

CITY OF ST JOSEPH

REQUEST FOR PROPOSAL

NO RFP2022-03

Page 1 of 18

Proposals Must Be Received No
Later Than

Time: 4:00PM Date: 8/12/2021

For Information Contact

Purchasing

at (816) 271-5330

This document constitutes a request for sealed bids, including prices, from qualified individuals and organizations to furnish those services and/or items as described herein. All documents included in submission are to be of public record.

Proposals must be mailed or delivered to the Division of Purchasing, 1100 Frederick Avenue Room 201, St. Joseph, MO 64501.

Food & Beverage Concession Services

Please complete, sign and return this form with the proposal

Please have the Bid Name and Number on the outside of the sealed proposals.

The offeror must provide all information required in this document pursuant to the specifications attached and included herein.

The offeror hereby agrees to provide the services and/or items at the prices quoted, pursuant to the attached terms and conditions of Request for Proposal or Invitation to Bidders and Terms and Conditions of Purchase, and further agrees that when this document is countersigned by an authorized official of the City of St. Joseph, a binding contract, as defined herein, shall exist between the offeror and the City of St. Joseph.

SIGNATURE REQUIRED

Offeror's Signature: _____ Offeror's Printed Name: _____ Title : _____

Company Name: _____ Date of Proposal: _____

Mailing Address: _____ Telephone: _____

City: _____ State: _____ Zip: _____

Email Address: _____

CITY OF ST. JOSEPH
PURCHASING DIVISION
TERMS AND CONDITIONS OF REQUEST FOR PROPOSAL
OR INVITATION TO BIDDER

1. PREPARATION OF BIDS

- a. Bidder's are expected to examine the specifications, delivery schedule, bid prices, and all instructions of the Request for Proposal or Invitation to Bid. Failure to do so will be at bidder's risk. In case of a mistake in extension, the unit price(s) will govern. In case of an identified mistake in calculation the City may, but is not obligated to, correct the calculation based on the unit price submitted by the bidder.
- b. Any manufacturer's names, trade names, brand names, information, and/or catalogue numbers listed in a specification are for information and are not intended to limit competition. The bidder may offer any brand which meets or exceeds the specification for any item. If bids are based on equivalent products, indicate on the bid form the manufacturer's name and model number. The bidder shall explain in detail the reasons why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids which do not comply with these requirements are subject to rejection. Bids lacking any written indication of intent to bid on alternate brands will be received and considered in complete compliance with the specifications as listed on the bid forms.
- c. All supplies and equipment offered in a bid must be new and of current production unless the Request for Proposal or Invitation to Bidder clearly specifies that used or reconditioned supplies or equipment be offered.
- d. Firm fixed prices shall be bid and include all packing, handling, and shipping charges.
- e. Unless otherwise indicated, prices quoted shall be firm for acceptance for ninety days (90) from bid opening and for the specified contract period.

2. TAX EXEMPTION

- a. Do not bill federal tax. Certificate number 44-6000256.
Do not bill state tax. Certificate number 12493457.

3. SUBMISSION OF BIDS

- a. A bid submitted by a bidder must (1) be manually signed by the bidder on the Purchasing Division's Request for Proposal or Invitation to Bidder, (2) contain all requested information, (3) be priced as required, (4) be sealed in an envelope or container, (5) be attached to a security deposit if required, and (6) be delivered to: the Purchasing Division, 1100 Frederick Avenue, Room 201; St. Joseph, MO 64501, and officially clocked in no later than the exact time and date specified on the Request for Proposal or Invitation to Bidder.
- b. The sealed envelope or container containing a bid should be clearly marked on the outside left corner with (1) the official Price Inquiry number and (2) the official closing date and time.
- c. Submission of this bid constitutes an assignment by the bidder to the City of all rights, title, and interest in and to all causes of action it may have under the antitrust laws of the United States or the State of Missouri, which causes of action have accrued or will accrue as the result of or in relation to the particular good or services purchased or procured by it in fulfillment of any contract with the City arising from this bid.

4. MODIFICATION OR WITHDRAWAL OF BIDS

- a. Bids may be modified or withdrawn by written or telegraphic notice received prior to the official closing date and time specified. Written notice may be in the form of an email provided the email is actually received by the Purchasing Agent prior to the official closing date and time specified; any email that is not actually received, whether due to a delay in delivery, delivery to a filtering service that does not release the email, or other failure in delivery shall not be deemed to be a written notice of modification or withdrawal. A bid may also be withdrawn or modified in person by the bidder or his authorized representative provided proper identification is presented before the official closing date and time. Verbal phone requests to withdraw or modify a proposal will not be considered.

