



2024 RESIDENTIAL DRIVEWAY GRANT BID PACKET

The City of Merriam, Kansas (City) is seeking a licensed, qualified contractor (contractor) to submit bid proposals for the removal and installation of residential driveways.

Summary

The City has established a program that removes and installs/repairs driveways for residents that have a financial need and driveways that are in disrepair. The City has already determined the households that meet these requirements.

For 2024, the City Council budgeted \$90,000 for the program. City staff inspected program participants' driveways and created a general diagram for the replacement of each driveway. Attached to this notice are diagrams and addresses of the eight (8) driveways that could potentially be included in this program. It is the responsibility of potential bidders to review and familiarize themselves with each driveway listed prior to bidding. The attached diagrams are meant to be a general description of the work to be performed.

In order to maximize the program's funding, the City is requiring the bids to be in the form of a separate, lump sum bid for each driveway. Bidders must provide a bid for EACH driveway.

The City reserves the right to determine which, if any, of the driveways will be repaired/replaced. The City will award this project to just one bidder.

Locations

- 5312 Mastin Street
- 6137 Antioch Road
- 8017 W. 61st Street
- 8408 Johnson Drive
- 8411 W. 61st Street
- 8812 W. 71st Street
- 9120 W. 69th Terrace
- 10217 W. 49th Street

Pre-Bid Meeting

A non-mandatory pre-bid meeting will be held on Monday, May 6, 2024 at 10:00 AM at Merriam City Hall, 9001 W. 62nd Street, Merriam, KS 66202.

Contact

David Easley, Neighborhood Services Manager
913-322-5526
deasley@merriam.org

Contractor Requirements

Contractors must have a current Merriam Occupational Licenses or have the ability to obtain one prior to the start of work.

Submittal Requirements

All proposals shall be in a sealed envelope and marked "Proposal for City of Merriam Residential Driveway Program".

The City of Merriam reserves the right to accept or reject any and all proposals.

Proposals must be delivered to Merriam City Clerk, Merriam City Hall, 9001 W. 62nd Street, Merriam, Kansas 66202 prior to 10:00 AM, Monday, May 20, 2024. Proposals will be opened and reviewed at 10:15 AM that same day at City Hall. Once a proposal is chosen it will be subject to approval by Merriam City Council. Proposals that are received after 10:00AM, Monday, May 20, 2024, will not be considered. The City reserves the right to accept or reject any and all proposals and to waive any technicalities or irregularities therein. Proposals may be modified or withdrawn by written request of the bidder. The written request must be received by the City Clerk, prior to the time and date for the bid opening. No contractor may withdraw its proposal for a period of sixty (60) days after the date set for the opening thereof. All contractors agree that rejection shall create no liability on the part of the City because of the rejection.

The following items must be included in the sealed envelope with the proposal:

- A. Bid Form (Attached). Form has the location of the project addresses. For each address, provide a lump sum amount and estimated length of time to complete the project
- B. Certificate of insurance as described below
- C. Listing of the personnel that will be performing the work. At a minimum, the listing should include:
 - (1) Name and title of each person
 - (2) Description of their job duties and responsibilities for this project
 - (3) Description of their relative work history and skills
 - (4) Individual that will be responsible for overseeing this project
- D. A list of five (5) references documenting your experience. Each reference should include the name of the individual knowledgeable of your service, his/her title and a current telephone number. In addition, please provide:

- A. When the project was completed
- B. Description of project
- C. Information on the experience and/or qualification of personnel assigned to the project.

The City of Merriam is a Kansas municipality governed by the Kansas Open Records Act (KORA), K.S.A. 45- 215 *et seq.* By submitting a bid, the bidder acknowledges that its bid, once opened, is presumed to be an open record under the KORA. If the bidder submits information that it believes to be subject to an exemption to disclosure under the KORA, the bidder must reference the particular exemption from mandatory disclosure outlined in the KORA. The words “Confidential” or “Proprietary” are not sufficient. The City of Merriam cannot guarantee the confidentiality of claimed material. Bidders specifically waive any claims against the City of Merriam related to the disclosure of any material if made pursuant to a public records request.

