



Issue: **AN RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH BETTER BLOCK TO PROVIDE PLACEMAKING SERVICES IN DOWNTOWN NIXA**

Date: August 11, 2022

Submitted By: Cindy Robbins, Assistant City Administrator

Background

During the 2020 Strategic Planning process, a strategic priority was identified to revitalize neighborhoods and business district which included an action plan "The City of Nixa shall make investments each year towards downtown district for revitalization." In accordance with this action plan, monies were budgeted for a Downtown Master Plan. After much internal discussion, it was decided that prior to completing a Downtown Master Plan, it would be productive to determine what improvements would make the biggest impact for the area. Staff contacted Better Block, a nonprofit organization that specializes in providing placemaking demonstrations with temporary improvements to the public right-of-way to gauge what would the best-case improvements based on public and business input. These temporary improvements include landscaping items, sidewalk extensions, street paint, café tables and chairs, etc.

Analysis

The resolution presented this evening is to authorize the City Administrator to execute a contract with Better Block in the amount of \$11,400.00. The funds for this project will come out of the Downtown Master Plan line item. This contract and information found in the attached Exhibit C spells out the materials and services that will be provided by Better Block during this project. Better Block will be facilitating two (2) temporary placemaking scenarios in downtown Nixa to determine which of the two (2) plans would work best for residents and downtown business owners. This service will provide valuable information for a Downtown Master Plan. This project should show which of the scenarios would work best before any permanent changes are proposed for the area.

The first scenario shown in Exhibit A transforms South Main to one way traffic down to Elm, with angled parking on the west side. This version includes extended sidewalks to allow for better pedestrian traffic, painted crosswalks, landscaping, art and/or murals, a beer garden or pocket park with string lighting and outdoor seating. The second scenario shown in Exhibit B maintains two-way traffic but still includes extended sidewalks, landscaping, painted crosswalks, etc.

Better Block will survey patrons and business owners to gather data on each scenarios' pros and cons. From this project, the City will be better informed before moving forward on a Downtown Master Plan or any permanent improvements.

Recommendation

Staff recommends approval of the resolution.

RESOLUTION NO. 2022-085

A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH BETTER BLOCK SGF FOR PLACEMAKING DEMONSTRATIONS IN DOWNTOWN NIXA.

WHEREAS City staff have been in consultations with Better Block SGF for certain placemaking demonstrations to occur in downtown Nixa; and

WHEREAS City Council desires to authorize the execution of the Contract, attached hereto as "Resolution Exhibit A," for the purpose described therein.

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 Better Block SGF. Said Contract shall be in substantially similar form as the document attached hereto as "Resolution Exhibit A."

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

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

ADOPTED BY THE COUNCIL THIS 15th DAY OF AUGUST, 2022.

ATTEST:

PRESIDING OFFICER

CITY CLERK

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2022.

ATTEST:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

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.

EFFECTIVE DATE:	TERMINATION DATE:	CONTRACT NUMBER:
() NEW CONTRACT () 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 Email: Attn: Dept:		Name: Better Block SGF Phone: 785-550-1070 Email: Admin@betterblocksgf.com Attn: Addison Jones

CONTRACT FOR PLACEMAKING DEMONSTRATIONS

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

WHEREAS Contractor is a nonprofit organization that provides demonstrations to promote placemaking efforts as a means to support local business, culture, and quality of place; and

WHEREAS these demonstrations provide a “what if” for certain key areas of communities to beta test improvements to the public right-of-way and gauge public interest in permanent changes; and

WHEREAS the City desires to contract with Contractor for certain placemaking demonstrations, focusing on downtown Nixa, Missouri.

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

1. Services. Contractor agrees to facilitate certain place making demonstrations within the downtown Nixa, Missouri area. The demonstrations are described on “Exhibit A” and “Exhibit B.” Contractor will consult with the City on the layout and parameters of the demonstrations and will provide volunteers and other personnel to assist the City in implementing the demonstrations. Contractor shall provide all the materials required to implement the demonstrations. A detailed site plan shall be provided by Contractor prior to implementation of a demonstration which shall detail the proposed final layout of said demonstration. City shall approve the final layout of any demonstrations, at its sole discretion.

