

REQUEST FOR PROPOSALS

FOR PROFESSIONAL, SPECIALIZED OR TECHNICAL SERVICES CONTRACT

FOR CONTRACT/PROJECT NO. CKCA2024 – 2024 MAYOR’S NIGHTS CLUBKC AQUATICS

PARKS AND RECREATION DEPARTMENT

CITY OF KANSAS CITY, MISSOURI

1. PURPOSE

The City of Kansas City, Missouri (“City”) invites you to submit a proposal for 2024 Mayor’s Nights/ClubKC Aquatics Program. We are seeking qualified individual(s) or companies to provide professional aquatic management experience for the 2024 ClubKC.

2. DUE DATE FOR PROPOSALS AND SUBMISSIONS

All proposal documents should be submitted in the exact order as listed in this RFP by 5:00 p.m. (CT) or the close of business on March 25, 2024 to the person listed.

- (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 RFP No. and Title, Due Date and Time, and Name of the Proposer’s Business/Firm.
- (b) **No. of Copies/Format.** Proposers shall submit one (1) signed original and one (1) copy on a CD in Microsoft Word/Excel format or on a flash drive. 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.
- (c) **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.

3. PROPOSAL QUESTIONS

- (a) **Questions.** Proposers shall submit any questions or issues about any aspect of this RFP to the following City Contact person:
Donald Strother
KCMO Parks and Recreation Department
4600 East 63rd Street, Kansas City, MO 64130
donald.strother@kcmo.org
81/513-7523

(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 RFP, 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 RFP, the City will issue a Notice

(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 or Bonfire, if the Solicitation is through The City, in its sole discretion, shall determine the appropriate response to any issue raised by any Proposer.

4. **DEFINITION OF “REQUEST FOR PROPOSALS” AND “PROPOSAL”**

- (a) This Request for Proposals (“RFP” 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 RFP 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**

03/04/2024	RFP Issued
03/18/2024	Deadline for questions
03/25/2024 5:00pm	Due Date for Proposals



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.

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. RFP DOCUMENTS

This RFP consists of the following documents:

- (a) This RFP
- (b) Scope of Services
- (c) Standard City Contract
- (d) Employee Eligibility Verification Affidavit

7. EXAMINATION OF ALL RFP DOCUMENTS AND REQUIREMENTS

- (a) Each Proposer shall carefully examine all RFP documents and thoroughly familiarize themselves with all RFP requirements prior to submitting a proposal to ensure that Proposer’s Proposal meets the intent of this RFP.
- (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 RFP. 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 RFP.
- (b) 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 RFP, 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 RFP, 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. CONTENT OF PROPOSAL

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

- Legal Name, address, phone, fax, e-mail, Federal ID#, and website address.
- Submit Missouri Secretary of State Certificate of Good Standing.
- 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 against the business/firm or any key personnel related in any way to contracting for the last five years? If yes, explain in detail. Are there any current unresolved disputes/allegations?
- Has the business/firm ever been disqualified from working for the City or any other public entity? If yes, explain the circumstances.

- **Proof of financial capacity to perform this contract such as Dun and Bradstreet, audited financial statements, bonding capacity.**

8.2 Proposal Part II – Experience

- Include a list of public contracts completed by your business/firm during the past three (3) years. For each listed contract, provide a narrative that includes:
 - a. the assigned project personnel
 - b. scope of services provided
 - c. dollar amount of the contract
 - d. contractual performance standards versus your actual performance
 - e. the contracting entity's contact person, e-mail address, cell phone number, and telephone number
 - f. summary of how your business/firm delivered services
 - g. pricing and contractual compensation terms
- Provide three (3) client references for similar projects completed by your business/firm during the past five (5) years.
- Provide a copy of your most recent relevant ongoing public contract.

8.3 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 an organizational chart for the assigned staff.
- Provide a plan to address vacations, sicknesses and absences.
- Please certify that you will pay all employees who will work on this Contract in the city limits of Kansas City, Missouri at least \$12.50 per hour in compliance with the City's Quality Services Assurance Act, Section 3-66, Code of Ordinances.
- If you will not certify that you pay your employees who will work on the City Contract at least \$12.50 per hour, please submit the following so the City can evaluate the potential quality of your personnel:

- a. Turnover rate for the last three calendar years for non-exempt employees and exempt employees; and
- b. Employee benefits provided to exempt and non-exempt employees; and
- c. Training provided to exempt and non-exempt employees, including those that will provide services to the City; and
- d. Promotional opportunities for non-exempt and exempt employees; and
- e. Average tenure of exempt and non-exempt employees during the immediately preceding three calendar years; and
- f. Employee incentive rewards and employee recognition policies; and
- g. How you provide and receive employee feedback and communication; and
- h. Mentorship programs provided to employees; and
- i. Education benefits provided for exempt and nonexempt employees.

