CONTRACT # 22200096

for

ITINERANT ENCAMPMENT SITE REMOVAL SERVICES

THIS CONTRACT entered into this 13th day of September 2022, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **BOULEVARD CONSTRUCTION GROUP, LLC**, whose principal office is at 1714 N. Sedgwick, Wichita, Kansas, 67203, Telephone Number (316) 253-8535, hereinafter called "**VENDOR**".

WHEREAS, the **CITY** has solicited bids for **Itinerant Encampment Site Removal Services** (Formal Bid – FB220197) [Commodity Code Number 91027]; and

WHEREAS, VENDOR has submitted the bid most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY.**

NOW, THEREFORE, the parties hereto agree as follows:

1. **Scope of Services. VENDOR** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Bid Number – FB220197 [Commodity Code Number 91027], which are incorporated herein by this reference the same as if it were fully set forth. The bid package, including all specifications, plans and addenda, provided by the City of Wichita as part of the bid letting process for Formal Bid Number – FB220197, shall be considered a part of this contract and is incorporated by reference herein. The order of precedence, in case or disagreement in terms, shall give first priority to the express terms of this contract, followed by the Vendor's proposal and then the City's proposal package.

2. **Compensation. CITY** agrees to pay to **VENDOR** the following **unit price** for Itinerant Encampment Site Removal Services, the Formal Bid – FB220197 [Commodity Code Number 91027], for the Wichita Police Department as shown below as compensation as per the bid, plans, specifications, addenda and **VENDOR's** bid of August 19, 2022 and as approved by the City Council on September 13, 2022.

Group 1 - Base Bid:

1. Site Removal Mobilization @ $200.00 per Each
2. Emergency Site Removal Mobilization @ $300.00 per Each
3. General Removal @ $650.00 per Ton
4. Biohazard/Hazardous Materials Disposal @ $300.00 per Ton

City will pay a one ton minimum unit price per site on the first ton.

Group 2 - Add Alternate #1:

5. Personal Property Recovery & Storage @ $50.00 per Month

3. **Term.** The term of this contract shall be from **November 1, 2022 through October 31, 2023,** with options to renew the contract under the same terms and conditions for two (2) successive one (1) year terms by mutual agreement of the parties. This contract is subject to cancellation by the city, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **VENDOR.**

4. Indemnification and Insurance.

a. **VENDOR** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons, property or other liability loss arising from or caused by errors, omissions or negligent acts of **VENDOR**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **CONTRACTOR** will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Commercial General Liability
Covering premises---operations, xcu hazards, Product/Completed Operations, Broad Form Property Damage and Contractual Liability with minimum limits as follows:

Bodily Injury Liability	$1,000,000 Each Occurrence $2,000,000 Annual Aggregate
Property Damage Liability	$1,000,000 Each Occurrence $2,000,000 Annual Aggregate
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$1,000,000 Each Occurrence $2,000,000 Annual Aggregate

2. Comprehensive Automobile Liability
All Owned, Non-Owned, and Hired vehicles with minimum limits as follows:

Bodily Injury Liability	$1,000,000 Each Occurrence
Property Damage Liability	$1,000,000 Each Occurrence
Or	
Bodily Injury and Property Damage Liability (Combined Single Limit)	$1,000,000 Each Occurrence

3. Workers' Compensation to meet Statutory requirements.

4. Employers Liability

$1,000,000 Each Accident
$1,000,000 Occupational Disease
$2,000,000 Annual Aggregate

The Insurance Certificate must contain the following:

The City of Wichita shall be added as primary and non-contributory additional insured. The policy shall also provide coverage for contractor's/vendor's contractual obligations created in the Agreement. Coverage shall be the greater of the requirements stated here or the contractor's existing policy.

The Certificate of Insurance must be submitted **within ten (10) days** after notification of award to the City of Wichita Purchasing Manager, City Hall, 12th Floor, 455 North Main, Wichita, Kansas, 67202-1694.

