



Issue: TRAFFIC SIGNAL UPGRADE AT MAIN ST. AND ALDERSGATE, RESOLUTION #2022-032

Date: March 7th, 2022

Submitted By: Jeff Roussell, Street Superintendent

Background

A directive within the Strategic Plan under Reliable Infrastructure, Action Plan #2 is to “Improve intersections to enhance safety and alleviate congestion”. While the upgrade of this intersection traffic signal is not a mentioned Action Step, it is a cost-effective way to provide a more reliable signal therefore a safer intersection.

Analysis

Current components controlling signal timing, the newly installed crosswalk signal on Main St. and conflict monitor (this ensures proper lighting operations so green lights are not in opposition of one another) have reached the end on their life cycle and are obsolete. The proposed upgrade would allow for faster repairs if necessary due to shorter lead times on up to date more reliable electronics.

Two bids were received with Ewing Signal being the lowest responsible bidder with a bid price of \$9,035.00. This project is a Street Department CIP and is within the budgeted amount.

Recommendation

It is staffs recommendation to pass Resolution 2022-032

RESOLUTION NO. 2022-032

A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH EWING SIGNAL CONSTRUCTION, LLC, FOR CERTAIN TRAFFIC SIGNAL IMPROVEMENTS AT THE INTERSECTION OF MAIN STREET AND ALDERSGATE DRIVE.

WHEREAS City staff have solicited bids for certain improvements to the traffic signals located at the intersection of Mains Street and Aldersgate Drive (RFB-010-2022/Street); and

WHEREAS after evaluating all submitted bids, staff have recommended Ewing Signal Construction, LLC, as the most qualified firm.

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

SECTION 1: The City Administrator, or designee, is hereby authorized to execute the Contract attached hereto, and incorporated herein by this reference, as "Resolution Exhibit A," with Ewing Signal Construction, LLC. Said Contract shall be in substantially similar form as the document attached hereto as "Resolution Exhibit A." The City Administrator and the officers of the City are hereby authorized to do all things necessary or convenient to carry out the terms and intent of this Resolution.

SECTION 2: This Resolution shall be in full force and effect from and after its final passage by the City Council and after its approval by the Mayor, subject to the provisions of section 3.11(g) of the City Charter.

ADOPTED BY THE CITY COUNCIL THIS 14th DAY OF MARCH 2022.

ATTEST:

CITY CLERK

PRESIDING OFFICER

APPROVED BY THE MAYOR.

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:

DATE OF APPROVAL

CITY ATTORNEY

RESOLUTION EXHIBIT A

ROUTE ORDER: Contractor signs, route to City Clerk, City Admin signs two originals, Clerk adds date, City Attorney signs, return one original by mail to Organization and City Clerk retains one original.

EFFECTIVE DATE:	TERMINATION DATE:	CONTRACT NUMBER:
(X) NEW CONTRACT () RENEWAL OF CONTRACT NO. () Addendum No. __		
CITY		CONTRACTOR
Name: City of Nixa, Missouri Address: 715 W. Mt. Vernon St., PO Box 395 Nixa, MO 65714 Phone: 417.725.3785 Attn: Jeff Roussell Dept: Street Email: jroussell@nixa.com		Name: Ewing Signal Construction, LLC Address: 1730 N. Gregory Dr. Nixa, MO 65714 Phone: 417-724-9405 Email: daveewing@ewingsignals.com Attn: Dave Ewing

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT ("Contract") is made and entered into upon its execution by the parties identified above.

WHEREAS the City, after conducting a Request for bid solicitation process, referenced as RFB-010-2022/Street desires to engage Contractor to perform certain construction work; and

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

WHEREAS contractor desires to perform such work under the terms and conditions of this Contract.

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

1. Manner and Time for Completion. The City agrees to engage the services of the Contractor and the Contractor agrees to perform said Construction Services in accordance with the standard of care, skill, and expertise ordinarily used by members of the Contractor's profession in the performance of similar services. The Construction Services are more specifically described in Exhibit A, which is attached hereto and incorporated herein by this reference. Contractor shall furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform the Services at Contractor's own expense in accordance with the contract documents, any applicable City ordinances, and any applicable state or federal laws within 120 calendar days from the date Contractor is ordered to proceed, which order shall be issued by the City Administrator within 30 days after the date of execution of this Contract.

