



**Issue:** Resolution for Front Desk Entry Design Bid Solicitation

**Date:** September 18, 2024

**Submitted By:** Matt Crouse, Director of Parks and Recreation

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### Background

The Nixa Community Center has been in operation over 22 years and really has not changed in the overall design of the facility. As our community has grown so has our participation and with the addition of the fitness center in 2013 our facility has become very busy. As discussed with the council over the past several years the community center has become a very busy facility that has led to the need to explore opportunities to redesign the entry of our facility and some operational functions to accommodate this growth.

### Analysis

The 2024 budget has allotted professional fees for staff to explore the opportunities to redesign the community center entry or front desk/reception area, as well as what opportunities could be possible for the fitness facility to go 24-hours. To accomplish this project, we budgeted funds to hire an architectural firm to help us explore these options and provide examples of these designs and probable cost estimates to make the changes for our consideration. With the overall objective of providing more robust services and increased customer experience we are excited to explore the possibilities.

### Recommendation

It is staff recommendation for approval of this request to submit an RFQ for vendor consideration to assist staff in the exploration of what an updated entry, front desk/reception, and possible 24-hour fitness facility could look like at the Nixa Community Center. By having this opportunity, we can look toward to future for our community and plan for upgrades to the facility to accommodate the growth of our community.

Respectfully,

Matt Crouse  
Director, Parks and Recreation

**RESOLUTION NO. 2024-54**

1 **A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE CITY**  
2 **ADMINISTRATOR TO SOLICIT QUALIFICATIONS FOR ARCHITECTURAL**  
3 **SERVICES FOR THE REDESIGN OF THE FRONT ENTRANCE TO THE NIXA**  
4 **COMMUNITY CENTER.**

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6 **WHEREAS** the Nixa City Code authorizes the City Administrator to purchase  
7 supplies, materials, equipment, and services on behalf of the City when a competitive  
8 procurement method is utilized; and  
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10 **WHEREAS** said provisions require the City Administrator to obtain an authorizing  
11 resolution from the City Council prior to soliciting for purchases totaling \$10,000.00 or  
12 more; and  
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14 **WHEREAS** City staff is seeking authorization to solicit qualifications for  
15 architectural services for the redesign of the front entrance to the Nixa Community Center;  
16 and  
17

18 **WHEREAS** the City Council desires to authorize City staff to undertake the  
19 purchase described herein.  
20

21 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF**  
22 **NIXA, AS FOLLOWS, THAT:**  
23

24 **SECTION 1:** The City Administrator, or designee, is hereby authorized, pursuant  
25 to the City's Procurement Code, to solicit and undertake the purchase described in  
26 "Resolution Exhibit A," which said Exhibit is attached hereto and incorporated herein by  
27 this reference.  
28

29 **SECTION 2:** The City Administrator and the officers of the City are hereby  
30 authorized to do all things necessary or convenient to carry out the terms and intent of  
31 this Resolution.  
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33 **SECTION 3:** This Resolution shall be in full force and effect from and after its final  
34 passage by the City Council and after its approval by the Mayor, subject to the provisions  
35 of section 3.11(g) of the City Charter.  
36

37 **[Remainder of page intentionally left blank. Signatures follow on next page.]**  
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**RESOLUTION NO. 2024-54**

47 **ADOPTED BY THE COUNCIL THIS 24<sup>th</sup> DAY OF SEPTEMBER 2024.**

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ATTEST:

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

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

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55 **APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF SEPTEMBER 2024.**

56

57

ATTEST:

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60 \_\_\_\_\_  
MAYOR

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

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63 APPROVED AS TO FORM:

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



**RFQ-031-2024/Parks**

**Architectural Services-Parks Front Entrance Redesign**

Issue Date: 9/25/2024

Questions Deadline: 10/16/2024 12:00 PM (CT)

Response Deadline: 10/23/2024 10:00 AM (CT)

**Contact Information**

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

## Event Information

Number: RFQ-031-2024/Parks  
Title: Architectural Services-Parks Front Entrance Redesign  
Type: Request for Qualifications  
Issue Date: 9/25/2024  
Question Deadline: 10/16/2024 12:00 PM (CT)  
Response Deadline: 10/23/2024 10:00 AM (CT)  
Notes: The City of Nixa is issuing a Request for Qualifications for Architectural Services to redesign the front entrance at the Nixa Parks Community Center.