Exhibits A and B, attached, are incorporated into this Contract as essential terms.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

ATTEST:

for Jamie Buster
City Clerk

APPROVED AS TO FORM:

Jennifer Magaña
City Attorney and Director of Law

CITY OF WICHITA, KANSAS

Melinda A. Walker
Purchasing Manager

BOULEVARD CONSTRUCTION GROUP, LLC

Signature

ANDREW BARNARD
Print Name

OWNER
Title (Managing Member)

EXHIBIT A
CITY OF WICHITA MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT

1. **Terms Herein Controlling Provisions.** The terms of this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement.

2. **Choice of Law.** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. Any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.

3. **Termination Due To Lack of Funding Appropriation.** If, in the judgment of the City's Director of Finance, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, City may terminate this Agreement at the end of its current fiscal year. City agrees to give written notice of termination to Contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided to City under the Agreement. City will pay to Contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon the effective termination of the Agreement by City, title to any such equipment shall revert to Contractor. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the City or the Contractor.

4. **Disclaimer of Liability.** City shall not hold harmless or indemnify any Contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*).

5. **Acceptance of Agreement.** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

6. **Arbitration, Damages, Jury Trial and Warranties.** The City does not ever accept binding arbitration or the payment of damages or penalties upon the occurrence of a contingency, and expressly denies such acceptance for this Agreement. The City never consents to a jury trial to resolve any disputes that may arise hereunder, and expressly denies such consent for this Agreement. Contractor waives its right to a jury trial to resolve any disputes that may arise hereunder. No provision of any document within the Agreement between the Parties will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

7. **Representative's Authority to Contract.** By signing this Agreement, the representative of the Contractor thereby represents that such person is duly authorized by the Contractor to execute this Agreement on behalf of the Contractor and that the Contractor agrees to be bound by the provisions thereof.

8. **Federal, State and Local Taxes.** Unless otherwise specified, the proposal price shall include all applicable federal, state, and local taxes. Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Agreement. City is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the Agreement. Upon request, City shall provide to the Contractor a certificate of tax exemption. City makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

9. **Insurance.** City shall not be required to purchase any insurance against any liability loss or damage to which this Agreement relates, nor shall this Agreement require the City to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.

10. **Conflict of Interest.** Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the City and providing services involving this Agreement or services similar in nature to the scope of this Agreement to the City. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any City employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the City.

11. **Confidentiality.** Contractor may have access to private or confidential data maintained by City to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 *et seq.*) in providing services and/or goods under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. Contractor must agree to return any or all data furnished by the City promptly at the request of City in whatever form it is maintained by Contractor. Upon the termination or expiration of this Agreement, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by City, shall destroy or render such data or material unreadable. The parties accept that City must comply

with the Kansas Open Records Act and will produce upon written request all documents pertaining to this Agreement other than those covered by express exceptions to disclosure listed in the Act.

12. **Cash Basis and Budget Laws.** The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

13. **Anti-Discrimination Clause.** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*), the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*), the Discrimination Against Military Personnel Act, K.S.A. 44-1125, and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) (ADA); (b) to not engage in discrimination in employment against its contractors, subcontractors, or employees on the basis of their age, color, disability, familial status, gender identity, genetic information, national origin or ancestry, race, religion, sex, sexual orientation, veteran status or any other factor protected by law ("protected class"), subject to the qualifications found at 2.06.060 of the Municipal Code of the City of Wichita; (c) to include in all solicitations or advertisements for employees the phrase "equal opportunity employer;" (d) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (e) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor.

    Contractor's failure to comply with the reporting requirements of (d) above, or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission or City of Wichita Hearing Officer, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by City without incurring contractual damages or penalty; and (g) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by City without incurring contractual damages or penalty.