2. Insurance Requirements. Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of this Contract. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City. Regardless of such approval, it shall be the responsibility of the

Contractor to maintain adequate insurance coverage at all times during the term of this Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under this Contract.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within 10 days after the date of the receipt of Notice of Award of the Contract to the Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide 30 days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to the address for the City listed at the top of this Contract.

As of January 1, 2022, the minimum coverage for the insurance referred to herein shall be as set out below:

a. **Workers' Compensation** – Statutory coverage per RSMo. 287.010 et seq.
Employer's Liability – \$1,000,000.00

b. **Commercial General Liability Insurance**, including coverage for Premises, Operations, Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and blasting if blasting is required. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Three Million Sixty-Five Thousand Nine Hundred Fifty-Two and no/100 Dollars (\$3,065,952.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fifty-Nine Thousand Eight Hundred Ninety-Three and no/100 Dollars (\$459,893.00) with respect to injuries and/or death of any one person in a single occurrence and an amount not less than at least \$1,000,000 for all claims to property arising out of a single occurrence and at least \$100,000 to any one owner with respect to damages to property. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorney's fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.

c. **Automobile Liability Insurance** covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at Three Million Sixty-Five Thousand Nine Hundred Fifty-Two and no/100 Dollars (\$3,065,952.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fifty-Nine Thousand Eight Hundred Ninety-Three and no/100 Dollars (\$459,893.00) with respect to injuries and/or death of any one person in a single accident or occurrence.

d. **Owner's and Contractor's Protective Liability Insurance.** To protect the City, its agents, servants, and employees from claims which may arise from the performance of this Contract, with limits of at least Three Million Sixty-Five Thousand Nine Hundred Fifty-Two and no/100 Dollars (\$3,065,952.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Fifty-Nine Thousand Eight Hundred Ninety-Three and no/100 Dollars (\$459,893.00) with respect to injuries and/or death of any one person in a single accident or occurrence. The Owner's and Contractor's Protective Liability Insurance must:

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

2. Be with the same insurance company with which the Contractor carries its Commercial General Liability Insurance and Automotive Liability Insurance; and
3. Contain an endorsement that disclaims coverage for any claim barred by the doctrines of sovereign immunity or official immunity, except attorney's fees and other litigation costs incurred in defending a claim. Nothing contained in this policy (or this endorsement thereto) shall constitute any waiver of whatever kind of these defenses or sovereign immunity or official immunity for any monetary amount whatsoever.

e. Subcontracts. In case any or all of the performance of this Contract is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required in subparagraphs (a), (b) and (c) hereof and in like amounts. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City through insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.

f. Notice. The Contractor and/or subcontractor shall furnish to the City prior to beginning the work contemplated by this Contract, the policy as specified in subparagraph (d), and satisfactory proof of bearing all the insurance required by this Contract, with the provision that policies shall not be canceled, modified or non-renewed without 30 days written notice to the City.

g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this Contract by legislative or judicial action, the City may require Contractor, upon 10 days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

3. Performance and Payment Bonds. The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on the forms approved by the City, each bond shall be in the amount of \$9,035.00 conditioned upon the full and faithful performance of all major terms and conditions of this Contract and payment of all labor and material suppliers. It is further mutually agreed between the parties that if at any time after the execution of this Contract the City deems the surety or sureties upon such bond(s) to be unsatisfactory, or if, for any reason, such bond(s) ceases to be adequate to cover the performance of the work, the Contractor shall, at its expense, within 5 days after the receipt of notice from the City to do so, furnish an additional bond or bonds, in such form and amount, and with such surety or sureties as shall be satisfactory to the City. In such event no further payment to the Contractor shall be deemed to be due under this Contract until such new or additional security for the faithful performance of the work and the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to the City. The corporate surety on any performance or payment bond must be licensed by the State of Missouri and if the required bond exceeds \$25,000.00 must be listed in United States Treasury Circular 570.

4. Contractor's responsibility for subcontractors. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor

shall cause appropriate provisions to be inserted in all subcontracts relating to this Contract, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City.

