

CITY OF FOUNTAINS
HEART OF THE NATION



KANSAS CITY
MISSOURI

General Services Department

Procurement Services Division Contract Administration Office

1st Floor, City Hall
414 East 12th Street
Kansas City, Missouri 64106

Fax: (816) 513-2812

Date Issued: January 10, 2014

Dear Consultant:

The **City of Kansas City, General Services Department** is requesting the services of a consulting firm to perform the described professional services for **Project No. 89020221 - Ciclovía/Open Streets - Fed No STP-3301 (441)**. If your firm would like to be considered for these consulting services, you may express your interest by responding to the appropriate office, which is indicated on the attachments. Limit your letter of interest to no more than **20** pages. This letter should include any information which might help us in the selection process, such as the persons or team you would assign to each project, the backgrounds of those individuals, and other projects your company has recently completed or are now active. It is required that your firm's Statement of Qualification (RSMo 8.285 through 8.291) be submitted with your firm's Letter of Interest, or be on file with the **City of Kansas City, General Services Department**. The statement of qualification is not included in the total page count limit.

DBE firms must be listed in the MRCC DBE Directory located on MoDOT's website at www.modot.gov, in order to be counted as participation towards an established DBE Goal. DBE firms are encouraged to submit letters of interest as prime consultants for any project they feel can be managed by their firm.

Letters of interest are due by Thursday, January 23, 2014 at 2:00pm. Letters of interest shall be sent to the **Contract Administrator** listed below.

Sincerely,

Deb Ridgway, MSW
Project Manager
Public Works Department
City Hall, 20th Fl
Kansas City, MO 64106
816-513-2592 Phone
816-513-2615 Fax
E-mail: Deb.Ridgway@kcmo.org

George H. Goodale, CPPO, M.P.A.
Contract Administrator
General Services Procurement
1st Fl, Room 102W, City Hall, 414 E. 12th St
Kansas City, MO 64106
816-513-0808 Phone
816-513-2812 Fax
E-mail: George.Goodale@kcmo.org

Attachment

REQUEST FOR PROPOSALS
FOR PROFESSIONAL, SPECIALIZED OR TECHNICAL SERVICES CONTRACT
PROJECT NO. 89020221
Ciclovia/Open Streets - Fed No STP-3301 (441)
PUBLIC WORKS DEPARTMENT
CITY OF KANSAS CITY, MISSOURI

Date Issued: January 10, 2014

1. **Purpose.** This is a Request for Proposals for **Project No. 89020221 - Ciclovia/Open Streets - Fed No STP-3301 (441)** issued by the General Services Department of Kansas City, Missouri. Sealed Proposals are due by **Thursday, January 23, 2014**, at 2:00 PM and shall be delivered to the *Contract Administrator*. Proposers shall submit **five (5)** copies of their Proposals. The City reserves the right to change or extend the submission date and time for any reason.
2. **Request for Proposals.** The Request for Proposal package for this project contains the following:
 - a. Attachment A – Scope of Services
 - b. Attachment B – Schedule
 - c. Attachment C – Form 00410.01 Experience and Reference Summary
 - d. Attachment D – Employee Eligibility Verification Affidavit
 - e. Attachment E – Standard *Professional Service* Contract Parts I and II
3. **Proposal Submittals.**
 - a. To be given consideration, your proposal should include the following, completed in full:
 - (1) Detailed Cost Proposal (Budget: maximum of \$95,500.00 – contingent upon secured event sponsorship). Please provide a detailed cost estimate per task. Detailed Cost Proposal must be submitted in a separate sealed envelope.
 - (2) **Attachment C - Form 00410.01 Experience and Reference Summary**
 - (3) Implementation Strategy
 - (a) Provide detailed breakdown by task of how you propose to approach this project
 - (4) Experience and Technical Competence
 - (a) Provide the qualifications of the employees on the team designed to this specific project
 - (b) Description of project understanding and project approach
 - (c) Description of the Project Control Plan
 - (d) Description of the earliest times and durations of time that work may commence and when it can be completed
 - (5) Capacity and Capability

- (a) List and description of key team members' professional experience.
 - (b) List the approximate percentage of the project for each team member.
 - (c) State each key personnel's time commitment for this project.
- (6) Record of Past Performance
- (a) Provide project descriptions of similar projects for the past three years and contact name with current address, email address, and telephone number for the owner of each project;
 - (b) Provide project descriptions of projects for the past three years with the City of Kansas City, MO

Proposals should be limited to **twenty (20)** pages in 12 point font on 8.5" x 11" paper with pages numbered. Covers, table of content, and divider tabs will not count as pages, provided no additional information is included on those pages.

