

# REQUEST FOR BIDS



**CITY OF HARRISONVILLE, MISSOURI**  
300 E. Pearl St.  
HARRISONVILLE, MO 64701  
(816) 380-8900  
(816) 380-8910 FAX

**RFB 2021- 4**  
**Matrix Fitness Equipment**  
**FOR THE**  
**THE CITY OF HARRISONVILLE**

Response Deadline Date and Time: February 24, 2021 at 2:00 p.m., CST

Questions regarding this RFB should be directed to:  
Grant Purkey, Director of Parks and Recreation (816) 380-8985

The City of HARRISONVILLE is the only authorized source of the bid forms. Bid forms obtained from any other source may be incomplete. Offerors using a bid form not obtained from the City of HARRISONVILLE risk not receiving any necessary addenda, eliminating their bid from consideration.

Bids must be received in the City Clerk at City Hall, 300 E. Pearl Street, Harrisonville, MO 64701 by the date and time indicated above, with opening immediately following in City Hall. Submittal envelope must indicate bid number and response deadline.

**(ATTENTION BIDDER – COMPLETE AND RETURN WITH BID)**

Bidder's Name: _____ <small>(Please print or type company name)</small>	Phone No.: _____		
E-Mail Address: _____	FAX No.: _____		
Address _____	City _____	State _____	Zip _____
By: _____ <small>(Name of Authorized Agent)</small>	Title: _____		
Signature: _____	Date: _____		
<input type="checkbox"/> Offeror <b>makes firm offer</b> and is not revocable within sixty (60) days after response deadline.			
<input type="checkbox"/> Offeror <b>does not make an offer</b> in response to this invitation. Why did you not bid? _____			

**REQUEST FOR BIDS SUMMARY SHEET**  
**#2021-4**

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**NOTE: ALL BIDS ARE SUBJECT TO THE TERMS AND CONDITIONS HEREIN.**

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Structure of the RFB

For the convenience of the offeror, this RFB is structured as follows:

- Section 1 – Summary of Request
  - Section 2 – Scope of Work
  - Section 3 – Questions
  - Section 4 – Pre-Bid Meeting
  - Section 5 – Proposed Submission Requirements
  - Section 6 – Evaluation Criteria
  - Section 7 – Evaluation Process
  - Section 8 – Proposed Time Schedule
  - Section 9 – Right of Protest
  - Attachment 1 – Proposal Affidavit
  - Attachment 2 – Proposed Contract
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**RFB 2021-4**

**1. SUMMARY OF REQUEST / SCOPE OF GOODS AND/OR SERVICES**

The Project consists of the purchase of the following:

**Matrix Performance Series Cardio**

- 6 Quantity – Performance Series Treadmill with Touch XL Console
- 3 Quantity – Performance Series Ascent Trainer with Touch Console
- 3 Quantity – Performance Series Suspension Elliptical with Touch Console
- 1 Quantity – Performance Series Climbmill with Touch XL Console
- 2 Quantity – Performance Series Recumbent Bike with Touch Console
- 2 Quantity – Performance Series Hybrid Recumbent Bike with Touch Console
- 2 Quantity – Performance Series Upright Bike with Touch Console
- 2 Quantity - Matrix Krankcycle
- 1 Quantity – S Drive Performance Trainer Treadmill
- 1 Quantity – Matrix Rower

Total Matrix Performance Series Bid, includes all that is listed above

\$ \_\_\_\_\_

**Matrix Ultra Series**

- 1 Quantity – Versa Functional Trainer
- 1 Quantity – Ultra Abdominal Crunch
- 1 Quantity – Ultra Back Extension
- 1 Quantity – Independent Biceps Curl
- 1 Quantity – Ultra Calf Extension
- 1 Quantity – Ultra Converging Chest Press
- 1 Quantity – Ultra Pec Fly / Rear Delt
- 1 Quantity – Ultra Glute
- 1 Quantity – Ultra Hip Abductor
- 1 Quantity – Ultra Hip Adductor
- 1 Quantity – Ultra Diverging Lat Pulldown
- 1 Quantity – Ultra Lateral Raise
- 1 Quantity – Ultra Prone Leg Curl
- 1 Quantity – Ultra Leg Extension
- 1 Quantity – Ultra Leg Press
- 1 Quantity – Ultra Seated Leg Curl
- 1 Quantity – Ultra Diverging Seated Row
- 1 Quantity – Ultra Converging Shoulder Press
- 1 Quantity – Ultra Rotary Torso
- 1 Quantity – Ultra Triceps Press