14. **Suspension/Debarment.** Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the System for Award Management (SAM) shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. All non-federal entities, including the City of Wichita, must determine whether the Contractor has been excluded from the system and any federal funding received or to be received by the City in relation to this Agreement prohibits the City from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the SAM, the Contractor shall notify the City in writing of such determination within five (5) business days as set forth in the Notice provision of this Agreement. City shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under the SAM and to notify City within the same five (5) business days, with the City reserving the same right to terminate for breach as set forth herein.

15. **Compliance with Law.** Contractor shall comply with all applicable local, state, and federal laws and regulations in carrying out this Agreement, regardless of whether said local, state, and federal laws are specifically referenced in the Agreement to which this attached is incorporated.

16. **No Assignment.** The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, delegated, sublet, or transferred without the specific written consent of the **CITY**.

17. **Third Party Exclusion.** This Agreement is intended solely for the benefit of City and Contractor and is not intended to benefit, either directly or indirectly, any third party or member(s) of the public at large. No third party may sue for damages based on the terms or performance of this Agreement.

18. **No Arbitration.** The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

19. **Bankruptcy.** Contractor shall be considered to be in default of this Contract in the event Contractor (i) applies for or consents to the appointment of a receiver, trustee, or liquidator of itself or any of its property, (ii) is unable to pay its debts as they mature or admits in writing its inability to pay its debts as they mature, (iii) makes a general assignment for the benefit of creditors, (iv) is adjudicated as bankrupt or insolvent, or (v) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or taking advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or admits the material allegations of a petition filed against it in any proceedings under any such law, or if any action shall be taken by Contractor for the purpose of effecting any of the foregoing.

EXHIBIT B
CITY OF WICHITA MANDATORY INDEPENDENT CONTRACTOR ADDENDUM

1. This Agreement shall satisfy all tax and other governmentally imposed responsibilities including, but not limited to payment of: state, federal, and social security taxes; unemployment taxes; workers' compensation and self-employment taxes. No federal, state, or local taxes of any kind shall be withheld or paid by City.

2. The parties agree that as an independent contractor, Contractor is not entitled to any benefits from City, including but not limited to: (a) unemployment insurance benefits; (b) workers' compensation coverage; or (c) health insurance coverage. Contactor may only receive such coverages if provided by Contractor or an entity other than City. Subject to the foregoing, Contractor hereby waives and discharges any claim, demand, or action against City's workers' compensation insurance and/or health insurance and further agrees to indemnify City for any such claims related to Contractor's operations or the performance of services by Contractor hereunder

3. The parties hereby acknowledge and agree that City will not: (a) require Contractor to work exclusively for City; (b) establish means or methods of work for Contractor, except that City may provide plans and specifications regarding the work but will not oversee the actual work. City may establish performance standards for the contracted outcomes. (c) pay to Contractor a salary or hourly rate, but rather will pay to Contractor a fixed or contract rate; (d) provide training for Contractor on performance of the services to be done; City may provide informational briefing on known conditions. (e) provide tools or benefits to Contractor (materials and equipment may be supplied if negotiated); (f) dictate the time of Contractor's performance; and (g) pay Contractor personally; instead, City will make all checks payable to the trade or business name under which Contractor does business.

4. Contractor does not have the authority to act for City, to bind City in any respect whatsoever, or to incur debts or liabilities in the name of or on behalf of City.

5. Unless given express written consent by City, Contractor agrees not to bring any other party (including but not limited to employees, agents, subcontractors, sub-subcontractors, and vendors) onto the project site.

6. If Contractor is given written permission to have other parties on the site, and Contractor engages any other party which may be deemed to be an employee of Contractor, Contractor will be required to provide the appropriate workers' compensation insurance coverage as required by this Agreement.

7. Contractor has and hereby retains control of and supervision over the performance of Contractor's obligations hereunder. Contractor agrees to retain control over any allowed parties employed or contracted by Contractor for performing the services hereunder and take full and complete responsibility for any liability created by or from any actions or individuals brought to the project by Contractor.

