



## **RE: SIDEWALK AND CURB & GUTTER MAINTENANCE.**

### **RESOLUTION #2025-16**

#### **Background:**

In 2018, an Americans with Disabilities Act self-evaluation Transition Plan was implemented to determine non-compliance issues within public right of way and facilities. This Transition Plan is necessary for the eligibility of Federal Funding for road projects and other programs that qualify for these types of funds. Part of the requirements within this plan is that each year funds are obligated to address non-compliance pedestrian issues within the right of way.

#### **Analysis:**

Within the 2025 budget, funds have been allocated for sidewalk and other pedestrian non-compliance issues. This would consist of wheelchair ramps and sidewalk upgrades, so this infrastructure meets ADA standards.

#### **Recommendation:**

With Councils permission, staff would like to solicit bids to repair non-compliant pedestrian infrastructure.

#### **MEMO PREPARED BY:**

**Jeff Roussell** | Street Superintendent

jroussell@nixa.com | 417-725-2353

**RESOLUTION NO. 2025-16**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF NIXA AUTHORIZING THE CITY ADMINISTRATOR TO SOLICIT BIDS FOR SIDEWALK & CURB MAINTENANCE AS PART OF THE CITY’S AMERICANS WITH DISABILITIES ACT TRANSITION PLAN.**

**WHEREAS** the Nixa City Code authorizes the City Administrator to purchase supplies, materials, equipment, and services on behalf of the City when a competitive procurement method is utilized; and

**WHEREAS** said provisions require the City Administrator to obtain an authorizing resolution from the City Council prior to soliciting for purchases totaling \$10,000.00 or more; and

**WHEREAS** City staff is seeking authorization to solicit bids for sidewalk & curb maintenance as part of the City’s Americans with Disabilities Act Transition Plan; and

**WHEREAS** the City Council desires to authorize the City Administrator to undertake the purchase described herein.

**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, pursuant to the provisions of Chapter 2, Article VI, of the Nixa City Code, to solicit and undertake the purchase described in “Resolution Exhibit A,” which said Exhibit is attached hereto and incorporated herein by this reference.

**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.

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

**RESOLUTION NO. 2025-16**

47 **ADOPTED BY THE COUNCIL THIS 11<sup>th</sup> DAY OF March 2025.**

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ATTEST:

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

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CITY CLERK

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55 **APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2025.**

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ATTEST:

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\_\_\_\_\_  
MAYOR

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CITY CLERK

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63 APPROVED AS TO FORM:

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CITY ATTORNEY

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**RFB-002-2025/Street**

**Sidewalk Curb and Maintenance**

Issue Date: 3/4/2025

Questions Deadline: 3/19/2025 12:00 PM (CT)

Response Deadline: 4/3/2025 10:00 AM (CT)

**Contact Information**

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

## Event Information

Number: RFB-002-2025/Street  
Title: Sidewalk Curb and Maintenance  
Type: Request for Bid  
Issue Date: 3/4/2025  
Question Deadline: 3/19/2025 12:00 PM (CT)  
Response Deadline: 4/3/2025 10:00 AM (CT)  
Notes: The City of Nixa is issuing a Request for Bid for Sidewalk Curb and Maintenance.

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

Paper bids will still be accepted. All bid content must be in a sealed envelope, if submitting via mail or in person. 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

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

## Ship To Information

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

## Billing Information

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

## Bid Attachments

### SCOPE OF WORK.pdf

Scope of Work

[View Online](#)

### Affidavit of Business Entity.pdf

E-Verify

[View Online](#)

### OSHA Affidavit of Compliance.pdf

OSHA Affidavit

[View Online](#)

## Terms\_and\_Conditions-Formal.pdf

Terms and Conditions

[View Online](#)

## Wage Order 31.pdf

Prevailing Wage Order 31

[View Online](#)

## Construction Contract With Edits 2025.pdf

Contract for Services

[View Online](#)

## Requested Attachments

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### Bid Sheet Pricing

*(Attachment required)*

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

### E-Verify

*(Attachment required)*

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

### Bid Bond

*(Attachment required)*

Please upload your bid bond here.

