, consultants and subcontractors from and against any and all claims (including claims of Third Parties and claims of spouses, heirs, survivors, legal representatives, successors and assigns) of Contractor, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work for personal injury, illness, death, property (whether real or person, owned or leased) damage) and loss arising out of or resulting from the performance of this Agreement suffered by Contractor **EVEN IF THE CLAIMS ARE CONTRIBUTED TO OR CAUSED BY THE SOLE, JOINT, COMPARATIVE, CONCURRENT, ACTIVE OR PASSIVE NEGLIGENCE OF ANY MEMBER(S) OF THE CITY.**

The release, protection, defense, indemnity and hold harmless obligations assumed by Contractor, and the limitations afforded the City, in this paragraph include any liability for employment discrimination, medical, compensation, or other benefits owed to employees of Contractor as a result of the direct employment relationship of such individuals with a member of Contractor even if such individuals are determined to be the borrowed or statutory employee of any member(s) of the City.

The indemnities in Paragraph 5.2 of this Agreement shall only be effective to the maximum extent permitted by the applicable law, either legislative enactment or a controlling judicial decision. If such existing or future law limits in any way the extent to which indemnification may be provided to an indemnity that is negligent, solely negligent, or otherwise at fault and, notwithstanding the choice of law provision set forth herein, such law is applicable to interpretation of this Agreement, then this Agreement

shall automatically be amended to provide that the indemnification provided hereunder shall extend only to the maximum extent permitted by such law. The liability of the City is limited due its status as a political subdivision of the State of Missouri.

Paragraph 5.3. For the purpose of Article V, the phrase "arising from or resulting from the performance of this Agreement" shall be broadly construed to include, but not be limited to, not only formal work, but also any occurrences at the work site, including transportation to and from the work (other than personal or public transportation to the work site), breaks of all kinds, including, without limitation, breaks for meals and/or rest, horseplay of all kinds, or volunteering of all kinds to assist others in their work.

Indemnity for Removal of Liens

Paragraph 5.4. Should the Contractor fail to fulfill its obligations under Article IV Section B concerning removal of liens, privileges or encumbrances on the property of any resident(s) of the City or property of the City arising out of performance under this Agreement, Contractor agrees to release, protect, defend, indemnify, and hold harmless the City for its direct costs actually incurred in removing such lien, privilege or encumbrance, should the City decide to proceed with removal.

Limitation on Damages

Paragraph 5.5. Contractor agrees that no resident(s) of the City will be responsible for and specifically agrees to release, defend, indemnify, and hold harmless the residents of the City, Mayor, City Council, employees, and agents from any and all liability for indirect, special, incidental, consequential, punitive or exemplary damages suffered by any employee(s) of Contractor.

SECTION B. INSURANCE**Basic Insurance Coverage**

Paragraph 5.6. The Contractor and all subcontractors shall support its indemnity obligations by furnishing liability insurance coverage of the types set forth.

Comprehensive General Liability and Bodily Injury

Including Death:	\$1,000,000 each person \$3,000,000 each occurrence
Property Damage:	\$3,000,000 each occurrence \$3,000,000 aggregate

Comprehensive Automobile Liability, Bodily Injury

Including Death: \$1,000,000 each person
\$3,000,000 each occurrence
Property Damage: \$3,000,000 each accident

Owner's Protective Bodily Injury

Including Death: \$1,000,000 each occurrence
\$1,000,000 each occurrence
Property Damage: \$1,000,000 each occurrence
\$1,000,000 aggregate

Workers Compensation

The Contractor shall procure and shall maintain during the term of the Agreement, Workers' Compensation insurance for all of its employees to be engaged and perform work under the Agreement, and in case any such work is sublet, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all such employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's Workers Compensation Insurance. In the event any class of employees engaged in hazardous work under the Agreement is not protected under the Workers' Compensation Statute, the Contractor shall provide, and shall cause such subcontractor to provide, adequate Employer's Liability Insurance for the protection of its employees not otherwise protected.

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the City.

In full compliance with the Worker's Compensation Act of the State of Missouri and Employer's Liability Coverage the minimum amount of insurance shall be \$1,000.00 per occurrence.

Insurance Endorsements and Provisions

Paragraph 5.7. Prior to commencing to Work under this Agreement, Contractor shall obtain a waiver of subrogation form its insurers on the policies required in favor of the City.

Paragraph 5.8. All such insurance coverage required under this Agreement shall name the City as an additional insured.