8. Contractor represents that it is engaged in providing similar services to the general public and not required to work exclusively for City.

9. All services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the safety of its and the City's employees, agents, subcontractors, sub-subcontractors, vendors, along with members of the general public it encounters while performing the work.

10. Contractor will not combine its business operations in any way with City's business operations and each party shall maintain their operations as separate and distinct.

Finance Department
CITY OF WICHITA

Boulevard Construction Group LLC
1714 N Sedgwick
Wichita, KS 67203

August 18, 2023
22200096

Ladies &/or Gentlemen:

The City of Wichita wishes to exercise its option to renew its contract dated September 13, 2022, with your firm to provide **Itinerant Encampment Site Removal Services** (Formal Bid – FB220197) for the Wichita Police Department of the City of Wichita. This is to be per your bid and the specifications of August 19, 2022, and as approved by the City Council on September 13, 2022.

The renewal of this contract shall be for a one (1) year period, from **November 1, 2023, through October 31, 2024**, with an option to renew under the same terms and conditions for one (1) additional one (1) year period by mutual agreement of both parties. This contract is subject to cancellation upon thirty (30) days written notice by the City of Wichita.

We ask that a current Certificate of Insurance for your company be submitted to our office. **The City of Wichita, 455 N. Main, Wichita, Kansas, 67202, should be listed as the Certificate Holder and named as an Additional Insured.**

If you are in full agreement with the renewal of this contract, **please have the President or a corporate officer of your company sign and return one copy of this letter to our Purchasing Office.** The second copy should be retained for your files.

Sincerely,

Josh L. Lauber
Purchasing Manager

JLL/rc

BOULEVARD CONSTRUCTION GROUP LLC

Signature

ANDREW BARNARD
Print Name

OWNER
Title *(President or Corporate Officer)*

316.253.8535
Telephone Number

EXHIBIT A
CITY OF WICHITA MANDATORY CONTRACTUAL PROVISIONS ATTACHMENT

1. **Terms Herein Controlling Provisions.** The terms of this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the Agreement.

2. **Choice of Law.** This Agreement shall be interpreted under and governed by the laws of the State of Kansas. Any dispute or cause of action that arises in connection with this Agreement will be brought before a court of competent jurisdiction in Sedgwick County, Kansas.

3. **Termination Due To Lack of Funding Appropriation.** If, in the judgment of the City's Director of Finance, sufficient funds are not appropriated to continue the function performed in this Agreement and for the payment of the charges hereunder, City may terminate this Agreement at the end of its current fiscal year. City agrees to give written notice of termination to Contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided for in the Agreement, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided to City under the Agreement. City will pay to Contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any related equipment. Upon the effective termination of the Agreement by City, title to any such equipment shall revert to Contractor. The termination of the Agreement pursuant to this paragraph shall not cause any penalty to be charged to the City or the Contractor.

4. **Disclaimer of Liability.** City shall not hold harmless or indemnify any Contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*). It is understood that the duty to indemnify or hold harmless includes the duty to defend. This indemnification and hold harmless clause shall apply whether or not insurance policies shall have been determined to be applicable to any of such damages or claims for damages. In no event shall either party be obligated to indemnify the other on account of the negligence or willful misconduct of the party seeking indemnity or any agent or employee thereof.

5. **Acceptance of Agreement.** This Agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

6. **Arbitration, Damages, Jury Trial and Warranties.** The City does not ever accept binding arbitration or the payment of damages or penalties upon the occurrence of a contingency, and expressly denies such acceptance for this Agreement. The City never consents to a jury trial to resolve any disputes that may arise hereunder, and expressly denies such consent for this Agreement. Contractor waives its right to a jury trial to resolve any disputes that may arise hereunder. No provision of any document within the Agreement between the Parties will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

7. **Representative's Authority to Contract.** By signing this Agreement, the representative of the Contractor thereby represents that such person is duly authorized by the Contractor to execute this Agreement on behalf of the Contractor and that the Contractor agrees to be bound by the provisions thereof.