The Proposal also may contain any narrative, charts, tables, diagrams or other materials in addition to those called for herein; to the extent such additions are useful for clarity or completeness of the Proposal. Any supplemental information or documents (i.e., not required by this RFP) that are included in the proposal should be marked as an Attachment and clearly identified in the Table of Contents. Attachments should clearly indicate on each page the paragraph in the Proposal to which they pertain.

4. **Prohibited activities by former City employees and officials.** Section 2-1018 of the City's Code prohibits former elected City officials and former executive or administrative employees of the City from trying to influence a decision of the City on behalf of an employer or client for one year after that former employee or official leaves the City's employ. By submitting a proposal, Proposer affirms that Proposer and its team members and employees are in compliance with the requirements of Section 2-1018. Failure to comply with the requirements of Section 2-1018 may cause the Proposal to be rejected.
5. **Selection.** City will select what in its sole judgment it determines to be the Proposal that will be in the best interests of the City.
6. **Change in RFP and Contract.** The City reserves the right at any time to add to, delete, modify or enlarge this RFP, including any specifications and/or statement of work, the proposed contract, the terms and conditions and any subsequently executed contract. Any changes to the RFP or contract are subject to the approval of the Missouri Department of Transportation and the Federal Highway Administration, if applicable.
7. **Discussions and Negotiations with Proposers.** Proposals may be evaluated and award made with or without discussions and/or negotiations with Proposers. The City also reserves the right to discuss and negotiate anything and everything with any Proposers at any time. The City reserves the right to request additional information from any or all Proposers. Negotiations by the City will not be deemed a counter offer or a rejection of any original Proposal.
8. **Rejection of Proposals.** The City reserves the right to reject any and all proposals.
9. **Disclosure of Proprietary Information.** A Proposer may restrict the disclosure of scientific and technological innovations in which it has a proprietary interest, or other

information that is protected from public disclosure by law, which is contained in the Proposal by:

- a. marking each page of each such document prominently in at least 16 point font with the words “Proprietary Information”;
- b. printing each page of each such document on a different color paper than the paper on which the remainder of the Proposal is printed; and
- c. segregating each page of each such document in a sealed envelope, which shall prominently display, on the outside, the words “Proprietary Information” in at least 16-point font, along with the name and address of the Proposer.

After either a contract is executed pursuant to the RFP, or all Proposals are rejected, if access to documents marked “Proprietary Information”, as provided above, is requested under the Missouri Sunshine Law, the City will notify the Proposer of the request, and it shall be the burden of the Proposer to establish that such documents are exempt from disclosure under the law. Notwithstanding the foregoing, in response to a formal request for information, the City reserves the right to release any documents if the City determines that such information is a public record pursuant to the Missouri Sunshine Law.

- 10. Closed Records.** All Proposals and documents and meetings relating thereto may remain closed records or meetings under the Missouri Sunshine Act until a contract is executed or until all Proposals are rejected.
- 11. Withdrawal of Proposals.** Proposers may withdraw their Proposals prior to the date and time set for receipt of Proposals only with the written consent of the City. Proposers will be bound by their Proposals for 120 days from the date set for receipt of Proposals. Proposals cannot be withdrawn within this 120 day period.
- 12. Waivers.** The City Manager or his delegate at any time may waive any requirements imposed by this solicitation or by any City regulation when failure to grant the waiver will result in an increased cost to the City and the requirement waived would be waived for all Proposers for this solicitation and it is in the best interest of the City to grant the waiver. The City Council at any time may waive any requirements imposed in this solicitation by the City's code of ordinances when it finds failure to grant the waive would be detrimental to preserving the public health, welfare, safety or essential operations of the city; or the waiver is necessary in order to participate in a purchasing pool or cooperative or a contract derived from a purchasing pool or cooperative; or the good, supply, material, equipment or service is from a sole source; or failure to grant the waiver would result in an increased cost to the City, the requirement is one that would be waived for any bidder or proposer responding to the solicitation, and it is in the best interest of the City to grant the waiver; or it is otherwise in the best interests of the City for any other reason as determined by the City Council. The City reserves the right to waive any irregularities and/or formalities as deemed appropriate. **Any changes to the RFP or contract are subject to the approval of the Missouri Department of Transportation and the Federal Highway Administration, if applicable.**
- 13. Affirmative Action.** It is the policy of the City that any person or entity entering into a contract with the City, will employ applicants and treat employees equally without regard to their race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age. The City’s Affirmative Action ordinance requires that any person

or entity who employs fifty (50) or more persons and is awarded a contract from the City totaling more than \$300,000.00 must:

- a. Execute and submit an affidavit, in a form prescribed by the City, warranting that the contractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the contract.
- b. Submit, in print or electronic format, a copy of the contractor's current certificate of compliance to the City's Human Relations Department (HRD) prior to receiving the first payment under the contract, unless a copy has already been submitted to HRD at any point within the previous two calendar years. If, and only if, contractor does not possess a current certification of compliance, contractor shall submit, in print or electronic format, a copy of its affirmative action program to HRD prior to receiving the first payment under the contract, unless a copy has already been submitted to HRD at any point within the previous two calendar years.
- c. Require any subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- d. Obtain from any subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to HRD within thirty (30) days from the date the subcontract is executed. If, and only if, subcontractor does not possess a current certificate of compliance, contractor shall obtain a copy of the subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to HRD within thirty (30) days from the date the subcontract is executed.

If you have any questions regarding the City's Affirmative Action requirements, please contact HRD at (816) 513-1836 or visit the City's website at www.kcmo.org.

- 14. Proposal Costs.** All costs incurred by a Proposer in preparation of Proposer's submittal (including costs associated with interviews) will be borne by the Proposer. The City is not responsible for any costs associated with this proposal submission.
- 15. Ownership of Proposals.** All proposals and supplementary material will become the property of the City when submitted.
- 16. Disclaimer.** The information contained in this RFP, attachments hereto and any addenda that may be issued is provided to assist prospective Proposers in the preparation of proposals. The City assumes no responsibility for the use of this information by Proposers and does not guarantee the accuracy of the information.
- 17. Evaluation Criteria.** Any evaluation criteria or weighting of criteria is used by the City only as a tool to assist the City in selecting the best proposal for the City. The City may change criteria and criteria weights at any time. Evaluation scores or ranks do not create any right in or expectation to a contract regardless of any score or ranking given to any Proposer.

Pursuant to the Brooks Act for Consultant Selection – the following criteria will be the basis for selection. Additional criteria can be added with the approval of Central Office Design.

Implementation Strategy 40 Points Max

Experience and Technical Competence 20 Points Max

Capacity and Capability 20 Points Max

Past Record of Performance 15 Points Max

Budget 5 Points Max

- 18. Disadvantaged Business Enterprise (DBE) Program Requirements.** The DBE goal for this project is **10%**. DBE firms must be listed in the MRCC DBE Directory located on MoDOT's website at www.modot.gov, in order to be counted as participation towards an established DBE Goal. We encourage DBE firms to submit letters of interest as prime consultants for any project they feel can be managed by their firm.
- 19. Pre-Proposal Conference.** The Public Works Department will hold a mandatory pre-proposal conference on **Friday, January 17, 2014**, at 10:00 AM, in the 20th floor conference room, located at 414 East 12th Street, City Hall, Kansas City, Missouri 64106.
Attendance at the pre-proposal conference is *mandatory* for all Proposers on this Project.
- 20. Questions.** Forward all questions in writing to the following Project Manager and Contract Administrator. Questions received less than **five (5)** days prior to the Submittal Date may not be answered. Interpretations or clarifications considered necessary by the Project Manager in response to such questions will be issued by Addenda to all Proposers. Oral or other interpretations or clarifications shall be without legal effect, even if made at a Pre-Proposal Meeting.

Deb Ridgway, MSW
Project Manager
Public Works Department
City Hall, 20th Fl
Kansas City, MO 64106
816-513-2592 Phone
816-513-2615 Fax
E-mail: Deb.Ridgway@kcmo.org

George H. Goodale, CPPO, M.P.A.
Contract Administrator
General Services Procurement
1st Floor, Room 102W, City Hall, 414 E. 12th St
Kansas City, MO 64106
816-513-0808 Phone
816-513-2812 Fax
E-mail: George.Goodale@kcmo.org



For persons with disabilities needing reasonable accommodations please contact Meg Conger at 816-513-6589. If you need to use the Relay Service, please dial 711.