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, if needed. 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.**

**The Response Deadline is the date and time public unsealing of bid responses will be held.**

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

Please submit questions regarding this bid under the "Questions" tab. Or, questions may be submitted 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: Matt Crouse  
Address: Parks  
701 North Taylor Way  
PO Box 395  
Nixa, MO 65714  
Phone: (417) 725-3785  
Email: [mcrouse@nixa.com](mailto:mcrouse@nixa.com)

## Billing Information

Contact: Accounts Payable  
Address: Finance  
City Hall  
715 W. Mt. Vernon St.  
PO Box 395  
Nixa, MO 65714  
Phone: (417) 725-3785  
Email: [accountspayable@nixa.com](mailto:accountspayable@nixa.com)

## Bid Attachments

**Affidavit of Business Entity.pdf**

E-Verify

[View Online](#)

## Terms\_and\_Conditions-Formal.pdf

Terms and Conditions

[View Online](#)

## W-9.pdf

W-9

[View Online](#)

## ACH Authorization Form.pdf

ACH Authorization Form

[View Online](#)

## VENDOR APPROVAL APPLICATION.pdf

Vendor Approval Application

[View Online](#)

## Requested Attachments

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### RFQ Proposal

*(Attachment required)*

Upload your RFQ Proposal here.

### E-Verify

*(Attachment required)*

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

### Vendor Application Form/W-9/ACH

Download the "Vendor Application, ACH, and W-9 forms", located on the Attachment tab. Complete the document and upload it here.

### Other Attachment

If you have additional documentation you wish to provide, please upload it here. File size limitation is 250MB. If your files are larger than the limitation, a zip file containing the documents can also be uploaded.

## Bid Attributes

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### 1 Introduction

There are attributes, including this one, associated with this proposal. 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, if applicable\*\***

### 2 Attachments Required

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

### 3 Bid Response Opening

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

Questions pertaining to the bid proposal 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 Scope of Work

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

I have downloaded, read and understand.

*(Required: Check if applicable)*

## 6 Qualifications

RFQ responses on qualifications shall be ***no longer than 20 pages total, including cover pages.***

Information submitted in responding to the RFQ shall include:

- Firm Name and contact individual's name, mailing address, telephone numbers and email address;
- Year established and former firm name if applicable;
- Types of services for which firm/individual is qualified to perform;
- Names of key personnel with experience of each and length of time employed with the firm or organization;
- Number of staff available for assignment;
- Outside consultants and associates usually retained;
- Data and information gathering methods; Evaluation techniques;
- Methods used for involving City staff and public on key projects;
- Methods for tracking and reporting progress on projects;
- References

## 7 RFQ Submittal

Please upload your RFQ response in the "Response Attachments" tab.

File size limitation is 250MB. If your files are larger than the limitation, a zip file containing the documents can also be uploaded.

I acknowledge.

*(Required: Check if applicable)*

## 8 Evaluation of Qualifications

All bid proposals will be evaluated and ranked on the following criteria:

- Qualification specification compliance
- Functionality to the particular department that professional consulting services are requested.
- Knowledge of applicable City of Nixa operations, procedures, and system.
- References

## 9 Contract for Services

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

**If you have *any* changes to the Contract agreement, please address this and upload into the Response Attachments.**

**This will not be a guarantee the City will agree to those changes, but will be considered.**

I have downloaded, read and understand.

*(Required: Check if applicable)*

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## Insurance Requirements

### **Please note!!**

The City of Nixa has insurance requirements for this project. Please ensure you can meet these terms and fulfill the contract requirements.

