

**REQUEST FOR QUALIFICATIONS/PROPOSALS
FOR DESIGN PROFESSIONAL SERVICES CONTRACT
FOR PROJECT NO. AFMP2022
SLBE AQUATICS FACILITIES MASTER PLAN 2022
PARKS AND RECREATION DEPARTMENT
CITY OF KANSAS CITY, MISSOURI**

SMALL LOCAL BUSINESS ENTERPRISE (SLBE) PROJECT

This RFQ/P is limited to those entities that are certified by the City as Small Local Business Enterprise (SLBE) or that have applied for certification as a SLBE at least 45 days prior to the date of this solicitation and who will have received that certification by the date on which the response is due. Any response received from any entity not having submitted a timely application or not certified as a SLBE on the due date shall be rejected and will not be considered.

1. PURPOSE

The City of Kansas City, Missouri (“City”) invites you to submit a proposal for an Aquatics Master Plan.

2. DUE DATE FOR PROPOSALS

Proposers shall submit Proposals to the **City Contact Person** listed in Section 3 by 3:00 p.m. (CT) on April 1, 2022.

3. PROPOSAL SUBMISSION AND QUESTIONS

- (a) Submissions and Questions. Proposers shall submit their Proposal and any questions or issues about any aspect of this RFQ/P to the following City Contact person:

Doug Schroeder
Parks and Recreation Administration Building,
4600 E 63rd Street, Kansas City, Missouri 64130
Office: (816) 513-7650
E-mail: douglas.schroeder@kcmo.org

- (b) Question Deadline

- (1) Proposers may submit written questions, request clarifications or provide notice to the City of any ambiguities, conflicts, mistakes, errors or discrepancies that Proposer has discovered in the RFQ/P, the Standard City Contract, Scope of Services and any other solicitation document at any time until one (1) week prior to the due date for proposals.

(2) The City will answer all inquiries by any Proposer in writing. If any inquiry results in a change in the RFQ/P, the City will issue an Addendum and the Addendum will be posted on the City’s website. It is the responsibility of Proposers to check the City’s website for addenda. www.kcmoplanroom.org and www.kcmo.gov.

(c) Questions - Post Deadline

If a Proposer discovers any ambiguities, conflicts, mistakes, errors or discrepancies in after the deadline for questions and clarifications or after the proposal due date, Proposer shall immediately submit the ambiguity, conflict, mistake, error or discrepancy to the City Contact. The City, in its sole discretion, shall determine the appropriate response to any issue raised by any Proposer.

4. DEFINITION OF “REQUEST FOR QUALIFICATIONS/PROPOSALS” AND “PROPOSAL”

(a) This Request for Qualifications/Proposals (“RFQ/P” or “solicitation”) is an invitation by the City for Proposers to submit an offer, which may be subject to subsequent discussions and negotiations by the City and the Proposer. It is not a request for a competitive bid.

(b) “Proposal” means any document, submittal, interview, presentation, discussion, negotiation, and everything and anything provided in response to this RFQ/P regardless whether the submission is an oral or written submission.

(c) By submitting a proposal to the City, Proposer agrees that the Proposer does not obtain any right in or expectation to a contract with the City or a vested interest or a property right in a contract with the City regardless of the amount of time, effort and expense expended by Proposer in attempting to obtain a written executed contract with the City that complies with Section 432.070, RSMo, the City Charter and City ordinances.

5. ESTIMATED SCHEDULE

03/25/2022	Deadline for questions
04/01/2022 at 3:00 pm	Due Date for Proposals

The listed dates in the “Estimated Schedule” are tentative. The City reserves the right to change or extend any and all dates including the due date for proposals for any reason at any time including after the due date for proposals.

6. RFQ/P DOCUMENTS

This RFQ/P consists of the following documents:

- (a) This RFQ/P
- (b) Scope of Services
- (c) Standard City Contract

7. EXAMINATION OF ALL RFQ/P DOCUMENTS AND REQUIREMENTS

- (a) Each Proposer shall carefully examine all RFQ/P documents and thoroughly familiarize themselves with all RFQ/P requirements prior to submitting a proposal to ensure that Proposer's Proposal meets the intent of this RFQ/P.
- (b) Before submitting a Proposal to the City, each Proposer shall make all investigations and examinations that are necessary to ascertain any and all conditions and requirements that affect the performance and delivery of the goods and services (hereinafter "the Services") requested by this RFQ/P. Failure of a Proposer to make such investigations and examinations shall not relieve the Proposer from Proposer's obligation to comply, in every detail, with all provisions and requirements of the RFQ/P.
- (c) By submitting a Proposal to the City, Proposer certifies that Proposer has provided the City with written notice of all ambiguities, conflicts, mistakes, errors or discrepancies that Proposer has discovered in the RFQ/P, the Standard Contract, Scope of Services and any other document. By executing a Contract with the City, Proposer certifies that Proposer communicated to City all ambiguities, conflicts, errors or discrepancies that it has discovered in the RFQ/P, the Proposed Contract, Scope of Services and any other document and that written resolution thereof by the City as embodied in the final Contract is acceptable to Proposer.

8. SUBMISSION OF PROPOSALS

All proposal documents should be submitted in the exact order as listed in the City RFQ/P.

- (a) Where. Proposers shall submit their Proposals to the **City Contact Person** listed in Section 3. Proposers shall address their Proposal to the City Contact Person and shall state on the outside of the sealed Proposal envelope the following information: the RFQ/P No. and Title, Due Date and Time, and Name of the Proposer's Business/Firm.
- (b) No. of Copies. Proposers shall submit one (1) signed original, 5 (five) copies of their Proposal, and one (1) copy on a CD in Microsoft Word/Excel format or on a flash drive.
- (c) Format. **In order to assure uniformity of the Proposals and to facilitate the evaluation process, all Proposals shall be organized and their parts labeled with tabs, as shown in Section 9.** Each Proposal shall be presented in 12-point font, such as Times New Roman or Arial, on 8-1/2" x 11" paper, double sided. As

part of the City's green initiatives, Proposers shall limit all excess paper, division tabs, folders, etc., so the Proposals are as eco-friendly as possible.

- (d) Additional Materials. The Proposal may also 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. Attachments should clearly indicate on each page the paragraph in the Proposal to which they pertain.

9. CONTENT OF PROPOSAL. Your proposal should include the following:

9.1 Proposal Part I – Business/Firm Profile and Legal Structure

- Legal Name, address, phone, fax, e-mail, Federal ID#, and website address.
- Brief history of business/firm including date the business/firm was established under the current name.
- List all services provided by the business/firm.
- Number of total employees including number of total employees in Kansas City, Missouri and number of employees in Greater Kansas City Area.
- Has the business/firm ever failed to complete work for which a contract was issued? If yes, explain the circumstances.
- Are there any civil or criminal actions pending against the business/firm or any key personnel related in any way to contracting? If yes, explain in detail. Are there any current unresolved disputes/allegations?
- Provide a brief history of the business/firm's contractual litigation, arbitration, and mediation cases for the last five (5) years that are material and relevant to this contract.
- Has the business/firm ever been disqualified from working for the City or any other public entity? If yes, explain the circumstances.