- b. After the official closing date and time, no bid may be modified or withdrawn.

5. BID OPENING

- a. Bid openings shall be public on the date and at the time specified on the bid form. It is the bidder's responsibility to assure that his bid is delivered at the proper time and place of the bid opening. Bids which for any reason are not so delivered will not be considered. Offers by facsimile, telegraph, email, or telephone will not be acceptable. Bid files may be examined during normal working hours by appointment. Bid tabulations will not be provided by telephone.

6. AWARDS

- a. Unless otherwise stated in the Price Inquiry, 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 Price Inquiry and (2) is the lowest and best bid, considering price, responsibility of the bidder, the best interest of the City, and all other relevant factors. When multiple bidders are equally responsible and qualified and submit equivalent bids, those bidders that are equally responsible and qualified and submit equivalent bids may be allowed to submit a subsequent lower bid price in accordance with a schedule established by the Purchasing Agent; such bid price must be submitted in a sealed envelope or container clearly marked on the outside left corner with (1) the official Price Inquiry number and (2) the closing date and time established by the Purchasing Agent; the submission may modify only the bid price.
- d. Each bid is received with the understanding that the acceptance in writing by the City of the offer to furnish any or all the materials, equipment, supplies, or services described therein shall constitute a contract between the bidder and the City; and shall bind the bidder to furnish and deliver at the price, and in accordance with the conditions of said accepted bid and detailed specifications.
- e. The City of St. Joseph is not obligated for expenditures unless funds have been encumbered by Purchase Order or Contract. The completion of the "Notice of Award" by the City is not an authorization for shipment or to proceed with services.

7. OPEN COMPETITION

- a. It is the intent and purpose of the Purchasing Division that the Price Inquiry permits free and open competition. However, it shall be the bidder's responsibility to advise the Purchasing Division if any language, requirements, or any combination thereof, inadvertently restricts or limits the requirement to a single source or otherwise prohibits the submission of a bid. The notification should be received by the Purchasing Division at least ten days prior to the Price Inquiry closing date and time. The bidder may submit notification after the bid closing providing sufficient time is permitted for a thorough review by the Purchasing Division and its decision will be final.

CITY OF ST. JOSEPH
PURCHASING DIVISION
TERMS AND CONDITIONS OF PURCHASE

This contract expresses the complete agreement of the parties and performance shall be governed solely by the terms and conditions contained herein. Changes, additions or modifications hereto must be in writing and signed by the Purchasing Agent.

1. QUANTITIES

The City of St. Joseph assumes no obligation for articles or materials shipped in excess of the quantity ordered. Any unauthorized quantity is subject to the City's rejection and returned at the Seller's expense.

2. DELIVERY

Time is of the essence of this order. If deliveries are not made at the time agreed upon, the City reserves the right to cancel or to purchase elsewhere and hold Seller liable for any procurement costs.

3. SHIPMENT

Deliveries shall be F.O.B. destination unless otherwise specified by the City.

4. INVOICES

An original and one copy of the invoice shall be submitted and shall show the purchase order number or contract number and contain full descriptive information of item or services furnished.

5. INSPECTION AND ACCEPTANCE

No material received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said material. All material which is discovered to be defective or which does not conform to any warranty of the Seller herein upon inspection, or at any later time if the defects contained in the material were not reasonably ascertainable upon the initial inspection, may be returned at the Seller's expense for full credit and replacement. Such right to return offer to the City arising from the City's receipt of defective goods shall not exclude any other legal, equitable or contractual remedies the City may have therefore.

6. PAYMENT

Payments will be made only to the company and address as set forth on the Purchase Order or Contract; unless the Vendor had requested payments be made to a different address or a change thereto on an official company letterhead and signed by an authorized officer of the company which would not be in conflict with a court order. All payments will be net thirty (30) days from invoice date unless a discount is offered.

7. WARRANTY

Seller expressly warrants that all articles, materials, and work covered by this contract will conform to each and every specification, drawing, sample, or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable of good material and workmanship, and free from defect. Such warranty shall survive delivery and shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.

8. PATENTS

Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that it will, at its own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by City.