2. Term. This Contract shall terminate on December 31, 2022.

3. Payment. The City shall pay to Contractor a flat fee of **\$11,400.00** for the services referenced herein. The costs for the services referenced herein are found on “Exhibit C.”

4. Termination. Either party may terminate this Contract upon written notice to the other for breach. The other party shall have seven days to cure the breach. In the event of termination, the City shall be entitled to reimbursement of payment referenced in Paragraph 3, minus the cost for materials used in demonstrations that have been conducted.

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

6. 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.

7. 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.

8. 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, the insurance described below:

a. **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 One million and no/100 Dollars (\$1,000,000.00) 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.

9. 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.

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

- a. This Contract
- b. Site Plan of Demonstration (Exhibit A)
- c. Site Plan of Alternate Demonstration (Exhibit B)
- d. Nixa Placemaking Materials and Services (Exhibit C)

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.

12. Notices. All notices required or permitted hereinunder and required to be in writing may be given by Electronic Mail or by first class mail addressed to City and Contractor at the addresses shown 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 Electronic Mail transmission shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the terminal of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

13. 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.

14. 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.

15. City's Representative. Unless specifically provided to the contrary herein, approvals of City may be given by the City Administrator, or their authorized designee, without the need of any further action of the City Council of City. The City Administrator, or their authorized designee, is the City's authorized representative for purposes of carrying out the terms of this Contract. Amendments or modifications to the terms of this Contract shall be approved by the City Council of City.

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

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

THE CITY OF NIXA, MISSOURI

Jimmy Liles, City Administrator

Date: _____

CONTRACTOR

Signature

Printed Name

Date: _____

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

Approved as to form:

Nick Woodman, City Attorney

EXHIBIT A



W. Mt. Vernon Street

S. Main Street

Elm Street

1. Beer Garden
2. Maint St. - One way
3. Existing Parking
4. Gravel Lot Flex Space

This exhibit details the general location and scope of one version of the demonstrations.