Contract Duration

The term of the contract will be until the contractor completes the selected driveways or August 31, 2024, whichever comes first. The City, at its sole discretion, can provide two contract extensions of 30 days each upon contractor written request submitted to David Easley.

The contractor must provide a one-year warranty for the driveways.

Contract Form

Attached is the general form of the contract for this project. The response to this bid request, which is submitted by the contractor that is awarded this project, will be attached as an exhibit to the contract.

Insurance Required

The selected contractor shall, at its own expense, obtain and maintain the following insurance:

(1) **General Liability**

General Aggregate:	\$1,000,00
Products Completed Operations Aggregate:	\$1,000,00
Personal & Advertising Injury:	\$500,000
Each Occurrence:	\$500,000

Name City of Merriam as “Additional Insured.”

- (2) **Automobile Liability:** Policy shall protect the Contractor against claims for bodily injury and/or property damage arising from the ownership or use of all owned, hired and/or non- owned vehicles in an amount of no less than \$500,000, combined single limit.

Name City of Merriam as “Additional Insured.”

- (3) **Workers’ Compensation and Employer’s Liability:** This insurance shall protect

the Contractor against all claims under applicable state workers' compensation laws. The Contractor shall also be protected against claims for injury, disease, or death of employees that for any reason may not fall within the provisions of a workers' compensation law. The policy limits shall not be less than the following:
Workers' Compensation:

Statutory

Employer's Liability:

Bodily Injury by Accident	\$500,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$500,000 each employee

If the Contractor has no employees, a waiver form provided by the City must be executed.

- (4) **Fidelity Bond:** Contractor agrees to purchase and maintain a fidelity bond for its officers, directors, agents, and employees in an amount no less than \$10,000.
- (5) **Subcontractor's Insurance:** If a part of this Agreement is to be sublet, the Contractor shall either:
 - (1) Cover all subcontractors under its insurance policies; or
 - (2) Require each subcontractor not so covered to secure insurance that will protect against applicable hazards or risks of loss as and in the minimum amounts designated herein.

State tax letter

Prior to being awarded this bid, the selected contractor must provide a Kansas Certificate of Tax Clearance.

See the Kansas Department of Revenue website for more information –

<https://www.ksrevenue.gov/taxclearance.html>

Sequencing and Scheduling

Upon acceptance of the Bid, the Contractor shall coordinate with the City to arrange a schedule for the work. The City expects work to begin within 30 days of awarding the project. The City will then coordinate with the property owners the scheduling of the work.

The work at each driveway shall follow the same general sequencing -

- Contractor meet on-site with Neighborhood Services Manager, David Easley
- Driveway removal
- Driveway frame-up and inspection by Building Inspector (within 2 days of removal,

unless otherwise approved by the City)

- Driveway poured (within 2 days of start of frame-up, unless otherwise approved by the City)

The items above must be completed and City staff approved before contractor can start another driveway that is a part of this program.

Scope of Work – All Driveways

- Provide a one-year warranty for the installed driveway
- Remove existing driveway
- Remove all existing on-site gravel
- Construct driveway per City plans and specifications
- See Merriam Code, Sec 11-57(b) –
 - **R309.6 Residential driveways.** Residential concrete and asphalt “driveway” slabs shall be a minimum of 4” thick. For concrete driveways, 4 inches of gravel shall be added as a base along with ½ inch rebar spaced thirty inches (30”) on center each way over the base prior to the driveway concrete being poured. The driveway shall have a constant slope to avoid ponding of water. The slope shall be away from the house or building, or drain by a means approved by the Building Official
- See “The City of Merriam, Kansas, Manual of Infrastructure Standards”, in particular, Section 11
<https://www.merriam.org/files/sharedassets/public/public-works/manual-of-infrastructure.pdf>
- See KC Metro APWA Division III, Standard Drawings
https://kcmetro.apwa.org/wp-content/uploads/sites/23/2023/12/Specifications_APWAStdDwgs_Revised-April2019-1.pdf
- All driveways shall be concrete
- Remove all items related to the driveway installation – equipment, materials, debris, etc
- Seed and straw all areas that are disturbed

Schedule

Work can only occur between 7:00AM and 7:00PM Monday through Saturday.

