



## **RE: BATHROOM EXPANSION AT 1010 EAGLECREST**

### **Background:**

In August of 2019 the city received the final draft of a Building Facilities Evaluation. This evaluation was part of the ADA Transition Plan required for compliance with Title II of the Americans with Disabilities Act (ADA). The compliance evaluation focused on the physical barriers of the 9 City of Nixa public facilities; including the Water Quality Offices and Shop located at 1010 Eaglecrest St.

### **Analysis:**

To continue to move towards facilities compliance with ADA standards the city, on a yearly basis, budgets funds for facility improvements identified in the 2019 Facilities Evaluation. Included in the plan for the Water Quality Offices & Shop was the need to upgrade both the men's and women's restroom to be compliant with ADA standards. The needed improvements were included in the 2023 CIP program; project PW2022-01 budgets \$150,000.00 for the needed restroom improvements. The City solicited bids for the identified work receiving two bids. Ark Construction Group, LLC. was the low bidder coming in under budget with a bid of \$118,084.89.

### **Recommendation:**

City staff recommends approval of the resolution awarding the 1010 Restroom Expansion project to Ark Construction Group LLC for \$118,084.89

MEMO PREPARED BY:

**Travis Cossey** | Asst. Director Nixa Utilities & Public Works

417-725-2353

**RESOLUTION NO. 2023-04**

1 **A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA ACCEPTING THE BID OF**  
2 **ARK CONSTRUCTION GROUP, LLC FOR CERTAIN IMPROVEMENTS TO THE**  
3 **RESTROOM FACILITIES LOCATED AT CITY OFFICE'S AT 1010 EAGLECREST**  
4 **STREET AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A**  
5 **CONTRACT FOR SAME.**  
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8 **WHEREAS** City Council, by passage of Resolution 2022-123, adopted the 2023-  
9 2027 Capital Improvement Program ("CIP"); and

10  
11 **WHEREAS** included in the CIP is a project known as the 1010 Restroom  
12 Expansion (PW2022-01) ("Project"); and

13  
14 **WHEREAS** City staff, pursuant to the City's adopted purchasing procedures, have  
15 solicited requests for bids from qualified firms for the Project; and

16  
17 **WHEREAS** after reviewing all submitted bids, City staff have determined that Ark  
18 Construction Group, LLC ("Contractor") provided the best bid for the Project; and

19  
20 **WHEREAS** City Council desires to award the Contract for the Project to the  
21 Contractor and to authorize the City Administrator to execute the Contract attached hereto  
22 as "Resolution Exhibit A."

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

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27 **SECTION 1:** City Council hereby accepts the bid of the Contractor for the Project  
28 at the price and sum of \$ 118,084.89. The City Administrator, or designee, is hereby  
29 authorized to enter into a contract with the Contractor. Said contract to be in substantially  
30 similar form as the document attached hereto, and incorporated herein by this reference,  
31 as "Resolution Exhibit A."  
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33 **SECTION 2:** The City Administrator and the officers of the City are hereby  
34 authorized to do all things necessary or convenient to carry out the terms and intent of  
35 this Resolution.  
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37 **SECTION 3:** If applicable, all workers performing work under the contract  
38 authorized by this Resolution shall be paid a wage of no less than the prevailing hourly  
39 rate of wages for work of a similar character in this locality or the public works contracting  
40 minimum wage, whichever is applicable. The Contractor shall fully comply with the  
41 provisions and requirements of the Missouri State Prevailing Wage Law, if applicable. If  
42 applicable, contractors and any subcontractor performing work under this contract must  
43 provide a 10-hour OSHA construction safety training program, or similar program  
44 approved by the Department of Labor, for on-site employees, unless employees  
45 demonstrate they previously completed the program.  
46

**RESOLUTION NO. 2023-04**

47           **SECTION 4:** This Resolution shall be in full force and effect from and after its final  
48 passage by the City Council and after its approval by the Mayor, subject to the provisions  
49 of section 3.11(g) of the City Charter.  
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**ADOPTED BY THE COUNCIL THIS 13<sup>th</sup> DAY OF February, 2023.**

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ATTEST:

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

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

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**APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.**

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ATTEST:

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\_\_\_\_\_  
MAYOR

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

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APPROVED AS TO FORM:

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\_\_\_\_\_  
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>
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**NEW CONTRACT**     **RENEWAL OF CONTRACT NO.**     **Addendum No. \_\_**