ATTACHMENT A

SCOPE OF SERVICES

City Project No. 89020221
Federal Project No. STP 3301 (441)

CICLOVIA/OPEN STREETS

General Project Description:

The City of Kansas City, Mo., (the City) has received federal transportation funds from the Missouri Department of Transportation to implement a series of open streets events. Ciclovía/Open Streets follow the international model started in Brazil, South America, to close a continuous segment of city streets for bicyclists, pedestrians, and other non-motorized activities. This project will provide two (2) events in Kansas City, Mo., in partnership with local businesses, neighborhood and community groups.

Tasks to be completed by Specialized or Technical Professional:

- Task 1: Event logistics, support, and management

- Task 2: Volunteer recruitment, training, and management

- Task 3: Secure event sponsorships

- Task 4: Develop and implement marketing and outreach strategy

- Task 5: Submit all required documentation

ATTACHMENT B

SCHEDULE

City Project No. 89020221

Federal Project No. STP 3301 (441)

CICLOVIA/OPEN STREETS

The Professional, Specialized or Technical Services Professional shall perform the services outlined under Attachment A in accordance to the following schedule:

Task	Date
Task 1: Event logistics, support and management	Feb 2014 – Dec 2015
Task 2: Volunteer recruitment, training and management	Feb 2014 – Dec 2015
Task 3: Secure event sponsorships	Feb 2014 – Dec 2015
Task 4: Develop and implement marketing and outreach strategy	Feb 2014 – Dec 2015
Task 5: Submit all required documentation	Feb 2014 – Dec 2015



EXPERIENCE AND REFERENCE SUMMARY

Project Number: _____

Project Title: _____

Firm's Legal Name	
Mailing Address	
Contact – Name & Email	
Contact – Phone & Fax	

NO.	PROJECT & LOCATION	OWNER NAME & ADDRESS CONTACT & PHONE NUMBER	PROJECT DURATION & DATE COMPLETED	\$ VALUE
1.				
2.				
3.				
4				
5				
6				
7				
9				
10				

EMPLOYEE ELIGIBILITY VERIFICATION AFFIDAVIT

(Required for any contract with the City of Kansas City, Missouri in excess of \$5,000.00)

STATE OF _____)

) ss

COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared

_____, personally known by me or otherwise proven to be the person whose name is subscribed on this affidavit and who, being duly sworn, stated as follows:

I am of sound mind, capable of making this affidavit, and personally swear or affirm that the statements made herein are truthful to the best of my knowledge. I am the _____ (title) of _____ (business entity) and I am duly authorized, directed or empowered to act with full authority on behalf of the business entity in making this affidavit.

I hereby swear or affirm that the business entity does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. § 1324a(h)(3).

I hereby additionally swear or affirm that the business entity is enrolled in an electronic verification of work program operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986, and that the business entity will participate in said program with respect to any person hired by the business entity to perform any work in connection with the contracted services. I have attached hereto documentation sufficient to establish the business entity's enrollment and participation in the required electronic verification of work program.

I am aware and recognize that unless certain contractual requirements are satisfied and affidavits obtained as provided in Section 285.530, RSMo, the business entity may face liability for violations committed by its subcontractors, notwithstanding the fact that the business entity may itself be compliant.

I acknowledge that I am signing this affidavit as the free act and deed of the business entity and that I am not doing so under duress.

Affiant's signature

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My Commission expires:

Attach a photocopy of the first and last pages of the E-Verify Program Memorandum of Understanding provided by the U.S. Department of Homeland Security verifying enrollment.

For assistance, contact U. S. Department of Homeland Security (E-Verify) at 888-464-4218 or http://www.dhs.gov/files/programs/gc_1185221678150.shtm

ATTACHMENT E

STANDARD PROFESSIONAL SERVICE CONTRACT PARTS 1 AND II

PROFESSIONAL, SPECIALIZED OR TECHNICAL SERVICES CONTRACT

PROJECT NO. ____ - _____

_____ DEPARTMENT

THIS CONTRACT is between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation (“City”), and _____ [Note: Enter the type of business entity following the name of the contractor. Use one of the following examples: Missouri Corporation; Foreign Corporation; Fictitious Name Registration: Sole Proprietor; Limited Liability Company; Partnership; Joint Venture; Other(specify)] (“Contractor”). City and Contractor agree as follows:

PART I

SPECIAL TERMS AND CONDITIONS

Sec. 1. Compensation.