8. **Federal, State and Local Taxes.** Unless otherwise specified, the proposal price shall include all applicable federal, state, and local taxes. Contractor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Agreement. City is exempt from state sales or use taxes and federal excise taxes for direct purchases. These taxes shall not be included in the Agreement. Upon request, City shall provide to the Contractor a certificate of tax exemption. City makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

9. **Insurance.** City shall not be required to purchase any insurance against any liability loss or damage to which this Agreement relates, nor shall this Agreement require the City to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 *et seq.*), Contractor shall bear the risk of any loss or damage to any personal property to which Contractor holds title.

10. **Conflict of Interest.** Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any professional personnel who are also in the employ of the City and providing services involving this Agreement or services similar in nature to the scope of this Agreement to the City. Furthermore, Contractor shall not knowingly employ, during the period of this Agreement or any extensions to it, any City employee who has participated in the making of this Agreement until at least two years after his/her termination of employment with the City.

11. **Confidentiality.** Contractor may have access to private or confidential data maintained by City to the extent necessary to carry out its responsibilities under this Agreement. Contractor must comply with all the requirements of the Kansas Open Records Act (K.S.A. 42-215 *et seq*.) in providing services and/or goods under this Agreement. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this Agreement shall be disseminated by either party except as authorized by statute, either during the period of the Agreement or thereafter. Contractor must agree to return any or all data furnished by the City promptly at the request of City in whatever form it is maintained by Contractor. Upon the termination or expiration of this Agreement, Contractor shall not use any of such data or any material derived from the data for any purpose and, where so instructed by City, shall destroy or render such data or material unreadable. The parties accept that City must comply with the Kansas Open Records Act and will produce upon written request all documents pertaining to this Agreement other than those covered by express exceptions to disclosure listed in the Act.

12. **Cash Basis and Budget Laws.** The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-

1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and all other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws.

13. **Anti-Discrimination Clause.** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq*.), the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq*.), the Discrimination Against Military Personnel Act, K.S.A. 44-1125, and the applicable provisions of the Americans with Disabilities Act (42 U.S.C. 12101 *et seq*.) (ADA); (b) to not engage in discrimination in employment against its contractors, subcontractors, or employees on the basis of their age, color, disability, familial status, gender identity, genetic information, national origin or ancestry, race, religion, sex, sexual orientation, veteran status or any other factor protected by law ("protected class"), subject to the qualifications found at 2.06.060 of the Municipal Code of the City of Wichita; (c) to include in all solicitations or advertisements for employees the phrase "equal opportunity employer;" (d) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (e) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor.

    Contractor's failure to comply with the reporting requirements of (d) above, or if the Contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission or City of Wichita Hearing Officer, such violation shall constitute a breach of contract and the Agreement may be cancelled, terminated or suspended, in whole or in part by City without incurring contractual damages or penalty; and (g) if it is determined that the Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of the Agreement and the Agreement may be cancelled, terminated or suspended, in whole or in part by City without incurring contractual damages or penalty.

14. **Suspension/Debarment.** Contractor acknowledges that as part of the Code of Federal Regulations (2 C.F.R. Part 180) a person or entity that is debarred or suspended in the System for Award Management (SAM) shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. All non-federal entities, including the City of Wichita, must determine whether the Contractor has been excluded from the system and any federal funding received or to be received by the City in relation to this Agreement prohibits the City from contracting with any Contractor that has been so listed. In the event the Contractor is debarred or suspended under the SAM, the Contractor shall notify the City in writing of such determination within five (5) business days as set forth in the Notice provision of this Agreement. City shall have the right, in its sole discretion, to declare the Agreement terminated for breach upon receipt of the written notice. Contractor shall be responsible for determining whether any sub-contractor performing any work for Contractor pursuant to this Agreement has been debarred or suspended under the SAM and to notify City within the same five (5) business days, with the City reserving the same right to terminate for breach as set forth herein.

