



**Issue:** ANNUAL MILLING & OVERLY PROJECT

**Date:** April 15th, 2022

**Submitted By:** Jeff Roussell, Street Superintendent

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### Background

Throughout the year, Street Department staff assess the condition of city streets to determine what streets are possibly failing or need attention. This year is no different from years past and many of our streets need new asphalt because of deterioration or have simply reached the end of their life cycle.

### Analysis

After a request for bids on this annual project, three bids were received with Emery Sapp & Sons Inc. being the lowest responsible bidder. While Milling prices were comparable to years past at \$ 2.83 a square yard, Asphalt prices have increased from the \$58 price range to \$78.30 a ton. These elevated prices are a result of higher oil and gas prices.

An estimated total of 4,994 tons of asphalt and 8,676 square yards of milling are slated for this years project for a total cost of \$415,583. If approved, this will allow Emery Sapp & Sons Inc. to repair or replace approximately 3.5 miles of city streets. This amount is within the Street Department's budget and has been allocated for this project.

### Recommendation

It is staffs recommendation to award this contract to Emery Sapp & Sons Inc.

**RESOLUTION NO. 2022-048**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH EMERY SAPP & SONS INC, FOR CERTAIN MILLING AND ASPHALT WORK.**

**WHEREAS** City staff have solicited bids for Milling and Asphalt work throughout Nixa; and

**WHEREAS** after evaluating all submitted bids, staff has recommended Emery Sapp & Sons Inc., 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 Emery Sapp & Sons Inc. 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 25<sup>th</sup> DAY OF APRIL 2022.**

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
PRESIDING OFFICER

**APPROVED BY THE MAYOR.**

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

APPROVED AS TO FORM:

\_\_\_\_\_  
DATE OF APPROVAL

\_\_\_\_\_  
CITY ATTORNEY

**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.

<b>EFFECTIVE DATE:</b>	<b>TERMINATION DATE:</b>	<b>CONTRACT NUMBER:</b>
(X) NEW CONTRACT    ( ) RENEWAL OF CONTRACT NO.    ( ) Addendum No. _		
<b>CITY</b>		<b>CONTRACTOR</b>
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: Emery Sapp & Sons, inc. Address: 5350 E. State Hwy AA Springfield, MO 65803 Phone: 417-833-9915 Attn: Flint Wendland Email: Flint.Wendland@emerysapp.com

## 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-019-2022/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. Prevailing Wage.** In compliance with sections 290.210 through 290.340 RSMo, all workers performing work under this Contract shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality or the public works contracting minimum wage, whichever is applicable, as set out in the Wage Order attached hereto as Exhibit C and made part of this Contract. If at any time the Contractor is found to not have paid prevailing wages, the Contractor shall forfeit as a penalty to the City \$100.00 for each calendar day or portion of a calendar day for each worker paid less than the stipulated required rates for any work done under this Contract by the

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

**3. Insurance Requirements.** Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City, 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.

**4. 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 \$415,583.00 (full amount of contract) 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.

**5. 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.

**6. 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.

**7. 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.

**8. 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.

**9. 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.

## **10. 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.

**11. 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.

**12. 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 **Four Hundred Fifteen Thousand, Five Hundred Eighty-Three dollars. (\$415,583.00)** unless specifically and mutually agreed to in writing by both the City and the Contractor.

**13. 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- Fee Schedule**
- d. **Exhibit C- Bid Invitation**

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. This Contract shall also include any Exhibits incorporated by reference in the above-described documents. When any provisions of the Contract Documents conflict, the provisions contained in the Contract shall control followed by Exhibit A, then Exhibit B, and then Exhibit C.

**14. 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.

**15. 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.

**16. 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.

**17. 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.

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

**19. 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 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.

**20. 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.

**21. 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 construction 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).

**22. 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.

**23. 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.

**24. 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.

**25. 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.

**26. 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.

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

**THE CITY OF NIXA, MISSOURI**

\_\_\_\_\_  
Jimmy Liles, City Administrator

Date:\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Rebekka Coffey, City Clerk

**Approved as to form:**

\_\_\_\_\_  
Nick Woodman, City Attorney

**Director of Finance Certification:**

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

\_\_\_\_\_  
Jennifer Evans, Director of Finance

**CONTRACTOR**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

Date:\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

## Scope of Work

The scope of work associated with this bid shall consist of milling and/or relief milling and placement of hot mix asphalt on the street segments indicated in the drawings and bid list shown in Exhibit B. Hot mix asphalt must conform to City of Nixa Technical Specifications and be placed in the thicknesses as indicated in Exhibit B. The City shall issue work orders to the Contractor which shall detail the specific work to be undertaken by the Contractor in compliance with the terms of the Contract. Based on the scope for each work order, the contractor shall invoice the City based on the corresponding pricing shown on the Bid List in "Exhibit B".