9. BANKRUPTCY OR INSOLVENCY

In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

10. COMPLIANCE OF APPLICABLE LAWS

The Seller warrants it has complied with all applicable laws, rules, and ordinances of the United States, or any State, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

11. INTERPRETATION OF CONTRACT AND ASSIGNMENTS

The contract shall be construed according to the laws of the State of Missouri. The contract, or any rights, obligations, or duties hereunder may not be assigned by Seller without City's written consent and any attempted assignment without such consent shall be void.

12. TERMINATION OF CONTRACT

The City reserves the right to terminate the contract at any time if any of the provisions of the contract are violated by the Contractor or by any of his Subcontractors, in the sole judgment and discretion of the City. In the event of such termination, the Contractor shall be liable for any excess costs incurred by the City. If the contract is so terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to those so terminated, and that the Contractor will be liable for excess costs occasioned thereby.

13. NON-DISCRIMINATION IN EMPLOYMENT

In connection with the furnishing of supplies or performance of work under this contract, the Contractor agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder.

14. EMPLOYMENT OF UNAUTHORIZED ALIENS

Contractor shall comply with R.S.M.O. 285.530 in that they shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of this contract, Contractor shall affirm, by sworn affidavit and provision of documentation, its compliance with R.S.M.O. 285.530 as well as its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services.

15. PROVISIONS BY LAW DEEMED INSERTED

Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.

16. PERFORMANCE BONDS

If required, as a condition for the award of a contract, the amount of a performance bond will be described in the Invitation To Bidders at the time of issuance. The performance bond must be issued for the amount specified by a surety company, or secured with a certified check, cash, or cashiers check. No personal or company checks are acceptable.

**CITY OF ST. JOSEPH PARKS RECREATION AND CIVIC FACILITIES DEPARTMENT
REQUEST FOR PROPOSAL
FOOD AND BEVERAGE CONCESSIONS AT THE ST. JOSEPH CIVIC ARENA**

Opportunity

The City of St. Joseph Parks Recreation and Civic Facilities Department invites qualified and experienced food service vendors to submit fee proposals to provide food and beverage concession services at the St. Joseph Civic Arena located at 100 North 4th Street, St. Joseph, MO 64501 during requested events.

Overview

The Civic Arena currently uses temporary labor to operate a full-service concession operation. The RFP is for a two-year lease, with an option of an additional two (2) year renewal, with a qualified vendor(s) as a private venture. The successful applicant will have the responsibility of providing unique, affordable, and appealing food products for sale to arena patrons during all normal event operations. The vendor will be given full use of the existing facility and all associated rights and privileges thereof in exchange for a negotiated fee.

By submitting a fee proposal, the respondent agrees in advance that if selected, he/she will enter into an agreement with the City of Saint Joseph, MO Parks Recreation and Civic Facilities Department prior to October 1, 2021 and will operate the awarded facility according to the terms and conditions outlined in the agreement for a minimum of two (2) years. The successful respondent shall perform the services in accordance with all applicable Federal, State, and local laws including, without limitation, all City of Saint Joseph, MO codes, ordinances, standards, and policies, as now existing or hereafter adopted or amended.

To qualify, the vending company must have at least (3) years of experience in the food service or restaurant industry.

Proposals

All proposals shall provide concise descriptions of the respondent's capabilities to satisfy the requirements of the request with an emphasis on previous experience, training, and customer satisfaction.

Proposals shall be delivered to City of Saint Joseph, MO Purchasing Department, Summer Deatherage, Purchasing Agent, 1100 Frederick Avenue, St. Joseph, MO 64501 by August 12, 2021 at 4pm. Proposals received after the deadline will not be opened and will automatically be rejected.

All proposals shall, at the minimum, include the following information:

- Company name, address, telephone number, and email address.
- Name of Company owner(s).
- Name and telephone number of primary contact person (if different than company contact information).
- Statement of qualifications including but not limited to: knowledge of and experience with food and beverage concession operations; number of years of experience in the food service or

restaurant industry; knowledge and demonstrated understanding of federal, state, and local food safety laws; demonstrated experience with personnel and business management and book keeping.

- Proposed fee (as a set percentage of the gross receipts, less sales tax, or a flat rate) to be paid to the City of Saint Joseph, MO Parks Recreation and Civic Facilities Department in exchange for use of the concession stand and exclusive operating rights.
- List of three (3) professional references, including names, addresses, and phone numbers.
- Copy of Certificate of Liability coverage or proof of insurance and amounts of coverage.
- Statement acknowledging conditions for lease as stated herein.
- Latest fiscal year financial statement.
- List of previous county health scores.
- State and Local food preparation/food safety certificates (mandated and non-mandated).
- Comprehensive list of proposed food, drink, and any other products to be sold as concessions, including proposed menu pricing.
- List of proposed vendor-supplied equipment to be brought on-site for use.
- Signature line, with the name and title of signatory, testifying as the accuracy of the information contained with the proposal.