Paragraph 5.9. Have such policies contain or be endorsed to contain a severability of interest provision so that each insured shall be treated separately under the policy so that the insurer may not deny enforcement based on the conduct or omissions of another insured; provided, however, this provision shall not cause any insurer or underwriter to pay more than the limits of the insurance coverage provided;

- Be primary over any insurance coverage maintained by the City;
- Be maintained in full force and effect during the term of this Agreement; and
- Contain provisions stating that such policies shall not be materially changed or cancelled without thirty (30) Days prior written notice having first been furnished to the City.

Certificates of Insurance

Paragraph 5.10. Contractor and all Subcontractors agree that prior to commencing any of the Work under this Agreement; they shall have their insurance carrier furnish the City a certificate or certificates of insurance and endorsement page(s) evidencing insurance coverage in accordance with the requirements identified herein. Acceptance by the City of a certificate or certificates of insurance and/or endorsement page(s) showing coverage not in compliance with the insurance requirements of this Agreement shall not relieve Contractor or Subcontractor(s) from its obligations under this Agreement.

Performance Bond and Labor and Material Payment Bond

Paragraph 5.11. Contractor shall furnish with the executed Agreement a Performance Bond, in an amount at least equal to the first year of the Agreement as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents, and also a Labor and Material Payment Bond in an amount at least equal to the Contract Price as security for the payment of all persons performing labor on the project under this Contract and furnishing materials in connection with this Contract. The Performance bond and the Labor and Material Payment Bond may be in separate instruments, however, if combined into one the amount shall be for two hundred percent of the Contract Sum. The City will hold the Bonds for the duration of the Contract, as security for faithful performance and payment of all obligations under the Contract Documents.

Paragraph 5.12. Shall use the Performance Bond forms contained in the contract documents.

Paragraph 5.13. All Bonds signed by an agent must be accompanied by a certified copy of agent's authority to act. Only surety companies authorized to do business in, and having an agent for services in the State of Missouri will be acceptable.

Paragraph 5.14. If the Surety on any Bonds furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the state where the project is located or it ceases to meet the requirements of the preceding paragraph, the Contractor shall substitute another Bond and Surety, both of which must be acceptable to the City before continuing the Work.

Severability

Paragraph 5.15. If any part of Article V contravenes any applicable statutes, regulations, rules, or common law requirements, then, to the extent and only to the extent of such contravention, such part shall be severed from this Article V and deemed nonbinding while all other parts of this Article V shall remain binding.

ARTICLE VI. LEGAL ADMINISTRATION

SECTION A. COMPLIANCE WITH LAWS AND REGULATIONS

General Legal Compliance

Paragraph 6.1. Contractor shall comply with all applicable local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Agreement as well as other regulations and restrictive covenants of the City.

If the Contractor discovers any provisions in the Agreement which is contrary or inconsistent with any law, ordinance, or regulation, it shall immediately report same in writing to the City.

Paragraph 6.2. Contractor shall be held to comply with all requirements of the Prevailing Wage Law of the State of Missouri, and shall forfeit as a penalty to the state, county, city, town district or other political subdivision on whose behalf the Contract is made or awarded, one hundred dollars (\$100.00) for each workman employed, for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any work done under this Contractor, by him/her or by any subcontractor under him/her.

Paragraph 6.3. Contractor shall affirm by sworn affidavit that he/she has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services and to sign the affidavit affirming that Contractor does not knowingly employ any person who is an unauthorized alien in connection with the Contract. Such affidavit shall be required as a condition of this Contract prior to or at the time of execution of this Contract, and Contractor shall provide documentation for the program.

SECTION B. GOVERNING LAW AND DISPUTE RESOLUTION

Paragraph 6.4. The Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Missouri. The Agreement is performable in Franklin, County, Missouri, and the Parties agree that venue for any dispute under the Agreement shall be Franklin County. Any Party, who is the prevailing Party in any legal proceeding brought under or in relation to the Agreement shall be entitled to recover court costs and reasonable attorney's fees from the non-prevailing Party.

SECTION C. MISCELLANEOUS

Severability

Paragraph 6.5. If any part of this Agreement contravenes any applicable statutes, regulations, rules, or common law requirements, then, to the extent and only to the extent of such contravention, such part shall be severed from this Agreement and deemed nonbinding while all other parts of this Agreement shall remain binding, so long as the material purposes of this Agreement can be determined and effectuated.

Singular and Plural

Paragraph 6.6. Reference to one gender includes a reference to the other gender.

Headings

Paragraph 6.7. The headings, sub-headings, and other subdivisions of this Agreement are inserted for convenience only. The Parties do not intend them to be an aid in legal construction.