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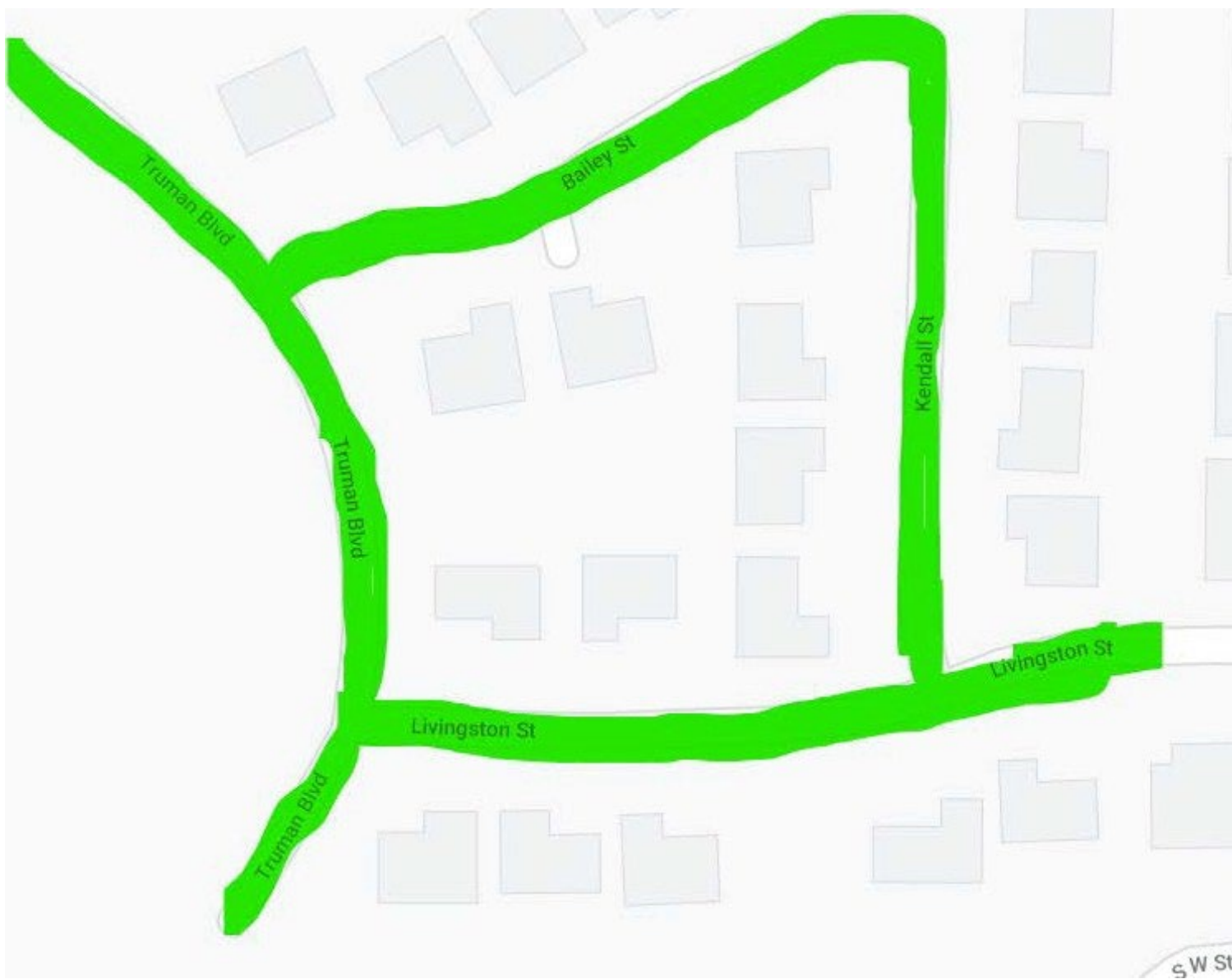
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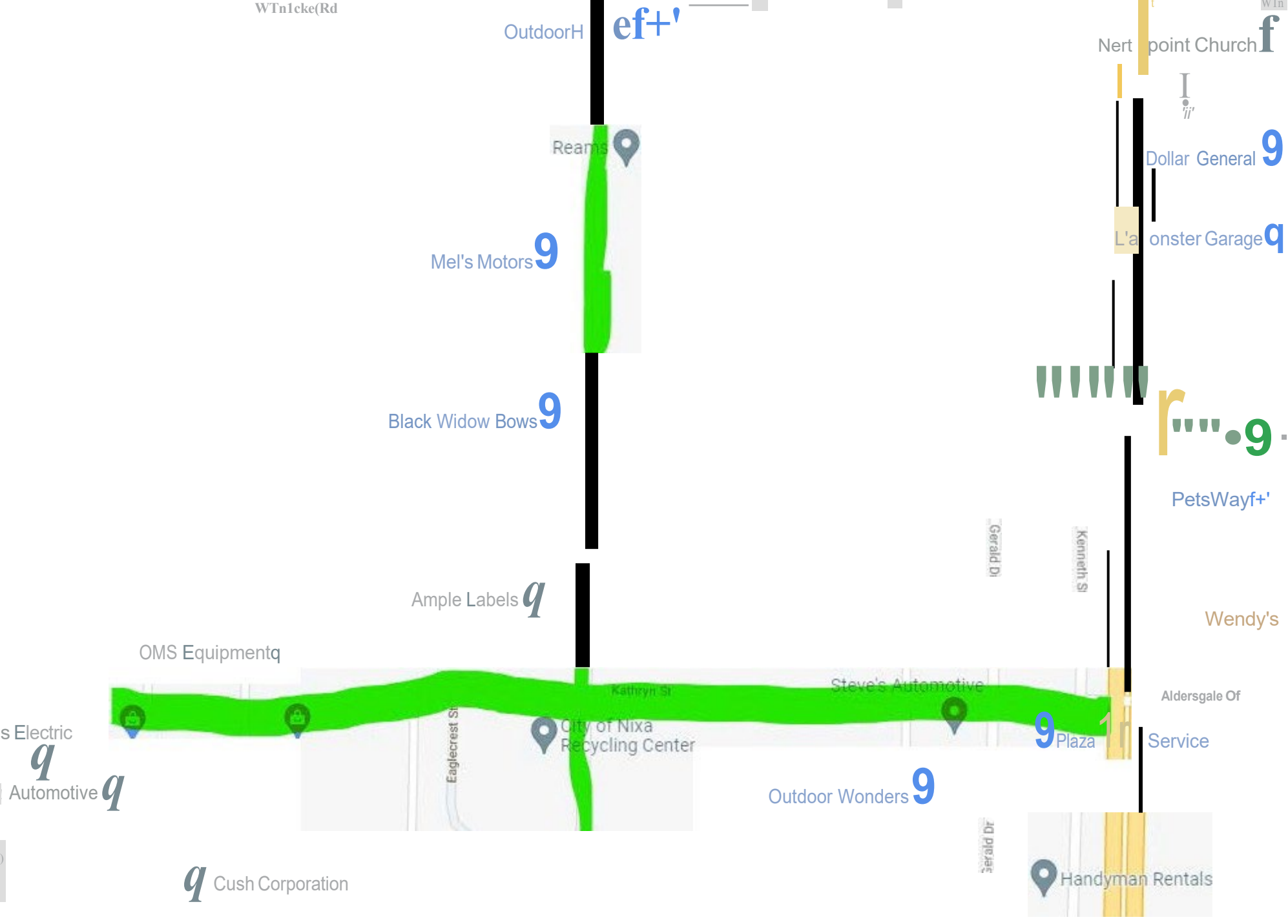
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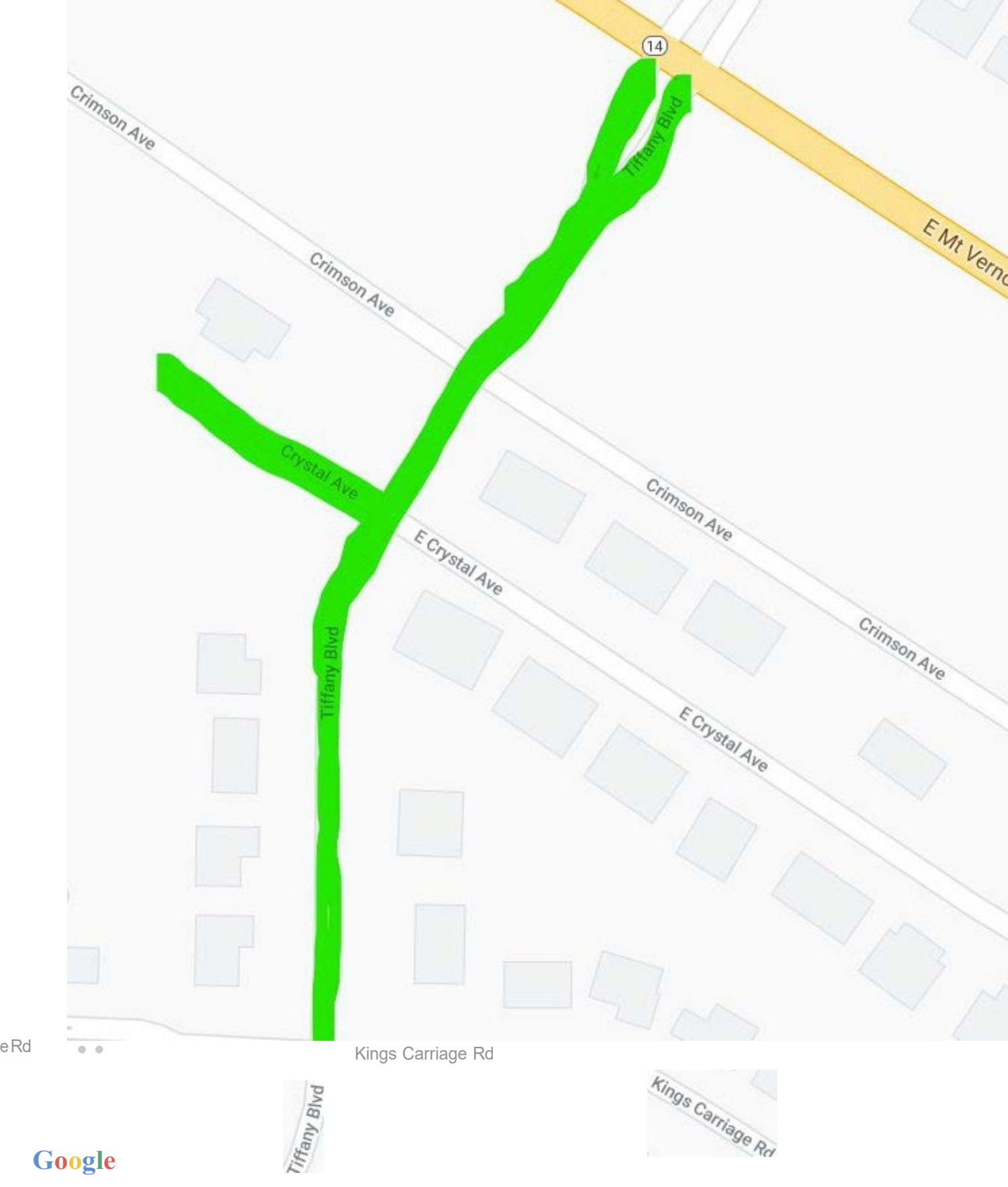
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## **RFB-019-2022/Street**

### **Asphalt Mill and Overlay**

Issue Date: 3/4/2022

Questions Deadline: 3/21/2022 12:15 PM (CT)

Response Deadline: 3/25/2022 10:00 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](mailto:sewing@nixa.com)

## Event Information

Number: RFB-019-2022/Street  
Title: Asphalt Mill and Overlay  
Type: Request for Bid  
Issue Date: 3/4/2022  
Question Deadline: 3/21/2022 12:15 PM (CT)  
Response Deadline: 3/25/2022 10:00 AM (CT)  
Notes: The City of Nixa is issuing a Request for Bid for Asphalt Mill and Overlay.