9.2 Proposal Part II – Experience

- 00410.01 Experience and Reference Form.
- Include a list of Three (3) most relevant or comparable contracts completed by your business/firm during the past three (3) years.
- Provide a list of all public contracts entered into for the last three (3) years. Include the dollar amounts, summary of scope of services, contract terms, Public Owner's contact person, e-mail address, cell phone number and telephone number.

9.3 Proposal Part III – Personnel

- Please provide your staff capacity for meeting the City's requirements.
- Identify the Key Employees who are likely to be assigned to this contract if your proposal is selected. [NOTE: Key Employee(s) must be committed to the contract duration and may not be removed or substituted without the City's prior written consent.]

- For each of the Key Employee(s), provide a resume and/or summary with at least the following background information:
 - a. Description of relevant experience.
 - b. Years of employment with the business/firm.
 - c. City and State of residence.
 - d. State time commitment on other accounts.
 - e. Applicable professional registrations, education, certifications, and credentials.
- Please comment on the ability of your business/firm to sustain the loss of Key Employee(s).
- Provide a staffing plan for the contract including the locations of the positions.
- Provide an organizational chart for the assigned staff.

9.4 Proposal Part IV - Project Approach

- Discuss your understanding of the project scope and objectives.
- Discuss your approach to a project with specific references to the services requested in the RFQ/P.
- Describe your Quality Assurance Plan.
- State approximate date your business/firm is available to begin work on the Project.

9.5 Proposal Part V - Sustainability

Include a concise summary of your company's policies, strategies, and actions that demonstrate your philosophy and commitment to sustainability. The City has adopted an overall policy supporting a greater use of "green solutions" or enhanced sustainability measures that consider environmental quality, social equity and economic vitality. In order to minimize waste, enhance efficiencies, and achieve multiple benefits and project synergies, all City projects must identify opportunities for sustainability improvements and implement those improvements when financially reasonable and operationally practical.

- Describe how your Proposal will address the established City policies referenced in this RFQ/P specific to the project or service on which you are proposing.
- Incorporate sustainability and efficiency into the planning, design, construction, operation and maintenance of the project. Highlight each component of the project that you feel deserves consideration in this context, and demonstrate how sustainability and efficiency are integrated into the project.
- If it is not possible to comprehensively integrate significant sustainability measures, then highlight elements you feel deserve consideration in this context.

10. EVALUATION CRITERIA

- (a) 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. Evaluation scores or ranks do not create any right in or expectation to a contract with the City regardless of any score or ranking given to any Proposer by the City. In other words, even if the City gives a Proposer the highest rank and highest score, the Proposer still has no expectation of a contract with the City and the City may choose to contract with any other Proposer regardless of the score or rank of the other Proposer.
- (b) The City may change criteria and criteria weights at any time including after the due date for proposals.

11. INTERVIEWS

The City, in its sole discretion, may interview none, one, some or all of the Proposers who submit proposals.

12. DISCUSSIONS AND NEGOTIATIONS

The City, in its sole discretion, may do any or all of the following:

- (a) evaluate Proposals and award a contract with or without presentations, discussions or negotiations with any or all of the Proposers;
- (b) discuss and negotiate anything and everything with any Proposer or Proposers at any time;
- (c) request additional information from any or all Proposers;
- (d) request a Proposer or Proposers to submit a new Proposal;
- (e) request one or more best and final offers from any or all Proposers;
- (f) accept any Proposal in whole or in part;
- (g) require a Proposer to make modifications to their initial Proposals;
- (h) make a partial award to any or all Proposers;
- (i) make a multiple award to any or all Proposers;
- (j) terminate this RFQ/P at any time and reissue an amended RFQ/P or new RFQ/P.

13. PROPOSAL MUST REMAIN FIRM IRREVOCABLE OFFER TO CITY FOR 90 DAYS

- (a) By submitting a proposal to the City, Proposer agrees that Proposer's Proposal shall constitute a firm irrevocable offer to the City that Proposer shall not withdraw or modify without the City's approval for ninety (90) days after the proposal due date. Proposer agrees that even if the City negotiates or makes a counter offer to Proposer on Proposer's original Proposal or any subsequent Proposal submitted by Proposer to the City, Proposer hereby grants to the City, in the City's sole discretion, the unconditional right for the City to accept Proposer's original Proposal and the City's negotiation or counter offer shall not be deemed to be a counter offer.
- (b) After ninety (90) days, the City can accept any proposal or subsequent proposals from any Proposer with the consent of the Proposer at any time and regardless of the length of time that has passed from the proposal due date.

14. SELECTION

The City will select the proposal that in the City's sole judgment the City determines to be the best Proposal. Section 432.070, RSMo requires the City to have a written executed contract signed by both parties prior to anyone performing services or providing any goods, supplies, materials or equipment to the City. The written executed contract must also comply with the City Charter and City Ordinances.

15. REJECTION OF PROPOSALS

The City reserves the unconditional right to reject any or all proposals received in response to this RFQ/P at any time prior to the City executing a contract that meets the requirements of Section 432.070, RSMo, the City Charter and all applicable City Ordinances.

16. WAIVER OF ORDINANCES, REGULATIONS AND RFQ/P REQUIREMENTS

Pursuant to Section 3-35, City Code of Ordinances, the City, at any time, may waive any requirements imposed in this RFQ/P or by any City ordinance or regulation.

17. LATE PROPOSALS

The City, in its sole discretion, may consider proposals received by the City after the proposal due date if: (1) the proposal is sent via the U.S. Postal Service, common carrier or contract carrier, by a delivery method that guarantees the proposal will be delivered to the City prior to the proposal due date; or (2) if the proposal is submitted by mail, common carrier or contract carrier it is determined by the City that the late receipt was due to the U.S. Postal Service, common carrier or contract carrier; or (3) the proposal is timely delivered to the City, but the proposal is at a different City location than that specified in this RFQ/P; or (4) the City extends the due date after the deadline for a force majeure event that could potentially affect any or all Proposers meeting the deadline; or (5) the City has not opened any of the proposals; or (6) it is in the best interest of the City to accept the proposal.

18. CHANGES IN THE RFQ/P

- (a) After this RFQ/P is issued, the City, in its sole discretion, may change everything or anything contained in this RFQ/P. The City will notify Proposers of all material changes.
- (b) If the City shall amend the RFQ/P after the proposal due date, the City may, in its sole discretion, solicit new proposals in an amended RFQ/P from anyone or everyone regardless whether a person submitted a proposal in response to the original RFQ/P.