Total Matrix Ultra Series Bid, includes all that is listed above

\$ \_\_\_\_\_

**Matrix Magnum Series**

- 1 Quantity – Aura 5 stack Multi-Station
- 1 Quantity – Magnum Double Mega Rack
- 1 Quantity – Magnum Glute Trainer
- 1 Quantity – Magnum Olympic Flat Bench
- 1 Quantity – Magnum Smith Machine
- 1 Quantity – Magnum Olympic Incline Bench

- 1 Quantity – Magnum Power Rack
- 2 Quantity – Magnum 3-Way Olympic Bench
- 1 Quantity – Magnum Standing Calf
- 1 Quantity – Magnum 45 Degree Leg Press
- 1 Quantity – Hack Squat
- 1 Quantity – Magnum Seated Row
- 1 Quantity – Magnum Barbell Rack
- 1 Quantity – Magnum Back Extension Bench
- 1 Quantity – Magnum Preacher Curl
- 1 Quantity – Magnum Adjustable Ab Bench
- 4 Quantity – Magnum Multi-Adjustable Bench
- 1 Quantity – Magnum Adjustable Decline Bench
- 1 Quantity – Magnum Utility Bench
- 2 Quantity – Magnum 2-Tier Flat-Tray Dumbbell Rack
- 1 Quantity – Magnum 10-Pair Pro-Style Dumbbell Rack
- 1 Quantity – XULT Urethane EZ-Curl Barbell, Black Plus, 20 lb. to 110 lb.

Total Matrix Magnum Series Bid, includes all that is listed above  
 \$ \_\_\_\_\_

Total Bid, to include Total Matrix Performance Series Bid, Total Matrix Ultra Series Bid and Total Matrix Magnum Series Bid \$ \_\_\_\_\_

**2. SCOPE OF WORK**

Bids shall be signed by the individual or authorized principals of the firm. Bids must give full firm name and address of bidder. Failure to manually sign bid form may be cause for disqualification. Person signing bids should show title or authority to bind firm in a contract.

All bidders/Contractors shall include, with their bids, a list of at least three (3) current references for whom work (goods) has been performed and within the past 24 months. This list shall include company name, person to contact, address and telephone number. Failure to include references may be ample cause for rejection of bid as non-responsive. Bids may be held by the City of HARRISONVILLE for a period not to exceed sixty (60) days from the date of bid opening for the purpose of reviewing the bids and investigating the qualifications of bidders prior to awarding of the contract.

The bidder/Contractor shall ensure that the appropriate signatures and seals are affixed to document. Bid Documents shall be sealed in an envelope, which shall be clearly labeled with the words "Bid Documents, Matrix Fitness Equipment, City of Harrisonville, and the Bidders/Contractor's Name".

Bids are invited for the work as described above in the Scope of Goods and/or Services. A contract may be awarded to the lowest and best responsive and responsible bidder.

The City of Harrisonville reserves the right to reject any or all bids or to waive any informality in the bidding, or to negotiate and suggest modifications and amendments, which would make the bid acceptable.

**3. QUESTIONS**

Any questions regarding this bid should be directed Grant Purkey, Director of Parks and Recreation 816-380-8985. Questions should be addressed to the City staff identified on Page 1 (Cover Sheet). If time permits, such questions should be submitted in writing. The City reserves the right to require that all questions be submitted in writing. The City reserves the right to provide such questions and answers to all prospective offerors in the form of an addendum to the RFB.

**4. PRE-BID MEETING**

No Pre-Bid Meeting will be held.