- A. The amount the City will pay Contractor under this contract will not exceed \$_____. Contractor will be paid on the following basis: **(Fill in how the contractor is to be paid. For example, by the hour or by the job. Do not use a contingency fee arrangement unless this is the standard industry practice used to compensate the Contractor. Examples: Debt collection, real estate agents etc.)**
- B. Contractor will bill the City, in a form acceptable to the City, on the following basis: monthly, one time; other **(select when the contractor will bill the City and delete all others. If this contract is subject to the SLBE program, the contract should provide for payments to be made every two weeks.)**
- C. It shall be a condition precedent to payment of any invoice from Contractor that Contractor is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Contract. If damages are sustained by City as a result of breach or default by Contractor, City may withhold payment(s) to Contractor for the purpose of set off until such time as the exact amount of damages due City from Contractor may be determined.
- D. No request for payment will be processed unless the request is in proper form, correctly computed, and is approved as payable under the terms of this Contract.
- E. No request for payment will be processed unless it is accompanied by a copy of the most recent 00485.01 M/WBE Monthly Utilization Report submitted to the City’s Human Relations Department.
- F. City is not liable for any obligation incurred by Contractor except as approved under

Sec. 2. Responsibilities of Contractor. Contractor shall perform the following Scope of Services:

Sec. 3. Notices. All notices required by this Agreement shall be in writing to the following:

City: _____, Department: _____, Director: _____

Address: _____, Kansas City, MO _____

Phone: (____) ____-____ Facsimile: (____) ____-____

E-mail address: _____

Contractor: _____, Contractor's Legal Name: _____

Contact: _____, Address: _____

Phone: (____) ____-____ Facsimile: (____) ____-____

E-mail address: _____

All notices are effective a) when delivered in person, b) upon confirmation of receipt when transmitted by facsimile transmission or by electronic mail, c) upon receipt after dispatch by registered or certified mail, postage prepaid, d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or e) three business days after the date of mailing, whichever is earlier.

Sec. 4. Merger. This Contract consists of Part I, Special Terms and Conditions and any Attachments and any documents incorporated by reference; and Part II, Standard Terms and Conditions. This Contract, including any Attachments and incorporated documents, constitutes the entire agreement between City and Contractor with respect to this subject matter.

Sec. 5. Conflict Between Contract Parts. In the event of any conflict or ambiguity between the Special Terms and Conditions of Part I and the Standard Terms and Conditions of Part II of this Contract, Part I will be controlling.

Sec. 6. Term of Contract. This Contract shall begin on _____, ____ and shall end on _____, _____. The Director is authorized to enter into an amendment to extend the term of this Contract and time of performance for this Contract.

Sec. 7. Attachments to Part I. The following documents are Attachments to Part I of this Contract and are attached hereto and incorporated herein by this reference:

Sec. 8. Documents Incorporated by Reference. The following documents are not attached to this Contract but are incorporated into and made a part of this Contract by this reference:

Sec. 9. Responsibilities of City. City shall:

Sec. 10. Subcontracting. Contractor agrees that it will only subcontract with the subcontractor(s) it has listed on the "Subcontractor List Non-Construction."

Sec. 11. Deletions to Part II, Standard Terms and Conditions. The following sections of Part II, Standard Terms and Conditions, of this Contract are hereby deleted:

Sec. 12. Performance Bond. Contractor shall furnish a Performance Bond to City on City furnished forms executed by a Surety, in the amount of \$_____ guaranteeing Contractor's faithful performance of each and every term of this Contract and all authorized changes.

All bonds required to be purchased and maintained by Contractor shall be obtained from surety or insurance companies that are duly licensed in the State of Missouri and in the jurisdiction in which the Project is located, if not in Missouri, to issue bonds for the limits and coverages so required. All surety and insurance companies shall hold an A.M. Best rating of B+, V, or better. A certified copy of the agent's authority to act must accompany all bonds signed by an agent.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state where any part of the Project is located, Contractor shall within twenty (20) days thereafter substitute another bond and surety, both of which must be acceptable to City.

Sec. 13. Incorporation of Federal/State Laws and Regulation. Contractor shall administer and use the funds provided hereunder in conformance with all federal/state laws and regulations applicable to the use of those funds including but not limited to those laws and regulations which may be set forth in **Attachment** __ to this Contract. The federal/state laws and regulations applicable to the use of funds provided under this Contract including but not limited to those included in **Attachment** ____ are incorporated and made a part of this Contract by reference. Contractor agrees that it is its responsibility to obtain and familiarize itself with those laws and regulations. All laws and regulations incorporated into this Contract shall include all subsequent amendments.