### OSHA Affidavit of Compliance

*(Attachment required)*

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

### Additional Documentation

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

## Bid Attributes

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### 1 Introduction

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

### 2 Attachments Required

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

### 3 Bid Opening

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

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

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

### 4 PROPOSAL REQUIREMENTS

**The following items require an answer.**

**5 General Terms and Conditions**  
Download the General Terms and Conditions, located on the "Attachments" tab. Thoroughly review and indicate below.  
 I have downloaded, read and agree.  
*(Required: Check if applicable)*

**6 Scope of Work**  
Download the Scope of Work, located on the "Attachments" tab. Thoroughly review and indicate below.  
 I have downloaded, read and agree.  
*(Required: Check if applicable)*

**7 Bid Sheet**  
Download the Bid Sheet, located on the "Attachments" tab.  
Thoroughly review line items 1-49. Enter your total bid amount in the "Line Items" tab.  
 I have downloaded, read and acknowledge.  
*(Required: Check if applicable)*

**8 Bid/Contract Term**  
The term of the bid/contract agreement is for (1) one year, beginning upon date awarded. The City may, at it's option, extend the contract for up to (2) two additional one-year terms, subject to the Escalation/De-Escalation stated below.  
**ESCALATION/DE-ESCALATION:**  
Prices shall remain firm for a period of one year from the date of award. Prices may be changed after the first year, not to exceed 5% in a given year. Increases will be considered for the following reasons:  
An increase or decrease in the supplier's cost of materials and/or labor rates may be justification for price change; however, this shall not be construed in any way to increase vendor's margin or profit.  
All written request for price increase must include backup documentation as to the nature of the increase and shall be submitted to the City of Nixa Purchasing Department upon renewal of contract/bid agreement. Approval of each request shall be sent in written form. If the City should consider said increase unwarranted or unreasonable, the City reserves the right to terminate the contract/bid agreement with the vendor. Any price decline at the manufacturer's level shall be reflected in an immediate reduction of the contract prices and the vendor shall notify the buyer of said decline.  
 I agree.  
*(Required: Check if applicable)*

**9 Contract for Services**  
By marking the checkbox, I acknowledge I have downloaded, read, and understand my company will be asked to sign the Contract as stated as it applies to the response submitted.  
**Any variances to the contract must be uploaded in the "Additional Documents" upload for review by the City. This does not guarantee changes or differences will be accepted.**  
The City has certain insurance requirements (sovereign immunity) which must be met for this project. Please read thru the contract document and ensure you are able to meet the requirements to fulfill the contract terms.  
 I acknowledge.  
*(Required: Check if applicable)*

**10 Estimated Quantities**  
The estimated quantities indicated in this Bid represent anticipated requirements only. The right is reserved to exceed or diminish these estimates.  
 I acknowledge.  
*(Required: Check if applicable)*

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## **Examination of Contract Documents/Work site**

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

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

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

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

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

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

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

I acknowledge.

*(Required: Check if applicable)*



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2 **SUBCONTRACTORS, SUPPLIERS AND OTHERS**

1. The names, addresses, telephone numbers, and proposed work items and amount of all subcontractors the bidder expects to use in performing the work under this proposal shall be furnished with the proposal. If no subcontractors are expected to be used, a statement to the effect must accompany the bid. After the bid opening, the successful bidder may not substitute any of the subcontractors identified in the bid, except with the approval of the City and for good cause shown. The availability of another subcontractor at a lower cost to the general contractor after the general contractor's bid has been accepted by the City shall not constitute good cause for such substitution.

2. The Contractor shall not assign or sublet the contract or any portion of the contract without the written approval of the City in accordance with the General Conditions and Technical Specifications. The form of approval shall be completion and submittal of the enclosed subcontractor form including a statement of qualifications of the subcontractor and assurances that the subcontractor is legally bound to comply with all the requirements of the contract as they would apply to the prime contractor; for example, wage rates, equal employment opportunity regulations, submittal of payrolls, etc.