19. CHANGES IN EXECUTED CONTRACT AND ADDITIONAL WORK

- (a) After the City executes a contract in accordance with the requirements of Section 432.070, RSMo, the City Charter and City Ordinances, the City may, in its sole discretion, amend the contract to change anything or everything associated with the contract as long as such change is in the interest of the City and as long as the Contractor agrees to the change.

- (b) The City, in its sole discretion, may award additional contracts for related work or subsequent Project phases to the selected Contractor.
- (c) The City, in its sole discretion, may extend the term of the contract with the selected Contractor notwithstanding the expiration of the initial term or any subsequent term or all options to renew, until the City has a new contract in place with either Proposer or another provider or until the City terminates the Contract.

20. PROPOSER SOLELY RESPONSIBLE FOR ALL COSTS

Regardless of the amount of time, effort, cost and expense incurred by a Proposer in Proposer's attempt to win this City contract, Proposer agrees that Proposer shall be solely responsible and liable for any and all costs incurred by Proposer. The City shall have no liability or responsibility for any of Proposer's costs or expenses.

21. OWNERSHIP OF PROPOSALS

By submitting its Proposal, Proposer hereby agrees that Proposer's Proposal and any supplementary material submitted by the Proposer shall become property of the City.

22. DISCLOSURE OF PROPRIETARY INFORMATION

- (a) A Proposer may attempt to restrict the disclosure of scientific and technological innovations in which the Proposer has a proprietary interest, or other information that is protected from public disclosure by law, which is contained in the Proposal by:
 - 1. marking each page of each such document prominently in at least 16 point font with the words "Proprietary Information";
 - 2. 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
 - 3. 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.
- (b) After either a contract is executed pursuant to the RFQ/P, or all submittals 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.
- (c) If the Proposer elects to challenge a formal request for such information made to the City and if the Proposer is unsuccessful in keeping such information closed, the Proposer shall pay for any and all costs, attorney fees and fines that are a result of Proposer's attempt to keep the information closed.
- (d) 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. The City shall have no liability to any Proposer or anyone else for releasing any Proprietary Information of a Proposer even if the City is negligent in releasing or disclosing any Proprietary Information of any Proposer.

23. CLOSED RECORDS

All Proposals including interviews, presentations and documents, and meetings relating thereto may remain closed records or meetings under the Missouri Sunshine Law until a contract is executed or until all Proposals are rejected by the City. If the City amends this RFQ/P, Proposals submitted in response to the original RFQ/P may remain closed records until a contract is executed or all proposals submitted in response to the amended RFQ/P are rejected. Proposals shall remain closed records even if the City mistakenly informs all Proposers that it is rejecting any and all Proposals prior to amending the RFQ/P as long as the City intends to amend the RFQ/P and resolicit Proposals.

24. PROHIBITED ACTIVITIES BY FORMER CITY EMPLOYEES AND OFFICIALS

Section 2-2044 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 2-2044. Failure to comply with the requirements of Section 2-2044 may cause the Proposal to be rejected.

25. ADA STANDARDS

It is the policy of the City and required by law that any new or renovated facility meet the scoping and technical requirements of the 2010 ADA Standards for newly designed and constructed or altered local government facilities, public accommodations, and facilities. The selected Design Professional shall design the project so it conforms to the 2010 ADA Standards, as applicable and as amended from time to time, and is readily accessible to and usable by individuals with disabilities. The City will make available to the selected Design Professional the City's ADA Compliance Manager, who can facilitate interaction with advocates in the disability community.

26. CONTRACT INFORMATION MANAGEMENT SYSTEM

The selected Design Professional may be required to use City's Internet web based Contract Information Management System/Project Management Communications Tool provided by City and protocols included in that software during the term of this Contract. The selected Design Professional shall submit user applications to City's provided Contract Information Management System for all personnel, subcontractors or suppliers as applicable.

27. Leadership in Energy and Environmental Design (LEED)

It is the policy of the City that the design, construction, and operation of new facilities of any size and renovations in which the facility affected has at least 5,000 square feet of

space, for which the city issues a request for qualifications for design services or conducts such services itself, shall conform to the Gold rating or higher of the most recent version of the U.S. Green Building Council (USGBC) LEED Green Building Rating System. The selected Design Professional shall design the Project so it conforms to the LEED Gold Standard desired by the City and shall submit any necessary documentation to the USGBC for its independent third-party review process and certification.



For persons with disabilities needing reasonable accommodations please contact the City's ADA Specialists, Ekiasha Ruff at 513-6538 or Jean Ann Lawson at 513-6566. If you need to use the Relay Service, dial 711.

REQUEST FOR PROPOSALS NO. AFMP2022

SCOPE OF SERVICES

1. SERVICES TO BE PERFORMED

To inventory and analyze all KCMO Parks aquatic facilities, prepare a facility assessment report, and prepare a Master Plan to guide current and future decisions for all aspects of all KCMO Parks aquatics facilities.

Task 1 – Facility Assessment

1.1 Consultant will be responsible for establishing liaison with the City of Kansas City, Missouri Parks and Recreation Department (City) staff for a Kickoff Meeting to accomplish the following:

- A. Establish a project schedule and tentative dates for two (2) Public Meetings and three (3) Staff Meetings and one (1) Final Report Meeting. The City will provide the consultant with names and addresses of its members.
- B. To briefly discuss Staff involvement in the design of the survey questionnaire.
- C. To collect all requested data and information necessary to begin the evaluation and facility assessment process.
- D. To identify liaisons on the consultant team and City staff to coordinate communication.

1.2 The consultant will provide services to assess the existing condition of all KCMO Parks aquatic facilities. Those facilities are:

- 1. Budd Pool
- 2. Gorman Pool
- 3. Swope Pool
- 4. Line Creek CC Pool
- 5. Brush Creek CC Pool
- 6. Grove Pool
- 7. Arbor Villa Pool
- 8. Ashland Square Pool
- 9. West Terrace Pool
- 10. The Springs Aquatic Center
- 11. The Bay Water Park
- 12. Tony Aguirre CC Pool
- 13. Gregg/Klice CC Pool
- 14. Southeast CC Pool

15. Blue Valley Park Spray Park
16. Central Park Spray Park
17. Garrison Square Spray Park
18. Gregg/Klice CC Spray Park
19. Harmony Park Spray Park
20. Loose Park Spray Park
21. Douglass Playground Spray Park
22. Lykins Square Spray Park
23. Sunnyside Park Spray Park
24. Longview Tract Spray Park
25. Spring Valley Park Spray Park
26. Gillham Park Spray Park
27. Seven Oaks Spray Park

- A. Examination and preparation of commentary on existing conditions aquatic facilities including:
1. Pool structures and finishes.
 2. Recirculating systems, piping fittings and valves.
 3. Filtration system, mechanical and overflow recovery systems.
 4. Water chemistry treatment systems.
 5. Pumps, flow meters, gauges and controls, etc.
 6. Deck equipment.
- B. Examination and preparation of a general commentary on support spaces including the bather preparation area and equipment areas.
- C. Examination and preparation of an overview commentary on the existing condition of the outdoor systems including:
1. Deck surface – deck drainage.
 2. Planting beds and turf areas.
 3. Fencing and gates.
 4. Parking lots.
 5. Sidewalks.
 6. Interior coatings.
 7. Climate control.
 8. Pool water heating.
 9. Overhead lighting / illumination, emergency lighting.
 10. Light fixture / ballast suspension system.
 11. Doors and door frames.
 12. Accessibility provisions – ADA compliance.
 13. Codes and standards.
- D. Preparation of a specific commentary on any necessary repairs, replacement, or restoration of the pool systems, including identification of

any equipment and/or issues requiring more intensive evaluation and analysis.