8.4 Proposal Part IV - Project Approach

- Discuss your approach to this project with specific references to providing the Scope of Services requested in the RFP.
- Highlight unique services and management tools and indicate the benefits of them to the City. What makes your business/firm better than the competition?
- Describe your Quality Assurance Plan.
- State approximate date your business/firm is available to begin work on the Project.
- Discuss your transition plan to begin providing services.
- Propose additional performance measures beyond required performance measures including why the performance measure is important and how the City will measure and verify performance.

8.5 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 RFP 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.

8.6 Proposal Part VI – Pricing

- **Total Cost:** Please submit your proposed Pricing or if Attachment No. 1 is attached, please submit it in accordance with Attachment No. 1 - Pricing/Cost Proposal. The City will evaluate alternative pricing.
- **Renewal Pricing:** If this is for a multi-year contract, the City realizes that the initial term pricing may differ depending on the mechanism used by the Proposer for renewal pricing. The City is interested in obtaining the best price in the initial term of the contract as well as the best price for any renewal years (up to 5 additional one year terms). In proposing renewal pricing, you may propose no increase, a decrease, a constant percentage increase, the consumer price index or an appropriate producer price index. You may offer several alternatives. Although the City will not be required or obligated to exercise all renewal options, assume the City will exercise all renewal options for offering renewal pricing to the City.

8.7 **Proposal Part VII – Other Required Documents**

Complete and submit the following documents to the City:

- (a) Your Proposal

9. **EVALUATION CRITERIA**

Any evaluation criteria or weighting of criteria is used by the City only as a tool to assist the City in selecting the best proposal for the City. 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.

10. **INTERVIEWS**

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

11. **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 RFP at any time, and reissue an amended RFP or new RFP.

12. PROPOSAL MUST REMAIN FIRM IRREVOCABLE OFFER TO CITY FOR 120 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 one hundred and twenty (120) 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 one hundred and twenty (120) 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.

13. 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. This means that a proposer does not have a contract with the City until a written contract is *executed*. A contract is *executed* when all of the following have occurred: (1) the City Council authorizes the execution of a contract with the Proposer (if City Council approval is requested by City staff or is required by City Ordinance); (2) persons with actual authority to bind both the City and the Proposer execute the contract; (3) the contract is approved by the Law Department; (4) the City issues a purchase order to the Contractor with the Director of Finance's certification of availability of funds for the contract; and (5) any other required step. A Proposer does not have a contract with the City until all the steps are completed. If the City does not complete all required steps, there is no contract between the City and the Proposer and the City has absolutely no contractual or financial obligation to any Proposer regardless of the amount of time, effort and money spent by the Proposer responding to the RFP and attempting to negotiate and obtain a contract with the City.

14. REJECTION OF PROPOSALS

The City reserves the unconditional right to reject any or all proposals received in response to this RFP 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.

15. WAIVER OF ORDINANCES, REGULATIONS AND RFP REQUIREMENTS

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

16. 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 RFP; 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) the proposal is required to be electronically submitted and is late due to a technology issue beyond the proposer's control; or (7) it is in the best interest of the City to accept the proposal.

17. CHANGES IN THE RFP

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

18. 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.

19. 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.

20. 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.

21. 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 RFP, 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.

22. 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 RFP, Proposals submitted in response to the original RFP may remain closed records until a contract is executed or all proposals submitted in response to the amended RFP 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 RFP as long as the City intends to amend the RFP and resolicit Proposals.

23. INDEMNIFICATION

The City's standard contract requires that the Contractor shall indemnify, defend and hold harmless the City and any of its agencies, officials, officers, or employees from and against all claims, damages, liability, losses, costs, and expenses, including reasonable attorneys' fees, arising out of or resulting from any acts or omissions in connection with the contract, caused in whole or in part by Contractor, its employees, agents, or Subcontractors, or caused by others for whom Contractor is liable, including negligent acts or omissions of the City, its agencies, officials, officers, or employees. The contract requires Contractor to obtain specified limits of insurance to insure the indemnity obligation. **Contractor has the opportunity to recover the cost of the required insurance in the Contract Price by including the cost of that insurance in the Proposal.**

24. BUY AMERICAN AND MISSOURI PREFERENCE POLICIES

(a) Buy American Preference

It is the policy of the City that any manufactured goods or commodities used or supplied in the performance of any City contract or any subcontract thereto shall be manufactured or produced in the United States whenever possible. When proposals offer quality, price, conformity with specifications, term of delivery and other conditions imposed in the specifications that are equal, the City shall select the proposal that uses manufactured goods or commodities that are manufactured or produced in the United States.