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](mailto: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](#)

### 2022 Street and areas of AMO requested.pdf

Streets/Areas for Asphalt Mill & Overlay 2022

[View Online](#)

### Bid Sheet Asphalt Proposed 2022.pdf

Bid Sheet

[View Online](#)

### General Construction Contract 2022.pdf

Sample Construction Contract

[View Online](#)

## Affidavit of Business Entity.pdf

E-Verify

[View Online](#)

## OSHA Affidavit of Compliance.pdf

OSHA Affidavit

[View Online](#)

## Annual Wage Order 28.pdf

Prevailing Wage Order 28

[View Online](#)

## No Bid Response Form.pdf

No Bid Response Form

[View Online](#)

## Requested Attachments

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### Bid Sheet

*(Attachment required)*

Please download the "Bid Sheet", located on the Attachment tab. Complete the document and upload it here.

### 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.

### Additional Documentation

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

### 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

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### 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 Bid Sheet**

Download the Bid Sheet, located on the "Attachments" tab. Thoroughly review, complete and upload your document in the "Response Attachments" tab.

☐ I have downloaded, read and acknowledge.

*(Required: Check if applicable)*

**7 Bid/Contract Term**

The term of the bid/contract agreement is for (1) one year, beginning upon date awarded. The City may, at it's option, extend the contract for up to (4) four additional one-year terms, subject to the Escalation/De-Escalation stated below.

**ESCALATION/DE-ESCALATION:**

Prices shall remain firm for a period of one year from the date of award. Prices may be changed after the first year, not to exceed 5% in a given year. Increases will be considered for the following reasons:

An increase or decrease in the supplier's cost of materials and/or labor rates may be justification for price change; however, this shall not be construed in any way to increase vendor's margin or profit.

All written request for price increase must include backup documentation as to the nature of the increase and shall be submitted to the City of Nixa Purchasing Department upon renewal of contract/bid agreement. Approval of each request shall be sent in written form. If the City should consider said increase unwarranted or unreasonable, the City reserves the right to terminate the contract/bid agreement with the vendor. Any price decline at the manufacturer's level shall be reflected in an immediate reduction of the contract prices and the vendor shall notify the buyer of said decline.

☐ I agree.

*(Required: Check if applicable)*

**8 Streets/Areas of work for Asphalt Mill and Overlay 2022**

Located on the "Attachments" tab, you will find the PDF for the Streets and Areas of work for the Asphalt Mill and Overlay project for 2022. Download the attachment, thoroughly review and indicate below.

☐ I have downloaded, read and agree.

*(Required: Check if applicable)*

**9 Estimated Quantities**

The estimated quantities indicated in this Bid represent anticipated requirements only. The right is reserved to exceed or diminish these estimates.

☐ I acknowledge.

*(Required: Check if applicable)*

**Examination of Contract Documents/Work site**

1. It is the responsibility for each Bidder before submitting a Bid to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify the City of all conflicts, errors or discrepancies in the Contract Documents.

2. Information and data reflected in the Contract Documents with respect to underground facilities at or contiguous to the site is based upon information and data furnished to the City by owners of such underground facilities or others. The City assumes NO responsibility for the accuracy or completeness thereof unless it expressly provided otherwise in the Special Provisions.

3. Provisions concerning responsibilities for the adequacy of data furnished to prospective bidders on subsurface conditions, underground facilities, and other physical conditions, and possible changes in the Contract Documents due to differing conditions appear in the General Conditions.

4. Before submitting a bid each Bidder will be responsible to make or obtain such explorations, tests, and data concerning physical conditions (surface, subsurface and underground facilities) at or contiguous to the site, or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents. If bidder elects to make explorations in public street rights-of-way an excavation permit must be obtained from the office of the Street Superintendent, a Division of the Public Works Departments.

5. Each bidder, upon request in advance, will be provided access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

6. The lands upon which the Work is to be performed, rights-of-way and easements for access thereto and other lands designated for use by the Contractor in performing the Work are identified in the Contract Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment not shown on the plans are to be provided by Contractor. Any related expense will be the responsibility of the Contractor.

7. The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions to performance and furnishing of the Work.

☐ I acknowledge.

*(Required: Check if applicable)*

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## **SUBCONTRACTORS, SUPPLIERS AND OTHERS**

1. The names, addresses, telephone numbers, and proposed work items and amount of all subcontractors the bidder expects to use in performing the work under this proposal shall be furnished with the proposal. If no subcontractors are expected to be used, a statement to the effect must accompany the bid. After the bid opening, the successful bidder may not substitute any of the subcontractors identified in the bid, except with the approval of the City and for good cause shown. The availability of another subcontractor at a lower cost to the general contractor after the general contractor's bid has been accepted by the City shall not constitute good cause for such substitution.
2. The Contractor shall not assign or sublet the contract or any portion of the contract without the written approval of the City in accordance with the General Conditions and Technical Specifications. The form of approval shall be completion and submittal of the enclosed subcontractor form including a statement of qualifications of the subcontractor and assurances that the subcontractor is legally bound to comply with all the requirements of the contract as they would apply to the prime contractor; for example, wage rates, equal employment opportunity regulations, submittal of payrolls, etc.
3. No subcontract shall under any circumstances relieve the Contractor or his surety of his liability and obligation under the contract, and all transactions will be made through the contractor. Subcontractors will be recognized and dealt with only as workmen and representatives of the contractor.
4. If approval is given for subletting work, the Contractor shall perform with his own organization work amounting to not less than fifty (50) percent of the total contract cost. The percentage of work to be performed shall be computed using the bid items as shown on the bid proposal and the unit prices as submitted by the Contractor. No breakdown of the bid items will be allowed, such as breaking an excavation bid item into labor, equipment, fuel, etc. The unit prices used in the computation will be the bid price on the bid proposal, not the price the Contractor is to pay the subcontractor. The contract value of items so designated as specialty items in the contract by the Special Provisions when subcontracted, may be deducted from the total contract price before computing the amount of work required to be performed by the prime contractor.
5. No subcontractor may further subcontract any of his work.

(Optional: Maximum 200 characters allowed)

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## **Special Provisions**

**1. General:** All construction shall conform to City of Nixa, Missouri, General Conditions and Technical Specifications and all revisions thereto, as applicable except where noted differently in these documents. City of Nixa Technical Specifications and Construction plans and project specifications are available in the office of the Nixa Street Superintendent or on the City of Nixa web page. Contact Jeff Roussell, Street Superintendent, City of Nixa, at 417-725-2353 with any questions.

The General Conditions are general in scope and may refer to conditions not encountered on the work covered by this contract. Any provision of the General Conditions which pertains to a nonexistent condition and is not applicable to the work to be performed, or which conflicts with any provision of the Special Provisions shall have no meaning in the contract and shall be disregarded.

Where the Director of Public Works or Street Superintendent is referenced it shall mean the City of Nixa by and through the City of Nixa - Public Works Dept.

**2. Work Zone Traffic Control:** All signing and barricades shall conform to applicable portions of Division 100 and Division 600 of the Missouri Standard Specifications for Highway Construction, 2004 Edition and all revisions thereto, and the Manual on Uniform Traffic Control Devices (2009 edition, with latest errata) published by the Federal Highway Administration, including any revisions thereto.

Typical traffic control layouts are illustrated in Part VI of the Manual on Uniform Traffic Control Devices (MUTCD).

The contractor will be responsible for installing and maintaining all signs and barricades required for proper control of the traffic within the construction limits. As a minimum, the Contractor shall erect and maintain ROAD WORK AHEAD and END ROAD WORK SIGNS at the project limits on streets under construction. These signs shall be in place at all times until all work is complete.

Charge for City Crew Call-Out: Any call-out of City crews for the purpose of removing, covering, or turning signs will be charged to the Contractor.

Cost and Payment: The cost of providing and maintaining signs, barricades, temporary pavement markings, pavement marking removal and temporary relocation of existing signs shall be at Contractors expense.

Traffic control devices shall be set up prior to the start of construction and construction shall not begin until the signing and barricading has been approved by the City or Inspector on the project. Signs and barricades shall be properly maintained during the time the construction project exists. They shall remain in place only as long as they are needed and shall be removed immediately thereafter. Where operations are performed in stages there shall be in place only those devices that apply to the conditions present during the stage in progress. Signs that do not apply to existing conditions shall be removed, covered, folded, or turned so as not to be readable by oncoming traffic. Contractor shall be responsible for providing and maintaining all traffic control devices and flag persons as necessary to protect the work area and safeguard and direct traffic.

Notification to Property Owners: The Contractor shall keep adjacent property owners informed at all times regarding the status of construction and provisions for access. The Contractor is required to maintain access to adjacent property owners within the project area at all times, except that the Contractor may close driveways as permitted in the construction phasing.