- E. Submit a written, line item, cost estimate for each pool system and/or issue and recommend priority of renovation or replacement of pool systems, (i.e., remedial, long range, etc.)
- F. Make recommendations on renovation or closing existing facilities and discuss options for improving the maintenance and operation including maximizing revenue potential.

1.3 Services to be provided by City staff will primarily consist of furnishing all available data for each facility including:

- A. A written report, or copy of staff report, on existing construction or equipment problems on on-going maintenance problems. Note: The items in the staff report will constitute the primary focus of the survey/audit study.
- B. Original construction plans and specifications and/or subsequent construction documents for repair, renovation, replacement, etc.
- C. Operating and maintenance manuals.
- D. Shop drawings or other submittal data from the original construction or from subsequent construction.
- E. Submittal data or manufacturers data on equipment installed.
- F. A written report, or copy of staff reports, on recent work completed on the pool.
- G. A copy of any reports from regulatory agencies listing deficiencies in the facility.
- H. A copy of any accident reports or a list of perceived safety hazards to the user or staff.
- I. A "Wish List" for features or changes desired in the facility. This list could be accommodated in a stage-progression and allowances made in any plans for future work.
- J. Cost estimates and/or proposals recently received for renovation or replacement work.
- K. All current contracts relating to pool management.

- L. Current staffing requirements for all facilities.
 - M. Current programming offered at all facilities.
 - N. Participation data for all facilities.
 - O. Financial records for all facilities.
 - P. Any survey information available.
- 1.4 The first of three (3) steering committee / staff meetings will be held to review the information gathered during the execution of this task and a report of findings will be prepared with comments included.

Task 2 – Operations and Facility Maintenance Assessment

- 2.1 Examination and preparation of commentary on existing operations management and facility maintenance management of the aquatic facilities including:
- A. Commentary on current management, including operations and programming, practices, and opinions on how to improve the current system not excluding bringing all management practices back to parks staff.
 - B. Commentary on current maintenance practices, and opinions on how to improve the current system.
 - C. Financial analysis of all facilities including a commentary on how to improve cost recovery.
 - D. Analysis and review of participation and survey data.

Task 3 – Final Master Plan

- 3.1 The consultant will facilitate the second of two public meetings to address how needs and concerns identified during the planning and evaluation phase have been dealt with. Using the conceptual plans developed during the needs assessment and evaluation process, a final preliminary aquatic facility master plan will be presented. The final plan will then be drawn to include comments/revisions from City staff.

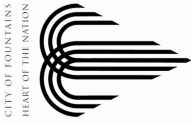
Task 4 – Opinion of Probable Construction Costs

- 4.1 An Opinion of Probable Construction and Repair Costs will be prepared for the pools and buildings evaluated. Recent project bid figures of the entire projects will be used as well as national estimating guides and local cost adjustment factors.

The “hard construction cost” figures will be supplemented by a development cost, which will include such “soft” costs as professional fees, survey, geotechnical report, document reproduction, advertisement for bids and all anticipated expenses related to the project. The sum of these two cost figures will be the total project cost so that the City will have a comprehensive overview before making an informed decision about each project.

Task 5 – Final Report and Deliverables

- 5.1 At the conclusion of Tasks 1 through Tasks 4, a final presentation will be made to the Board of Parks and Recreation Commissioners.
- 5.2 Seven (7) copies of the Final Report will be in three ring binders. Also, an electronic original copy of the report will be furnished.



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.				
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DESIGN PROFESSIONAL SERVICES AGREEMENT
PROJECT NO. AFMP2022
SLBE AQUATICS FACILITIES MASTER PLAN 2022
PARKS AND RECREATION DEPARTMENT

This design professional services agreement is between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation (“City”), and _____ (“Design Professional”). City and Design Professional agree as follows:

PART I
SPECIAL TERMS AND CONDITIONS

Sec. 1. Project description.

- A. The services to be provided under this Agreement are for the following project (Project) and purpose:

Sec. 2. Services to be performed by Design Professional. Design Professional shall perform the following Scope of Services:

- A. *(List Scope of Services)*
- B. Submit all documents, including plans, design drawings, specifications, reports, maps, models and renderings in the form requested by City. A list with the specific requirements is included in **Attachment _____**.
- C. City shall have the right to inspect and review the work being done and to consult with Design Professional at any reasonable time. Conferences will be held at the request of City or Design Professional.
- D. If it is determined to be in the best interest of the work, Design Professional shall replace the project manager or any other employee of the Design Professional, Subcontractors, Suppliers or other persons or organizations performing or furnishing any of the work on the project upon written request by the City.
- E. City’s General Conditions shall be furnished to Design Professional prior to signing this Agreement. If the General Conditions are modified, City will notify Design Professional. If the Scope of Services performed by Design Professional under this Agreement includes construction phase services, then Design Professional shall perform such additional tasks set forth in the General Conditions, including approval of Change Orders, and shall comply with the limitations set forth in the General Conditions, except as otherwise amended.

Sec. 3. Term. Unless sooner terminated as provided herein, and unless specific dates for providing services are identified in this Agreement, this Agreement shall remain in force for a period which may reasonably be required for the completion of the services to be provided by Design Professional under the Scope of Services. Work under this agreement shall begin upon written Notice to Proceed.

Sec. 4. Compensation and Reimbursables.

- A. The maximum amount that City shall pay Design Professional under this Agreement is \$ _____, as follows:

1. \$ _____ for the services performed by Design Professional under this Agreement.
2. For Design Professional services described in the Scope of Services, City shall pay Design Professional compensation amounting to actual salary of personnel for time charges directly to the project, times an approved multiplier. The multiplier to be used is _____. A schedule of position classifications and the salary range for each position is included as a part of **Attachment** _____.
- a. Actual reasonable expenses incurred by Design Professional directly related to Design Professional's performance under this Agreement, to include only the following, in an amount not to exceed \$_____. The following are the reimbursable expenses that City has approved: \$_____.
- b. City is not liable for any obligation incurred by Design Professional except as approved under the provisions of this Agreement.
3. Method of Payment.

B. Design Professional shall invoice City _____ setting forth the total effort expended on an hourly basis and all actual reasonable expenses incurred and allowed under this Agreement. City, upon approving the invoice, shall remit payment.