(b) Buy Missouri Preference

It is the policy of the City to give preference to all commodities manufactured, produced, or grown within the State of Missouri and to all firms, corporations, or individuals doing business as Missouri firms, corporations, or individuals, when the quality is equal or better and delivered price is the same or less. It is the Proposer's responsibility to claim these preferences.

25. 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.

SECTION II

REQUEST FOR PROPOSALS NO. CKCA2024

SCOPE OF SERVICES

1. SERVICES TO BE PERFORMED

Seeking qualified individual(s) or companies to provide professional aquatic management experience for the 2024 ClubKC. This program offers youth middle grades alternative activities that will encourage youth to gather at Mary Williams-Neal Community Center to experience and participate in aquatic programs. ClubKC will provide young people with a safe place to participate in a variety of aquatic such as swim lessons, aquatic games, and social activities while also expanding options for youth participation in the communities in which they live and learn. Most importantly we will be protecting our youth and assisting with the building of productive and engaged citizens.

EMPLOYEE ELIGIBILITY VERIFICATION AFFIDAVIT

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

STATE OF _____)

) ss

COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, personally known by me or otherwise proven to be the person whose name is subscribed on this affidavit and who, being duly sworn, stated as follows:

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

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

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

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

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

Affiant’s signature

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

Notary Public

My Commission expires:

PROFESSIONAL, SPECIALIZED OR TECHNICAL SERVICES CONTRACT

FOR CONTRACT/PROJECT NO. CKCA2024-2024 MAYORS NIGHTS CLUBKC AQUATICS

PARKS AND RECREATION DEPARTMENT

THIS CONTRACT is between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation (“City”), and _____ (“Contractor”). City and Contractor agree as follows:

PART I

SPECIAL TERMS AND CONDITIONS

Sec. 1. Compensation.

- A. The amount the City will pay Contractor under this contract will not exceed \$ _____. Contractor will be paid on the following basis:
- B. Contractor will bill the City, in a form acceptable to the City, on the following basis: monthly, one time; other
- C. It shall be a condition precedent to payment of any invoice from Contractor that Contractor is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Contract. If damages are sustained by City as a result of breach or default by Contractor, City may withhold payment(s) to Contractor for the purpose of set off until such time as the exact amount of damages due City from Contractor may be determined.
- D. No request for payment will be processed unless the request is in proper form, correctly computed, and is approved as payable under the terms of this Contract.
- E. City is not liable for any obligation incurred by Contractor except as approved under the provisions of this Contract.

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

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

City: _____, Department: _____, Director: _____

Address: _____, Kansas City, MO _____

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

E-mail address: _____

Contractor: _____, Contractor’s Legal Name: _____

Contact: _____, Address: _____

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

E-mail address: _____

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

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

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

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

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

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

Sec. 9. Responsibilities of City. City shall:

Sec. 10. Replacement to Part II, Standard Terms and Conditions, Section 4, Insurance. Section 4.A.4 of Part II, Standard Terms and Conditions of this Agreement is hereby deleted and in lieu thereof, the following is inserted:

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

Sec. 11. Contract Information Management System. Contractor shall comply with City's Contract Information Management System requirements. Contractor 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. Contractor shall maintain user applications to City's provided system for all personnel, subcontractors or suppliers as applicable.

Sec. 12. Incorporation of Federal/State Laws and Regulation. Contractor shall administer and use the funds provided hereunder in conformance with all federal/state laws and regulations applicable to the use of those funds including but not limited to those laws and regulations which may be set forth in **Attachment** __ to this Contract. The federal/state laws and regulations applicable to the use of funds provided under this Contract including but not limited to those included in **Attachment** _____ are incorporated and made a part of this Contract by reference. Contractor agrees that it is its responsibility to obtain and familiarize itself with those laws and regulations. All laws and regulations incorporated into this Contract shall include all subsequent amendments.

Sec. 13. Intellectual Property Rights. Contractor agrees, on its behalf and on behalf of its employees and agents, that it will promptly communicate and disclose to City all computer programs, documentation, software and other copyrightable works (“copyrightable works”) conceived, reduced to practice or made by Contractor or its agents, whether solely or jointly with others, during the term of this Contract resulting from or related to any work Contractor or its agents may do on behalf of City or at its request. All inventions and copyrightable works that Contractor is obligated to disclose shall be and remain entirely the property of City. It is agreed that all inventions and copyrightable works are works made for hire and shall be the exclusive property of City. Contractor hereby assigns to City any rights it may have in such copyrightable works. Contractor shall cooperate with City in obtaining any copyrights or patents.