- **Insurance Requirements**

**14.1. Without limiting any of the other obligations or liabilities of the Service Provider, Service Provider shall at all times during the Term of this Contract, and for a period of three years thereafter, unless waived in writing by the City, at Service Provider's sole cost and expense, at least the following types and amounts of insurance:**

**14.1.1. Commercial General Liability Insurance with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate, including bodily injury and property damage, which policy shall include contractual liability covering insuring the activities of Service Provider under this Contract;**

**14.1.2. Worker's Compensation Insurance with statutory coverage as provided for in RSMo. 287.010 et seq.;**

**14.1.3. Employers Liability Insurance with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate;**

**14.1.4. Commercial Automobile Liability with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate; and**

**14.1.5. Errors and Omissions/Professional Liability Insurance with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate.**

I have downloaded, read and agree to comply.

*(Required: Check if applicable)*

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## 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)*

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## 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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### 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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### Vendor Application/W-9/ACH

If you have never done business with the City of Nixa, or if it has been over a year since conducting business with the City, please download the Vendor Application Form, ACH Authorization Form, and the W-9 Form located on the "Attachments" tab, complete and upload in the "Response Attachments" tab.

I acknowledge.

*(Required: Check if applicable)*



## SCOPE OF WORK

The Scope of Work for this project is for design services related to the City's anticipated redesign of the entry way to the Nixa Community Center. The Nixa Community Center is located at 701 N. Taylor Way, Nixa, MO 65714. The services related to this redesign shall include the evaluation and exploration of possible renovation and upgrades to the entry and welcome area of the Nixa Community Center. The Service Provider shall also supply renderings and other design schematics required to construct the proposed renovations. These renderings shall be of a character that they are suitable for the City to use in a future bid process to select a Contractor to construct the proposed renovations.

During this evaluation process the City would like to investigate the possibilities of renovating the entry and welcome area to make a more secure and controlled entry area for its guests, members, and participants.

The project consists of the following key areas of focus:

- How could the entry and reception area within the community center be enhanced to allow for a more controlled entry while also providing an enhanced customer service area?
- Evaluate the possibilities of the community center providing access to the fitness center 24 hours a day. Is it possible? What would it look like?
- How could the offices be moved or adjusted to enhance customer service interactions and provide for a more efficient use of the available space?
- Once key design elements have been evaluated and investigated, provide renderings or other necessary design schematics of the new and improved entry area so a visual appearance can be shown of the plans.

<b>EFFECTIVE DATE:</b>	<b>TERMINATION DATE:</b>	<b>CONTRACT NUMBER:</b>
<input type="checkbox"/> <b>NEW CONTRACT</b>		<input type="checkbox"/> <b>ADDENDUM NUMBER:</b>
<b>CITY</b>		<b>SERVICE PROVIDER</b>
<b>Name:</b>	City of Nixa, Missouri	<b>Name:</b>
<b>Address:</b>	715 W. Mt. Vernon St. PO Box 395 Nixa, MO 65714	<b>Address:</b>
<b>Phone:</b>	417.725.3785	<b>Phone:</b>
<b>Email:</b>	<a href="mailto:Mcrouse@nixa.com">Mcrouse@nixa.com</a>	<b>Email:</b>
<b>Attn:</b>	Matt Crouse	<b>Attn:</b>

**PROFESSIONAL SERVICES CONTRACT FOR ARCHITECT AND DESIGN SERVICES**

**THIS PROFESSIONAL SERVICES CONTRACT FOR ARCHITECT AND DESIGN SERVICES** (“Contract”) is made and entered into upon its execution by the City of Nixa, Missouri, a constitutional charter city organized under the laws of the State of Missouri (“City”) and \_\_\_\_\_, a \_\_\_\_\_ (“Service Provider”).

**WHEREAS** the City, after conducting a Request for Qualifications solicitation process, referenced as RFQ-031-2024/Parks desires to engage Service Provider to perform architecture design services to redesign the front entrance at the Nixa Community Center; and

**WHEREAS** Service Provider submitted the selected qualification and

**WHEREAS** the City desires to engage Service Provider to perform such services under the terms and conditions of this Contract; and

**WHEREAS** the Service Provider desires to perform the Services described herein 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 Service Provider as follows:

**1. Services.** The Service Provider agrees to perform and undertake the Services described herein. The Service Provider shall perform said Services in accordance with the standard of care, skill, and expertise ordinarily used by other members of Service Provider’s profession in performing similar services. The Services are described in Exhibit A, which is attached hereto and incorporated herein by this reference (“Services”). Service Provider shall furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform the Services at Service Provider's own expense in accordance with the contract documents, any applicable City ordinances, and any applicable state or federal laws.