**3. Completion Time:** The Contractor will be required to commence work under this contract within ten (10) calendar days after the date of receipt by him of the Notice to Proceed, to prosecute said work diligently and to complete the work within 120 calendar days from the date of the Notice to Proceed.

The Contractor is required to provide a sufficient work force and construction management so that no time extension will be granted for delay of contract award, weather conditions, utility conflicts, excavation encountering rock, changing excavation quantities, or Contractor scheduling of equipment or construction progress.

The Contractor shall have a superintendent or a responsible foreman on the project at all times when construction is in progress. Any claim for extension of time shall be made in accordance with the City of Nixa General Conditions and Technical Specifications.

**4. Contractor Guarantee:** The Contractor shall be responsible for the condition of all material and all work performed as part of this bid and such material and labor shall be guaranteed by the Contractor and his surety against defective workmanship and/or material found to be defective in manufacture or which has been damaged in handling or placement after delivery for a period of 12 months after acceptance by the City. Contractor shall repair, replace, or otherwise make good at his own expense any such defect or failure which may become evident within the guarantee period, excepting as may be due to normal use or wear.

**5. Certificates of Compliance:** Three copies of certifications are required for materials used on this project for demonstrating proof of compliance with materials specification requirements. Each certificate shall be signed by an official authorized to certify in behalf of the manufacturing company, shall be notarized and shall contain the name and address of the Contractor, the project name and location, and the quantity and the date or dates of shipment or delivery to which the certificates apply. Copies of laboratory test reports submitted with certificates shall contain the name and address of the testing laboratory and the date or dates of tests to which the report applies. Certification shall not be construed as relieving the Contractor from furnishing satisfactory material if, after tests are performed on selected samples, the material is found not to meet the specific requirements.

**6. Nondiscrimination:** Contractor agrees in the performance of this bid not to discriminate on the grounds or because of race, creed, color, national origin or ancestry, sex, religion, handicap, or political opinion or affiliation against any employee of said contractor or applicant for employment, and shall include a similar provision in all subcontracts let or awarded hereunder.

**7. Indemnity from Subcontractor Claims/Exceptions:** The Contractor shall be fully responsible to the City of Nixa for the acts and omissions of its subcontractors and material suppliers, and of persons either directly or indirectly employed by the subcontractor, as he is for acts and omissions of persons directly employed by him. The

Contractor shall cause appropriate provisions of the Plans and Specifications to be inserted in all subcontracts and contracts for the supply of materials relative to the work to bind subcontractors to the Contractor by the terms of these Contract Documents insofar as is applicable, and to give the Contractor the same power as regards terminating the subcontract that the City of Nixa may exercise over the Contractor under any provision of the Contract Documents. Nothing contained in this bid or signed contract agreement shall create any contractual relation between any subcontractor and the City of Nixa, and the Contractor shall defend, indemnify and save harmless the City from and against any and all liability, suits, claims, damages, costs (including attorney's fees), losses, outlays, and expenses in any manner arising out of or connected with subcontractor claims and damages arising out of matters covered by terms of these contract documents which Contractor either failed to insert in subcontract documents or materially modified, notwithstanding any possible negligence (whether sole, concurrent or otherwise) on the part of the City, its agents or employees.

**8. Subcontractor Waiver:** The Contractor shall require subcontractors to waive standing to sue the City directly, and Contractor shall cause appropriate provisions to be inserted in all subcontracts to require subcontractors to stipulate the same and to waive any right inconsistent therewith. Contractors shall require subcontractors to file any suit alleging misrepresentation in the Plans or Specifications exclusively against the Contractor, which Contractor shall in good faith defend, and Contractor shall not sue the City on behalf of the subcontractor or subcontractor's claims except when Contractor is defendant in a subcontractor's suit, and then only pursuant to the rules of third practice under Rule 52.11 Missouri Rules of Civil Procedure.

**9. Licenses, Permits, and Certificates:** All licenses, permits, certificates, etc., required for and in connection with the work to be performed under the provisions of these contract documents shall be secured by the Contractor entirely at his own expense.

**10. Sales Tax Exemption:** Bidders are hereby instructed to submit bids not including sales tax according to the provisions of Section 144.062 RSMo. The selected contractor will receive a Project Exemption Certificate and a Missouri Tax Exemption letter from the City of Nixa to use in purchasing materials on a tax-free basis. It will be the contractor's responsibility to provide the documentation to any subcontractor. These documents will be used solely for purchase of materials being directly incorporated into or consumed in the construction of the work under this contract.

**11. Vehicle/Equipment Identification:** The contractor and each subcontractor on this project shall have its name or recognizable logo, and the name of the city and state of the principal office of the company, on each motor vehicle and motorized piece of equipment utilized by it in connection with the project in accordance with the provisions of Section 290.290(3) RSMo, unless otherwise exempted by law.

**12. Employ Missouri:** Whenever unemployment in Missouri exceeds 5 percent during a two consecutive calendar month period, each contractor and subcontractor on this project shall employ only Missouri laborers or laborers from non-restrictive states on the project, in conformity with Missouri law (H.G. 416 & 417 1993) and every contract let by each contractor or subcontractor shall contain such a provision, unless otherwise exempted by law.

**13. Overflow and Acceptance of Water:** It is anticipated that storm, surface, and possible ground or other waters will be encountered at various times and locations during the work. Such waters may interfere with Contractor's operation and may cause damage to adjacent or downstream private and/or public property by flooding, lateral erosion, sedimentation, or pollution if not properly controlled by the Contractor. The Contractor will be required to repair any and all damage caused by said waters. The Contractor, by submitting a bid, assumes all said risk and the Contractor acknowledges that his bid was prepared accordingly.

**14. Safety Precautions:** The Contractor shall maintain and enforce all necessary and adequate safety precautions for the protection of life and property on all work performed under the provisions of these CONTRACT DOCUMENTS. The Contractor shall also comply with all regulatory agencies requirements for safety.

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of all applicable laws, building and construction codes, and regulations shall be observed. The Contractor shall take or cause to be taken such safety and health measures, additional to those herein required, as he may deem necessary or desirable. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention of Construction" published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.

The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the Local Public Agency with reports concerning these matters.

The Contractor shall indemnify and save harmless the Owner, from any claims for damages resulting from personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conducted under this contract.

**15. Utility Conflicts:** When excavating, the Contractor shall make every effort to locate all underground pipe lines and conduits by contacting owners of underground utilities, by prospecting, or otherwise, in advance of trench excavation operations. Certain pipelines, water mains, propane gas, petroleum lines, telephone cables, power lines, cable television, and other existing underground and above ground installations and structures in the vicinity of the work to be done hereunder are indicated on the plans according to the best information made available to the City. The City does not guarantee the accuracy of such information, however.

Connections from the mains to the houses for sanitary sewers, water and gas services, and other utility lines may not be indicated on the plans. Any conflict with these service lines from the house to the main, not specified as part of the utilities relocations, will be the responsibility of the Contractor to either relocate or work around at no cost to the project.

Any delay or extra cost to the Contractor caused by utilities or pipe lines or other underground structures or obstructions not shown by the plans, or found in locations different than those indicated shall not constitute a claim for extra work, additional payment, or damages.

The Contractor will be solely responsible for any or all damages whether direct, indirect or consequential to underground or above ground utilities and pipelines and the surroundings and shall indemnify and hold harmless the Owner for any and all claims, or judgments whenever made as a result of his actions.

For informational purposes only, the following is a list of names and telephone numbers of the known utility companies in the area of the construction work for this improvement:

City of Nixa (Electric)  
Brian Denney (417) 725-2353

City of Nixa (Water)  
Jason Stutesmun (417) 725-2353

Missouri Gas Energy  
Raymond Priest (417) 862-5602

Ozark Electric (Electric)  
Dan Locamp (417) 725-5160

Show Me Technologies  
Brad McGoon (417) 859-2615

AT&T (Telephone)  
Lee Thurman (417) 836-2224

MoDOT Signal Systems  
Joe Dotson – Traffic Supervisor (417) 895-6722

**16. Protection of Trees and Shrubs:** No tree or shrub in any street, alley, roadway or parking area shall be removed, trimmed or otherwise disturbed without the prior authorization by the City's representative, such authorization will be given in the case of any tree or shrub within trench or other excavation limits where a thorough examination shows that the root structure is such that the construction cannot continue by tunneling beneath the tree or shrub.

The Contractor shall use every precaution to protect and prevent injury to trees and shrubs on or adjacent to the sites of the work, and he shall replace at his own cost and expense each and every tree and shrub, not authorized by the Owner for removal, which may be damaged or destroyed by him, or his employees or subcontractor.