OR

C. **Method of Payment.** Upon completion of each task set forth below Design Professional shall invoice City, stating completion of the task and all actual reasonable expenses incurred and allowed under this Agreement and the amount due. City, upon approving the invoice, shall remit payment.

D. \$ _____ upon completion of _____.

OR

E. **Method of Payment.** Upon completion of the services performed under the Agreement Design Professional shall invoice City, stating completion of the services and all actual reasonable expenses incurred and allowed under this Agreement and the amount due. City, upon approving the invoice, shall remit payment.

F. \$ _____ upon completion of _____.

OR

G. **Method of Payment.** Design Professional shall invoice _____ for actual services performed under this Agreement and all actual reasonable expenses incurred and allowed under this Agreement. Upon approving the invoice, City shall remit \$ _____ plus the amount of approved actual reasonable expenses.

H. Condition Precedent to Payment.

I. It shall be a condition precedent to payment of any invoice from Design Professional that Design Professional is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Agreement. If

damages are sustained by City as a result of breach or default by Design Professional, City may withhold payment(s) to Design Professional for the purpose of set off until such time as the exact amount of damages due City from Design Professional may be determined, and

- J. No request for payment will be processed unless the request is in proper form, correctly computed, and is approved as payable under Agreement. City is not liable for any obligation incurred by Design Professional except as approved under the provisions of this Agreement.
- K. 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.
- L. City may pre-pay Contractor _____% of the Contract amount without Contractor having to submit a request for payment.

Sec. 5. Notices. All notices required by this Agreement shall be in writing and sent to the following:

City:

Parks and Recreation Department

Chris Cotten, Director:

Address: 4600 East 63rd Street,

Kansas City, MO 64130

Phone: (816) 513-7500

E-mail address: christopher.cotten@kcmo.org

Design Professional:

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 (3) business days after the date of mailing, whichever is earlier.

Sec. 6. Merger. This Agreement 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 Agreement, including any Attachments and incorporated documents, constitutes the entire agreement between City and Design Professional with respect to this subject matter.

Sec. 7. Conflict Between Agreement 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 Agreement, Part I will be controlling.

Sec. 8. Responsibilities of City. City shall:

- A. Make available to Design Professional all existing records, maps, plans, and other data possessed by City when such are necessary, advisable, or helpful to Design Professional in the completion of the work under this Agreement.
- B. If required or upon recommendation of Design Professional, retains the services of a soils/geotechnical consultant.
- C. Designate in writing a person to act as City representative with respect to the work to be performed under this Agreement; with such person having complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to the materials, equipment elements and systems pertinent to the work covered by this Agreement, and the responsibility to be available to inspect and review the work and to consult with Design Professional at any reasonable time.
- D. Provide standard City forms as required.
- E. Provide City – Licensed Geographical Information System Data set forth in **Attachment ___**, incorporated into this Agreement.

Sec. 9. Attachments to Part I. The following documents are attachments to Part I of this Agreement and are attached hereto and incorporated herein by this reference:

Sec. 10. Documents Incorporated by Reference. The following documents are not attached to this Agreement but are incorporated into and made a part of this Agreement by this reference:

A.

Sec. 11. Subcontracting. Design Professional agrees that it will only subcontract with the subcontractor(s) it has listed on the "Subcontractor List Non-Construction."

Sec. 12. Deletions to Part II, Standard Terms and Conditions. The following sections of Part II, Standard Terms and Conditions, of this Agreement are hereby deleted:

A.

Sec. 13. Replacements to Part II, Standard Terms and Conditions. The following section(s) of Part II, Standard Terms and Conditions of this Agreement are hereby deleted and in lieu thereof, the following are hereby inserted:

A.

Sec. 14. Replacement to Part II, Standard Terms and Conditions, Section 3, Insurance.

- A. Section 3, Paragraph A.1 of Part II, Standard Terms and Conditions of this Agreement is hereby deleted and in lieu thereof, the following is inserted:
- B. Commercial General Liability Insurance: with limits of \$3,000,000 per occurrence and \$3,000,000 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 \$3,000,000

- c. No Contractual Liability Limitation Endorsement
 - d. Additional Insured Endorsement, ISO form CG20 10, or its equivalent
- C. Section 3, Paragraph A.3, of Part II, Standard Terms and Conditions of this Agreement is hereby deleted and in lieu thereof, the following is inserted:

(1) Commercial Automobile Liability Insurance: with a limit of \$3,000,000 written on an “occurrence” basis, covering owned, hired, and non-owned automobiles. If the Design Professional owns vehicles, coverage shall be provided on an “any auto” basis. If the Design Professional does not own any vehicles, coverage shall be provided on a “hired autos” and “nonowned autos” basis. The insurance will be written on a Commercial Business Auto form, or an acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Agreement, by Design Professional.

- D. Section 3, Paragraph A.4, of Part II, Standard Terms and Conditions of this Agreement is hereby deleted and in lieu thereof, the following is inserted:

1. Professional Liability Insurance with limits Per Claim/Annual Aggregate of \$ _____.

Sec. 15. Contract Information Management System. Design Professional shall comply with City’s Contract Information Management System requirements. Design Professional shall use City’s Internet web based Contract Information Management System/Project Management Communications Tool provided by City and protocols included in that software during the term of this Contract. Design Professional shall maintain user applications to City’s provided system for all personnel, subcontractors or suppliers as applicable.

Sec. 16. Incorporation of Federal/State Laws and Regulation. Design Professional 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 Agreement. The federal/state laws and regulations applicable to the use of funds provided under this Agreement including, but not limited to, those included in **Attachment** ____ are incorporated and made a part of this Agreement by reference. Design Professional agrees that it is its responsibility to obtain and familiarize itself with those laws and regulations. All laws and regulations incorporated into this Agreement shall include all subsequent amendments.

Sec. 17. Professional services certification. Code Section 2-83, prohibiting Agreements with certain attorneys, architects, engineers and other professionals thereunder, shall apply to this Agreement. Design Professional certifies that it is not an architect, engineer, or other professional, exclusive of medical doctors or appraisers, who at the time of the issuance of the Agreement, serves as an expert witness for any litigation against City, and that it will not serve as an expert witness for any litigation against City during the term of this Agreement.

Sec. 18. Effectiveness; Date. This Agreement will become effective when the City’s Director of Finance has signed it. The date this Agreement is signed by the City’s Director of Finance will be deemed the date of this Agreement.

Each party is signing this Agreement on the date stated opposite that party’s signature.

ATTACHMENT ____

CITY – LICENSED GEOGRAPHICAL INFORMATION SYSTEM DATA

CITY will provide licensed materials for Geographical Information Systems to be used for the project as follows:

Grant of License. CITY grants to DESIGN PROFESSIONAL and DESIGN PROFESSIONAL hereby accepts, upon the express terms and conditions contained in this Agreement, a non-exclusive License to use the information described herein in the form produced and maintained by the Geographical Information System produced and maintained by City.