All costs for developing proposals shall be borne by the applicant. All proposals become the property of the City of Saint Joseph, MO and are subject to the public disclosure laws.

An awarded contract cannot be sold, transferred, or given to anyone else without the approval of the City of Saint Joseph, MO Parks Recreation and Civic Facilities Department. The applicant who submits this proposal shall be the sole operator of the concession site that is awarded.

All questions must be directed in writing to Summer Deatherage, Purchasing Agent, sdeatherage@stjoemo.org no later than August 6, 2021.

Timetable

The City will use the following timetable resulting in the selection of the successful applicant on or before August 18, 2021:

July 25, 2021	Advertise for Request for Proposals
August 12, 2021	Proposals due by 4:00 P.M.
August 13, 2021	Select finalists for interviews (if needed)
August 16 - 17, 2021	Conduct interviews with finalists (if needed)
August 23, 2021	Recommend approval of a person or entity to the City Council

Selection Process

The City will identify a committee of City staff to participate in the review and analysis of proposals/qualifications. Staff will then determine the need for additional inquiries, document gathering and/or oral presentations. Once this process is completed, staff will notify the successful person or entity, finalize the details of the service agreement and submit the agreement to the City Council for approval. No contract or agreement is final without the approval of the City Council.

Instructions to Proposing Firms

(1) All proposals should be sent, including questions and comments, to:

Summer Deatherage, Purchasing Agent
City of St. Joseph, Missouri
1100 Frederick Avenue
Room 201
St. Joseph, MO 64501
(816) 271-5330

(2) All proposals/qualifications must be in a sealed envelope and clearly marked in the lower left corner: "Sealed Proposal – Concession and Restroom Facility Lease". Five (5) copies of the proposals/qualifications must be received on or before August 12, 2021 by 4:00 P.M. Proposals/qualifications received after this time will not be considered.

(3) The Director of Parks, Recreation, and Civic Facilities will notify the appropriate person(s) or organizations the City wishes to interview and will establish the time for those interviews, if necessary.

Events

The St. Joseph Civic Arena is a multi-use facility that includes events such as banquets, meetings, circus, basketball, bull riding, trade shows, conventions, training, wrestling, car shows, graduations, etc. Not all events require concession operations; however, most of the events do request some sort of concessions. The accepted applicant must be available for all requested events.

Conditions for Lease

The following stipulations will be integrated into the lease and service agreements as conditions upon award of contract. The applicant shall make him/herself aware of these conditions and factor them into preparation of the proposal submitted to the City of Saint Joseph, MO Parks Recreation and Civic Facilities Department.

The City of Saint Joseph, MO shall be responsible for all maintenance of the building's exterior, interior fixtures, fire suppression system, electrical, and mechanical for the Civic Arena equipment.

The concessionaire shall be responsible for all janitorial services and cleaning of City-owned equipment in accordance to mutually agreed-upon maintenance standards as well as pest control.

All proposed non-structural changes, alterations, and/or additions to the building or premise not required by building code shall be completed by the concessionaire at his/her expense with approval from the City.

Any mandated building code upgrade shall be provided by the City except for the addition and/or alteration of fire suppression equipment or electrical systems necessary for the expansion of food preparation, which shall be negotiated between the vendor and City.

Concessionaire shall be responsible for protection of City property including, but not limited to, loss or damage to structures, city land, and/or equipment arising from the Concessionaires negligence or that of their employees.

Concessionaire shall be responsible for keeping premises used clear of trash and debris during operating hours and must totally clear entire area prior to closing business for the day/evening.

Lease shall include full use of all utilities and all City-owned concession equipment.

Concessionaire shall maintain at his/her own expense, and adequate inventory of all products offered for sale.

All food, beverage, candy, and other products sold shall be of the highest applicable standard of quality. Prices shall be set by Concessionaire and be approved by the City of Saint Joseph, MO Parks Recreation and Civic Facilities Department prior to each renewal year. Price increases cannot exceed 10% in any given year and can only be granted by the City upon request.

The Concessionaire is responsible for maintaining a health inspection rating of at least 95% during all operating months and shall arrange for all start-up health inspections.

Concessionaire employees must be well groomed and presentable.