Payment

The City will make one payment upon acceptance of all driveways by a City representative and being invoiced by the contractor.

Permits

The contractor must obtain a building permit and any other necessary permits for each project.

The contractor will be responsible for notifying the City when a driveway framing and rebar is in place and ready for inspection and when its ready for a final inspection.

The City will not charge a permit fee for City issued building permits associated with this project.

Contractor selection

The City reserves the right to reject all bids and rebid the project. The City's selection of a contractor will be based on all factors, not solely on cost. The City's selection of a contractor will be based on a variety of factors including work experience, capacity to complete the project, level of workmanship, etc.

All of the driveways listed may not be funded. The City, at its sole discretion, following the bid opening and prior to offering a contract, will determine which driveways will be done with this project.

The City intends to select a single contractor to perform all of the projects.

Attachments –

A. Bid Form

B. Schematic Site Plan

- 5312 Mastin Street
- 6137 Antioch Road
- 8017 W. 61st Street
- 8408 Johnson Drive
- 8411 W. 61st Street
- 8812 W. 71st Street
- 9120 W. 69th Terrace
- 10217 W. 49th Street

C. Example Contract

ATTACHMENT A

Bid Form

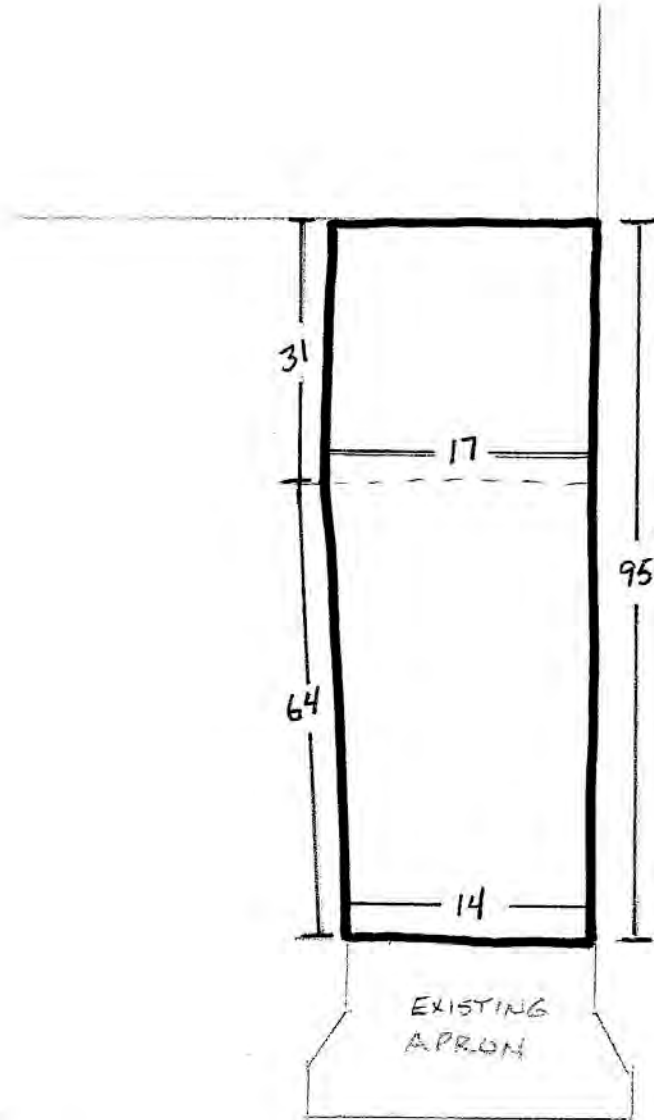
Projects Address Project location and general schematic attached. Bidder is strongly encouraged to not rely solely of the project schematics, but to conduct their own onsite project evolutions.	Bid Amount	Estimated Number of Days to Complete the Project
5312 Mastin Street		
6137 Antioch Road		
8017 W. 61 st Street		
8408 Johnson Drive		
8411 W. 61 st Street		
8812 W. 71 st Street		
9120 W. 69 th Street		
10217 W. 49 th Street		