CITY	CONTRACTOR
Name: City of Nixa, Missouri Address: 715 W. Mt. Vernon St., PO Box 395 Nixa, MO 65714 Phone: 417.725.3785 Attn: Travis Cossey    Dept: Public Works Email: tcossey@nixa.com	Name: Ark Construction Group, LLC. Address: 3211 Regency Woods Imperial, MO 63052 Phone: 636-579-8566 Attn: Brad Young Email: bradyoung@arkconstructiongroupllc.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-056-2022/PW 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 Two Hundred Fifty-Eight Thousand Three Hundred Sixty-Eight and no/100 Dollars (\$3,258,368.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Eighty-Eight Thousand Seven Hundred Fifty-Five and no/100 Dollars (\$488,755.00) 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 Two Hundred Fifty-Eight Thousand Three Hundred Sixty-Eight and no/100 Dollars (\$3,258,368.00) for all claims arising out of a single accident or occurrence and at least Four Hundred Eighty-Eight Thousand Seven Hundred Fifty-Five and no/100 Dollars (\$488,755.00) 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 \$118,084.89 (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 **One Hundred Eighteen Thousand Eight-Four Dollars and Eighty-Nine Cents (\$118,084.89)** 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- Bid/Rate Sheet**
- d. **Exhibit C- Prevailing Wage Order**

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 electronic transmission 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 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.

(Rest of page intentionally left blank)

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**

Brad Young  
\_\_\_\_\_  
Brad Young  
Printed Name

Owner  
\_\_\_\_\_  
Title

Date: 1/25/23

**ATTEST:**

Jessica Heck  
\_\_\_\_\_  
Jessica Heck  
Printed Name

CFO  
\_\_\_\_\_  
Title

## **SCOPE OF WORK**

Contractor shall provide the following services to the city:

1. Provide construction services to the City for the purpose of remodeling the restroom facilities located at the City owned facility addressed as 1010 Eaglecrest Drive, Nixa, so they are compliant with current American with Disabilities Act standards.
2. The construction services described herein shall be in substantial conformance, as determined in the reasonable judgment of the City, to the project specifications, which are attached to the Agreement as "Exhibit A-1."
3. Final payment shall be made once the project is deemed in substantial compliance to the specifications detailed on "Exhibit A-1."



**Supplier Award**  
**RFB-056 -2022/PW**  
**Restroom Remodel at Public Works Facility**  
**Award Date: 1/17/23**  
**Ark Construction Group, LLC**

**Contact Information**

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

**Ship To Information**

Contact: Travis Cossey  
Address: Public Works  
1111 W Kathryn St  
Nixa, MO 65714  
Phone: (417) 725-2353

## Ark Construction Group, LLC

Contact: Brad S Young

Address: 3211 Regency Woods PI  
Imperial, MO 63052

Phone: (163) 657-9856

Email: bradyoung@arkconstructiongroupllc.com

### Award Lines

1	Please indicate your total cost to complete this project. Quantity: <u>  1  </u> UOM: <u>  Total cost of Service  </u> Unit price: <input type="text" value="\$118,084.89"/> Total: <input type="text" value="\$118,084.89"/>
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**Award Total: \$118,084.89**



# Missouri

## Division of Labor Standards

### WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

# Annual Wage Order No. 29

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

Todd Smith, Director  
Division of Labor Standards

Filed With Secretary of State: \_\_\_\_\_ **March 10, 2022**

Last Date Objections May Be Filed: **April 11, 2022**

Prepared by Missouri Department of Labor and Industrial Relations

Building Construction Rates for  
CHRISTIAN County

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$22.25*
Boilermaker	\$22.25*
Bricklayer	\$52.13
Carpenter	\$45.01
Lather	
Linoleum Layer	
Millwright	
Pile Driver	
Cement Mason	\$41.16
Plasterer	
Communications Technician	\$22.25*
Electrician (Inside Wireman)	\$45.37
Electrician Outside Lineman	\$22.25*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$22.25*
Glazier	\$22.25*
Ironworker	\$63.58
Laborer	\$37.51
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$22.25*
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$45.54
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$22.25*
Plumber	\$51.63
Pipe Fitter	
Roofer	\$22.25*
Sheet Metal Worker	\$22.25*
Sprinkler Fitter	\$22.25*
Truck Driver	\$22.25*
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

\*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The 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 as defined in Section 290.210 RSMo.

Heavy Construction Rates for  
CHRISTIAN County

Section 022

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	\$22.25*
Millwright	
Pile Driver	
Electrician (Outside Lineman)	\$22.25*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$43.22
General Laborer	
Skilled Laborer	
Operating Engineer	\$48.56
Group I	
Group II	
Group III	
Group IV	
Truck Driver	\$41.03
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 fewer than 1,000 reportable hours for this occupational title. The 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 as defined in Section 290.210 RSMo.

# 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.