License Materials. The materials licensed for use by DESIGN PROFESSIONAL under this Agreement are the forms which can be read or manipulated by computer of the geographical and physical characteristic information collected and assimilated in the records of City (“Licensed Materials”).

Use of Licensed Materials. Subject to the terms, conditions and prohibitions of this Agreement, DESIGN PROFESSIONAL shall be entitled to use the information contained in the Licensed Materials to accomplish the scope of services provided by DESIGN PROFESSIONAL. At the completion of the Agreement, DESIGN PROFESSIONAL shall return all materials to the CITY, and shall permanently remove the Licensed Materials from any media used by DESIGN PROFESSIONAL. At the end of the Agreement, DESIGN PROFESSIONAL shall provide a written certification that all materials are returned and that all Licensed Materials, including copies, have been removed from the equipment or media of DESIGN PROFESSIONAL.

Transfer of Licensed Materials. This license is expressly nontransferable and DESIGN PROFESSIONAL shall not transfer any interest, entitlement or obligation under this Agreement to any other person or entity.

Data. The data and information contained in the Licensed Materials shall be those files and systems as recorded and existing as of the time DESIGN PROFESSIONAL requests the information.

Title. The custody and title and all other rights and interests in the Licensed Materials are and shall at all times remain with the CITY and with the Offices or officials of the CITY having official custody of the Licensed Materials.

Not Public Records. The database in the form of the Licensed Materials is proprietary, intellectual property of the CITY and shall not be considered or deemed as open, public records, except as provided in §256.670, RSMo. DESIGN PROFESSIONAL shall and hereby expressly agrees that it will, recognize the property interests of CITY and CITY agrees that it is not, pursuant to this License, a custodian of any open, public records, except as may exist pursuant to §256.670 RSMo.

Access to Materials. Pursuant to the terms and conditions of this agreement, DESIGN PROFESSIONAL shall be provided access to obtain the Licensed Materials in a periodic basis for the term of this Agreement. As provided in this Agreement, DESIGN PROFESSIONAL, shall be entitled to any Modifications, updates, renewals or additional data or information under the License granted by this Agreement.

Updated Material and Modifications. CITY shall in accordance with this Agreement and upon request of the DESIGN PROFESSIONAL provide to DESIGN PROFESSIONAL updates to or modifications of all or any specific parts of the data or information in the Licensed Materials. Any such updates or modifications provided by CITY shall be covered by and subject to each and all of the terms and conditions of this Agreement. Furthermore, upon completion or termination of this Agreement, DESIGN PROFESSIONAL, will provide to CITY in a compatible form, updated information developed during the execution of the Scope of Services provided by DESIGN PROFESSIONAL.

Data Contents. The data contained in the materials licensed by CITY to DESIGN PROFESSIONAL under this Agreement shall include that information necessary to allow DESIGN PROFESSIONAL to perform scope of services outlined in the Agreement.

Waiver. The waiver of any breach of any provision of this license shall not constitute a waiver of any subsequent breach of the same or other provisions of the Agreement.

Modifications. Any modification to the rights provided herein for licensed materials shall be in writing executed by each party.

ATTACHMENT ____
ELECTRONIC DATA REQUIREMENTS

A. Kansas City Plan Room - Electronic Format Requirements and Naming Conventions

1. In addition to other deliverables included in this Contract, items listed below are requirements to accommodate posting bids documents, plans and specifications on the Kansas City Plan Room.
2. Prime Design Professional/Consultant and Sub-Consultants shall adhere to the following electronic format requirements and use the naming conventions as set out below:
 - a. **Drawings/plans**
 - (1) Drawings/plans should be rendered as 200-300 dpi **PDF Format** images. No files may be larger than 5 megabytes in size. Plans/Drawings numbering should follow Form 00015 List of Drawings.
 - (2) File names may not include any symbols such as < > : . “ / \ | ? ‘ & # % ^ * () [] { } +
 - (3) FILE NAMES: Plans/Drawings numbering should follow Form 00015 List of Drawings. All plans should be named in the following manner: three digit sequential number-brief descriptor. For example: 001-Cover.pdf or 002-arcl.pdf
 - b. **CSI specification sections (project manuals)**
 - (1) CSI specification sections should be named by division, using DIV as a prefix. For example:
 - (a) DIV01.PDF (Technical, Project Specific)
 - (b) DIV02.PDF
 - (c) DIV03.PDF
 - c. **Summary:**
 - (1) Division 00 and 01 in Microsoft Word or Excel
 - (2) Division 2-16 in PDF Format
 - (3) Completed document originals of Plans and Diagrams of project must be submitted as 200-300 dpi **PDF Format** images.

Note: The following remaining sections should be included for projects being processed in e-Builder. Delete these sections in their entirety if they are not applicable. Be certain to remove this note before your final Contract Document is printed.

B. General Requirements

1. Professional Services Consultant/Contractor and its Sub-Consultant/Contractor(s) shall provide at a minimum, the following to its staff:
 - a. **Computer:** Minimum Intel Pentium® 4 Processor 2.4 GHz or equivalent processor with 512MB of RAM; recommended Centrino Duo® Processors 1.6 GHz or equivalent with 2GB of RAM, or higher.
 - b. **Computer Operation System:** Windows XP, Windows Vista, or Windows 7
 - c. **Web Browser:** Microsoft Internet Explorer 9
 - d. **Work and Spreadsheet Processors:** Microsoft Office Word, Excel and Outlook
 - e. **Scheduling Software:** Microsoft Project or Primavera
 - f. **Internet Service Provider:** A reliable ISP in the area of the Project
 - g. **Connection Speed/Minimum Bandwidth:** DSL, ADSL or T1 Line for transferring a minimum of **3 Mbps** Downstream and **512 Kbps** Upstream

C. Contract Information Management System - Project Web Requirements

1. The City will utilize a web based contract information management system/project management tool in the administration of this Contract. This web based application database is a collaboration tool selected and provided by City, which will allow all project team members continuous access through the Internet to important contract/project data as well as up to the minute decision and approval status information.
2. Design Professional shall provide and shall require its sub-consultants to provide its management personnel assigned to this Contract with access to personal computers and the Internet on a daily basis same.
3. Design Professional shall conduct Project controls, outlined by the City utilizing the web based application database selected and provided by City. **This designated web based application database will be provided by the** Design Professional to its sub-consultants. No additional software will be required. City will assist Design Professional in providing training of sub-Consultant's personnel.
4. Design Professional shall have and shall require its sub-consultants the responsibility for visiting the Project web site on a daily basis, and as necessary to be kept fully appraised of Contract/Project developments, for correspondence, assigned tasks and other matters that transpire on the site and .
 - a. These may include but are not limited to: Contracts, Contract Exhibits, Contract Amendments, Drawing Issuances, Addenda, Bulletins, Permits, Insurance & Bonds, Safety Program Procedures, Safety Notices, Accident Reports, Personnel Injury Reports, Schedules, Site Logistics, Progress Reports, Daily Logs, Non-Conformance Notices, Quality Control Notices, Punch Lists, Meeting Minutes, Requests for Information, Submittal Packages, Substitution Requests, Monthly Payment Request Applications, Supplemental Instructions, Owner Variation Directives, Potential Variation Orders, Variation Order Requests, Variation Orders, and the like.
 - b. All supporting data including but not limited to shop drawings, product data sheets, manufacturer data sheets and instructions, method statements, safety MSDS sheets, Substitution Requests and required documentation will be submitted in digital format via the web based application database selected and provided by City.