The Undersigned certifies that he/she has the authority to bind the company and contract to supply the commodity or service in accordance with all the terms, conditions and pricing specified herein or to offer a “no bid” please type or print the information below.

Company Name	Telephone #
Street Address	Fax
City, State, Zip	E-Mail
Authorized Representative (Print)	Title
Authorized Signature	Date
Tax ID #	Entity Type (corporation, LLC, Sole Proprietor, Partnership)

ATTACHMENT B
Schematic Site Plans

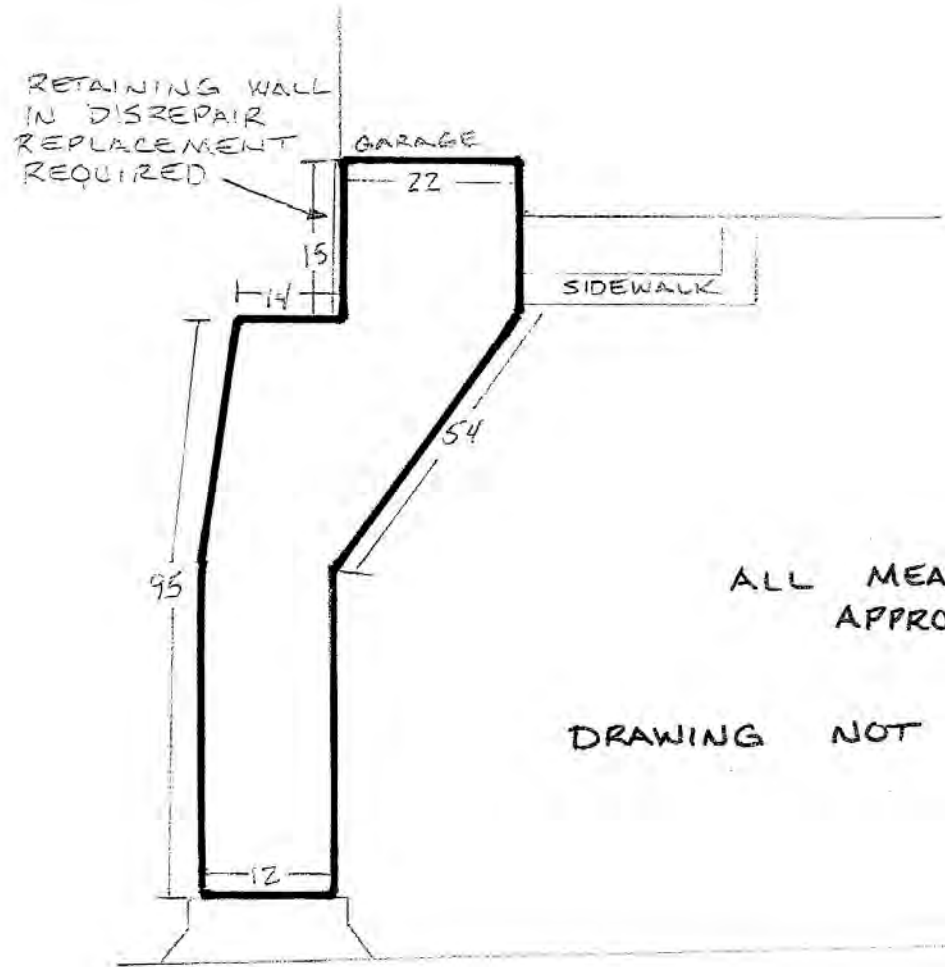
5312 MASTN



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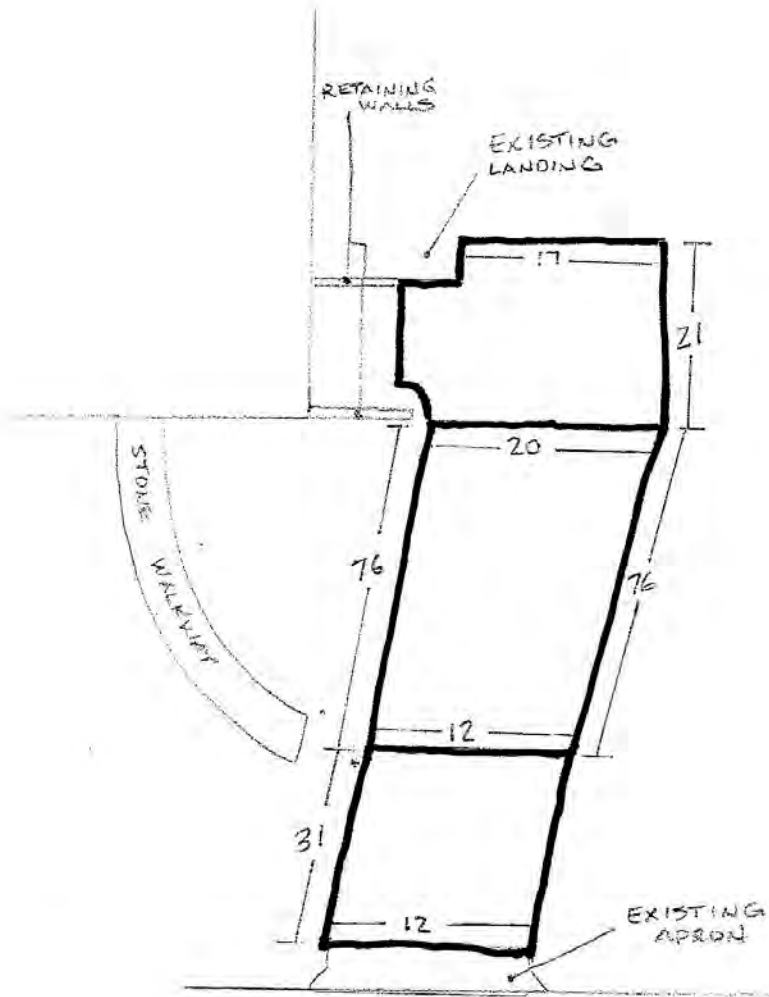
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ALL MEASUREMENTS
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8017 W 61ST ST.