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16. **No Assignment.** The services to be provided by the **VENDOR** under this Contract are personal and cannot be assigned, delegated, sublet, or transferred without the specific written consent of the **CITY**.

17. **Third Party Exclusion.** This Agreement is intended solely for the benefit of City and Contractor and is not intended to benefit, either directly or indirectly, any third party or member(s) of the public at large. No third party may sue for damages based on the terms or performance of this Agreement.

18. **No Arbitration**. The Contractor and the City shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

19. **Bankruptcy.** Contractor shall be considered to be in default of this Contract in the event Contractor (i) applies for or consents to the appointment of a receiver, trustee, or liquidator of itself or any of its property, (ii) is unable to pay its debts as they mature or admits in writing its inability to pay its debts as they mature, (iii) makes a general assignment for the benefit of creditors, (iv) is adjudicated as bankrupt or insolvent, or (v) files a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or taking advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or admits the material allegations of a petition filed against it in any proceedings under any such law, or if any action shall be taken by Contractor for the purpose of effecting any of the foregoing.

EXHIBIT B
CITY OF WICHITA MANDATORY INDEPENDENT CONTRACTOR ADDENDUM

1. This Agreement shall satisfy all tax and other governmentally imposed responsibilities including, but not limited to payment of: state, federal, and social security taxes; unemployment taxes; workers' compensation and self-employment taxes. No federal, state, or local taxes of any kind shall be withheld or paid by City.

2. The parties agree that as an independent contractor, Contractor is not entitled to any benefits from City, including but not limited to: (a) unemployment insurance benefits; (b) workers' compensation coverage; or (c) health insurance coverage. Contactor may only receive such coverages if provided by Contractor or an entity other than City. Subject to the foregoing, Contractor hereby waives and discharges any claim, demand, or action against City's workers' compensation insurance and/or health insurance and further agrees to indemnify City for any such claims related to Contractor's operations or the performance of services by Contractor hereunder

3. The parties hereby acknowledge and agree that City will not: (a) require Contractor to work exclusively for City; (b) establish means or methods of work for Contractor, except that City may provide plans and specifications regarding the work but will not oversee the actual work. City may establish performance standards for the contracted outcomes. (c) pay to Contractor a salary or hourly rate, but rather will pay to Contractor a fixed or contract rate; (d) provide training for Contractor on performance of the services to be done; City may provide informational briefing on known conditions. (e) provide tools or benefits to Contractor (materials and equipment may be supplied if negotiated); (f) dictate the time of Contractor's performance; and (g) pay Contractor personally; instead, City will make all checks payable to the trade or business name under which Contractor does business.

4. Contractor does not have the authority to act for City, to bind City in any respect whatsoever, or to incur debts or liabilities in the name of or on behalf of City.

5. Unless given express written consent by City, Contractor agrees not to bring any other party (including but not limited to employees, agents, subcontractors, sub-subcontractors, and vendors) onto the project site.

6. If Contractor is given written permission to have other parties on the site, and Contractor engages any other party which may be deemed to be an employee of Contractor, Contractor will be required to provide the appropriate workers' compensation insurance coverage as required by this Agreement.

7. Contractor has and hereby retains control of and supervision over the performance of Contractor's obligations hereunder. Contractor agrees to retain control over any allowed parties employed or contracted by Contractor for performing the services hereunder and take full and complete responsibility for any liability created by or from any actions or individuals brought to the project by Contractor.

8. Contractor represents that it is engaged in providing similar services to the general public and not required to work exclusively for City.

9. All services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the safety of its and the City's employees, agents, subcontractors, sub-subcontractors, vendors, along with members of the general public it encounters while performing the work.

10. Contractor will not combine its business operations in any way with City's business operations and each party shall maintain their operations as separate and distinct.