

| CITY | | ENGINEER | |
|--|------|---|------|
| CITY OF JOPLIN 602 S. MAIN STREET JOPLIN, MO 64801 | | Name: Burns & McDonnell Engineering Company, Inc. | |
| | | Address: 9400 Ward Parkway KANSAS CITY, MO 64114 | |
| Attention: Mr. Chris Parker | | Attention: Cliff Cate | |
| Department: Public Works- Engineering | | Phone: 816.823.7128 | Fax: |
| Phone: 417-624-0820 | Fax: | Hydraulic Model Update and Flow Metering Project | |

**WORK AUTHORIZATION NUMBER BMD-OC23-03
TO AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTING SERVICES**

City and Engineer agree to amend their Agreement for Professional Engineering Consulting Services to include a scope of work and fees for engineering services, by adding the following terms to their Agreement.

1. **Services.** The City agrees to engage the services of the Engineer and the Engineer agrees to perform the services hereinafter set forth in connection with projects described in **Exhibit A**.

2. **Addition to Services.** The City of Joplin may add to the Engineer services or delete therefrom activities of a similar nature to those set forth in **Exhibit A**, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 5 hereof. The Engineer shall undertake such changed activities only upon the direction of the City. All such directives and changes shall be in written form and prepared and approved by the City and shall be accepted and countersigned by the Engineer.

3. **Term.** The services of the Engineer shall commence as soon as practicable after the execution of this contract, unless otherwise directed in writing, and shall be undertaken and completed in such sequence for the expeditious completion in the light of the purposes of the contract, but in any event, all the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as **Exhibit A**.

4. **Costs not to Exceed.** The City of Joplin is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this contract, which cannot be exceeded unless this contract is amended. The Engineer providing services hereunder shall be required to always keep track of the number of hours billable under this contract; and any work more than the fixed sum shall not be eligible for payment. The Engineer shall notify the City if Engineer anticipates that the contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Engineer shall establish a billing system showing the amount of money remaining on the contract, which shall be shown in each monthly billing.

5. **Payment.**

a. **Conditioned upon performance.** The City agrees to pay the Engineer in accordance with the terms set forth in **Exhibit A**, which shall constitute complete compensation for services to be rendered under this Work Authorization; provided, that where payments are to be made periodically to Engineer for services rendered under this Work Authorization, the City expressly reserves the right to disapprove in whole or in part a request for payment where the services rendered during the period for which payment is claimed are not performed in a timely and in accordance with the schedule and description of services set forth in **Exhibit A**.

b. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Engineer under the terms of this work Authorization Number **BMD-OC23-03** exceed the sum of One Hundred Eighty Five Thousand Four Hundred Seventy Six and 00/100 Dollars (\$185,476.00).

6. **Insurance.** Without limiting any of the other obligations or liabilities of the Engineer, the Engineer shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed, insurance of such types and in

such amounts as may be necessary to protect it against hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to reasonable approval by the City of Joplin. Regardless of such approval, it shall be the responsibility of the Engineer to always maintain adequate insurance coverage during the term of the Contract. Failure of the Engineer to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Contract Documents.

The certificates of insurance, including evidence of the required endorsements hereunder, shall be filed with the City at the time that this contract is signed by the Engineer. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Joplin - Public Works, 602 S. Main, Joplin, MO 64801; and

Engineer's commercial general liability policy shall include the City as an additional insured with limits of liability the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(See, <http://insurance.mo.gov/industry/sovimmunity.php>).

As of January 1, 2023, the coverage for the insurance referred to herein shall be as set out below:

- a. Workers' Compensation.... Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... \$1,000,000.00 per accident / \$1,000,000.00 each employee by disease / \$1,000,000.00 policy limit by disease
- b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of One Million (\$1,000,000.00) per occurrence and Two Million (2,000,000.00) aggregate for claims caused by bodily injury and property damage. Engineer agrees to cause its insurer to include City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.
- c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of One Million (\$1,000,000.00) per accident for claims caused by bodily injury and property damage.
- d. Errors and Omissions Insurance. The Engineer shall maintain a professional liability insurance policy in the amount of \$1,000,000.00. This policy shall remain in full force and effect for a period of one year after completion of Engineer's services under this Work Authorization.
- e. Subcontracts. In case any or all this work is sublet, the Engineer shall require the subcontractor to procure and maintain all insurance required in subparagraphs (A), (B) and (C) hereof and in like amounts. Engineer shall require all subcontractors with whom it enters into a contract to perform work on this project to obtain and maintain insurance against applicable hazards or risks and shall, upon request of the City, provide evidence of such insurance.
- f. Notice. The Engineer and/or subcontractor shall furnish the City prior to beginning the work satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Joplin by Engineer.
- g. Legislative or Judicial Changes. In the event the scope or extent of the City's tort liability as a governmental entity as described in Section 537.600 through 537.650 RSMo is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Engineer, upon 10 days written notice, to execute a contract addendum whereby the Engineer agrees to provide, at a price not exceeding Engineer's cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

7. Limitation of Liability.

a. To the fullest extent permissible by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer, its officers, directors, shareholders, employees, agents, and consultants, and any of them, to the City and anyone claiming by, through or under the City, for any and all claims, losses, liabilities, costs or damages whatsoever arising out of, resulting from or in any way related to a Work Authorization issued under the Agreement from any form of negligence, professional errors or omissions (including breach of contract or warranty) of Engineer, its officers, directors, employees, agents or consultants, or any of them, SHALL NOT EXCEED One Million Dollars (\$1,000,000.00). The parties agree that specific consideration has been given by the Engineer for this limitation and that it is deemed adequate.

b. Neither party shall be liable to the other party for any special, indirect, or consequential damages including, without limitation, damages or losses in the nature of increased Project costs, loss of revenue or profit, lost production, claims by customers of the City, or governmental fines or penalties.

8. All other terms and conditions of the original Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated

REVIEWED FOR APPROVAL

Name & Title of Staff Project Manager

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay, therefore.

Leslie Haase, Director of Finance

APPROVED AS TO FORM

Peter Edwards, City Attorney

Engineer: Burns & McDonnell Engineering Company, Inc.

By: _____

Printed Name: Darin Brickman, P.E.

Title: Vice President

Date: _____

By: _____

Daniel Johnson, P.E.
Public Works Director

Date: _____