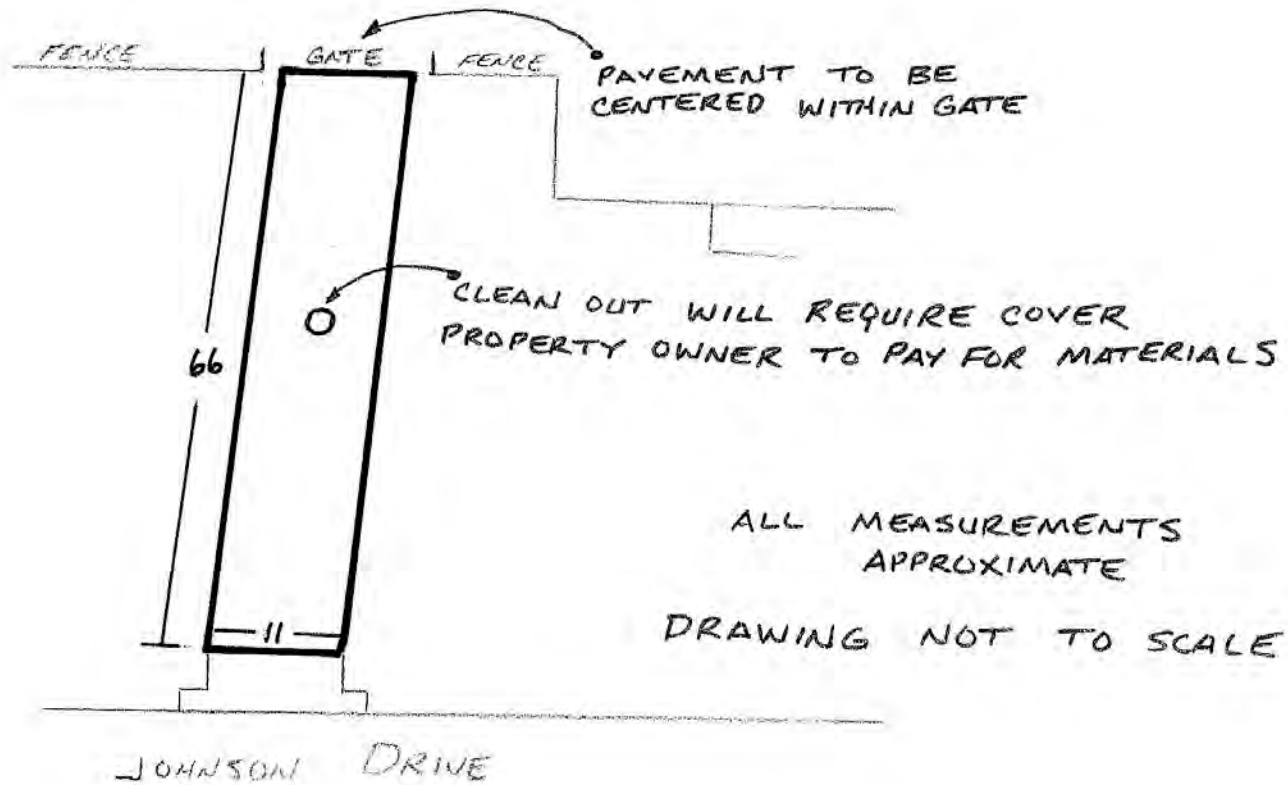


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