3. No subcontract shall under any circumstances relieve the Contractor or his surety of his liability and obligation under the contract, and all transactions will be made through the contractor. Subcontractors will be recognized and dealt with only as workmen and representatives of the contractor.

4. If approval is given for subletting work, the Contractor shall perform with his own organization work amounting to not less than fifty (50) percent of the total contract cost. The percentage of work to be performed shall be computed using the bid items as shown on the bid proposal and the unit prices as submitted by the Contractor. No breakdown of the bid items will be allowed, such as breaking an excavation bid item into labor, equipment, fuel, etc. The unit prices used in the computation will be the bid price on the bid proposal, not the price the Contractor is to pay the subcontractor. The contract value of items so designated as specialty items in the contract by the Special Provisions when subcontracted, may be deducted from the total contract price before computing the amount of work required to be performed by the prime contractor.

5. No subcontractor may further subcontract any of his work.

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*(Optional: Maximum 200 characters allowed)*

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3 **Special Provisions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Missouri Gas Energy  
Raymond Priest (417) 862-5602

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

Show Me Technologies  
Brad McGoon (417) 859-2615

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I agree.

*(Required: Check if applicable)*

**1  
4** **Anti-Collusion Statement**

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

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

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

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

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

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

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

I agree.

*(Required: Check if applicable)*

**1  
5** **Affidavit of Business Entity**

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

I agree.

*(Required: Check if applicable)*

**1  
6** **OSHA Affidavit**

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

I have downloaded, read and agree to comply.

*(Required: Check if applicable)*

**1  
7** **Prevailing Wage Order 31**

Download the Prevailing Wage Order 31 located on the "Attachments" tab. Thoroughly review and indicate below.

I have downloaded, read and agree to comply.

*(Required: Check if applicable)*

**1  
8** **Additional Purchases by the City and/or other Public Agencies**

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

I agree.

*(Required: Check if applicable)*

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9

## Bid Bond

Below is the information for Bid bonds. Please review and upload your bid bond on the "Response Attachments" tab.

**Requirement for Bid Security:** Bid Security shall be required for construction Bids, requiring City Council approval, as set forth in the City of Nixa's Purchasing Policy, for the purchase of Capital Improvement items, and City projects entailing engineering or construction. Bid security shall be a bond provided by a surety company authorized to do business in the State of Missouri, or the equivalent in cash, or otherwise supplied in a form satisfactory to the City of Nixa in an amount equal to 5% of the total amount of the bid. Failure to provide security, as set forth shall result in the City's rejection of bid.

**Withdrawal of Bids:** After the bids are opened, they shall be irrevocable for the period of up to sixty (60) days from bid opening date. If a bidder is permitted to withdraw its bid before the opening of bids, no action shall be taken against the bidder or the bid security.

**Correction or Withdrawal of Bids:** Correction or withdrawal of inadvertently erroneous bids after bid opening, or cancellations of awards or contracts based on such bid mistakes shall not be permitted and shall mandate forfeiture of Bid Performance Security to the City of Nixa.

**Return of Bid Security:** The City shall return the security bond to bidders who do not receive the bid.

The City shall hold the security bid bond of the awarded bidder until Capital Improvement Project is delivered to the City of Nixa or a 100% percent performance bond is issued to the City for awarded contractual services or project construction.

I acknowledge.

*(Required: Check if applicable)*

2  
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## Vendor Verification

The City of Nixa has utilized Payment Works for vendor verification. If awarded the bid, you will receive an email to register with Payment Works and upload your vendor information. By acknowledging this item, you agree to follow thru and register thru Payment Works to be a vendor with the City, as requested.

I acknowledge.