Sec. 14. Intellectual Property Rights. Contractor agrees, on its behalf and on behalf of its employees and agents, that it will promptly communicate and disclose to City all computer programs, documentation, software and other copyrightable works ("copyrightable works") conceived, reduced to practice or made by Contractor or its agents, whether solely or jointly with others, during the term of this Contract resulting from or related to any work Contractor or its agents may do on behalf of City or at its request. All inventions and copyrightable works that Contractor is obligated to disclose shall be and remain entirely the property of City. It is agreed that all inventions and copyrightable works are works made for hire and shall be the exclusive property of City. Contractor hereby assigns to City any rights it may have in such copyrightable works. Contractor shall cooperate with City in obtaining any copyrights or patents.

Sec. 19. Effectiveness; Date. This contract will become effective when the City's Director of Finance has signed it. The date this contract is signed by the City's Director of Finance will be deemed the date of this contract.

Each party is signing this contract on the date stated opposite the party's signature.

THIS CONTRACT CONTAINS INDEMNIFICATION PROVISIONS

CONTRACTOR

I hereby certify that I have authority to execute
this document on behalf of Contractor

Date: _____

By: _____

Name: _____

Title: _____

KANSAS CITY, MISSOURI

Date: _____

By: _____

Name: _____

Title: _____

Approved as to form:

Assistant City Attorney

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

Director of Finance

PART II

STANDARD TERMS AND CONDITIONS

Sec. 1. Indemnification: Definitions

A. For purposes of this Section 1 only, the following terms shall have the meanings listed:

a. **Claims** means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by the City in the enforcement of this indemnity obligation.

b. **Contractor's Agents** means Contractor's officers, employees, subconsultants, subcontractors, successors, assigns, invitees, and other agents.

c. **City** means City and its agents, officials, officers and employees.

B. Contractor's obligations under this Paragraph with respect to indemnification for acts or omissions, including negligence, of City, shall be limited to the coverage and limits of insurance that Contractor is required to procure and maintain under this Contract. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this Contract in its contract price.

C. Contractor shall defend, indemnify and hold harmless City from and against all claims arising out of or resulting from all acts or omissions in connection with this Contract caused in whole or in part by Contractor or Contractor's Agents, regardless of whether or not caused in part by any act or omission, including negligence, of City. Contractor is not obligated under this Section to indemnify City for the sole negligence of City.

D. Nothing in this section shall apply to indemnification for professional negligence which is specified in a separate provision of this Contract.

E. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's

rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

Sec. 2. Indemnification for Professional Negligence.

If this contract is for professional services, Contractor shall indemnify, and hold harmless City and any of its agencies, officials, officers, or employees from and against all claims, damages, liability, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any negligent acts or omissions in connection with this Contract, caused by Contractor, its employees, agents, subcontractors, or caused by others for whom Contractor is liable, in the performance of professional services under this Contract. Contractor is not obligated under this section to indemnify City for the negligent acts of City or any of its agencies, officials, officers, or employees.

Sec. 3. Independent Contractor.

Contractor is an independent contractor and is not City's agent. Contractor has no authority to take any action or execute any documents on behalf of City.

Sec. 4. Insurance.

A. Contractor shall procure and maintain in effect throughout the duration of this Contract insurance coverage not less than the types and amounts specified in this section. In the event that additional insurance, not specified herein, is required during the term of this Contract, Contractor shall supply such insurance at City's cost. Policies containing a Self-Insured Retention are unacceptable to City unless City approves in writing the Contractor's Self-Insured Retention.

1. Commercial General Liability Insurance: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:

- a. Severability of Interests Coverage applying to Additional Insureds
- b. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000.
- c. No Contractual Liability Limitation Endorsement.
- d. Additional Insured Endorsement, ISO form CG20 10, or its equivalent.

2. If applicable, Workers' Compensation Insurance, as required by statute, including Employers Liability with limits of:

Workers' Compensation Statutory Employers Liability \$100,000 accident with limits of:

- \$500,000 disease-policy limit
- \$100,000 disease-each employee

3. Commercial Automobile Liability Insurance: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Contract, by Contractor.