**2. Addition to Services.** The City may add to the Services or delete therefrom services, provided that the total cost of such work does not exceed the total cost authorized herein. The Service Provider shall undertake such changed activities only upon the written direction of the City. All such directives and changes shall be in written form and shall be accepted and countersigned by the Service Provider.

**3. Payment.**

**3.1. Progress Payments.** Provided that Service Provider performs the Services in the manner set forth herein, the City shall pay the Service Provider in accordance with the provisions set

forth in Exhibit B, which shall constitute full and complete compensation for the Service Provider's work. Such compensation shall be paid in progress payments, as established by the City, subject to receipt of a requisition for payment and a statement of the work provided by the Service Provider for the period covered by the requisition. Such requisition shall include an acknowledgement signed by both the City and the Service Provider that the Service Provider has fully performed the work to be paid for in such progress payments in conformance with the Contract. If applicable, the City shall provide notice to the Service Provider of any payment amount withheld and the reason for such withheld payment. The acceptance of any payment under this Contract expressly constitutes a release of the City by the Service Provider and its subcontractors from any and all claims which were made or could have been made by the Service Provider and its subcontractors against the City which may arise out of or are related to this Contract prior to the date of payment by City.

**3.2. Payment Conditioned on Acceptable Performance.** No payment shall be made by City unless Service Provider's performance for work which it seeks payment was completed in compliance with the provisions of this Contract. No partial payment to the Service Provider shall operate as approval of acceptance of all work completed by Service Provider prior to the date of payment.

**3.3. Total compensation not to exceed.** It is expressly understood that in no event shall the total compensation to be paid to the Service Provider under the terms of this Contract exceed the sum of **(insert amount)** unless specifically and mutually agreed to in writing by both the City and the Service Provider.

**4. Exchange of Data and Cooperation.** All information, data, and reports in the City's possession and necessary for the carrying out of the Services, shall be furnished to the Service Provider without charge, and the parties shall reasonably cooperate with each other in every possible way in the carrying out of the Services.

**5. Personnel.** The Service Provider represents that Service Provider shall secure at Service Provider's own expense all personnel required to perform the Services. Such personnel shall not be considered employees of the City. All the Services required hereunder shall be performed by the Service Provider or under Service Provider's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such Services. None of the Services covered by this contract shall be subcontracted without the prior written approval of the City.

**6. Term.** This Contract shall commence upon its full execution by the Parties and shall continue until the completion of the Services, unless sooner terminated pursuant to Paragraph 7. Service Provider shall have the Services fully completed on or before December 31, 2024.

## **7. Termination.**

**7.1. Termination for breach.** Failure of Service Provider to fulfill Service Provider's obligations under this Contract in a timely and satisfactory manner in accordance with the terms of this Contract shall constitute a breach of the Contract, and the City shall thereupon have the right to immediately terminate the Contract. The City shall give written notice of termination to the Service Provider. In the event of any litigation arising from breach of this Contract, the City shall be entitled to recover from the Service Provider all reasonable costs incurred for such litigation, including staff time, court costs, attorney fees, and all other related expenses incurred in such litigation.

**7.2. Termination for Convenience.** Either party shall have the right at any time upon 90 days written notice to the other to terminate and cancel this Contract, without cause, for convenience. In such event final payment to the Service Provider shall be limited to services provided by the Service Provider as of the effective date of said termination.

**7.3. Non-appropriation.** This Contract shall be terminated upon the failure of the City Council of City to appropriate funds for this Contract in any term of said Contract.

**7.4. Documents, reports, and data to be provided to City.** In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the Service Provider related to this Contract shall be provided to the City and shall become the property of the City, and the Service Provider shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials; provided, that the Service Provider shall not be relieved of liability to the City for any damages sustained by the City by virtue of any breach of the Contract by the Service Provider.

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

**9. Confidentiality.** Any reports, data, or similar information given to, prepared or assembled by the Service Provider under this Contract shall be considered the property of the City and shall not be made available to any individual or organization by the Service Provider without prior written approval of the City. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

**10. Conflict of Interest.** Service Provider 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 or the provisions of Nixa City Charter Section 13.1.