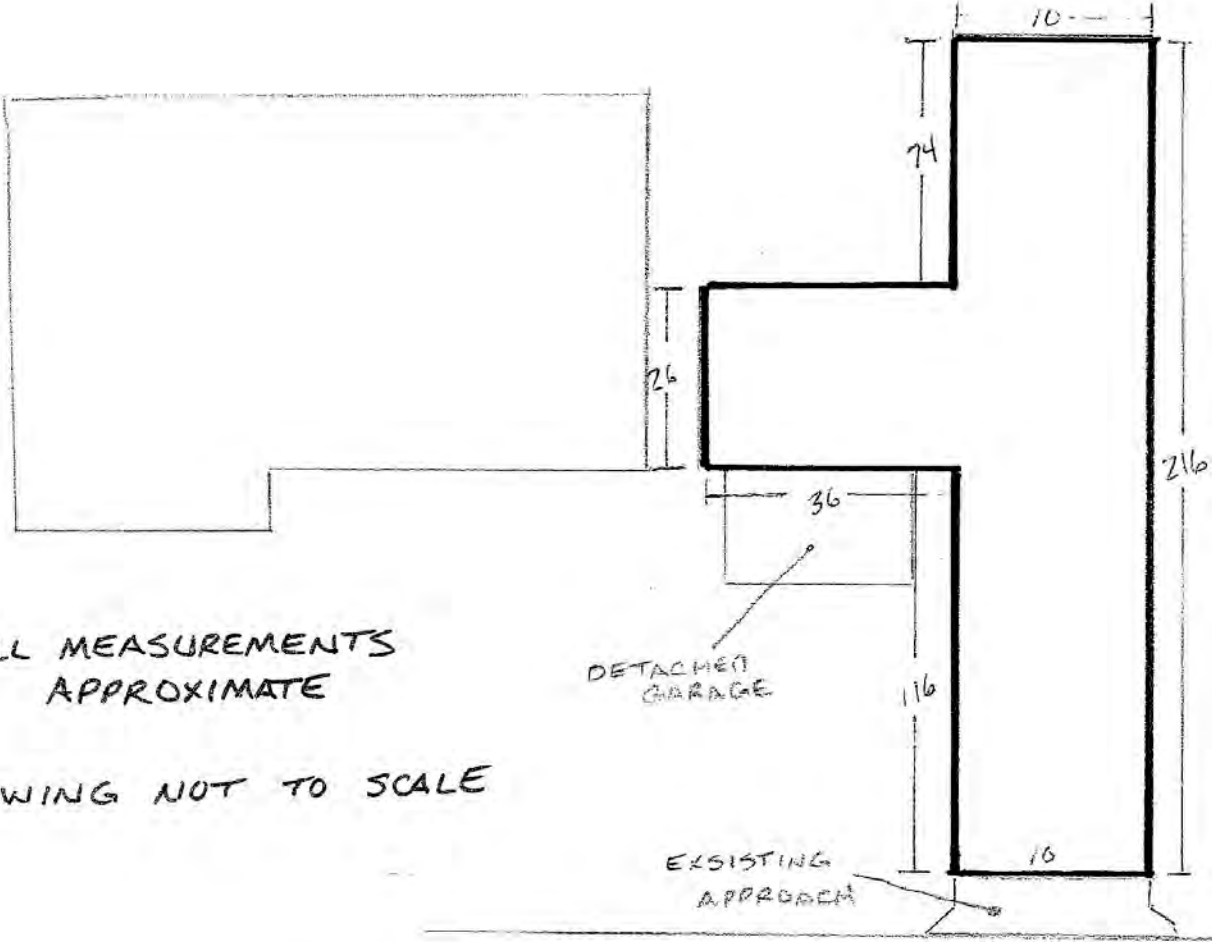
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8408 JOHNSON DR