Concessionaire employees shall always maintain courteous and professional behavior. Customer service satisfaction will factor into consideration for annual renewals.

Concessionaire can market their services, but must coordinate with the City of Saint Joseph, MO and include City of Saint Joseph, MO Parks Recreation and Civic Facilities logo if requested.

Concessionaire staff may use a tip jar.

The contract may be terminated by either party, with ninety (90) days prior written notice. Notice shall be served under this contract by registered mail, certified mail or by personal delivery.

Failure of the vendor to abide by or fulfill the terms of a contract shall result in a performance penalty and may lead to the termination of the contract.

Current Concession Menu Items

***** Do not limit to these items only, feel free to expand the menu options *****

Bottled Water

Bottled Soda
 Sports Drinks
 Beer (not for all events-some events are alcohol free, for example, the circus)
 Mixed Drinks (generally only for banquets and concerts/bull riding events)
 Juices (generally for wrestling tournaments and some trade shows)
 Coffee
 Hot Dogs
 Polish
 Pizza (generally for wrestling tournaments)
 Tenderloins (generally for trade shows using main floor only)
 Hamburgers (generally for trade shows using main floor only)
 French Fries (generally for trade shows using main floor only)
 Onion Rings (generally for trade shows using main floor only)
 Biscuits and Gravy (generally for wrestling tournaments and floor trade shows)
 Breakfast Sandwiches
 Large Pretzels
 Nachos
 Chips
 Candy
 Popcorn
 Protein Bars (generally for wrestling tournaments, basketball)
 Fruit (generally for wrestling, gymnastics, cheer, trade shows)

Sample Event Schedule with Previous Attendance Figures (these are not guaranteed annually but most of these are annual events)

January	
Chamber Banquet (Bars Only)	950
Farm and Ag Show	8,000
Harlem Globetrotters	1,883
February	
Dog Show (concession stand plus catering for judges)	1,100
Liberty Nationals Youth Wrestling Tournament (big eaters after weigh-ins)	5,500
Boehringer Ingelheim Corporate Meeting (no concessions)	800
Antique Show	1,750
Gun Show	2,100
March	
MSHAA Basketball Sectionals and Quarterfinals (Tuesday and Friday games)	5,500
Chili Cookoff	1,100
Moila Shrine Circus	14,236
Food Trade Show (no concessions)	1,500
Car Show (concessions plus bar)	1,825
April	
Amped Up Bull Riding Finals (Friday and Saturday)	4,446
Children's Fair (no concessions)	1,500
Job Fair (no concessions)	500
Shop Small St. Joe	625

May		
	Mayor's Prayer Breakfast	825
	SJSD High School Graduations (no concessions)	6,064
June		
	Women of Excellence Luncheon (no concessions)	1,020
	Garden Brothers Circus	540
July		
	Crypticon KC (has moved to KC due to hotel-wants to come back)	6,700
August		
	Darcee's School of Dance Recital	750
	Catfish Tournament Banquet (with bar)	400
	Noyes Home Take A Seat Banquet	680
September		
	Military Ball (bar only)	400
	Job Fair (no concessions)	250
	Edge Factor – Chamber (no concessions)	2,500
	Pivotal Point Banquet	700
October		
	Tiny Tot Town (no concessions)	1,200
	Gun Show	1,750
	Holiday Mart	2,040
November		
	Small College Basketball	2,628
	Hillyard Classic Tip-Off	1,444
	Mayor's Thanksgiving Dinner (bar)	650
December		
	Shop Small St. Joe	250
	Gymnastics Tournament	2,000

***Due to COVID, 2020 was a very slow year with events; however, the 2021 Fall Season is actually looking much better than most fall seasons. We are currently working on a Globetrotters game, Moila Shrine Circus, a concert, and a Bull Riding event – all which typically only happen in the winter months. Our winter events are all excited to be back in 2022 as well. This is encouraging and can create a much larger revenue source for your fall season.

City of St. Joseph, Missouri
PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter, the “Agreement”) is made and effective as of the _____ day of _____, 20____, by and between the **City of St. Joseph, Missouri**, a Missouri municipal corporation (hereinafter, the “City”), and _____, located at _____ (hereinafter, the “Professional”).