D. Electronic File Requirements – Closeout

1. All documents (including as-built drawings) shall be converted or scanned into the Adobe Acrobat (.PDF) file format and uploaded to the web based application database selected and provided by City.
2. In addition to the standard closeout submittal requirements detailed elsewhere in the Contract Documents, the Prime Design Professional/Consultant and Sub-Consultants shall also submit all closeout documents including but not limited to all “As-Built Drawings”, catalog cuts and Owner's Operation and Maintenance manuals in digital format.

E. Project Management Communications - Construction

1. The Contractor shall use the Internet web based contract information management system/project management communications tool selected and provided by City, and protocols included in that software during the term of this Contract. The use of project management communications as herein described does not replace or change any contractual responsibilities of the participants.
2. The project communications database is on-line and fully functional. User registration, electronic and computer equipment, and Internet connections are the responsibility of each project participant. The sharing of user accounts is prohibited.

3. Training: City's software service provider will provide a group training sessions scheduled by City, the cost of which is included in the initial users fee. Users are required to attend the scheduled training sessions they are assigned. Requests for specific scheduled classes will be on a first come first served basis for available spaces. Companies may also obtain group training from City's software service provider at their own expense
4. Support: City's software service provider will provide on-going support through on-line help files.
5. Project Archive: The archive shall be available to each team member at a nominal cost. The archive set will contain only documents that the firm has security access to during construction. All legal rights in any discovery process are retained. Archive material shall be ordered from City's software service provider.
6. Copyrights and Ownership: Nothing in this specification or the subsequent communications supersedes the parties' obligations and rights for copyright or document ownership as established by the Contract Documents. The use of CAD files, processes or design information distributed in this system is intended only for the project specified herein.
7. Purpose: The intent of using a project management communication tool is to improve project work efforts by promoting timely initial communications and responses. Secondly, to reduce the number of paper documents while providing improved record keeping by creation of electronic document files.
8. Authorized Users: Access to the web site will be by individuals who are licensed users.
 - a. Individuals may use the User Application included in these specifications or may request the User Application.
 - b. Authorized users will be contacted directly by the web site provider, who will assign the temporary user password.
 - c. Individuals shall be responsible for the proper use of their passwords and access to data as agents of the company in which they are employed.
9. Administrative Users: Administrative users have access and control of user licenses and all posted items. **DO NOT POST PRIVATE OR YOUR COMPANY CONFIDENTIAL ITEMS IN THE DATABASE!** Improper or abusive language toward any party or repeated posting of items intended to deceive or disrupt the work of the project will not be tolerated and will result in deletion of the offensive items and revocation of user license at the sole discretion of the Administrative User(s).

PART II

STANDARD TERMS AND CONDITIONS

Sec. 1. General Indemnification.

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

1. **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.

2. **Design Professional's Agents** means Design Professional's officers, employees, subcontractors, subconsultants, successors, assigns, invitees, and other agents.

3. **City** means City, its Program Manager/Construction Advisor and any of their agents, officials, officers and employees.

B. Design Professional's obligations under this Section with respect to indemnification for acts or omissions, including negligence, of City shall be limited to the coverage and limits of General (not Professional) Liability insurance that Design Professional is required to procure and maintain under this Agreement. Design Professional affirms that it has had the opportunity to recover the costs of the liability insurance required in this Agreement in its contract price.

C. Design Professional 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 Agreement caused in whole or in part by Design Professional or Design Professional's Agents, regardless of whether or not caused in part by an act or omission, including negligence, of City. Design Professional 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 Agreement.

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.

Design Professional 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 court costs and reasonable attorneys' fees, to the extent caused by any negligent acts, errors, or omissions of the Design Professional, its officers, employees, subconsultants, subcontractors, successors, assigns, invitees and other agents, in the performance of professional services under this Agreement. Design Professional 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. Insurance.

A. Design Professional shall procure and maintain in effect throughout the duration of this Agreement, and for a period of two (2) years thereafter, insurance coverage not less than the types and amounts specified below. In the event that additional insurance, not specified herein, is required during the term of this Agreement, Design Professional shall supply such insurance at City's cost. Policies containing a Self-Insured Retention are unacceptable to City unless City approves in writing the Design Professional 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. Worker's 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 written on an "occurrence" basis, covering owned, hired, and non-owned automobiles. If the Design Professional owns vehicles, coverage shall be provided on an "any auto" basis. If the Design Professional does not own any vehicles, coverage shall be provided on a "hired autos" and "nonowned autos" basis. The insurance will be written on a Commercial Business Auto form, or an acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Agreement, by Design Professional.

4. Professional Liability Insurance with limits Per Claim/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 Agreement. Design Professional shall provide to City at execution of this Agreement 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. The Commercial General Liability and Commercial Automobile Liability insurance specified above shall contain a cross-liability or severability of interest clause or endorsement and shall contain a provision or endorsement that the costs of providing the insureds a defense and appeal, including attorneys' fees, as insureds, shall be supplementary and shall not be included as part of the policy limits but shall remain the insurer's responsibility. Insurance covering the specified additional insureds shall be primary insurance, and all other insurance carried by the additional insureds shall be excess insurance. With respect to Commercial Automobile Liability, Commercial General Liability, and any Umbrella Liability Insurance, Design Professional shall require its insurance carrier(s) to waive all rights of subrogation against City and its agencies, officials, officers, and employees.

D. 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.

E. Design Professional'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, Design Professional shall give at least 30 days prior written notice to City. In the event of Design Professional's failure to maintain the required insurance in effect, City may order Design Professional to immediately stop work, and upon ten (10) days notice and an opportunity to cure, may pursue its remedies for breach of this Agreement as provided for herein and by law.

F. 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. 4. Design Standards and Endorsement.

A. Except as otherwise directed in writing by City, in the performance of services under this Agreement, Design Professional shall comply with all design standards required by federal, state, local laws or codes including but not limited to all applicable provisions of:

1. Title II of the 2010 ADA Standards for Accessible Design as amended from time to time;
2. the Clean Air Act(42 U.S.C. 7401 *et seq.* and the Clean Water Act (33 U.S.C. 1251 *et seq.*
3. the Missouri Clean Water Law (Chapter 644 RSMo) together with any accompanying regulation(s) contained in the Missouri Code of State Regulations (CSR Title 10), as well as any implementing permits; and
4. Kansas City Code Sec. 3-71. LEED gold standard.