Counterpart Execution

Paragraph 6.8. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed an original of this Agreement for all purposes. No Party shall be bound to this Agreement unless and until all Parties have executed a counterpart.

Binding Authority

Paragraph 6.9. Each of the individuals executing this Agreement represents that he or she has full right and authority to execute this instrument on behalf of the City or Contractor, as the case may be, and to bind such Party. If the Person executing this

Agreement has a title that includes the term "Manager," "Director," or "Vice President," then the Parties agrees that such Person has apparent authority to execute this Agreement and bind the Party. If such Person executes this Agreement on behalf of a Party, the other Party is not required to obtain a power of attorney, delegation of authority, or corporate resolution evidencing such authority.

Entirety of Contract

Paragraph 6.10. The Agreement embodies the entire contract between Parties.

Waiver

Paragraph 6.11. Failure to exercise any option to terminate shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. A waiver of any breach of any provision of the Agreement shall not constitute or operate as a waiver of any breach of such provision or any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provisions or any other provision. The failure of the City at any time to enforce or to object to a failure or refusal to perform any terms, condition, or covenant of the Agreement, or to exercise any option herein given, or to require at any time performance by the Contractor of any term, condition, or covenant hereof, shall in no way constitute a waiver of any subsequent breach, or effect the validity of the Agreement or any part hereof or the right of the City thereafter to enforce the same, but shall apply only to the specific instance to which the failure to enforce is directed.

Approvals

Paragraph 6.12. All approvals or consents required or permitted pursuant to the Agreement shall be in writing in order to be considered valid and effective.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF WASHINGTON

By _____

Sandy Lucy, Mayor

(SEAL)

ATTEST:

Sherri Klekamp, City Clerk

CONTRACTOR

By _____

"Contractor"

Title _____

(SEAL)

ATTEST:

Title:

Exhibit A

PERFORMANCE OF WORK

The Contractor acting as an independent contractor, shall furnish at his/her own expense all supervision, labor, equipment, tools, materials, supplies, and necessary documentation required to perform and complete the Work in a good first class and workman like manner. The Work designated, described and required by these specifications and proposals shall be in accordance with the Contract Documents and any applicable City ordinances, county, state and federal laws. Contractor represents and warrants that he/she has special skills which qualify him/her to perform the Work and is not a party to any other agreement, written or oral, the performance of which would prevent or interfere with the performance, in whole or in part, of the Work

THE WORK

The Contractor shall perform all services and provide all supplies, materials, equipment, tools and labor, necessary for Grounds Maintenance Services in accordance with the Contract Documents. The Contract is valid for 2022 with Klekamp Lawn and Landscape LLC., 527 La Zear Way, Gray Summit, MO 63039 in an amount not to exceed Fifty-Three Thousand Three Hundred Fifty Dollars and No Cents (\$53,350.00) for the provision of Grounds Maintenance Services.

HOURS OF OPERATION

Contractor shall provide General Maintenance Services between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday. No work shall take place on Saturdays, Sundays or City recognized Holidays (Memorial Day, Independence Day, Labor Day, and Veterans Day) that fall within the contract period unless approved by the Director of Parks and Recreation or his/her designee.

Location
200 E. 14 th Street (Fire St. #HQ)
1651 W. 5 th Street (Fire St. #3)
12011 E. 8 th Street (Fire St. #4)
6340 Maurice Unnerstall Dr. (Fire Training Grounds)
2000 E. 9 th Street (Optimist Park)
1215 E. 6 th Street (McLaughlin Park)
Riverview Dr. (Riverview Park)
801 E. 5 th Street (Krog Park)
3001 Phoenix Park Dr. (Phoenix Park)
323 Front Street (Heritage Park)

Circle Drive (Eckelkamp Park& Pump House #3)
205 High Street (Main Park)
1 Elbert Drive (Riverfront Park)
21 W. 2 nd Street (Lafayette Park)
Crestview Water Tower Park Madison & Crestview
West River Bank (Riverfront Park)
Pool Front & Hill Aquatic Circle Dr.

DURATION OF CONTRACT

The duration of the Contract shall be for one (1) year under the same terms and conditions. Actual maintenance operations shall occur for Thirty (30) maintenance cycles (with the exception of Riverview Park, which will be receive Fifteen (15) maintenance cycles and Krog Park, which will receive Thirty-Two (32) maintenance cycles) generally from March 23 through October 31. Actual maintenance dates/cycles shall be determined by the Parks and Recreation Director ("Director") or his/her designee, as weather conditions, growing season, drought, etc. can affect actual maintenance needs.