*(Required: Check if applicable)*



## Supplier Information

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Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

## Supplier Notes

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

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Signature*

## **SCOPE OF WORK**

The Scope of Work for this bid is for the installation of new or replacement of broken curb and gutter, sidewalks and wheelchair ramps as deemed necessary by the City of Nixa. All projects have been identified and prioritized in the City of Nixa Title VI Transition Plan; repairs and replacements MUST meet compliance for the latest version of the ADA standard.

This work will be continuous for several years to meet full ADA compliance. Each year will include different areas of work throughout the city.

Quantities will be determined by budget restrictions each year.

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

**BUSINESS ENTITY CERTIFICATION:**

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

- BOX A:** To be completed by a non-business entity as defined below.
- BOX B:** To be completed by a business entity who has not yet completed and submitted documentation pertaining to the federal work authorization program as described at [http://www.dhs.gov/files/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/files/programs/gc_1185221678150.shtm).
- BOX C:** To be completed by a business entity who has current work authorization documentation on file with a Missouri state agency including Division of Purchasing and Materials Management.

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

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

**BOX A – CURRENTLY NOT A BUSINESS ENTITY**

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

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

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

\_\_\_\_\_  
Authorized Representative’s Name (Please Print)

\_\_\_\_\_  
Authorized Representative’s Signature

\_\_\_\_\_  
Company Name (if applicable)

\_\_\_\_\_  
Date

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

**BOX B – CURRENT BUSINESS ENTITY STATUS**

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

\_\_\_\_\_  
Authorized Business Entity Representative's  
Name (Please Print)

\_\_\_\_\_  
Authorized Business Entity  
Representative's Signature

\_\_\_\_\_  
Business Entity Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
E-Mail Address

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

- Enroll and participate in the E-Verify federal work authorization program (Website: [http://www.dhs.gov/files/programs/gc\\_1185221678150.shtm](http://www.dhs.gov/files/programs/gc_1185221678150.shtm); Phone: 888-464-4218; Email: [e-verify@dhs.gov](mailto:e-verify@dhs.gov)) with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- Provide documentation affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program. Documentation shall include EITHER the E-Verify Employment Eligibility Verification page listing the bidder's/contractor's name and company ID OR a page from the E-Verify Memorandum of Understanding (MOU) listing the bidder's/contractor's name and the MOU signature page completed and signed, at minimum, by the bidder/contractor and the Department of Homeland Security – Verification Division. If the signature page of the MOU lists the bidder's/contractor's name and company ID, then no additional pages of the MOU must be submitted; AND
- Submit a completed, notarized Affidavit of Work Authorization provided on the next page of this Exhibit.

**AFFIDAVIT OF WORK AUTHORIZATION:**

The bidder/contractor who meets the section 285.525, RSMo, definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now \_\_\_\_\_ (Name of Business Entity Authorized Representative) as \_\_\_\_\_ (Position/Title) first being duly sworn on my oath, affirm \_\_\_\_\_ (Business Entity Name) is enrolled and will continue to participate in the E-Verify federal work authorization program with respect to employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530, RSMo. I also affirm that \_\_\_\_\_ (Business Entity Name) does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services provided under the contract(s) for the duration of the contract(s), if awarded.

*In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)*

_____	_____
Authorized Representative's Signature	Printed Name
_____	_____
Title	Date
_____	_____
E-Mail Address	E-Verify Company ID Number

Subscribed and sworn to before me this \_\_\_\_\_ of \_\_\_\_\_. I am  
(DAY) (MONTH, YEAR)  
commissioned as a notary public within the County of \_\_\_\_\_, State of  
(NAME OF COUNTY)  
\_\_\_\_\_, and my commission expires on \_\_\_\_\_.  
(NAME OF STATE) (DATE)

_____	_____
Signature of Notary	Date

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

**BOX C – AFFIDAVIT ON FILE - CURRENT BUSINESS ENTITY STATUS**

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

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

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

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

**Date** of Previous E-Verify Documentation Submission: \_\_\_\_\_

Previous **Bid/Contract Number** for Which Previous E-Verify Documentation Submitted:

\_\_\_\_\_  
(if known)

\_\_\_\_\_  
Authorized Business Entity Representative’s Name (Please Print)

\_\_\_\_\_  
Authorized Business Entity Representative’s Signature

\_\_\_\_\_  
E-Verify MOU Company ID Number

\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
Business Entity Name

\_\_\_\_\_  
Date

**FOR STATE USE ONLY**

Documentation Verification Completed By:

\_\_\_\_\_  
Buyer

\_\_\_\_\_  
Date

**OSHA 10 – AFFIDAVIT OF COMPLIANCE**

Before me, the undersigned Notary Public in and for the County of \_\_\_\_\_  
State of \_\_\_\_\_ personally came and appeared \_\_\_\_\_  
(printed name) \_\_\_\_\_ (position) of \_\_\_\_\_ (company name)  
(a corporation) (a partnership) (a proprietorship), and after being duly sworn, did depose  
and say that all provisions and requirements set out in Section 292.675, Missouri Revised  
Statutes, pertaining to the 10-hour OSHA construction safety training of workers employed on  
public works projects have been fully satisfied and there has been no exception to the full  
and complete compliance with said provisions and requirements. The referenced OSHA  
training is necessary in carrying out the contract and work with the City of Nixa in Christian  
County, Missouri.

Said training of all project workers has been or will be undertaken within 60 days of  
commencement of construction of the project. The contractor is to provide to the city  
copies of OSHA certification cards of each project worker.

\_\_\_\_\_  
Signature (person with authority)

\_\_\_\_\_  
Date

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

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared  
\_\_\_\_\_, to me known to be the person described herein and  
who executed the forgoing instrument and acknowledged that they executed the same as  
their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in  
the county and state aforesaid, the day and year first above written.

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

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

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

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



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

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

# Missouri

## Division of Labor Standards

### WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

# Annual Wage Order No. 31

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 8, 2024**

Last Date Objections May Be Filed: **April 8, 2024**

Prepared by Missouri Department of Labor and Industrial Relations

Building Construction Rates for  
CHRISTIAN County

Section 022

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$24.45*
Boilermaker	\$24.45*
Bricklayer-Stone Mason	\$24.45*
Carpenter	\$49.60
Lather	
Linoleum Layer	
Millwright	
Pile Driver	
Cement Mason	\$39.48
Plasterer	
Communication Technician	\$24.45*
Electrician (Inside Wireman)	\$47.72
Electrician Outside Lineman	\$24.45*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$24.45*
Glazier	\$44.09
Ironworker	\$65.89
Laborer	\$39.20
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$24.45*
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$37.47
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$41.08
Plumber	\$52.00
Pipe Fitter	
Roofer	\$24.45*
Sheet Metal Worker	\$48.94
Sprinkler Fitter	\$24.45*
Truck Driver	\$24.45*
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 RSMo Section 290.210.

Heavy Construction Rates for  
CHRISTIAN County

Section 022

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	\$24.45*
Millwright	
Pile Driver	
Electrician (Outside Lineman)	\$24.45*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$44.47
General Laborer	
Skilled Laborer	
Operating Engineer	\$51.80
Group I	
Group II	
Group III	
Group IV	
Truck Driver	\$24.45*
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. Public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

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

# OVERTIME and HOLIDAYS

## OVERTIME

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

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

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

## HOLIDAYS

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

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

<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>CONTRACTOR</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>			<b>Email:</b>		
<b>Attn:</b>			<b>Attn:</b>		

**CONSTRUCTION CONTRACT FOR \_\_\_\_\_**

**THIS CONSTRUCTION CONTRACT FOR \_\_\_\_\_** ("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 \_\_\_\_\_ ("Contractor").