**17. Seeding:** All disturbed areas where permanent vegetative cover is to be established shall be in accordance with the Technical Specifications using Type III mulch. If seeding is not in compliance with the Technical Specifications, five (5) percent of the cost of the project will be retained until completion of seeding and be accomplished during the approved seeding period. This amount shall be returned to the Contractor upon acceptance of this project.

Seeding will be deemed accomplished when the requirements of The General Conditions and Technical Specifications, Seeding has been met, if growth is thereafter confirmed within fourteen (14) days. If growth is not so confirmed, reseeding shall be required as many times as necessary to accomplish growth. After growth has been confirmed, liquidated damages, if any, shall be calculated to have stopped on the date growth was confirmed or two weeks of successful growth.

**18. Cautionary Note Regarding Karst Features.** The predominant limestone strata in the Nixa area is extensively weathered resulting in the formation of numerous karst features; caves, springs, sinks, losing streams, cherty clay residuum, etc. In many areas stream erosion has removed the residuum and rock is at or very close to the surface, whereas in other areas as much as 40 feet of residuum remains. The contact between the bedrock and residual soil is extremely pinnacled. Bedrock pinnacles commonly have 10-15 feet of relief and as much as 30 feet. Typically, the limestone pinnacles project vertically upward from narrow bedrock lows or cutters between the pinnacles. Locally, a mass of limestone may be "floating" with clay completely surrounding the large limestone block. Karst features are likely to exist beneath the surface on the project site, which are not depicted in the project drawings. Contractor expressly acknowledges that no representations are made in the project drawings or plans as to either the presence or absence of karst features and Contractor agrees to be stopped from making any claims to the contrary.

**19. Responsibility for Claims for Damage:** The contractor shall indemnify and save harmless the City, its' officers, agents, and employees from all claims or suits made for brought for injury to persons or property caused by the Contractor's negligence or his failure to perform the work in accordance with the plans and specifications. The City may retain from any payment due or to become due the Contractor such sums as are deemed necessary to protect the City's interests until all such claims or suits have been settled or disposed of and suitable evidence to that effect furnished to the City.

In the event that a citizen makes a claim against the Contractor or subcontractor,  
Then the Contractor shall do the following:

- a. Investigate a claim within a reasonable period of time when notified by a citizen or the City of Nixa.
- b. Within 5 days after completing the investigation, the Contractor shall notify in writing the person making the claim that the Contractor is approving or denying the claim or part thereof. The City shall receive a copy of the written notification.
- c. Assure that claims shall not be denied for frivolous reasons.

**20. Excess Asphalt/Concrete Deliveries:** Excess concrete, asphalt or oil will not be dumped/poured in underground pipe trenches or in excavations around buried structures. In the event such dumping occurs, the contractor will remove the concrete and all damaged pipe. Materials removed will be replaced by the contractor at no additional cost to the project.

**21. Field Staking:** The contractor will be responsible to furnish all field staking required to layout all lines, grades and measurements necessary for the proper prosecution and control of the work contracted by the City under these drawings and specifications.

**22. Work Restrictions:** Contractor must conduct all work within street right-of-way or within construction easements obtained for this project. The location and extent of the areas so used are as shown on the plans. The Contractor shall become very familiar with the right-of-way and easement limits prior to construction, and shall contain his operations to these limits. The Contractor shall exercise every caution and special construction methods as necessary to prevent encroachment on or damage to private property. If the Contractor encroaches on private property for any reason, the Contractor shall be responsible for any and all damages and repairs. All restorations of private property shall meet the satisfaction of the property owner.

The Contractor shall keep adjacent property owners informed at all times regarding the status of construction and

provisions for access. The Contractor is required to maintain access to adjacent properties at all times.

The Contractor will take whatever measures are necessary, including the use of temporary bridges, alternate routing, temporary backfilling, etc., to assure vehicular and pedestrian handicapped access as described above. Provisions must also be taken to provide access for emergency vehicles, including fire and ambulance, at all times.

**23. Protection and Maintenance of Public and Private Property:** The Contractor shall protect, shore, brace, support and maintain all underground pipes, walls, conduits, drains and other underground construction uncovered or otherwise affected by the construction work performed by him. All pavement, surfacing, driveways, curbs, walks, buildings, utility poles, guy wires, fences and other surface structures affected by construction operations in connection with the performance of the contract, together with all sod and shrubs on private property and parking areas crossed by, or adjacent to, the construction limits, shall be maintained and, if removed or otherwise damaged, shall be restored to the original condition whether within or outside the easement.

**24. Additional Land Requirements:** The Contractor shall be solely responsible for obtaining and shall pay all costs in connection with any additional work area, storage sites, access to the site, or temporary right of way not shown on the plans, but which may be required by the contractor for execution of the work. It shall be understood that the responsibility for protection and safekeeping of equipment and materials on or near the site will be entirely that of the Contractor and that no claim shall be made against the City by reason of any act of an employee or trespasser. It shall be further understood that should any occasion arise necessitating access to the sites occupied by these stored materials or equipment, the Contractor owning or responsible for the stored materials or equipment shall immediately move same.

**25. Construction Site Cleanup:** Cleanup shall follow immediately after and at the same rate as construction. Cleanup shall not be delayed until entire project is finished. Contractor shall clean all right-of-way AND easement areas that were occupied by him in connection with the construction. All disturbed brush and trees, all rubbish, excess materials, temporary structures, equipment, etc., shall be removed and the area left in a neat and presentable condition. If at any time during construction the City determines that cleanup is not being accomplished, the City may direct no additional work can be accomplished without meeting certain requirements. If so directed, no claim for additional time will be allowed.

**26. Inspection:** The City of Nixa will provide inspection on this project. The Contractor shall grant the City access to all parts of the work at any time.

☐ I agree.

(Required: Check if applicable)

### 1 3 **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.

Any variances or if a different contract is requested from the Vendor, it must be uploaded in the "Additional Documents" upload for review by the City. This does not guarantee changes or differences will be accepted.

☐ I agree.

(Required: Check if applicable)

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4**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)

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5**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)

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6**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).

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(Required: Maximum 4000 characters allowed)

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7**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)

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### **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)*

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### **Prevailing Wage Order 28**

Download the Prevailing Wage Order 28, located on the "Attachments" tab. Thoroughly review and indicate below.

☐ I have downloaded, read and agree to comply.

*(Required: Check if applicable)*

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### **Additional Purchases by the City and/or other Public Agencies**

The vendor, by submitting a bid, authorizes other Public Agencies to "Piggy-Back" or purchase equipment and services being proposed in this Invitation for Bid unless otherwise noted on the Affidavit of Compliance form. Prices bid shall remain in full force for 90 days from date of award.

☐ I agree.