**5. PROPOSAL SUBMISSION REQUIREMENTS**

Sealed proposals must be received no later than 2:00 p.m. CST, on **February 24, 2021**, at City Hall, 300 E. Pearl Street Harrisonville, Missouri 64701. The sealed proposal must be marked "Matrix Fitness Equipment, CITY of HARRISONVILLE RFB 2021-4". The offeror shall submit the following information/documents as part of the proposal:

- A. One original and 3 copies of the bid
- B. Bid Affidavit
- C. Cover Sheet, completed and signed
- D. Information on the evaluation criteria (including total Matrix Performance Series Bid, total Matrix Ultra Series Bid, and total Matrix Magnum Series Bid).
- E. Proposed contract, attachments completed and signed

**Note:** Bids will not be accepted after the deadline for submission, regardless of the reason for such lateness. Bids that are received after the submission deadline will be returned to the offeror unopened. Any exceptions to the terms and conditions and/or proposed contract contained herein must be submitted as part of the bid.

**6. EVALUATION CRITERIA**

Proposals will be evaluated in accordance with the following criteria:

- **Certification of the goods to meet the specifications.**
- **Cost.**
- **Qualifications and history of the Contractor.**
- **Schedule for delivery.**

**Note:** The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories. The City is under no obligation to solicit such information if it is not included in the offeror's original proposal. Failure to provide such information may have an adverse impact on the evaluation of the offeror's proposal.

**7. EVALUATION PROCESS**

The City will consider a bid nonresponsive when critical information is lacking, or the submission represents a major deviation from the requirements of this RFB. Minor omissions or informalities may be waived at the sole option and discretion of the City. The City also reserves the right to reject any and all bids, make no award or multiple awards as result of this solicitation. Responsive bids will be evaluated in the following manner:

- A. An Evaluation Committee will review and rank all bids individually on their technical merits and according to the criteria established in Section 6 of this RFB. The Committee may contact offerors if any clarification is needed on the bid.
- B. Offerors whose bids are ranked the highest by the Evaluation Committee may be asked to participate in an interview process to ensure a mutual understanding of both the City's requirements and the offeror's proposal. Interviews may be conducted either in person via "Zoom" or by telephone. However, the Committee may decide that interviews are not necessary and make recommendations for award based on the information provided in the bid.
- C. The bidder/contractor that provides the City with the most reliable and cost-effective goods and/or services based on the established evaluation criteria will be recommended.

**Note:** In accordance with federal, state, and local laws, the bid documents will be available for public review following rejection of all bids; posting of the Notice of Intent to Award (for bids over \$10,000); execution of the contract and/or purchase order.

**8. Proposed Time Schedule**

RFB Issue Date: 02/10/21  
Deadline for Questions: 02/16/21  
RFB Close Date: 2/24/21  
RFB Evaluation: 2/24/21-2/25/21  
Notice of Award: 2/26/21

Commented [AF1]: This date will need updating.  
Commented [CB2R1]: Done!

**9. Right of Protest**

Any protest must be filed within five (5) business days of the date of posting of the Notice. The City shall be responsible for directly notifying bidders of the Notice of Intent to Award. Protests must be received in the office of the City Administrator and must contain the company name, address, phone number and signature of the authorized representative; solicitation number; a detailed statement describing the grounds for the protest; and supporting evidence or documents to substantiate the claim. The City Administrator will review the information provided and issue a written decision within five (5) business days of receipt of the protest. This decision shall be final.

AFFIDAVIT

STATE OF \_\_\_\_\_ )
) SS.
COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_ of the City of \_\_\_\_\_
\_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_,

being duly sworn on her or his oath, deposes and says:

- 1. That I am the \_\_\_\_\_ (Title of Affiant) of
\_\_\_\_\_ (Name of Bidder) and
have been authorized by said Bidder to make this affidavit on the Bidder's behalf.
2. No Alderman, nor the City Administrator, is financially interested in what the Bidder is offering to sell to the City pursuant to this invitation, nor is the Bidder a City employee or board member whose bid creates a conflict of interest. A conflict of interest would arise if a City employee or board member is in a position to affect either the decision to solicit bids or the selection of the successful bidder.
3. Bidder has not participated in collusion or committed any act in restraint of trade, directly or indirectly, which bears upon anyone's response or lack of response to this Invitation; and
4. The authorized signer of this document certifies that the organization and each of its principals are not suspended or debarred by the City of HARRISONVILLE, State of Missouri, or Federal government.