5. General Independent Contractor Clause. This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor shall be an independent contractor and not the City's employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation, and unemployment insurance laws. The Contractor shall retain sole and absolute discretion as to the judgment and manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City shall not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

6. Liquidated Damages. The parties mutually and expressly agree that time of completion of work by the Contractor is of the essence. Should Contractor, or in the case of default, the surety, fail to substantially complete the work within the time specified in this Contract, or within such extra time as may be allowed, Contractor (or surety) shall be liable to the City in the amount of \$500 per day for each and every calendar day that the performance of this Contract remains uncompleted after the time allowed for substantial completion, as liquidated damages, and not as a penalty, it being stipulated that actual damages to the City and the public arising from Contractor's failure to timely complete the work would be difficult, if not impossible, to ascertain. The amount assessed as liquidated damages may be withheld from any moneys otherwise due to Contractor from the City. The project is not considered complete until final acceptance by the City.

7. Termination.

a. For Cause. The City reserves the right to terminate this Contract by giving at least five days prior written notice to the Contractor, without prejudice to any other rights or remedies of the City should the Contractor be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workmen or proper material, or if Contractor should refuse or fail to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of the City or fail to observe or perform any provisions of the contract.

b. For Convenience. The City shall have the right at any time by written notice to Contractor to terminate and cancel this Contract, without cause, for the convenience of the City, and Contractor shall immediately stop work. In such event City shall not be liable to Contractor except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Contractor for the performance of the cancelled portions of the Contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and

consequential damages shall not be recoverable by Contractor.

8. City's Right to Proceed. In the event this Contract is terminated, the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this Contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

9. Liability and Indemnity.

a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the Contractor under this contract.

b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this Contract or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents, and employees, for which indemnification is sought.

e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.

f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this Contract in its contract price. Contractor's obligation under this Contract to defend, indemnify, and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance required of the Contractor under this Contract.

g. The Contractor shall indemnify and hold the City harmless for any penalties, fines, fees or costs, including costs of defense, which are charged or assessed by any Federal, state or

local agency including, but not limited to, Environmental Protection Agency or Department of Natural Resources.

10. Payment for Labor and Materials. The Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

11. Payment. Provided that Contractor performs the services in the manner set forth herein, the City shall pay the Contractor in accordance with the rate set forth in Exhibit B, which shall constitute full and complete compensation for the Contractor's work provided hereunder. No partial payment to the Contractor shall operate as approval of acceptance of work done or materials furnished hereunder. Such compensation will be paid in progress payments, as established by the City, subject to receipt of a requisition for payment and a statement of work provided by the Contractor and Contract by both the City and the Contractor that the Contractor has fully performed the work to be paid for in such progress payments in conformance with the contract. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Contractor under the terms of this Contract exceed the sum of **Nine Thousand Thirty-Five dollars and No Cents (\$9,035.00)** unless specifically and mutually agreed to in writing by both the City and the Contractor.

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

- a. This Contract
- b. Exhibit A-Scope of Work
- c. Exhibit B- Submitted Bid Response with contractor rate
- d. Exhibit C- Original RFB

The above listed documents are attached hereto and incorporated by their reference herein as though fully set forth herein. No modification, amendment, or waiver of any of the provisions of this Contract shall be effective unless in writing specifically referring hereto and signed by both parties.

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

14. Assignment. The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City, provided, however, that claims for money due or to become due to the Contractor from the City under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City and the bond surety. Any such assignment is expressly subject to all rights and remedies of the City under this Contract, including the right to change or delete activities from the Contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this Contract.

15. Nondiscrimination. The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate

the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a), if applicable.

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

b. This Contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime Contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

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

a. If the Contractor is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 RSMo.

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

17. Notices. All notices required or permitted hereinunder and required to be in writing may be given by Email or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

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

19. Occupational License. The Contractor shall obtain and maintain an occupational license or business registration with the City of Nixa, Missouri, if required by city code and any required state or federal requirement. The cost for this occupational license shall be borne by the Contractor. No contract will be executed by the City until this occupational license has been obtained.

20. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. The Contractor shall provide an acceptable notarized affidavit stating that Contractor has verified the completion of a 10-hour constructions safety program with respect to the employees working in connection with the contracted services. Contractors and subcontractors in

violation of this provision will forfeit to the public body \$2,500.00 plus \$100 a day for each employee who is employed without training. Public bodies and contractors may withhold assessed penalties from the payment due to those Contractors and subcontractors. The penalties shall not begin to accrue until the time periods in the statute have elapsed (60 days after notice to proceed and 20 days to produce documentation for employee found in violation).