**11. Assignment.** Neither party may assign, transfer, or delegate any or all of its rights or obligations under this Contract, including by operation of law, change of control, or merger, without the prior written consent of the other party. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer, or other conveyance in violation of the foregoing shall be null and void. This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**12. Nondiscrimination.** The Service Provider 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 Service Provider 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.

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

**12.2.** This Service Provider 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.

**13. Occupational License.** The Service Provider 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 Service Provider.

**14. Insurance Requirements.**

**14.1.** Without limiting any of the other obligations or liabilities of the Service Provider, Service Provider shall at all times during the Term of this Contract, and for a period of three years thereafter, unless waived in writing by the City, at Service Provider's sole cost and expense, at least the following types and amounts of insurance:

**14.1.1. Commercial General Liability Insurance** with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate, including bodily injury and property damage, which policy shall include contractual liability covering insuring the activities of Service Provider under this Contract;

**14.1.2. Worker's Compensation Insurance** with statutory coverage as provided for in RSMo. 287.010 et seq.;

**14.1.3. Employers Liability Insurance** with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate;

**14.1.4. Commercial Automobile Liability** with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate; and

**14.1.5. Errors and Omissions/Professional Liability Insurance** with limits no less than \$505,520.00 per occurrence and \$3,370,137.00 in the aggregate.

**14.2.** All insurance policies required pursuant to Paragraph 14 shall:

**14.2.1.** Be issued by insurance companies reasonably accepted by the City, able to transact business within the State of Missouri, and with an A.M. Best Rating of no less than B+ Rating;

**14.2.2.** Provide that such insurance carriers give the City at least 30 days' prior written notice of cancellation or non-renewal of policy coverage; provided that, prior to such cancellation, the Service Provider shall have new insurance policies in place that meet the requirements of this Paragraph 14;

**14.2.3.** Waive any right of subrogation of the insurers against the City or any of its officials,

employees, or agents;

**14.2.4.** Provide that such insurance be primary insurance and any similar insurance in the name of and/or for the benefit of the City shall be excess and non-contributory;

**14.2.5.** Name the City and its officials, employees, and agents, as additional insured; and

**14.2.6.** Not be met by the use of a single limit policy.

**14.3.** Service Provider shall provide City with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Paragraph 14 at the time of execution of this Contract and shall not do anything to invalidate such insurance.

**14.4.** Failure of the Service Provider to maintain the coverages set out in this Paragraph 14 shall not relieve it of any contractual responsibility or obligation or liability in general or under this Contract.

**14.5.** This Paragraph 14 shall not be construed in any manner as waiving, restricting, or limiting the liability of the Service Provider for any obligations imposed under this Contract (including but not limited to, any provisions requiring a party hereto to indemnify, defend, and hold harmless under this Contract).

**14.6. Subcontracts.** In case any or all the performance of this Contract is sublet, the Service Provider shall require the subcontractor to procure and maintain all insurance required in this Paragraph 14. Service Provider shall provide evidence of such insurance from said subcontractor.

**14.7. Changes in policy limits.** 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 or in the event that the Sovereign Immunity limits for a given calendar year, as published annually on the Missouri Register by the Missouri Department of Insurance are increased during the term of this Contract, the City may require Service Provider, upon 10 days written notice, to execute a contract addendum whereby the Service Provider agrees to provide, at a price not exceeding Service Provider's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased exposure as the result of increase. 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.

**14.8. Survival.** The provisions of this Paragraph shall survive the termination or expiration of this Contract.

**15. Service Provider's responsibility for subcontractors.** The Service Provider 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 Service Provider is for the acts and omissions of persons it directly employs. Service Provider shall cause appropriate provisions to be inserted in all subcontracts relating to this Contract, to bind all subcontractors to Service Provider by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Service Provider the same power regarding termination of any subcontract as the City may exercise over Service Provider under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between the subcontractor and the City.