\_\_\_\_\_ (Name of Bidder)
By: \_\_\_\_\_ (Signature of Affiant)
\_\_\_\_\_ (Title of Affiant)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

(SEAL)
NOTARY PUBLIC in and for the County of \_\_\_\_\_
State of \_\_\_\_\_

My commission expires: \_\_\_\_\_

**CITY OF HARRISONVILLE  
CONTRACTUAL AGREEMENT**

**Attachment 2**

Any award made as a result of this Request for Bids will be subject to the following and shall comply substantially with the Contractual Agreement. By submitting a bid, the Offeror agrees to accept and be bound by the following terms and requirements in any resulting contract:

THIS AGREEMENT, made by and between the City of HARRISONVILLE, Missouri (hereinafter called CITY) and \_\_\_\_\_, a \_\_\_\_\_ Corporation (hereinafter called CONTRACTOR).

W I T N E S S E T H:

WHEREAS, CITY requires goods and/or services for

\_\_\_\_\_ and,

WHEREAS, CONTRACTOR is prepared to provide said professional services and/or goods and shall give consultation and advice to CITY during the performance of said services or delivery of said goods;

NOW THEREFORE, CITY and CONTRACTOR in consideration of the mutual covenants contained in this AGREEMENT, agree as follows:

**ARTICLE 1 – EFFECTIVE DATE**

The effective date of this AGREEMENT shall be \_\_\_\_\_.

**ARTICLE 2 – SERVICES TO BE PERFORMED AND / OR GOODS TO BE DELIVERED BY CONTRACTOR**

CONTRACTOR shall perform the services and/or deliver the goods set forth in the Scope of Goods and/or Services.

**ARTICLE 3 – PRECEDENCE OF DOCUMENTS**

The CITY'S Request for Bids and the CONTRACTOR'S Bid are attached and incorporated by reference into this AGREEMENT. In the event of inconsistency or conflict between or among the provisions of this AGREEMENT and the provisions of the exhibits or attachments to this AGREEMENT, the provisions of this AGREEMENT shall take precedence over the exhibits and attachments, the exhibits shall take precedence over the attachments and the CITY'S Request for Bids shall take precedence over the CONTRACTOR'S Bid.

**ARTICLE 4 – PERIOD OF SERVICE**

The Scope of Goods and/or Services to be performed/delivered by the CONTRACTOR shall be considered Complete within ninety (90) calendar days from the Notice to Proceed.

**ARTICLE 5 – COMPENSATION**

For services performed and/or goods delivered, the CITY shall pay the CONTRACTOR, based on the Total Bid amount equal to \$ \_\_\_\_\_.

Matrix Fitness Equipment

Matrix Performance Series Cardio

6 Quantity – Performance Series Treadmill with Touch XL Console

3 Quantity – Performance Series Ascent Trainer with Touch Console



- 3 Quantity – Performance Series Suspension Elliptical with Touch Console
- 1 Quantity – Performance Series Climbmill with Touch XL Console
- 2 Quantity – Performance Series Recumbent Bike with Touch Console
- 2 Quantity – Performance Series Hybrid Recumbent Bike with Touch Console
- 2 Quantity – Performance Series Upright Bike with Touch Console
- 2 Quantity - Matrix Krankcycle
- 1 Quantity – S Drive Performance Trainer Treadmill
- 1 Quantity – Matrix Rower

Total Matrix Performance Series Bid, includes all that is listed above  
 \$ \_\_\_\_\_

Matrix Ultra Series

- 1 Quantity – Versa Functional Trainer
- 1 Quantity – Ultra Abdominal Crunch
- 1 Quantity – Ultra Back Extension
- 1 Quantity – Independent Biceps Curl
- 1 Quantity – Ultra Calf Extension
- 1 Quantity – Ultra Converging Chest Press
- 1 Quantity – Ultra Pec Fly / Rear Delt
- 1 Quantity – Ultra Glute
- 1 Quantity – Ultra Hip Abductor
- 1 Quantity – Ultra Hip Adductor
- 1 Quantity – Ultra Diverging Lat Pulldown
- 1 Quantity – Ultra Lateral Raise
- 1 Quantity – Ultra Prone Leg Curl
- 1 Quantity – Ultra Leg Extension
- 1 Quantity – Ultra Leg Press
- 1 Quantity – Ultra Seated Leg Curl
- 1 Quantity – Ultra Diverging Seated Row
- 1 Quantity – Ultra Converging Shoulder Press
- 1 Quantity – Ultra Rotary Torso
- 1 Quantity – Ultra Triceps Press