4. If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.

B. The Commercial General Liability Insurance specified above shall provide that City and its agencies, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Contract. Contractor shall provide to City at execution of this Contract a certificate of insurance showing all required endorsements and additional insureds. The certificates of insurance will contain a provision stating that should any of the policies described in the certificate be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

C. All insurance coverage must be written by companies that have an A.M. Best's rating of "A-V" or better, and are licensed or approved by the State of Missouri to do business in Missouri.

D. Contractor's failure to maintain the required insurance coverage will not relieve Contractor of its contractual obligation to indemnify the City pursuant to Sections 1 and 2. If the coverage afforded is cancelled or changed or its renewal is refused, Contractor shall give at least thirty (30) days prior written notice to City. In the event of Contractor's failure to maintain the required insurance in effect, City may order Contractor to immediately stop work, and upon ten (10) days notice and an opportunity to cure, may pursue its remedies for breach of this Contract as provided for herein and by law.

E. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

Sec. 5. Governing Law.

This Contract shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of law provisions. The City and Contractor: (1) submit to the jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) waive any and all objections to jurisdiction and venue; and (3) will not raise forum *non conveniens* as an objection to the location of any litigation.

Sec. 6. Compliance with Laws.

Contractor shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this contract.

Sec. 7. Termination for Convenience.

A. City may, at any time upon ten (10) days notice to Contractor specifying the effective date of termination, terminate this Contract, in whole or in part. If this Contract is terminated by City, City shall be liable only for payment for services rendered before the effective date of termination. Contractor shall prepare an accounting of the services performed and money spent by Contractor up to the effective date of termination and shall return to City any remaining sums within thirty (30) days of such date.

B. If this Contract is terminated prior to Contractor's completion of services, all work or materials prepared or obtained by Contractor pursuant to this contract shall become City's property.

C. If this Contract is terminated prior to Contractor's completion of the services to be performed hereunder, Contractor shall return to City any sums paid in advance by City for services that would otherwise have had to be rendered between the effective date of termination and the original ending date of the Contract. Contractor shall prepare an accounting of the services performed and money spent by Contractor up to the effective date of termination and shall return to City any remaining sums within thirty (30) days of such date.

Sec. 8. Default and Remedies.

If Contractor shall be in default or breach of any provision of this Contract, City may terminate this contract, suspend City's performance, withhold payment or invoke any other legal or equitable remedy after giving Contractor notice and opportunity to correct such default or breach.

Sec. 9. Waiver.

Waiver by City of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Contract can be waived except by written consent of City, and forbearance or indulgence by City in any regard whatsoever shall not constitute a waiver of same to be performed by Contractor to which the same may apply and, until complete performance by Contractor of the term, covenant or condition, City shall be entitled to invoke any remedy available to it under this Contract or by law despite any such forbearance or indulgence.

Sec. 10. Modification.

Unless stated otherwise in this Contract, no provision of this Contract may be waived, modified or amended except in writing signed by City.

Sec. 11. Headings; Construction of Contract.

The headings of each section of this Contract are for reference only. Unless the context of this Contract clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

Sec. 12. Severability of Provisions.

Except as specifically provided in this Contract, all of the provisions of this Contract shall be severable. In the event that any provision of this Contract is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Contract shall be valid unless the court finds that the valid provisions of this Contract are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Contract could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

Sec. 13. Records.

A. For purposes of this section:

1. "City" shall mean the City Auditor, the City's Internal Auditor, the city's Director of Human Relations, the city Manager, the City department administering this Contract and their delegates and agents.

2. "Record" shall mean any document, book, paper, photograph, map, sound recordings or other material, regardless of physical form or characteristics, made or received in connection with this Contract and all Contract amendments and renewals.

B. Contractor shall maintain and retain all Records for a term of five (5) years that shall begin after the expiration or termination of this Contract and all Contract amendments. City shall have a right to examine or audit all Records and Contractor shall provide access

to City of all Records upon ten (10) days written notice from the City.

C. The books, documents and records of Contractor in connection with this Contract shall be made available to the City Auditor, the City's Internal Auditor, the City's Director of Human Relations and the City department administering this Contract within ten (10) days after the written request is made.

Sec. 14. Affirmative Action.

If this Contract exceeds \$300,000.00 and Contractor employs fifty (50) or more people, Contractor shall comply with City's Affirmative Action requirements in accordance with the provisions of Chapter 3 of City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, Contractor warrants that it has an affirmative action program in place and will maintain the affirmation action program in place for the duration of the Contract. Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 3 of City's Code. Contractor shall:

1. Submit, in print or electronic format, a copy of Contractor's current certificate of compliance to the City's Human Relations Department (HRD) prior to receiving the first payment under the Contract, unless a copy has already been submitted to HRD at any point within the previous two calendar years. If, and only if, Contractor does not possess a current certification of compliance, Contractor shall submit, in print or electronic format, a copy of its affirmative action program to HRD prior to receiving the first payment under the Contract, unless a copy has already been submitted to HRD at any point within the previous two calendar years.

2. Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action

program in place for the duration of the subcontract.

3. Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to HRD within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, Contractor shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to HRD within thirty (30) days from the date the subcontract is executed.

City has the right to take action as directed by City's Human Relations Department to enforce this provision. If Contractor fails, refuses or neglects to comply with the provisions of Chapter 3 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, canceled or suspended, in whole or in part, and Contractor may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

Sec. 15. Tax Compliance.

Contractor shall provide proof of compliance with the City's tax ordinances administered by the City's Commissioner of Revenue as a precondition to the City making the first payment under this contract or any contract renewal when the total contract amount exceeds \$150,000.00. If contractor performs work on a contract that is for a term longer than one (1) year, the contractor also shall submit to the City proof of compliance with the City's tax ordinances administered by the City's Commissioner of Revenue as a condition precedent to the City making final payment under the contract.

Sec. 16. Assignability and Subcontracting

(a) Assignability. Contractor shall not assign or transfer any part or all of Contractor's obligation or interest in this Contract without prior written approval of City. If Contractor shall assign or transfer any of its obligations or interests under this Contract without the

City's prior written approval, it shall constitute a material breach of this Contract. This provision shall not prohibit contractor from subcontracting as otherwise provided for herein.

(b) Subcontracting. Contractor shall not subcontract any part or all of Contractor's obligations or interests in this Contract unless the subcontractor has been identified in a format required by City. If Contractor shall subcontract any part of Contractor's obligations or interests under this Contract without having identified the subcontractor, it shall constitute a material breach of this Contract. The utilization of subcontractors shall not relieve Contractor of any of its responsibilities under the Contract, and Contractor shall remain responsible to City for the negligent acts, errors, omissions or neglect of any subcontractor and of such subcontractor's officers, agents and employees. City shall have the right to reject, at any point during the term of this Contract, any subcontractor identified by Contractor, and to require that any subcontractor cease working under this Contract. City's right shall be exercisable in its sole and subjective discretion. City shall not be obligated to pay or be liable for payment of any monies which may be due to any subcontractor. Contractor shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing Contractor's services hereunder.

Sec. 17. Conflicts of Interest.

Contractor certifies that no officer or employee of City has, or will have, a direct or indirect financial or personal interest in this Contract, and that no officer or employee of City, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Contractor in this Contract.

Sec. 18. Buy American Preference.

It is the policy of the City that any manufactured goods or commodities used or supplied in the performance of any City contract or any subcontract thereto shall be

manufactured or produced in the United States whenever possible.

Sec. 19. Professional Services – Conflict of Interest Certification.

If this Contract is for professional services other than for medical doctors or appraisers, Contractor certifies that Contractor is not an expert witness for any party in litigation against the City at the time of the issuance of this Contract.

Sec. 20. Attorney Services – Conflict of Interest Certification.

If this Contract is for professional attorney services, Contractor certifies that Contractor and any of its individual attorneys, do not represent any party in litigation against the City at the time of the issuance of this Contract. Contractor's certification shall not apply to: representation in municipal court; attorneys employed by a not-for-profit legal services corporation; litigation where the City is named as a nominal party; litigation that has been filed with the agreement of the City and the party represented by the attorney; or where the City Council has otherwise waived this requirement. Nothing set forth in this section shall be deemed to supersede the Rules of Professional Conduct for Attorneys.

Sec. 21. Employee Eligibility Verification

If this Contract exceeds five thousand dollars(\$5,000.00), Contractor shall execute and submit an affidavit, in a form prescribed by City, affirming that Contractor does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U. S. C. § 1324a(h)(3). Contractor shall attach to the affidavit documentation sufficient to establish Contractor's enrollment and participation in an electronic verification of work program operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986. Contractor may obtain additional information

about E-Verify and enroll at www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm. For those Contractors enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that Contractor will obtain upon successfully enrolling in the program shall constitute sufficient documentation for purposes of complying with this Section. Contractor shall submit the affidavit and attachments to the City prior to execution of the Contract, or at any point during the term of the Contract if requested by City.