21. Affidavit for Contracts Over \$5,000.00. That pursuant to Missouri Revised Statute Sections 285.525 through 285.550, if this contract exceeds the amount of \$5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

22. Affidavit for Compliance with Anti-Discrimination against Israel Act. Pursuant to Missouri Revised Statute Section 34.600, if this Contract exceeds the amount of \$100,000 for Contractors with ten or more employees, Contractor shall provide an acceptable notarized affidavit stating that the associated business is not currently engaged in and shall not for the duration of the contract, engage in a boycott of goods or services from the State of Israel; is not currently engaged in and shall not, for the duration of the contract, engage in a boycott of goods or services from companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or is not currently engaged in and shall not for the duration of this contract, engage in a boycott of goods or services from persons or entities doing business in the state of Israel.

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

24. City Benefits. The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Worker's Compensation Program of the City.

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

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

THE CITY OF NIXA, MISSOURI

THE CITY OF NIXA, MISSOURI

By: _____
Jimmy Liles, City Administrator

ATTEST

By: _____
Rebekka Coffey, City Clerk

CONTRACTOR

By: _____

Printed Name

ATTEST

By: _____

Printed Name

Approved as to form:

Nick Woodman, City Attorney

CERTIFICATE OF FINANCIAL OFFICER

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

Jennifer Evans, Financial Officer

SCOPE OF WORK

Removal of existing hardware and replacement with the items listed below.

- McCain 2070ATC Controller: 2070ATC CPU, 2E, 3B, 4A
- EDI-2010ECLIP
- Model 200 Load Switch
- Model 204 Flasher
- TR-200-Flash transfer relay

Any wiring, signal timing and installation for the signal's operation.



RFB-010-2022/Street Addendum 1 Ewing Signal Construction LLC Ewing Signal Construction LLC Supplier Response

Event Information

Number: RFB-010-2022/Street Addendum 1
Title: Signal Replacement
Type: Request for Bid
Issue Date: 2/16/2022
Deadline: 3/4/2022 10:15 AM (CT)
Notes: The City of Nixa is issuing a Request for Bid for Signal replacement.

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

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

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

Please submit any questions regarding this bid in writing to the

Purchasing Manager, Stephanie Ewing at sewing@nixa.com.

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

Contact Information

Contact: Stephanie Ewing

Address: Purchasing

715 W. Mt. Vernon St.

Nixa, MO 65714

Phone: (417) 449-0555

Email: sewing@nixa.com

Ewing Signal Construction LLC Information

Contact: Dave Ewing
Address: 1730 N Gregory Dr
NIXA, MO 65714-9815
Phone: (417) 724-9405
Email: daveewing@ewingsignals.com
Web Address: ewingsignals.com

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

David Ewing

Signature

Submitted at 3/3/2022 2:51:56 PM

daveewing@ewingsignals.com

Email

Requested Attachments

Additional Documentation

No response

Additional Documentation may be added to provide information regarding your product.

E-Verify

Affidavit of Business Entity.pdf

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

OSHA Affidavit of Compliance

OSHA Affidavit of Compliance.pdf

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

No Response Form

No response

If you are not planning on responding to this bid, please download the "No Response Form", located on the Attachment tab. Complete the document and upload it here.

Bid Attributes

1 Introduction

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

2 Attachments Required

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

3 Proposal Opening

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

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

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

4 Section 2

PROPOSAL REQUIREMENTS

The following items require an answer

5 General Terms and Conditions

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

☒ I have downloaded, read and agree. (I have downloaded, read and agree.)

6 Scope of Work

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

☒ I have downloaded, read and agree. (I have downloaded, read and agree.)

7 Anti-Collusion Statement

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

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

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

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

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

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

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

☒ I agree. (I agree.)