That the parties hereto, for the considerations hereinafter set forth, agree as follows:

I. SCOPE OF SERVICES

Services are necessary for the following project or activity of the City:

Project

Except as expressly specified herein, Professional hereby agrees to provide all of the supervision, labor, technical services, materials, and to perform all the services and do all the things necessary for the proper completion of providing full-service concession operations at the St. Joseph Civic Arena located at 100 North 4th Street, St. Joseph, Missouri (as more specifically set forth in the attached **Request for Proposal (RFP)** and attached **Exhibit A**).

Description

The above services (hereinafter, the “Work”) shall be provided by the Professional in accordance with all the provisions of this Agreement and the **City of St. Joseph, Missouri, General Conditions** that are attached hereto and incorporated herein by reference, and which terms shall prevail over any conflicting terms that may otherwise be adopted herein as part of any attachment.

II. FEES

The Professional hereby agrees to pay the City, as full compensation for exclusive operating rights of the concessions at the St. Joseph Civic Arena:

- a monthly flat rate fee of _____, or
- a set percentage of the gross receipts at _____%, or
- such amount as is set forth on an attached **Exhibit A**, subject to any limits as established therein, in approving authorization, and in the general conditions.

III. TIME AND MANNER OF PAYMENTS

All monthly flat fees shall be submitted by the Professional, in full, to the City on the first day of each month. Percentage fees shall be due within twenty (20) days of the end date of the event for which they were collected.

IV. AGREEMENT TERM

A. Length: This Agreement shall be for a term of two (2) years (24 consecutive months), beginning on first day of the month after this Agreement is signed.

B. Renewal: This Agreement may be renewed for an additional two (2) year term after the initial two (2) year term has expired.

C. Early Termination: This Agreement may be terminated by either party by delivering a ninety (90) day written notice to the other party by registered mail, certified mail, or by personal delivery.

V. MISCELLANEOUS

A. Exhibits Incorporated. All exhibits and attachments referenced herein shall be deemed incorporated by reference.

B. Events Not Guaranteed. The Sample Event Schedule contained in the RFP is not a guaranteed schedule...the listed events may or may not occur, and if they do occur, attendance will vary.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the effective date first above written.

CITY OF ST. JOSEPH, MISSOURI (“CITY”)

By: _____

Title: City Manager

Attest:

By: _____

Title: _____

(“PROFESSIONAL”)

By: _____

Title: _____

Attest:

By: _____

Title: _____

**CITY OF ST. JOSEPH, MISSOURI
PROFESSIONAL/PROFESSIONAL SERVICES AGREEMENT
GENERAL CONDITIONS**

Independent Professional. The Professional shall be and operate as an independent Professional in the performance of this Agreement. The Professional shall have complete charge of the personnel engaged in the performance of the Work, and all persons employed by the Professional shall be employees of said Professional and not employees of the City in any respect.

Compliance with Laws. The Professional shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of the Agreement. If applicable, the provisions and requirements of section 290.250 R.S.Mo. shall apply and are incorporated herein. In the event of a conflict between laws, codes, and regulations of various governmental entities having jurisdiction over the Work, the Professional shall notify the City of the nature and impact of such conflict. The City agrees to cooperate with the Professional in an effort to resolve any such conflict.

Indemnification. Professional agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents, and employees from and against any and all liabilities, damages, losses, claims, or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from breach of the Agreement or out of services and operations negligently performed hereunder by the Professional, or claims relating thereto, and including, but not limited to the City's reliance on or use of the services or products provided by the Professional under the terms of this Agreement. The Professional shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required by law to enforce this provision, Professional agrees that this indemnification requires Professional to obtain insurance in amounts specified herein and that Professional has had the opportunity to recover the costs of such insurance in the Compensation set forth in this Agreement.

Insurance. Professional shall furnish the City the certificates of insurance for workers' compensation, general liability, and property damage, including automobile coverage in the amounts specified herein, before undertaking performance under this Agreement. The policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to the City. The City, and such additional persons and entities as may be deemed to have an exposure to liability as a result of the performance of the Professional's work, as determined by the City, shall be named as additional insured with duty of defense on all insurance policies required hereunder.