Total Matrix Ultra Series Bid, includes all that is listed above  
 \$ \_\_\_\_\_

Matrix Magnum Series

- 1 Quantity – Aura 5 stack Multi-Station
- 1 Quantity – Magnum Double Mega Rack
- 1 Quantity – Magnum Glute Trainer
- 1 Quantity – Magnum Olympic Flat Bench
- 1 Quantity – Magnum Smith Machine
- 1 Quantity – Magnum Olympic Incline Bench
- 1 Quantity – Magnum Power Rack
- 2 Quantity – Magnum 3-Way Olympic Bench
- 1 Quantity – Magnum Standing Calf
- 1 Quantity – Magnum 45 Degree Leg Press
- 1 Quantity – Hack Squat
- 1 Quantity – Magnum Seated Row
- 1 Quantity – Magnum Barbell Rack
- 1 Quantity – Magnum Back Extension Bench
- 1 Quantity – Magnum Preacher Curl

- 1 Quantity – Magnum Adjustable Ab Bench
- 4 Quantity – Magnum Multi-Adjustable Bench
- 1 Quantity – Magnum Adjustable Decline Bench
- 1 Quantity – Magnum Utility Bench
- 2 Quantity – Magnum 2-Tier Flat-Tray Dumbbell Rack
- 1 Quantity – Magnum 10-Pair Pro-Style Dumbbell Rack
- 1 Quantity – XULT Urethane EZ-Curl Barbell, Black Plus, 20 lb. to 110 lb.

Total Matrix Magnum Series Bid, includes all that is listed above  
\$ \_\_\_\_\_

Total Bid \$ \_\_\_\_\_

The CITY is exempt from State of Missouri sales and use taxes on purchases made directly for the CITY. CONTRACTOR shall not include any sales or use taxes on transactions between the CONTRACTOR and CITY.

A single invoice shall be submitted by the CONTRACTOR to the CITY for payment covering services performed and/or goods delivered, and expenses incurred. Invoices shall indicate the quantities of items included with the goods on the project, and a summary of other expenses and charges along with supporting documentation. The CITY'S payment terms are net thirty (30) days.

**ARTICLE 6 – PERMITS AND LICENSES**

CONTRACTOR will abide by all applicable laws, regulations, and ordinances of all federal, state, and local governments in which work under this AGREEMENT is performed and will require the same of all subcontractors.

The CONTRACTOR must furnish and maintain certification of authority to conduct business in the State of Missouri.

**ARTICLE 7 – OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

Except as otherwise provided herein, documents, drawings, and specifications prepared by CONTRACTOR as part of the services shall become the property of CITY.

**ARTICLE 8 – CHANGES, DELETIONS, OR ADDITIONS TO AGREEMENT**

Either party may request changes within the general scope of this AGREEMENT. If a requested change causes an increase or decrease in the cost or time required to perform this AGREEMENT, CITY and CONTRACTOR will agree to an equitable adjustment of the AGREEMENT price, period of service, or both, and will reflect such adjustment in a change order.

**ARTICLE 9 – STANDARD OF CARE**

CONTRACTOR shall exercise the same degree of care, skill, and diligence in the performance of the services and/or delivery of goods as is ordinarily possessed and exercised by a city professional under similar circumstances.

**ARTICLE 10 – LIABILITY AND INDEMNIFICATION**

Having considered the potential liabilities that may exist during the performance of this AGREEMENT and the CONTRACTOR'S fee, and in consideration of the mutual covenants contained in the AGREEMENT, CITY and CONTRACTOR agree to allocate and limit such liabilities in accordance with this Article.

The CONTRACTOR agrees to indemnify and hold harmless the CITY, its agents, officials and employees and to assume all risk, responsibility for death of or injury to, any persons and for loss, damage or injury to any property (together with all expenses, including attorney fees, in defense or prosecution of any action involving any such death, injury or damage), arising from, growing out of, or in any manner or degree directly or indirectly related to the performance of this work, including patent and copyright infringements.

CONTRACTOR shall indemnify CITY against legal liability for damages arising out of claims by CONTRACTOR'S employees.