8411 W 61ST ST



ALL MEASUREMENTS APPROXIMATE

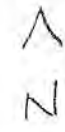
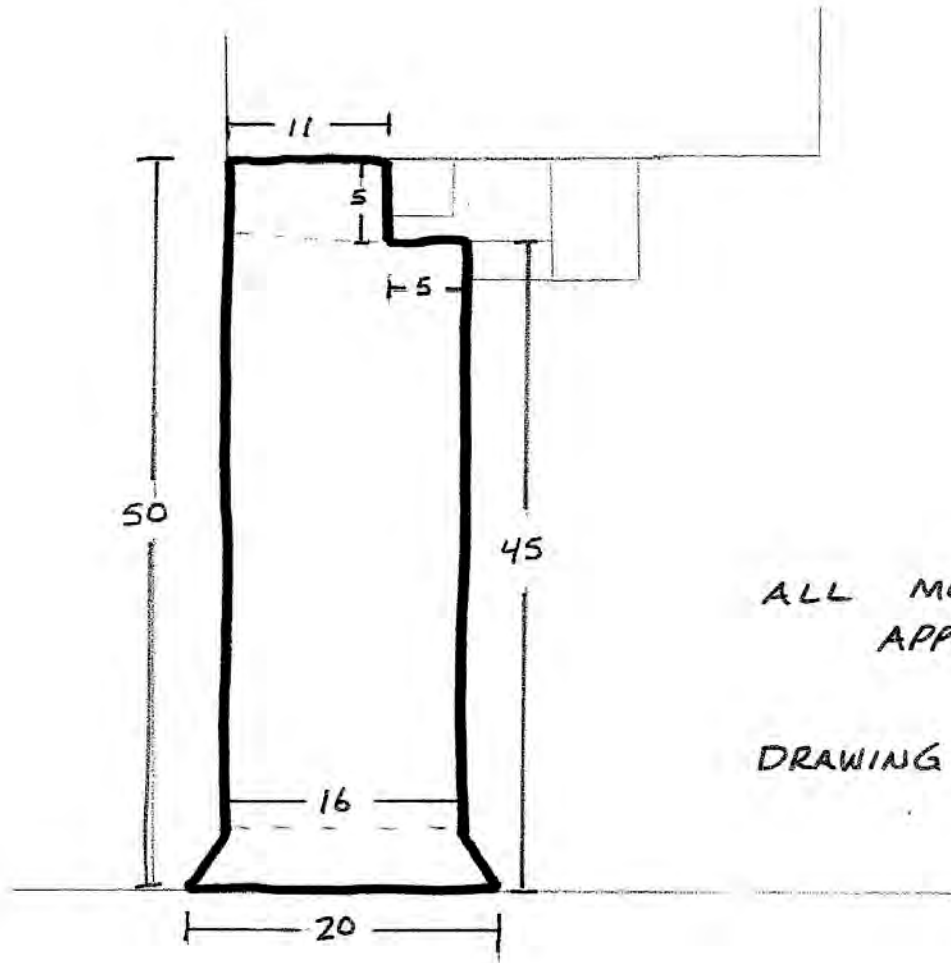
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DETACHED GARAGE