Design Professional shall notify and explain to City any applicable exceptions under these acts.

B. Design Professional shall use

all design standards recognized and used in the industry in the performance of services under this agreement. Design Professional shall endorse all plans and specifications, or estimates, and engineering data furnished under this Agreement if prepared by Design Professional. All subcontractors as appropriate shall endorse their respective plans and specifications, or estimates, and engineering data furnished for the Plan or Project.

C. Design Professional shall monitor quality assurance for their design services and shall revise the design and plans at their own expense in case of error or oversight in design by Design Professional or any subcontractor to Design Professional.

Sec. 5. Copyright and Ownership of Documents.

A. Design Professional shall on its behalf and on behalf of its employees and agents, promptly communicate and disclose to City all computer programs, documentation, software and other copyrightable works and all discoveries, improvements and inventions conceived, reduced to practice or made by Design Professionals or its agents, whether solely or jointly with others, during the term of this Agreement resulting from or related to any work Design Professional or its agents may do on behalf of City or at its request. All inventions and copyrightable works that Design Professional 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. Design Professional hereby assigns to City any rights it may have in such copyrightable works. Design Professional shall cooperate with City in obtaining any copyrights or patents.

B. Original documents, including plans, specifications, reports, maps, models and renderings, including electronic media, prepared or obtained under the terms of this

Agreement shall be delivered to and become the property of City and basic survey notes, diaries, sketches, charts, computations and other data shall be made available upon request by City without restriction or limitation of their use. There shall be no legal limitations upon City in the subsequent use of the documents or ideas developed in the documents. In the event that any of the documents are reused by City, the nameplates or other identification to the Design Professional will be removed and the Design Professional will be released of subsequent liabilities. In the event that any of the design drawings are reused or modified by City, the name plates or other identification to the Design Professional will be removed.

Sec. 6. 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 Design Professional: (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. 7. Compliance with Laws.

Design Professional shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this Agreement.

Sec. 8. Termination for Convenience.

A. City may, at any time upon ten (10) days notice to Design Professional specifying the effective date of termination, terminate this Agreement, in whole or in part. If this Agreement is terminated by City, City shall be liable only for payment for services rendered before the effective date of termination. Design Professional shall prepare an accounting of the services performed and

money spent by Design Professional 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 Agreement is terminated prior to Design Professional's completion of services, all work or materials prepared or obtained by Design Professional pursuant to this Agreement shall become City's property.

C. If this Agreement is terminated prior to Design Professional's completion of the services to be performed hereunder, Design Professional shall return to City and 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 Agreement. Design Professional shall prepare an accounting of the services performed and money spent by Design Professional up to the effective date of termination and shall return to City any remaining sums within thirty (30) days of such date.

Sec. 9. Default and Remedies.

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

Sec. 10. 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 term, covenant or condition. No term, covenant, or condition of this Agreement 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 Design Professional to which the same may apply and, until complete performance by Design Professional of the term, covenant or

condition, City shall be entitled to invoke any remedy available to it under this Agreement or by law despite any such forbearance or indulgence.

Sec. 11. Acceptance.

No payment made under this Agreement shall be proof of satisfactory performance of the Agreement, either wholly or in part, and no payment shall be construed as acceptance of deficient or unsatisfactory work.

Sec. 12. Modification.

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

Sec. 13. Headings; Construction of Agreement.

The headings of each section of this Agreement are for reference only. Unless the context of this Agreement 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. 14. Severability of Provisions.

Except as specifically provided in this Agreement, all of the provisions of this Agreement shall be severable. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Agreement shall be valid unless the court finds that the valid provisions of this Agreement 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 Agreement 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. 15. 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. Design Professional shall maintain and retain all Record 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 Design Professional shall provide access to City of all Records upon ten (10) days written notice from the City.

C. The books, documents and records of Design Professional in connection with this Agreement 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 Agreement within ten (10) days after the written request is made.

Sec. 16. Affirmative Action.

If this Contract exceeds \$300,000.00 and Design Professional employs fifty (50) or more people, Design Professional 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, Design Professional warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. Design Professional 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. Design Professional shall:

1. Submit, in print or electronic format, a copy of Design Professional'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, Design Professional does not possess a current certification of compliance, Design Professional 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, Design Professional 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 Design Professional 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 Design Professional 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. 17. Tax Compliance.

Design Professional 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 Agreement or any Agreement renewal when the total Agreement amount exceeds \$160,000.00. If Design Professional performs work on an Agreement that is for a term longer than one year, the Design Professional 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 Agreement.

Sec. 18. Assignability and Subcontracting.

(a) Assignability. Design Professional shall not assign or transfer any part or all of Design Professional's obligation or interest in this Contract without prior written approval of City. If Design Professional 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 Design Professional from subcontracting as otherwise provided for herein.

(b) Subcontracting. Design Professional shall not subcontract any part or all of Design Professional's obligations or interests in this

Contract unless the subcontractor has been identified in a format required by City. If Design Professional shall subcontract any part of Design Professional'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 Design Professional of any of its responsibilities under the Contract, and Design Professional 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 Design Professional, 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. Design Professional shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing Design Professional's services hereunder.

Sec. 19. Conflicts of Interest.

Design Professional certifies that no officer or employee of City has, or will have, a direct or indirect financial or personal interest in this Agreement, 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 Design Professional in this Agreement.

Sec. 20. Conflict of Interest - Certification.

Design Professional certifies that Design Professional is not an expert witness for any party in litigation against the City at the time of the issuance of this Contract.

Sec. 21. 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 Agreement or any subcontract hereto shall be manufactured or produced in the United States whenever possible.

Sec. 22. Independent Contractor.

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

Section 23. Employee Eligibility Verification.

If this Contract exceeds five thousand dollars(\$5,000.00), Design Professional shall execute and submit an affidavit, in a form prescribed by City, affirming that Design Professional 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). Design Professional shall attach to the affidavit documentation sufficient to establish Design Professional'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. Design Professional may obtain additional information about E-Verify and enroll at www.dhs.gov/xprevprot/program/gc_1185221_678150.shtm . For those Design Professionals enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that Design Professional will obtain upon successfully enrolling in the program shall constitute sufficient documentation for

purposes of complying with this Section. Design Professional shall submit affidavit and attachments to City prior to execution of the contract, or at any point during the term of the Contract if requested by City.

Sec. 24. Quality Services Assurance Act.

Design Professional certifies Design Professional will pay all employees who will work on this Contract in the city limits of Kansas City, Missouri at least \$13.75 per hour in compliance with the City's Quality Services Assurance Act, Section 3-66, Code of Ordinances or City has granted Contractor an exemption.

Sec. 25. Anti-Discrimination Against Israel.

If this Contract exceeds \$100,000.00 and Design Professional employs at least ten employees, pursuant to Section 34.600, RSMo., by executing this Contract, Design Professional certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.