**WHEREAS** the City, after conducting a \_\_\_\_\_ solicitation process, referenced as \_\_\_\_\_ desires to engage Contractor to perform \_\_\_\_\_; and

**WHEREAS** Contractor submitted one of the selected \_\_\_\_\_; and

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

**WHEREAS** the 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 Contractor agrees to perform and undertake the work described herein. The Contractor shall perform said work in accordance with the standard of care, skill, and expertise ordinarily used by members of the Contractor's profession in the performance of similar work. The work is described in Exhibit A, which is attached hereto and incorporated herein by this reference ("Services"). Contractor shall furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform the Services at Contractor's own expense in accordance with the contract documents, any applicable City ordinances, and any applicable state or federal laws within [ ] calendar days from the date Contractor is ordered to proceed, which order shall be issued by the City, within 30 days after the date of execution of this Contract. If such order is not issued within 30 days after execution of this Contract, then this Contract shall terminate.

**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 Contractor 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 Contractor.

**3. Payment.**

**3.1. Progress Payments.** Provided that Contractor performs the Services in the manner set

forth herein, the City shall pay the Contractor in accordance with the provisions set forth in Exhibit B, which shall constitute full and complete compensation for the Contractor'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 Contractor for the period covered by the requisition. Such requisition shall include an acknowledgement signed 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. If applicable, the City shall provide notice to the Contractor 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 Contractor and its subcontractors from any and all claims which were made or could have been made by the Contractor 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. Retainage.** City shall withhold 5% from each progress payment as retainage to ensure performance and completion of the Contract. Retainage amounts shall be paid as part of City's Final Payment to Contractor.

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

**3.4. Total compensation not to exceed.** It is expressly understood that in no event shall the total compensation and reimbursement to be paid to the Contractor 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 Contractor.

**3.5. Final Completion and Final Payment.**

**3.5.1.** Final Completion is the point at which all work under this Contract has been completed by the Contractor in strict compliance with the terms of this Contract and the Contractor is ready to receive its Final Payment. Final Completion will only occur when all of the following conditions, unless waived in writing by the City, have been satisfied:

**3.5.1.1.** All work is complete and in compliance with this Contract.

**3.5.1.2.** Contractor has submitted to the City a Final Payment Application for all funds remaining due under the Contract.

**3.5.1.3.** Contractor has completed all of its obligations under this Contract, including, without limitation, provided all manufacturer's warranties or any other warranties which are part of the project, provided any manuals for the operation and maintenance of equipment and systems which are part of the project, provided any as-builts or other drawings, any documentation transferring to City ownership of all equipment and materials which are part of the project, and any other close-out requirements reasonably required by the City.

**3.5.1.4.** Contractor has delivered to the City a final claim statement setting forth in detail all claims of any kind pending against the City or any indemnitee connected with or arising out of this Contract that are pending but not yet resolved.



Any claim not specified by the Contractor, whether on behalf of itself or its subcontractors, shall be deemed waived.

**3.5.2.** The Contractor shall notify the City, in writing, when it considers Final Completion has been achieved. After receiving such notice, the City shall, within a reasonable time thereafter, schedule an inspection of the work to determine if Final Completion has been achieved. If the City determines that Final Completion has not been achieved, the City shall promptly provide the Contractor with a list of items to be completed or corrected to enable City to certify that Final Completion has been achieved. The Contractor shall promptly perform such work and notify the City upon completion so another inspection can be scheduled. If the City determines that Final Completion has been achieved, the City shall promptly notify the Contractor that all requirements have been met.

**3.5.3.** The acceptance of Final Payment under this Contract expressly constitutes a release of the City by the Contractor and its subcontractors from any and all claims which were made or could have been made by the Contractor and its subcontractors against the City which may arise out of or are related to this Contract.

**3.6. Liquidated Damages.** The parties mutually and expressly agree that time of completion of work by the Contractor is of the essence due to the fact that \_\_\_\_\_. 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 funds otherwise due to Contractor from the City. The Services are not considered complete until final acceptance by the City.

**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 Contractor 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 Contractor represents that Contractor shall secure at Contractor'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 Contractor or under Contractor'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 and acceptance by the City of the Services, unless sooner terminated pursuant to Paragraph 7.