MAINTENANCE AND SERVICES

The Contractor shall perform all required Work and shall provide and furnish labor, materials, necessary tools, equipment, and transportation services to provide grounds maintenance service on property designated by the Parks and Recreation Department. It is understood and agreed that said labor, materials, tools, equipment and service will be furnished; and said Work performed and completed under the direction and supervision and subject to the approval of the City. All equipment must be approved by the Director prior to the acceptance of the Contract.

SITE INSPECTION

A site inspection by the Contractor shall be performed prior to each maintenance function. Trash, debris (including tree limbs no larger than tree inches (3") in diameter), or hazards shall be removed prior to Work being performed. All clippings, leaves, trash and debris shall be removed from the site upon completion, and disposal shall be the responsibility of the Contractor.

UNIFORM MOWING

Mow designated turf grass areas uniformly to three inches (3") in height (with the exception of Riverview Park, which shall be mowed at five inches (5")); Contractor shall mow and trim all designated turf grass areas approximately Thirty (30) cycles (except for Riverview Park, which shall be Fifteen (15) cycles and Krog Park, which shall be Thirty-Two (32) cycles) within the terms of the Contract. All mowing equipment shall be equipped with sharp blades so as not to tear, but cleanly cut the blades of turf grass. Upon completion, a mowed area shall be free of clumped or rowed turf grass and tire tracks or ruts from the mowing equipment. Clippings shall be mulched (preferred) or removed but shall not lay on top of the turf grass. Turf grass shall be cut in a

professional manner, so as not to scalp turf grass areas or leave area of uncut turf grass. Disposal of clippings shall be the responsibility of the Contractor.

DISCHARGE OF CLIPPINGS

Care shall be taken to prevent discharge of clippings onto any paved surface such as streets, parking lots, sidewalks, driveways, playgrounds, athletic fields, swimming pools, ponds, lakes, fountains, pavilions, tennis courts, skate parks, landscaped areas or adjacent properties. Any material so discharged shall be removed completely, immediately prior to proceeding with mowing of other areas. Blowers are the recommended choice of equipment.

TRIMMING/EDGING

All structures, trees, poles, tables, signs, fences, curbs, sidewalks, catch basins, manholes, and planting beds are to be trimmed closely to present an aesthetic appearance, encourage healthy vigorous growth, and to maintain safe and visual passage. Special care shall be given to trimming around trees and other desirable plantings to prevent girdling of trees or damage to bark or vegetation. All trimming must be accomplished maintaining a required three inch (3") cutting height. All trimming must be accomplished concurrently with mowing operations. All plant growth in cracks, seams, joints of paved areas such as sidewalks, curbs and driveways shall be cut down to the pavement surface during the trimming operations. The use of herbicides to control such growth may be permitted with the prior approval of the Director. All sidewalks, driveways, etc. must be edged using a vertical approach as to keep the surface free of unwanted vegetated growth.

EQUIPMENT

All turf grass areas shall be cut either by a walk-behind mower or a zero turn riding mower or other equipment as approved by the Director. All equipment shall be in good physical and operating condition equipped with sharp blades. All equipment must be approved by the Director prior to the acceptance of the Contract.

All mowers and blades must be cleaned off to remove all clippings prior to mowing a location to prevent the spreading of possible contaminants. Any equipment that breaks down shall not be left on the site location overnight.

UNIFORMS

Contacto, employee(s) must wear a uniform shirt with the company name that is visible from twenty-five feet (25') at all times while completing the work in the City of Washington.

PARKING

Contractor is to park in specified and legal parking areas/zones without blocking driveways or site entrances, etc. Care shall be taken so as not to damage lawn and/or landscaped areas when parking.

CLEANUP

Prior to leaving the site, Contractor shall inspect, remove and haul away all debris including items such as paper, bottles, plastic bags, cans, newspapers, etc. Any large dumped items such as appliances, fallen trees, and limbs greater than three inches (3') shall be reported immediately to the City for removal.

DAMAGE TO PROPERTY

Any damage to property as the result of the Contractor's operations shall be the responsibility of the Contractor. Contractor shall be held responsible for any damage, breakage and/or loss of the City's signs, buildings, vegetation (i.e. trees) or any loss incurred to adjacent property, buildings, vegetation or fences through the negligence of the contractor or his/her employees while working on the City's premises. Should the damage not be rectified within the time agreed upon or to the satisfaction of the Parks Department, the City reserves the right to replace that which was damaged, or assess the Contractor such costs as may be reasonable and related to the damage caused by the Contractor. The Contractor shall inform the Director of any damage caused by the contractor's operation on the day such damage occurs.