Professional agrees to secure and maintain for the periods set forth below, at Professional's sole cost and expense, the following insurance coverages in the form and in amounts not less than the amounts specified below:

- (a) Professional shall maintain at all times during the term of this Agreement and for a period of one (1) year, after date of completion of the Work, professional liability insurance covering claims arising out of the performance of the Work under this Agreement and for claims arising out of allegations of errors, omissions or negligent acts for which Professional may be liable, with a minimum policy limit of One Million Dollars (\$1,000,000.00) each claim/aggregate.
- (b) Professional shall maintain at all times during the term of this Agreement and for a period of one (1) year after date of completion of the Work commercial general liability insurance with a standard broad-form endorsement which shall protect Professional and the City, their agents, servants, employees, officers and consultants against claims in connection with or resulting from Professional's performance of this Agreement. Such insurance shall be endorsed to provide blanket contractual liability insurance and shall cover Professional's indemnity obligations contained in this Agreement, as well as other contractual liability. Such insurance shall have coverage with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000) general aggregate for bodily injury and property damage. If such insurance policy contains a general aggregate limit, it shall separately apply to the Work.

- (c) Professional shall maintain at all times during the term of this Agreement and for a period of one (1) year after date of completion of the Work business automobile insurance coverage for all owned, hired or non-owned vehicles utilized by Professional with minimum limits of coverage of a combined limit of not less than One Million Dollars (\$1,000,000.00) per occurrence.
- (d) Professional shall maintain at all times during the term of this Agreement an "all risk" property damage floater policy covering Professional's personal property and Professional's equipment, whether owned, leased or rented by Professional. In addition, Professional shall effect "valuable paper" coverage in an amount equal to the cost to reproduce or replace data, maps, drawings, specifications and any other materials relating to the Project.
- (e) Professional shall maintain at all times during the term of this Agreement insurance coverage for:
 - (1) Claims under workers' or workman's compensation with statutory limits, including Employers' Liability coverage with minimum limits of Five Hundred Thousand Dollars (\$500,000), disability benefit and other similar employee benefit laws;
 - (2) Claims for damages because of bodily injury, occupational sickness or disease or death of Professional's employees under any applicable employer's liability law; and
 - (3) Claims for damages for bodily injury, sicknesses or disease or death of persons other than Professional's employees.
- (f) Professional shall also provide and maintain any type of insurance not described above which it requires for its own protection or on account of statutes.

All insurance required hereunder, except for the professional liability insurance, shall provide that the insurer's cost of providing the insured(s) a defense and appeal, including attorneys' fees, shall be supplementary and shall not be included as part of the policy limits, but shall remain the insurer's separate responsibility. Professional shall cause its insurance carriers to waive all rights of subrogation against the City and its officers, employees and agents.

Professional's commercial general liability policy and business automobile liability policy, as set forth above, shall be endorsed to include the City as an additional insured. Further, Professional's "all-risk property damage policy" shall cover the City's interest in such property.

All insurance required shall be endorsed to be primary and not contributing with any other liability insurance available to the City.

All insurance required hereunder shall not be subject to a deductible amount on a per-claim basis of more than Ten Thousand Dollars (\$10,000.00) and shall not be subject to a per-occurrence deductible of more than Twenty-Five Thousand Dollars (\$25,000.00). Professional's comprehensive liability policy, business automobile liability policy and "all risk" property damage policy, as set forth above, shall be on an occurrence basis.

All insurance coverage procured by Professional, with the exception of workers compensation insurance coverage, shall be provided by insurance companies having policyholder ratings not lower than "A-" and financial ratings not lower than "VIII" in the Best's Insurance Guide, latest edition in effect as of the date of this Agreement and subsequently in effect at the time of renewal of any policies required hereunder.

The maintenance in full current force and effect of such terms and amounts of insurance shall be a condition precedent to Professional's exercise or enforcement of any rights under this Agreement.

Professional hereby waives all rights to assert any claim against the City with respect to any loss or damage howsoever caused to the extent any such loss or damage is covered by insurance including deductibles or self-insurance. Professional and its insurers hereby waive all rights of subrogation.

Nondisclosure. The Professional agrees that it will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Agreement. Nothing herein shall preclude disclosure of information by the City.

Nontransferable. This Agreement may not be transferred, sold, or otherwise given to any other entity without the written approval of the City.

Changes. No change in this Agreement shall be made except in writing executed by all parties prior to the change in the Work or terms being performed.

Termination. Either party may terminate the Agreement with delivery of a written, ninety (90) day notice to the other party. Professional shall be liable to the City for all payments that come due within the 90 day notice period. The City shall not be liable to the Professional for any damages on account of termination of Agreement for loss of anticipated future profits with respect to the remainder of the Work.

Accounting. During the period of this Agreement, the Professional shall maintain books of accounts of its expenses and charges in connection with this Agreement in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all information submitted hereunder by the Professional.