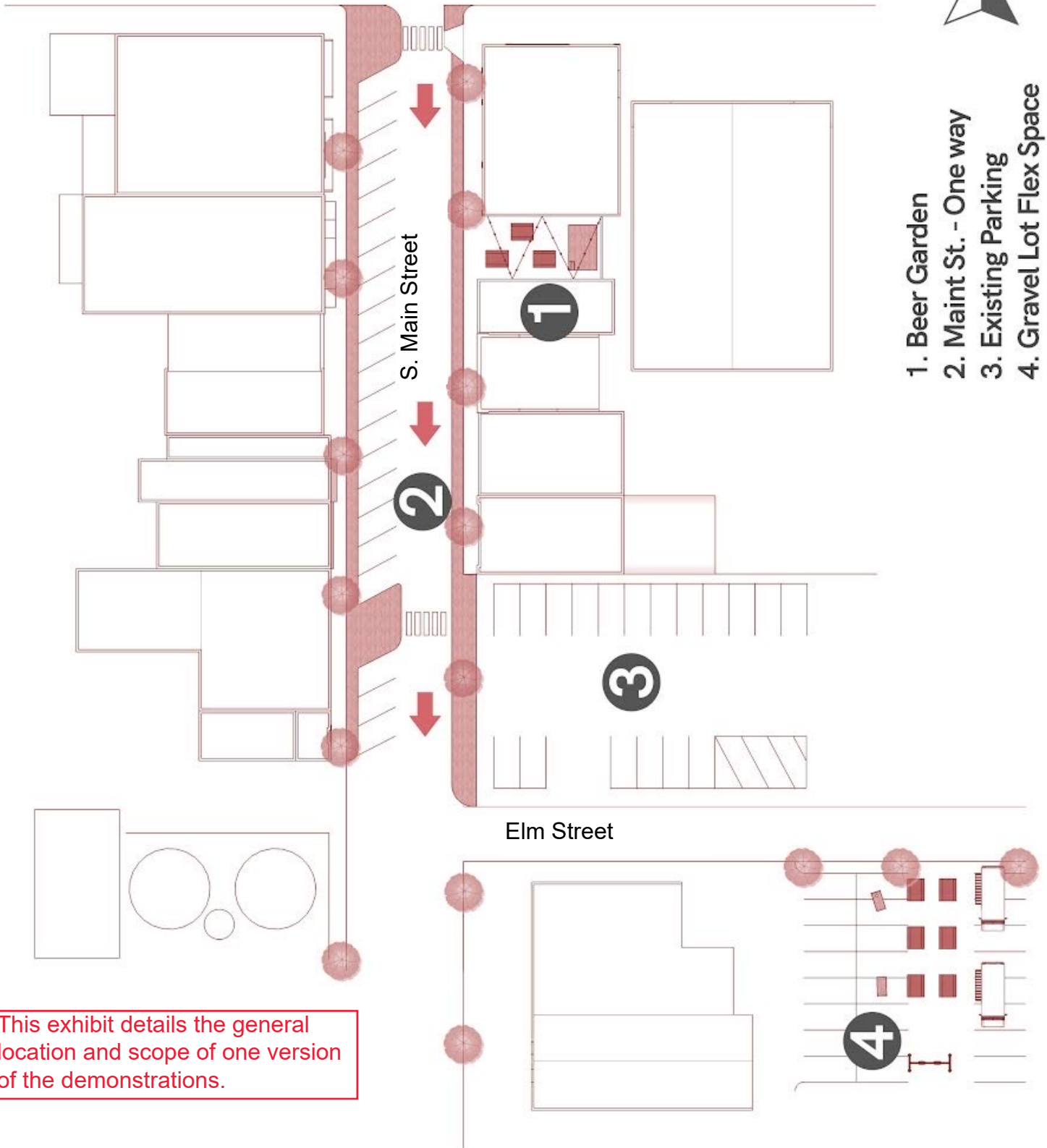


EXHIBIT B



W. Mt. Vernon Street

S. Main Street

Elm Street

1. Beer Garden
2. Maint St. - Two way
3. Existing Parking
4. Gravel Lot Flex Space

This exhibit details the general location and scope of one version of the demonstrations.