8	No Deviations or Exceptions I certify that there are NO deviations or exceptions from the attached specific terms, conditions, and specifications. <input style="width: 150px;" type="text" value="Agree - No Deviations"/>
9	Deviations and Exceptions If your company intends to deviate from the Specifications listed in the attached documents, all such deviations and exceptions must be listed here, with complete and detailed conditions and information included. The City will consider any deviations or exceptions in its bid award decisions. The City reserves the right to accept or reject any proposals based upon any deviations indicated below. If none, please enter N/A (Not Applicable). <input style="width: 850px;" type="text" value="N/A"/>
10	Affidavit of Business Entity By marking the checkbox, I acknowledge that my company participates in the E-Verify system and can provide documentation. <input checked="" type="checkbox"/> I agree. (I agree.)
11	OSHA Affidavit Download the OSHA Affidavit, located on the "Attachments" tab. Thoroughly review and indicate below. <input checked="" type="checkbox"/> I have downloaded, read and agree to comply. (I have downloaded, read and agree to comply.)
12	Sample Contract By marking the checkbox, I acknowledge I have read and understand my company will be asked to sign the Sample Contract as stated as it applies to the response submitted. <input checked="" type="checkbox"/> I agree. (I agree.)

Bid Lines

1	Please give the total cost amount to complete the signal replacement, which shall include: <ul style="list-style-type: none"> • Removal of existing hardware and replacement with the items listed below. <ul style="list-style-type: none"> ◦ McCain 2070ATC Controller: 2070ATC CPU, 2E, 3B, 4A ◦ EDI-2010ECLIP ◦ Model 200 Load Switch ◦ Model 204 Flasher ◦ TR-200-Flash transfer relay • Any wiring, signal timing and installation for the signal's operation. 		
	Quantity: <u> 1 </u> UOM: <u> Total cost of Replacement </u>	Price: <input style="width: 100px;" type="text" value="\$9,035.00"/>	Total: <input style="width: 100px;" type="text" value="\$9,035.00"/>

Item Attributes

1. Timeframe to complete

Please state what the estimated timeframe will be for completion.

1 week from receipt of the materials which is currently 12-16 week lead-time

Response Total: \$9,035.00

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

BUSINESS ENTITY CERTIFICATION:

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

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

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

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

BOX A – CURRENTLY NOT A BUSINESS ENTITY

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

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

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

Authorized Representative's Name (Please Print)

Authorized Representative's Signature

Company Name (if applicable)

Date

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

BOX B – CURRENT BUSINESS ENTITY STATUS

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

Authorized Business Entity Representative's
Name (Please Print)

Authorized Business Entity
Representative's Signature

Business Entity Name

Date

E-Mail Address

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

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

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

BOX C – AFFIDAVIT ON FILE - CURRENT BUSINESS ENTITY STATUS

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

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

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

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

Date of Previous E-Verify Documentation Submission: 3/4/2021

Previous **Bid/Contract Number** for Which Previous E-Verify Documentation Submitted: 210219-B07
(if known)

David Ewing
Authorized Business Entity Representative's
Name (Please Print)

David
Authorized Business Entity
Representative's Signature

198568
E-Verify MOU Company ID Number

daveewing@ewingssignals.com
E-Mail Address

Ewing Signal Construction, LLC
Business Entity Name

3/3/2022
Date

FOR STATE USE ONLY

Documentation Verification Completed By:

Buyer

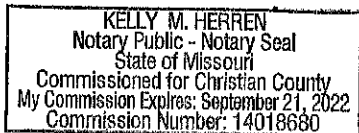
Date

OSHA Safety Program Affidavit of Compliance
Section 292.675 R.S.Mo
For all Public Works Projects
Effective August 28, 2009

STATE OF Missouri)
COUNTY OF Christian) ss.

My name is David Ewing. I am an authorized agent of Ewing Signal Construction, LLC (Company/Bidder). I am aware of the requirements for OSHA training set out in 292.675 R.S.Mo for those working on public works. All requirements of said statute have been fully satisfied and there has been no exception to the full and complete compliance with said provisions relating to the required OSHA training for all this who performed services for the City of Nixa.

The terms used in this affidavit shall have the meaning set forth in Sections 292.675 R.S.Mo., et seq.