Request for Proposals. If the City issued a request for proposals in connection with the Work, such request for proposals and the proposal of the Professional in response thereto are incorporated herein by reference and made a part of this Agreement. In case of any conflicts between the request for proposals and the executed Professional/Services Agreement or proposal of the Professional, the requirements of the City's Request for Proposal and this executed Professional/ Services Contract shall control and supersede unless a change thereto is specifically stated in this Agreement (including **Exhibit A**).

Project Records and Work Product. The Professional shall provide the City with copies of all documents pertinent to the Work which shall include, without limitation, reports, correspondence, meeting minutes, and originals of all deliverables. The City shall own all rights, title, and interests, including without limitations, all copyrights and intellectual property rights, to all documents and Work Product of the Professional created in performance of or relating to this Agreement. Professional agrees to take all steps reasonably requested by the City to evidence, maintain, and defend the City's ownership rights in the Work Product.

Site Operations. Where appropriate, the City will arrange for right of entry to any property at the request of the Professional for the purpose of performing studies, tests, preparation and evaluations in connection with the Work.

Personnel. The Work shall be performed exclusively by the personnel of the Professional identified in the Professional's proposal and no other personnel of the Professional shall perform any of the Work without the express written approval of the City.

Compliance with State Immigration Statutes. As a condition for the award of this Agreement, the Professional shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Work. The Professional shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Work. Such affidavits shall be in substantially the form as that attached hereto. The Professional shall not be required to provide these affidavits to the City if such affidavits have been previously provided to the City within the past year. All words in this paragraph shall have the definitions as provided in Section 285.525 R.S.Mo.

Pursuant to Section 208.009 R.S.Mo., the Professional shall provide at the earlier of submission of any bid or execution of any agreement affirmative proof that the Applicant for the Professional is a citizen or a permanent resident of the United States or is lawfully present in the United States. The applicant for the Professional (or "Applicant") shall be the person authorized to prepare, submit, and sign contract documents on behalf of the Professional and shall be eighteen years of age or older. Such affirmative proof shall include documentary evidence recognized by the Missouri Department of Revenue when processing an application for a driver's license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States.

An Applicant who cannot provide the proof required under Section 208.009 R.S.Mo. at the time of submission of any bid may alternatively sign an affidavit under oath, attesting to either United States citizenship or classification by the United States as an alien lawfully admitted for permanent residence. The affidavit shall be on or consistent with forms prepared by the City, which shall be available from the City Clerk if needed. Any Applicant who signed an above-described affidavit must provide proof of lawful presence within the time provided in Subsection 208.009.5 R.S.Mo. for temporary public benefits and failure to provide such proof within such time may result in the City rescinding and voiding any Contract awarded to the Professional.

Representations. Professional agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Agreement. The parties agree the Agreement represents the entire agreement between the parties.

Governing/Choice of Law. This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws. The jurisdiction for any proceedings in court is agreed to be St. Joseph, Buchanan County, Missouri.

Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

Other Special Provisions. The special provisions set forth on Exhibit A are incorporated herein by reference, and made a part hereof.

**AFFIDAVIT OF PARTICIPATION IN
FEDERAL WORK AUTHORIZATION PROGRAM
(CONTRACTS OVER \$5,000)**

Comes now _____ as _____ first being duly sworn, on my oath,
(name) (office held)
affirm _____ (“Company”) is enrolled and will continue to participate in a federal work
(company name)
authorization program in respect to employees that will work in connection with the contracted
services related to _____ of the City of _____ and
any incidental items associated with this work for the duration of the contract, if awarded, in accordance
with
Section 285.530.2, Revised Statutes of Missouri. I also affirm that the Company does not and will not
knowingly employ a person who is an unauthorized alien in connection with the contracted services
for the duration of the contract, if awarded. Attached to this affidavit is documentation of the
Company’s participation in a federal work authorization program.

**(ATTACH DOCUMENTATION SHOWING THAT COMPANY PARTICIPATES IN FEDERAL
WORK AUTHORIZATION PROGRAM. ALSO ATTACH DRIVER’S LICENSE OR OTHER
PROOF OF LAWFUL PRESENCE, AS PROVIDED IN THE GENERAL CONDITIONS – 208.009
RSMo.)**

*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 § 575.040 RSMo).*

Signature (person with authority)

Printed Name

Title

Date

State of Missouri)

) ss.

County of _____)

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

My commission expires:

Notary Public

EXHIBIT A

(Attach hereto a copy of the Request For Proposal, the Professional's Answers thereto, and any other information pertinent to the Agreement.)

SAMPLE