**16. Independent Contractor Clause.** This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that the Service Provider 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 Service Provider shall retain sole and absolute discretion as to the judgment and manner and means of carrying out the Service Provider's activities and responsibilities hereunder. The Service Provider 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 Service Provider and the City, and the City shall not be liable for any obligation incurred by the Service Provider, including but not limited to unpaid minimum wages and/or overtime premiums.

**17. Liability and Indemnity.**

**17.1.** In no event shall the City be liable to the Service Provider 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 Service Provider under this contract.

**17.2.** The Service Provider 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 Service Provider 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 Service Provider, notwithstanding any possible negligence, whether sole or concurrent, on the part of the City, its officials, agents and employees.

**17.3.** The Service Provider 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.

**17.4.** The indemnification obligations of Service Provider hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Service Provider, 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.

**17.5.** 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.

**17.6.** Service Provider affirms that it has had the opportunity to recover the costs of the liability insurance required in this Contract in its contract price. Service Provider'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 Service Provider under this Contract.

**17.7.** The Service Provider 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.

**17.8.** The provisions of this Paragraph shall survive the termination or expiration of this Contract.

**18. Contract Documents.**

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

**18.1.1.** This Contract;

**18.1.2.** Scope of Work (Exhibit A); and

**18.1.3.** Rate Sheet (Exhibit B).

**18.2.** The above listed documents are attached hereto and incorporated by their reference herein as though fully set forth herein.

**18.3.** 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.

**18.4.** In the event of a conflict between terms, the terms of this Contract, exclusive of its Exhibits, Attachments, or Schedules, shall control over the terms of any Exhibit, Attachment, or Schedule.

**19. Nonresident/Foreign Service Providers.** The Service Provider shall procure and maintain during the life of this Contract:

**19.1.** If the Service Provider 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.

**19.2.** 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.

**20. Notices.**

**20.1.** 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 Service Provider at the addresses shown below:

To City:

Name: City of Nixa, Missouri  
Address: 715 W. Mt. Vernon St., PO Box 395, Nixa MO 65714  
Phone: 417.725.3785  
Email: mcrouse@nixa.com  
Attn: Matt Crouse  
Dept: Parks

To Service Provider:

Name:  
Address:  
Phone:  
Email:  
Attn:

**20.2.** 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.

**20.3.** Notice information may be updated by the respective party upon reasonable notice of such change to the other party.

**21. Right to Audit.** Service Provider 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. Service Provider shall make available for the City's inspection all records covering or relating to charges submitted to the City for payment. Service Provider shall make appropriate adjustments if discrepancies are found. The City shall have the right to audit the Service Provider's records pertaining to the Services for a period of three (3) years after final payment. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

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

**23. City Benefits.** The Service Provider 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.

**24. No Third-Party Beneficiaries.** This Contract is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Contract.

**25. Jurisdiction.** This Contract and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri, without giving effect to any choice or conflict of law provision or rule which would cause the application of the laws of any jurisdiction other than those of the State of Missouri. Should any part of this Contract be litigated, venue shall be proper only in the Courts of Christian County, Missouri. The provisions of this Paragraph shall survive the

termination or expiration of this Contract.

**26. Waiver of Jury Trial.** Each party irrevocably and unconditional waives any right it may have to a trial by a jury in respect to any legal action arising out of or relating to this Contract or the transaction contemplated thereby. The provisions of this Paragraph shall survive the termination or expiration of this Contract.

**27. Severability.** If any term or provision of this Contract is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Contract or invalidate or render unenforceable such term or provision.

**28. Headings.** The headings in this Contract are for reference only and shall not affect the interpretation of this Contract.

**29. Interpretation.** This Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

**30. Affidavit for Contracts Over \$5,000.00.** Pursuant to sections 285.525 through 285.550 RSMo.,, if this contract exceeds the amount of \$5,000.00 and Service Provider is associated with a business entity, Service Provider 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, Service Provider must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

**31. Compliance with Anti-Discrimination against Israel Act.** Pursuant to Section 34.600 RSMo, if this Contract exceeds the amount of \$100,000 for Service Providers with ten or more employees, Service Provider, by executing this Contract, certifies that the Service Provider 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.

**[Remainder of page intentionally left blank. Signatures follow on next page.]**

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