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

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

THIS CONTRACT CONTAINS INDEMNIFICATION PROVISIONS

CONTRACTOR

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

Date: _____

By: _____

Name: _____

Title: _____

KANSAS CITY, MISSOURI

Date: _____

By: _____

Name: _____

Title: _____

Authorized by the Board of Parks and Recreation Commissioners, Resolution Number _____

Secretary to the Board

Approved as to form:

Assistant City Attorney

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

Director of Finance

PART II

STANDARD TERMS AND CONDITIONS

Sec. 1. 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. Contractual Liability
- c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000
- d. No Contractual Liability Limitation Endorsement
- e. Additional Insured Endorsement, ISO form CG20 10, current edition or its equivalent

2. Worker’s Compensation Insurance: as required by statute, including Employers Liability with limits of:

Workers Compensation Statutory
Employers Liability

- \$1,000,000 accident with limits of:
- \$1,000,000 disease-policy limit
- \$1,000,000 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.

5. If applicable, Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Design Professional in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

6. If applicable, Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant’s profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Design Professional in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information “property” of the Agency in the care, custody, or control of the Design Professional. If not covered under the Design Professional’s

liability policy, such “property” coverage of the Agency may be endorsed onto the Design Professional’s Cyber Liability Policy as covered property.

If the Design Professional maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Design Professional. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

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 Design Professional 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. Design Professional shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it

needs to carry out its obligations under 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 Civil Rights and Equal Opportunity Department, 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 Civil Rights and Equal Opportunity Department and the City department

administering this Agreement within ten (10) days after the written request is made.

Sec. 16. 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. 17. 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. 18. 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. 19. 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. 20. 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. 21. 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 22. 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_1185221678150.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. 23. Quality Services Assurance Act. If this Contract exceeds \$160,000.00, 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 \$15.00 per hour in

compliance with the City's Quality Services Assurance Act, Section 3-66, Code of Ordinances or City has granted Design Professional an exemption.

Sec. 24. 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.

Sec. 25. Title VI of the Civil Rights Act of 1964. Title VI of the Civil Rights Act of 1964 requires that no person in the United States shall, on the grounds of race, color, or national or origin (including limited English proficient individuals), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The City of Kansas City, Missouri requires compliance with the requirements of Title VI in all of its programs and activities regardless of the funding source. Design Professional shall not discriminate on the grounds of race, color, or national or origin (including limited English proficient individuals).

Sec. 26. Non-Discrimination in Employment. Design Professional shall not discriminate against any employee or candidate for employment on the basis of an individual's race, hair texture or hair style associated with an individual's race, color, sex, religion, national origin, or ancestry, disability, sexual orientation, gender identity, age, or in any other manner prohibited by Chapter 38 of the City Code. Design Professional shall not engage in any discrimination as prohibited

by Chapter 3 of the City Code.

Sec. 27. Ban the Box in Hiring and Promotion. Pursuant to Section 38-104, City Code Ordinances, Design Professional shall not base a hiring or promotional decision on an applicant's criminal history or sentence related thereto, unless the employer can demonstrate that the employment-related decision was based on all information available including consideration of the frequency, recentness and severity of a criminal record and that the record was reasonably related to the duties and responsibilities of the position.

Notwithstanding, Design Professional may inquire about an applicant's criminal history after it has been determined that the individual is otherwise qualified for the position, and only after the applicant has been interviewed for the position. Any such inquiry may be made of all applicants who are within the final selection pool of candidates from which a job will be filled.

This provision shall not apply to positions where employers are required to exclude applicants with certain criminal convictions from employment due to local, state or federal law or regulation.

Sec. 28. 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 38 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 38 of City's Code. CONTRACTOR shall:

a. Execute and submit the City of Kansas City, Missouri CREO Affirmative Action Program Affidavit warranting that the Design Professional has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract.

b. Submit, in print or electronic format, a copy of Design Professional's current certificate of compliance to the City's Civil Rights and Equal Opportunity Department (CREO) prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) 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 CREO prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two (2) calendar years.

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

d. Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to CREO 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 CREO within thirty (30) days from the date the subcontract is executed. This is a material term of this Contract.

The City has the right to take action as directed by City's Civil Rights and Equal Opportunity Department to enforce this provision. If Design Professional fails, refuses or neglects to comply with the provisions of Chapter 38 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, cancelled 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 the Contract.

Sec. 29. Prevailing Wage. If the Agreement exceeds \$75,000.00 and any of the Services performed by Design Professional includes construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair, that is subject to the Missouri Prevailing Wage Law (Section 290.210, RSMo – 290.340, RSMo), Design Professional shall immediately notify the City prior to performing Services so the parties can execute an agreement that incorporates the appropriate Wage Order. Design Professional shall comply with all requirements of Section 290.210, RSMo – 290.340, RSMo even if Design Professional fails to notify the City.