#### **ARTICLE 11 – INSURANCE**

During the performance of the Services and/or delivery of Goods under this AGREEMENT, CONTRACTOR shall maintain the following insurance:

- (1) Workers' Compensation Insurance in accordance with statutory requirements and Employer's Liability Insurance, with a minimum limit of \$500,000 for each occurrence.
- (2) Professional Liability Insurance, with a minimum limit of \$1,000,000 annual aggregate, when applicable.
- (3) General Liability Insurance, with minimum bodily injury limits of \$1,000,000 for each occurrence and \$2,000,000 aggregate, and with minimum property damage limits of \$1,000,000 for each occurrence and \$1,000,000 aggregate.
- (4) Automobile Liability Insurance, with minimum bodily injury limits of \$1,000,000 for each person and \$2,000,000 for each accident, and with property damage minimum limits of \$1,000,000 for each accident.

CONTRACTOR shall furnish CITY certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty days' written notice to CITY. All subcontractors shall be required to include CITY and CONTRACTOR as additional insureds on their General Liability Professional Liability (where applicable) and Automobile Liability insurance policies and shall be required to indemnify CITY and CONTRACTOR to the same extent.

#### **ARTICLE 12 – SHIPPING, TITLE AND RISK OF LOSS**

All sales and deliveries are F.O.B. CITY.

#### **ARTICLE 13 – DELAY IN PERFORMANCE**

Neither CITY nor CONTRACTOR shall be considered in default of this AGREEMENT for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this AGREEMENT, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, pandemic, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restrains; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either CITY or CONTRACTOR under this AGREEMENT. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this AGREEMENT.

#### **ARTICLE 14 – LIQUIDATED DAMAGES**

The CITY and CONTRACTOR hereby agree that the delivery of supplies, services, goods, materials, training and/or equipment of the character and quality required in this AGREEMENT is the essence of this AGREEMENT and if the supplies, services, goods, materials, training and/or equipment specified herein or any

part thereof are not delivered by the time specified and are not of the character and quality contained in the said specifications, or otherwise not fit for the particular purposes required by the CITY as provided in this AGREEMENT, there will be deducted, not as a penalty but as liquidated damages, Three Hundred Dollars (\$ 300.00) each day for each and every day of delay beyond the completion date (excluding any excusable delays in performance or mutually agreed extensions).

#### **ARTICLE 15 – TERMINATION**

CITY may terminate or suspend performance of this Agreement for CITY'S convenience upon sixty (60) days' written notice to CONTRACTOR. CONTRACTOR shall terminate or suspend performance of the services on a schedule acceptable to CITY. If termination or suspension is for CITY'S convenience, CITY shall pay CONTRACTOR for all the services performed and/or goods delivered until the date of the termination by the CITY or suspension expenses as determined and agreed to by the parties. Upon restart, and equitable adjustment shall be made to CONTRACTOR'S compensation.

This AGREEMENT may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

In the event that funding for the AGREEMENT is discontinued, City shall have the right to terminate this AGREEMENT immediately upon written notice to Contractor.

#### **ARTICLE 16 – WAIVER**

A waiver by either CITY or CONTRACTOR of any breach of this AGREEMENT shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

#### **ARTICLE 17 – SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this AGREEMENT or the occurrence of any event rendering any portion or provision of this AGREEMENT void shall in no way affect the validity or enforceability of any other portion or provision of this AGREEMENT. Any void provision shall be deemed severed from this AGREEMENT, and the balance of this AGREEMENT shall be construed and enforced as if this AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to amend this AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire AGREEMENT from being void should a provision which is of the essence of this AGREEMENT be determined void.

#### **ARTICLE 18 – SUCCESSORS AND ASSIGNS**

CITY and CONTRACTOR each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to the AGREEMENT and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this AGREEMENT.

#### **ARTICLE 19 – ASSIGNMENT**

Neither CITY nor CONTRACTOR shall assign any rights or duties under this AGREEMENT without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this AGREEMENT.

#### **ARTICLE 20 – THIRD PARTY RIGHTS**

Nothing in this AGREEMENT shall be construed to give any rights or benefits to anyone other than CITY and CONTRACTOR.