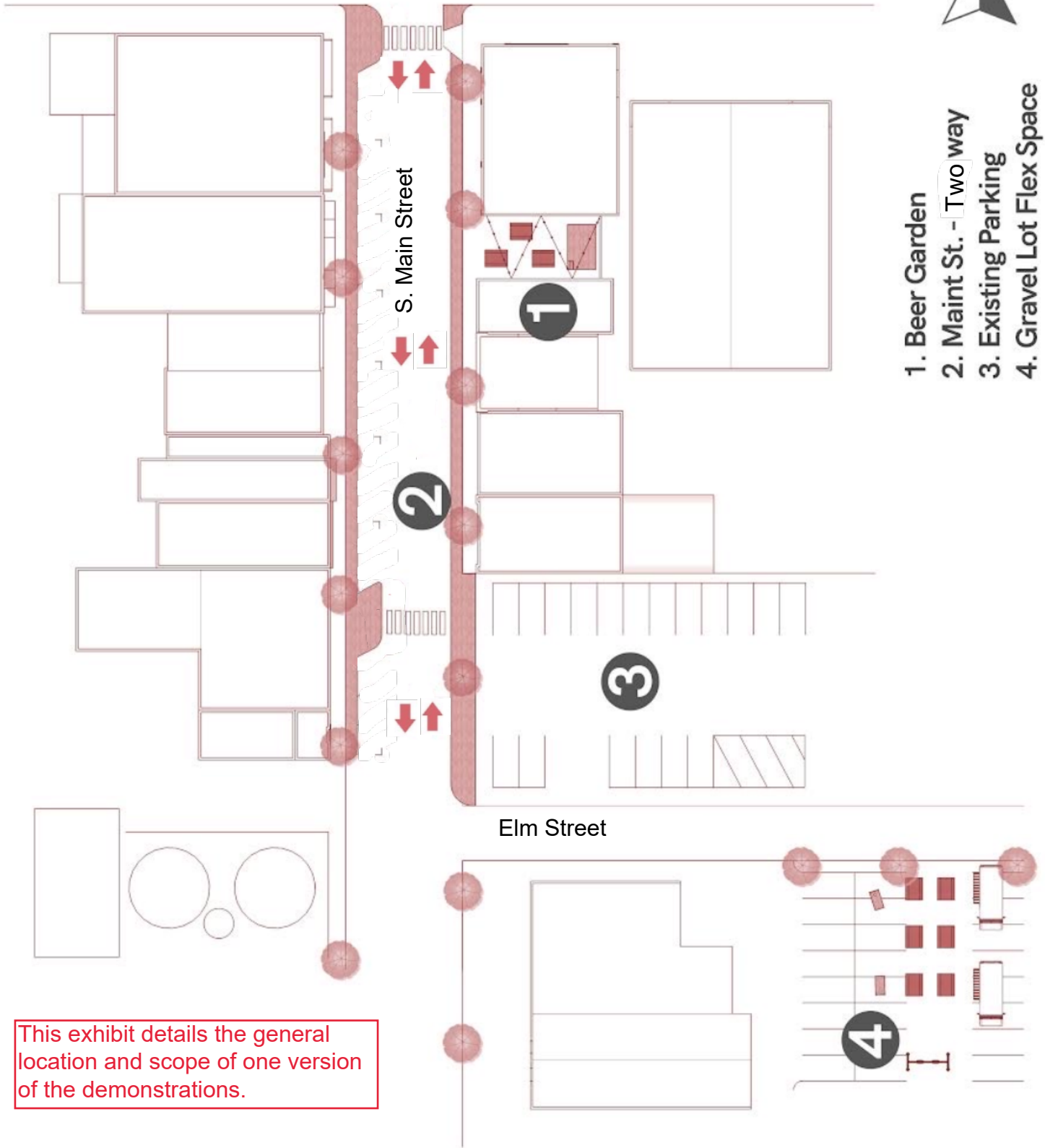


EXHIBIT C

Nixa Placemaking Materials and Services**TOTAL \$11,400.00**

Item	Quantity	Unit Price	Total	Notes
Materials				
Platforms (sidewalk extension)	8	\$125.00	\$1,000.00	two sheets of plywood each
Street paint (by the gallon)	15	\$50.00	\$750.00	
Paint rollers and accessories	6	\$25.00	\$150.00	
Misc. Paint	2	\$50.00	\$100.00	
Street Trees	12	\$0.00	\$0.00	provided by Nixa Hardware
Tree Planters	12	\$75.00	\$900.00	
Moving cart	2	\$20.00	\$40.00	
Misc. Potted Plants	30	\$25.00	\$750.00	
Sidewalk Signs	3	\$0.00	\$0.00	provided by Better Block
Cafe Table/Chairs Set	8	\$0.00	\$0.00	provided by Better Block
Benches	4	\$0.00	\$0.00	provided by Better Block
Picnic Tables	3	\$250.00	\$750.00	
Street Tape	3	\$85.00	\$255.00	150 ft per roll
String Lights	2	\$40.00	\$80.00	
Vertical Dileneator	10	\$24.00	\$240.00	
Silt Sock	2	\$25.00	\$50.00	20 ft each
Vertical Planters Boxes	4	\$60.00	\$240.00	one sheet of plywood each
Vertical wayfinding signs	2	\$60.00	\$120.00	one sheet of plywood each
Fasteners/hardware			\$250.00	
Wayfinding signage			\$300.00	
ADA Ramps	4	\$50.00	\$200.00	
Digital promotion			\$100.00	
Printed materials			\$100.00	flyers, surveys, etc.
Tools and equipment			\$250.00	
Kickoff event materials			\$575.00	live music, games, light appetizers/beverages
Event Insurance Coverage			\$200.00	
Services				
Project Management			\$2,500.00	
Installation Coordination			\$250.00	
Materials Library Rental			\$500.00	
Documentation			\$750.00	