*(Required: Check if applicable)*

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



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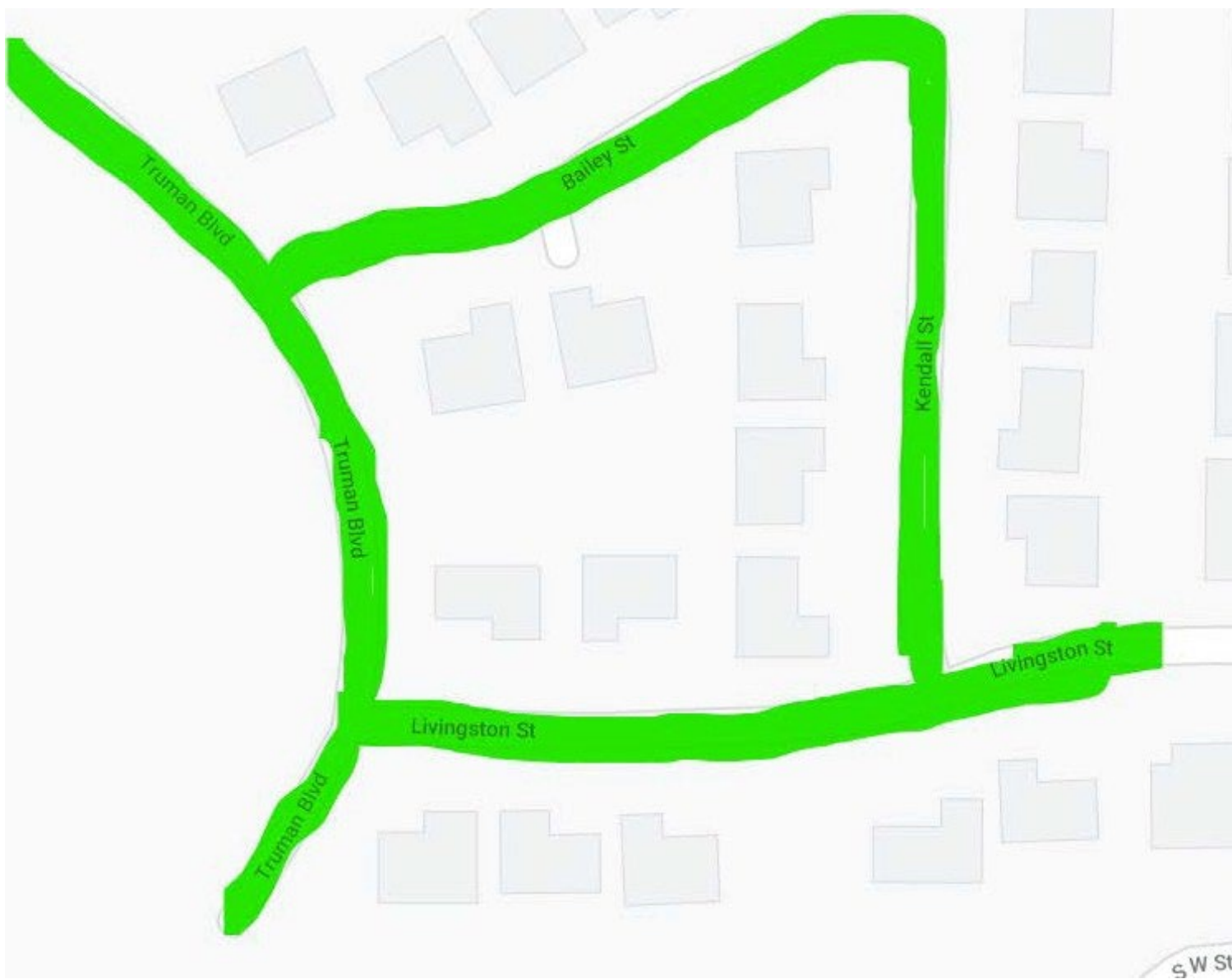
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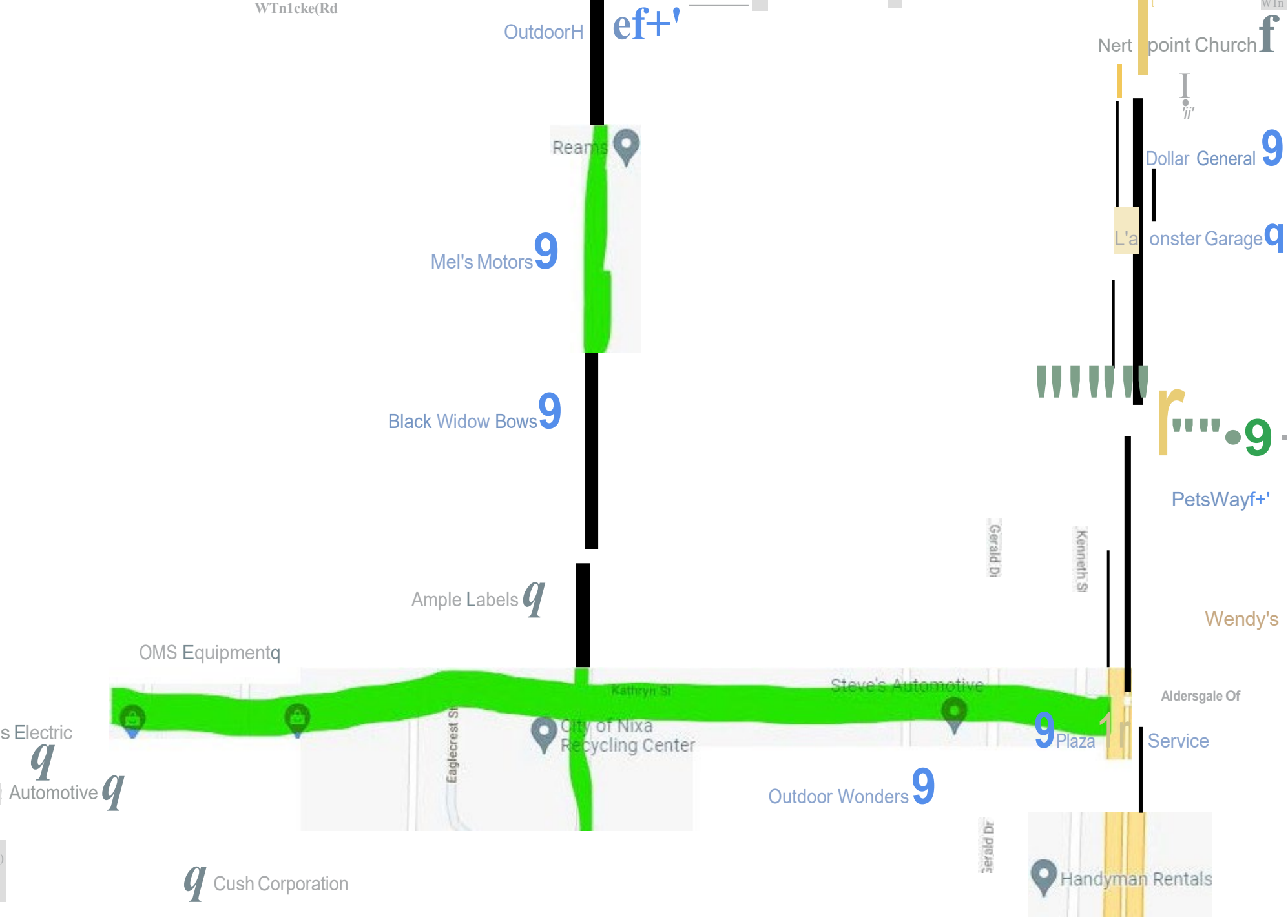
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Wendy's

OMS Equipmentq

Kathryn St

Steve's Automotive

City of Nixa  
Recycling Center

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Handyman Rentals

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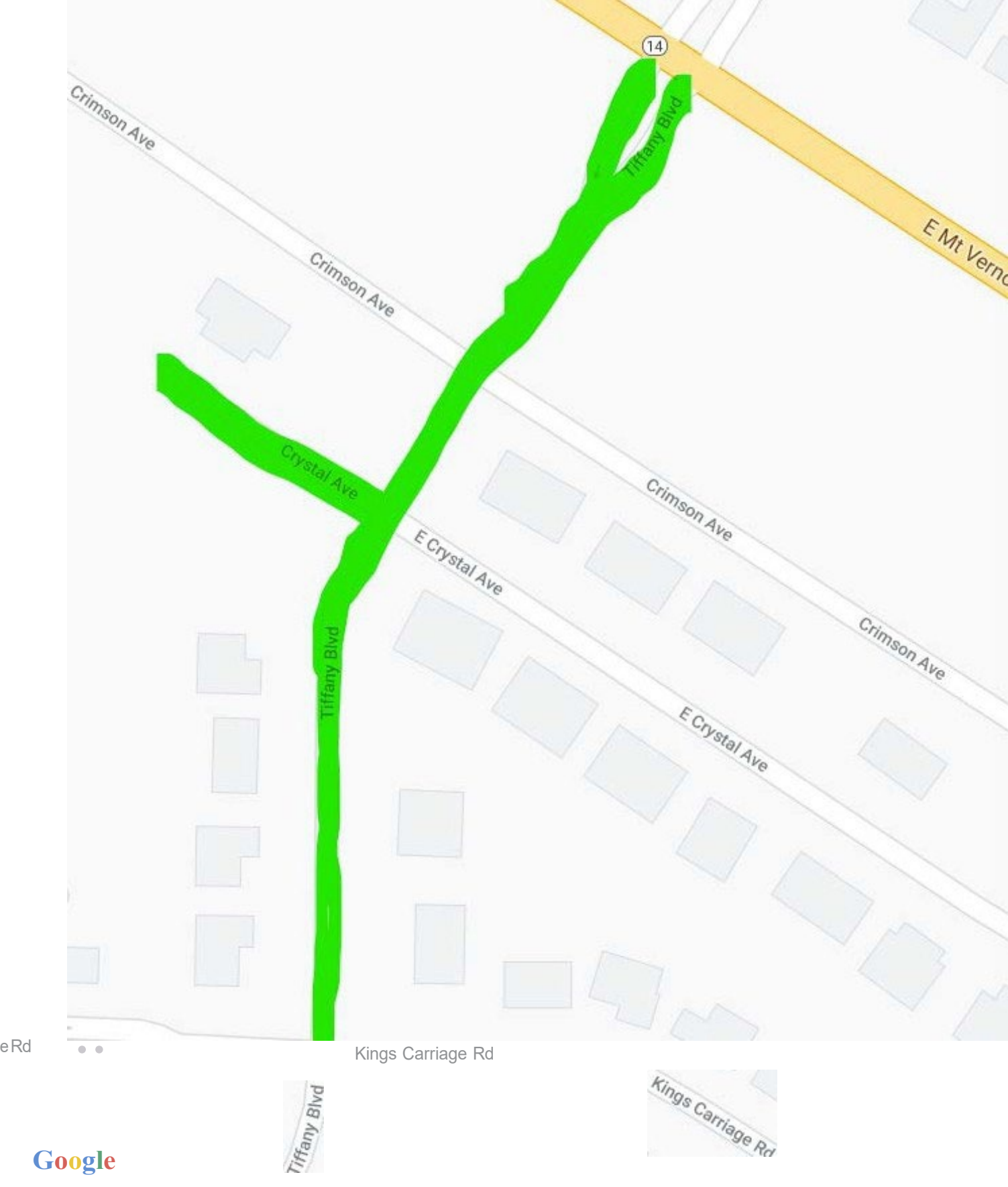
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Kings Carriage Rd