#### **ARTICLE 21 – INDEPENDENT CONTRACTORS**

Each party shall perform its activities and duties hereunder only as an independent contractor. The parties and their personnel shall not be considered to be employees or agents of the other party. Nothing in this AGREEMENT shall be interpreted as granting either party the right or authority to make commitments of any kind for the other. This AGREEMENT shall not constitute, create, or in any way be interpreted as a joint venture, partnership, or formal business organization of any kind.

#### **ARTICLE 22 – AUDIT**

CONTRACTOR agrees that the CITY, or a duly authorized representative, shall, until the expiration of three (3) years after final payment under this AGREEMENT have access to and the right to examine and copy any pertinent books, documents, papers, and records of the CONTRACTOR involving transactions related to this AGREEMENT.

#### **ARTICLE 23 – RENEWAL OPTIONS**

If specified in the original bid document, the CITY may exercise its option to renew the contract/agreement. Each renewal period shall be for the length of the original contract. The CITY will provide the CONTRACTOR with a written renewal notice sixty (60) days prior to the expiration date of the AGREEMENT period. Pricing shall be in accordance with the fees submitted on the original bid/proposal. All terms and conditions shall remain in effect during the subsequent renewal periods.

#### **ARTICLE 24 – MODIFICATIONS/AMENDMENTS**

The CITY may at any time, by written modification or amendment, without notice to any surety, make changes or additions, within the general scope of this AGREEMENT in or to drawings, designs, specifications, instructions for work, methods of shipment or packing or place of delivery. If any such change causes an increase or decrease in the cost of or in the time required for performance of this AGREEMENT or purchase order, the CONTRACTOR shall notify the City Administrator in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of the contract. Any claim by the CONTRACTOR for such adjustment must be asserted within thirty (30) days or such other period as may be agreed upon in writing by the parties after the CONTRACTOR'S receipt of notice of the modification. Nothing herein contained shall excuse the CONTRACTOR from proceeding with the AGREEMENT as changed.

#### **ARTICLE 25 – EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this AGREEMENT, the CONTRACTOR agrees as follows:

The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, age, color, religion, sex, national origin, or any other legally protected category. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, age, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, age, color, religion, sex, or national origin.

The CONTRACTOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the

Contract Compliance Officer advising the said labor union or workers' representatives of the CONTRACTOR'S commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the CONTRACTOR'S noncompliance with the non-discrimination clauses of this AGREEMENT with any of the said rules, regulations, or orders, this AGREEMENT may be canceled, terminated, or suspended in whole or in part, and the CONTRACTOR may be declared ineligible for any further government agreement, contracts, or purchase orders or federally assisted agreements and/or contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rules, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.

#### **ARTICLE 26 – GOVERNING LAW**

This AGREEMENT shall be governed by the laws of the State of Missouri.

#### **ARTICLE 27 – COMMUNICATIONS**

Any communication required by this AGREEMENT shall be made in writing to the address specified below:

CONTRACTOR:

---

*FIRM NAME AND ADDRESS*

CITY:

---

*CONTACT PERSON AND ADDRESS*

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of CONTRACTOR and CITY.

#### **ARTICLE 28 – SEPARATE AGREEMENTS**

CITY and CONTRACTOR each reserve the right to, from time to time, enter into other agreements or contracts for specific projects. If such agreements or contracts are separately approved in writing by the parties, the terms and conditions of those agreements or contracts shall prevail for the specific projects set forth therein.

#### **ARTICLE 29 – ENTIRE AGREEMENT**

This AGREEMENT represents the entire agreement between the CITY and CONTRACTOR. All previous or contemporaneous agreements, representations, promises, and conditions relating the CONTRACTOR'S services and/or goods described herein are superseded.

**ARTICLE 30 – SURVIVAL OF TERMS**

The following provisions shall survive the expiration or termination of this AGREEMENT for any reason: if any payment obligations exist, Article 5 – Compensation; Article 6 – Permits and Licenses; Article 10 – Liability and Indemnification; Article 16 – Waiver; Article 17 – Severability; Article 19 – Assignment; Article 21 – Independent Contractors; Article 26 – Governing Law; Article 29 – Entire Agreement; and this Article 30 – Survival of Terms.

IN WITNESS WHEREOF, CITY and CONTRACTOR, by and through their authorized officers, have made and executed this Agreement:

**CITY OF HARRISONVILLE, MO:**

**CONTRACTOR:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date \_\_\_\_\_