Signature: [Signature]
Printed Name: David Ewing

Subscribed and sworn to before me this 3 day of March, 2022

[Signature: Kelly M. Herren]
Notary Public

My commission expires: 9/21/22



RFB-010-2022/Street

Signal Replacement

Issue Date: 2/11/2022

Questions Deadline: 2/25/2022 08:40 AM (CT)

Response Deadline: 3/4/2022 10:15 AM (CT)

Contact Information

Contact: Stephanie Ewing

Address: Purchasing
715 W. Mt. Vernon St.
Nixa, MO 65714

Phone: (417) 449-0555

Email: sewing@nixa.com

Event Information

Number: RFB-010-2022/Street
Title: Signal Replacement
Type: Request for Bid
Issue Date: 2/11/2022
Question Deadline: 2/25/2022 08:40 AM (CT)
Response Deadline: 3/4/2022 10:15 AM (CT)
Notes: The City of Nixa is issuing a Request for Bid for Signal replacement.

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

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

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

Please submit any questions regarding this bid in writing to the Purchasing Manager, Stephanie Ewing at sewing@nixa.com.

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

Ship To Information

Contact: Jeff Roussell
Address: Street
Public Works
1111 Kathryn St.
Nixa, MO 65714
Phone: (417) 725-2353

Billing Information

Address: 715 W. Mt. Vernon Street
PO Box 395
Nixa, MO 65714

Bid Attachments

Terms and Conditions-Formal RFB.pdf

Terms and Conditions RFB

[View Online](#)

Services Sample Contract.pdf

Contract for Services

[View Online](#)

Affidavit of Business Entity.pdf

E-Verify

[View Online](#)

OSHA Affidavit of Compliance.pdf

OSHA Affidavit

[View Online](#)

Requested Attachments

Additional Documentation

Additional Documentation may be added to provide information regarding your product.

E-Verify

(Attachment required)

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

OSHA Affidavit of Compliance

(Attachment required)

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

No Response Form

If you are not planning on responding to this bid, please download the "No Response Form", located on the Attachment tab. Complete the document and upload it here.

Bid Attributes

1 Introduction

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

2 Attachments Required

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

3 Proposal Opening

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

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

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

4 Section 2

PROPOSAL REQUIREMENTS

The following items require an answer

5 General Terms and Conditions

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

☐ I have downloaded, read and agree.

(Required: Check if applicable)

6 Scope of Work

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

☐ I have downloaded, read and agree.

(Required: Check if applicable)

7 Anti-Collusion Statement

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

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

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

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

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

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

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

☐ I agree.

(Required: Check if applicable)

8 No Deviations or Exceptions

I certify that there are NO deviations or exceptions from the attached specific terms, conditions, and specifications.

☐ Agree - No Deviations ☐ Do Not Agree - Please see below

(Required: Check only one)

9 Deviations and Exceptions

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

(Required: Maximum 4000 characters allowed)

1
0**Affidavit of Business Entity**

By marking the checkbox, I acknowledge that my company participates in the E-Verify system and can provide documentation.

☐ I agree.

(Required: Check if applicable)

1
1**OSHA Affidavit**

Download the OSHA Affidavit, located on the "Attachments" tab. Thoroughly review and indicate below.

☐ I have downloaded, read and agree to comply.

(Required: Check if applicable)

1
2**Sample Contract**

By marking the checkbox, I acknowledge I have read and understand my company will be asked to sign the Sample Contract as stated as it applies to the response submitted.

☐ I agree.

(Required: Check if applicable)

Bid Lines

1

Please give the total cost amount to complete the signal replacement, which shall include:

- Removal of existing hardware and replacement with the items listed below.
 - ◊ McCain 2070ATC Controller: 2070ATC CPU, 2E, 3B, 4A
 - ◊ EDI-2010ECLIP
 - ◊ Model 200 Load Switch
 - ◊ Model 204 Flasher
 - ◊ TR-200-Flash transfer relay
- Any wiring, signal timing and installation for the signal's operation.

(Response required)

UOM: Total cost of Replacement

Price: \$

Total: \$

Supplier Notes: _____

☐ No bid

☐ Additional notes
(Attach separate sheet)

Ship To Information

Contact: Jeff Roussell
 Address: Street
 Public Works
 1111 Kathryn Street
 Nixa, MO 65714
 Phone: (417) 725-2353

Bill To Information

Address: 715 W. Mt. Vernon Street
 PO Box 395
 Nixa, MO 65714

Item Attributes**1. Timeframe to complete**

Please state what the estimated timeframe will be for completion.

(Required: Maximum 1000 characters allowed)

Supplier Information

Company Name:

Contact Name:

Address:

Phone:

Fax:

Email:

Supplier Notes

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

Print Name

Signature