**City Of Nixa Bid Form**  
**Asphalt Milling and Overlay**  
 2022 M&O proposed projects

Asphalt Milling and Overlay	Expected Project Work	Thickness (in.)	Length (FT)	Width (FT)	SQ/YD Milling	Asphalt Tons
2022 M&O proposed projects	O	0.00	0	0	0.0	0.0
0	O	0.00	0	0	0.0	0.0
0	O	0.00	0	0	0.0	0.0
South Street	O	1.50	2570	24	0.0	578.3
0	O	0.00	0	0	0.0	0.0
0	O	0.00	0	0	0.0	0.0
McCrosky St	M and O	1.50	1275	26	1133.3	310.8
0	O	0.00	0	0	0.0	0.0
Hedgepeth Estates	M and O	1.50	445	26	395.6	108.5
0	M and O	1.50	375	26	437.3	132.9
0	M and O	1.50	360	26	320.0	87.8
0	M and O	1.50	610	32	542.2	183.0
0	O	0.00	0	0	0.0	0.0
Tiffany Blvd	M and O	1.50	920	40	817.8	345.0
Tiffany Blvd entrance	M and O	1.50	300	65	266.7	182.8
Crystal Ave	M and O	1.50	188	26	271.1	87.3
S. Main	O	1.50	3820	21	0.0	752.1
0	O	0.00	0	0	0.0	0.0
Kathryn St	M and O	1.50	2708	26	2407.1	660.1
Eagle Crest	M and O	1.50	2345	26	2084.4	571.6
0	O	0.00	0	0	0.0	0.0
Rosedale Rd	O	1.50	2600	25	0.0	609.4
0	O	0.00	0	0	0.0	0.0
1111 Kathryn	O	4.00	140	110	0.0	385.0
0	O	0.00	0	0	0.0	0.0
0	O	0.00	0	0	0.0	0.0
0	O	0.00	0	0	0.0	0.0
Total					8675.6	4994.4

BASE UNIT PRICE:		Estimated Milling SQ/YD	Estimated Asphalt Tons	Tapered Edge Milling Cost Per SQ YD	Asphalt Overlay Cost per TON
Total Base Amount:		8,676	4,994		
TOTAL BASE BID:					

Alternate Roads Asphalt Milling and Overlay	Expected Project Work	Thickness (in.)	Length (FT)	Width (FT)	SQ/YD Milling	Asphalt Tons
Alternate Roads						
0	O	0.0	0	0	0.0	0.0
0	O	0.0	0	0	0.0	0.0
0	O	0.0	0	0	0.0	0.0
0	O	0.0	0	0	0.0	0.0
0	O	0.0	0	0	0.0	0.0
0	O	0.0	0	0	0.0	0.0
Total					0.0	0.0

Alternate Roads Price		Estimated Milling SQ/YD	Estimated Asphalt Tons	Tapered Edge Milling Cost Per SQ YD	Asphalt Overlay Cost per TON
Alternate Roads Amount:		-	-		
TOTAL ALTERNATE BID:					

**Special Bidding Notes:**

Detailed street locations are available on the plan sheets. Milling amounts noted on the bid form in square yards are estimated by figuring headers and 1.5" tapered edge milling as noted on the affected plan sheets.

All asphalt shall contain 20% reclaimed material.

Vendor: \_\_\_\_\_

**CITY OF NIXA, MISSOURI**  
**GENERAL TERMS AND CONDITIONS OF BIDDING**

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

15. **Applicable Law:** All applicable laws and regulations of the State of Missouri and the City will apply to any resulting agreement, contract, or purchase order.
16. **Right to Protest:** Protestors shall seek resolution of their complaints initially with the City Purchasing Agent. Any protest must state the basis upon which the solicitation or award is contested and shall be submitted within ten (10) calendar days after such aggrieved person knew or could have reasonably been expected to know of the facts giving rise thereto.
17. **Quality Guaranty:** If any product delivered does not meet applicable specifications or if the product will not produce the effect that the bidder represents to the City, the bidder shall pick up the product from the City at no expense. Also, the bidder shall refund to the City any money which has been paid for same. The bidder will be responsible for attorney fees in the event the bidder defaults and court action is required.
18. **Quality Terms:** The City reserves the right to reject any or all materials if, in its judgment, the item reflects unsatisfactory workmanship, manufacturing, or shipping damages.
19. **No-Bid:** In the event you are unable to quote on this requirement, please return the "No-bid Response Form", on or before the bid closing date. Please indicate the reason(s) you are unable to participate in this solicitation.
20. **Bid Tabulation:** Bidders may request a copy of the bid tabulation of the Request for Bid through the City's purchasing department.
21. **Expenses:** All expenses for making Proposals to the City of Nixa are to be borne by the bidder.
22. **Collusion:** By offering a submission to this Request for Bid, the bidder certifies the bidder has not divulged, discussed, or compared the Bid with other bidders and has not colluded with any other bidder or parties to this RFB whatsoever. Also, the bidder certifies, and in the case of a joint Bid, each party thereto certifies as to their own organization, that in connection with this RFB:
  - a. Any prices and/or cost data submitted have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices and/or cost data, with any other bidder or with any competitor.
  - b. Any prices and/or cost data for this Bid have not knowingly been disclosed by the bidder and will not knowingly be disclosed by the bidder prior to the scheduled opening directly or indirectly to any other bidder or to any competitor.
  - c. No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit a Bid for the purpose of restricting competition.
  - d. The only person or persons interested in this Bid, principal or principals are named therein and that no person other than therein mentioned has any interest in this Bid or in the contract to be entered into.
  - e. No person or agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee exempting bona fide employees or established commercial agencies maintained by the Purchaser for the purpose of doing business.
23. **Liability and Indemnity:**
  - a. In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this contract.
  - b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this contract to Contractor.
  - c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law or any other federal or state law.

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

**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:**

( ) **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  
FAX:  
Attn: Dept:

Name:  
Phone:  
FAX:  
Attn:  
(Information needs to be verified with the Sec  
of State. Ensure that name is the legal name of  
entity.)

**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 [type of process] solicitation process, referenced as [number associated with solicitation process] 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 [this will be the scope of work document that provides a detailed explanation of what services the City is paying the Contractor to perform], 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 [\_\_\_\_] calendar days from the date Contractor is ordered to proceed, which order shall be issued by the [Appropriate City Official] within 30 days after the date of execution of this Contract.

**2. Prevailing Wage.** In compliance with sections 290.210 through 290.340 RSMo, all workers performing work under this Contract shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality or the public works contracting minimum wage, whichever is applicable, as set out in the Wage Order attached hereto as Exhibit C and made part of this Contract. If at any time the Contractor is found to not have paid prevailing wages, the Contractor

shall forfeit as a penalty to the City \$100.00 for each calendar day or portion of a calendar day for each worker paid less than the stipulated required rates for any work done under this Contract by the Contractor or by any subcontractor under the Contractor. Notwithstanding the foregoing, if the engineer's estimate of the total project cost or the bid accepted by the City is \$75,000.00 or less, then all labor utilized in the construction of the improvements shall not be required to pay the "prevailing rate of wages" or the public works minimum wage. However, if the project becomes subject to a change order that increases the total project cost to more than \$75,000.00, a "prevailing hourly rate of wages" or the public works contracting minimum wage, whichever is applicable, shall be paid for all labor utilized in the construction of the improvements but only for that portion of the project which exceeds \$75,000.00.

**3. Insurance Requirements.** Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City, 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.