**7. Termination.**

**7.1. Termination for breach.** Failure of Contractor to fulfill Contractor'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 Contractor. In the event of any litigation arising from breach of this Contract, the City shall be entitled to recover from the Contractor 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.** The City 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.

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

**9. Confidentiality.** Any reports, data, or similar information given to, prepared or assembled by the Contractor under this Contract shall be considered the property of the City and shall not be made available to any individual or organization by the Contractor 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.** 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 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 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.

**12.1.** This Contractor 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 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.

**13. 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.

**14. Insurance Requirements.**

**14.1.** Without limiting any of the other obligations or liabilities of the Contractor, Contractor 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 Contractor's sole cost and expense, have at least the following types and amounts of insurance:

**14.1.1. Commercial General Liability Insurance** with limits no less than **\$517,306.00** per occurrence and **\$ 3,448,710.00** in the aggregate, including bodily injury and property damage, which policy shall include contractual liability coverage insuring the activities of Contractor 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 **\$517,306.00** per occurrence and **\$ 3,448,710.00** in the aggregate;

**14.1.4. Commercial Automobile Liability** with limits no less than **\$517,306.00** per occurrence and **\$3,448,710.00** in the aggregate; and

**14.1.5. 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 **\$3,448,710.00** for all claims arising out of a single accident or occurrence and at least **\$517,306.00** 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:

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

**14.1.5.2.** Be with the same insurance company with which the Contractor carries its Commercial General Liability Insurance and Automotive Liability Insurance; and

**14.1.5.3.** 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.

**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 a 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 Contractor 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;

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

**14.3.** Contractor shall provide the 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 Contractor 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 Contractor 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 Contractor shall require the subcontractor to procure and maintain all insurance required in this Paragraph 14. Contractor 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 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 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. 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.

**16. 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.

**17. Liability and Indemnity.**

**17.1.** 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.

**17.2.** 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.

**17.3.** The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due to 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 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.

**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.** 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.

**17.7.** 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.

**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; and

**18.1.2.** \_\_\_\_\_ (Exhibit A); and

**18.1.3.** \_\_\_\_\_ (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 Contractors.** The Contractor shall procure and maintain during the life of this Contract:

**19.1.** 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.

**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

**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 Contractor 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:  
Attn:  
Dept:

To Contractor:

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

**21. 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 to 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 Contractor's records pertaining to the work/product 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.** 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.

**23. 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.

**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. No Waiver of Governmental Immunity.** No provision of this Contract is intended, or shall be construed, to be a waiver for any purpose by the City of any applicable state law on municipal liability or governmental immunity. No indemnification provision contained in this Contract under which Customer indemnifies the City shall be construed in any way to limit any other indemnification provision contained in this Contract.

**28. 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.

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

**30. 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.

**31. Payment for Labor and Materials.** The Contractor shall pay for all labor and materials used in the provision of the Services.

**32. Performance and Payment Bonds.**

**32.1.** The Contractor shall furnish a Performance Bond and a Labor and Materials Payment Bond with surety approved by the City and on forms approved by the City. Each bond shall be in the amount of \$INSERT CONTRACT AMOUNT (full amount of contract) conditioned upon the full and faithful performance of all terms and conditions of this Contract and payment of all labor and material suppliers.

**32.2.** 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.

**32.3.** 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.

**33. 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. 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.

**34. 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 employees found in violation).

**35. 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.

**36. Compliance with Anti-Discrimination against Israel Act.** Pursuant to Section 34.600 RSMo, if this Contract exceeds the amount of \$100,000 for Contractors with ten or more employees, Contractor, by executing this Contract, certifies that the Contractor is not currently engaged in and shall not for the duration of the contract, engage in a boycott of goods or services from the State of Israel; 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.

**CITY**

\_\_\_\_\_  
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**

\_\_\_\_\_  
Authorized Signer

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

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

\_\_\_\_\_  
Title

**CONTRACTOR VERIFICATION**