**4. 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 \$INSERT CONTRACT AMOUNT (full amount of contract) 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.

**5. 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.

**6. 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.

**7. 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.

## **8. 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.

**9. 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.

## **10. 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.

**11. 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.

**12. 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 **INSERT AMOUNT Dollars and No Cents (\$..00)** unless specifically and mutually agreed to in writing by both the City and the Contractor.

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

- a. This Contract
- b.

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.

**14. 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.

**15. 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.

**16. 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.

**17. 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.

**18. Notices.** All notices required or permitted hereinunder and required to be in writing may be given by FAX or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing. The date of delivery of notice by FAX transmission shall be deemed to be the date transmission

occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

**19. 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.

**20. 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.

**21. 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 construction 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).

**22. 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.

**23. 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.

**24. 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.

**25. 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.

**26. 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.

(Rest of page intentionally left blank)

IN TESTIMONY WHEREOF, the Contractor has hereunto set his hand and seal, and the City of Nixa executes this contract by its City Manager.

**THE CITY OF NIXA, MISSOURI**

By: \_\_\_\_\_  
Brian Steele, Mayor

By: \_\_\_\_\_  
Jimmy Liles, City Administrator

**ATTEST**

By: \_\_\_\_\_

**CONTRACTOR**

By: \_\_\_\_\_

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

## **Notice and Instructions to Bidders/Vendors**

### **Regarding Sections 285.525 through 285.550 RSMO, Effective January 1, 2009 and Section 292.675 RSMO, Effective August 28, 2009**

Effective January 1, 2009 and pursuant to the State of Missouri's RSMO 285.530 (1), No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state (e.g., City of Nixa, MO., Christian County, Mo.) to a business entity, the business entity (Company) shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. [RSMO 285.530 (2)]

RSMO 285.530 pertains to all solicitations for services over \$5,000. RSMO 285.530 does not apply to solicitations for commodities only. If a solicitation is for services and commodities, RSMO 285.530 applies if the services portion of the solicitation is over \$5,000.

Effective August 28, 2009 and pursuant to the State of Missouri's RSMO 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body \$2,500 plus \$100 a day for each employee who is employed without training. Public bodies and contractors may withhold assessed penalties from the payment due to those contractors and subcontractors.

In order to comply with sections 285-525 through 292.675 RSMO, the City requires the following bid and contract documents.

**Required Affidavit for Service Contracts over \$5,000.00 (US) – Effective 1/1/2009**, Company shall comply with the provisions of Section 285-525 through 285-550 R.S.Mo. Contract award is contingent on Company providing an acceptable notarized affidavit stating:

That the Company is enrolled in and participates in a federal work authorize program with respect to the employees working in connection with the contracted services; and

That the company does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

**Required Affidavit for any Public Works Project Contract – Effective 08/28/2009**, Company shall comply with the provisions of Section 292.675 R.S.Mo. Within 60 days of issuance of Notice to Proceed, Company shall provide an acceptable notarized affidavit stating that the Company has verified the completion of a 10-hour construction safety program with respect to the employees working in connection with the contracted services.

Additionally, Company must provide documentation evidencing current enrollment in a federal work authorization program (e.g. electronic signature page from E-Verify program's Memo of Understanding (MOU)).

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The City of Nixa encourages companies that are not already enrolled and participating in a federal work authorizing program to do so. E-Verify is a sample of this type of program. Information regarding E-Verify is available at:

**E-Verify Contact information:**

**Website:** <http://www.dhs.gov/how-do-i/verify-employment-eligibility-e-verify>

**Phone:** 888-464-4218

**Email:** [e-verify@dhs.gov](mailto:e-verify@dhs.gov)

If you have any questions, please contact the City Purchasing department at 417-449-0555.

**Work Authorization Affidavit of Compliance**  
**Pursuant to 285.500 R.S.Mo**  
**For all Agreements in excess of \$5,000.00.**  
**Effective January 1, 2009**

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

My name is \_\_\_\_\_. I am an authorized agent of \_\_\_\_\_  
\_\_\_\_\_ (Company/Bidder). This business is enrolled and participates in a federal  
work authorization program for all employees working in connection with services provided to the City.  
This business does not knowingly employ any person that is an unauthorized alien in connection with the  
services being provided. **Documentation of participation in a federal work authorization program is  
attached to this affidavit.**

Furthermore, all subcontractors working on this contract shall affirmatively state in writing in their  
contracts that they are not in violation of Section 285.530.1, shall not thereafter be in violation and submit  
a sworn affidavit under penalty of perjury that all employees are lawfully present in the United States.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

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

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

My name is \_\_\_\_\_. I am an authorized agent of \_\_\_\_\_  
\_\_\_\_\_(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: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

# Missouri

## Division of Labor Standards

### WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

## Annual Wage Order No. 28

Section 022

### CHRISTIAN COUNTY

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by

Taylor Burks, Director  
Division of Labor Standards

Filed With Secretary of State: -----'M=a,\_rc""h. .... ,\_10"-'-2"-0'=-2,\_,\_1

Last Date Objections May Be Filed: April 8, 2021

Prepared by Missouri Department of Labor and Industrial Relations

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	·\$21.00
Boilermaker	*\$21.00
Bricklayer	\$50.52
Carpenter	\$46.62
Lather	
Linoleum Laver	
Millwright	
Pile Driver	
Cement Mason	·\$21.00
Plasterer	
Communications Technician	·\$21.00
Electrician (Inside Wireman)	\$43.29
Electrician Outside Lineman	·\$21.00
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	·\$21.00
Glazier	\$38.20
Ironworker	\$62.18
Laborer	\$38.93
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$53.13
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operative Engineer	·\$21.00
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	·\$21.00
Plumber	·\$21.00
Pipe Fitter	
Roofer	·\$21.00
Sheet Metal Worker	·\$21.00
Sprinkler Fitter	\$60.80
Truck Driver	*\$21.00
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

"The Division of Labor Standards received less than 1,000 reportable hours for this occupational title.  
Public works contracting minimum wage is established for this occupational title using data provided by Missouri  
Economic Research and Information Center.

\*\*\*The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title.

Heavy Construction Rates for  
CHRISTIAN County

Section 022

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	*\$21.00
Millwright	
Pile Driver	
Electrician (Outside Lineman)	*\$21.00
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$42.01
General Laborer	
Skilled Laborer	
Operatina Enaineer	\$46.74
Group I	
Group II	
Group III	
Group IV	
Truck Driver	*\$21.00
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

If a worker is performing work on a heavy construction project within an occupational title that is not listed on the Heavy Construction Rate Sheet, use the rate for that occupational title as shown on the Building Construction Rate Sheet.

\*The Division of Labor Standards received less than 1,000 reportable hours for this occupational title. Public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

\*\*The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title.

# OVERTIME and HOLIDAYS

## OVERTIME

For all work performed on a Sunday or a holiday, not less than twice (2x) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work.

For all overtime work performed, not less than one and one-half (1½) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work or contractual obligation. For purposes of this subdivision, **"overtime work"** shall include work that exceeds ten hours in one day and work in excess of forty hours in one calendar week; and

A thirty-minute lunch period on each calendar day shall be allowed for each worker on a public works project, provided that such time shall not be considered as time worked.

## HOLIDAYS

January first;  
The last Monday in May;  
July fourth;  
The first Monday in September;  
November eleventh;  
The fourth Thursday in November; and  
December twenty-fifth;

If any holiday falls on a Sunday, the following Monday shall be considered a holiday.

**City of Nixa**  
**“No-Bid Response Form”**

**COMPLETE AND RETURN THIS FORM ONLY IF YOU DO NOT WANT TO SUBMIT A PROPOSAL RESPONSE.**

If you do not wish to respond to this proposal request, but would like to remain on the City of Nixa vendor list, please fill out this form and return to the Purchasing Department by email or fax.

**RETURN TO:** Stephanie Ewing, Purchasing Manager  
Email: [sewing@nixa.com](mailto:sewing@nixa.com)  
Fax: 417-725-2480

We the undersigned have declined to bid on your proposal for the following reasons:

- ☐ Insufficient time to respond to invitation for bid.
- ☐ We do not offer this product/s or equivalent.
- ☐ Unable to meet specifications.
- ☐ Unable to meet insurance requirements.
- ☐ Our schedule would not allow us to perform.
- ☐ Specifications are too “tight”, i.e. geared towards one brand or manufacturer.
- ☐ Specifications unclear.
- ☐ Other (please specify below).

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**VENDOR INFORMATION:**

Company Name: \_\_\_\_\_  
Signature and Title: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
Email: \_\_\_\_\_