EXISTING APPROACH

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✓

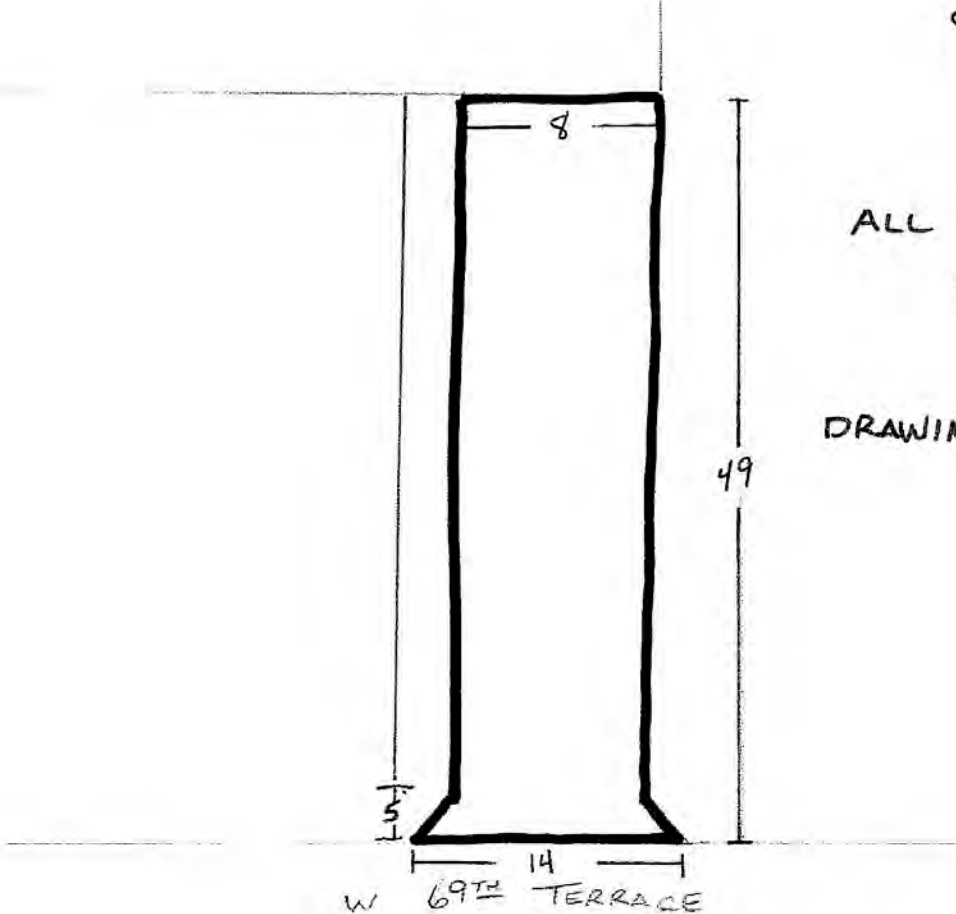
8812 W 71ST ST.



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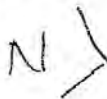
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9120 W 69TH TER

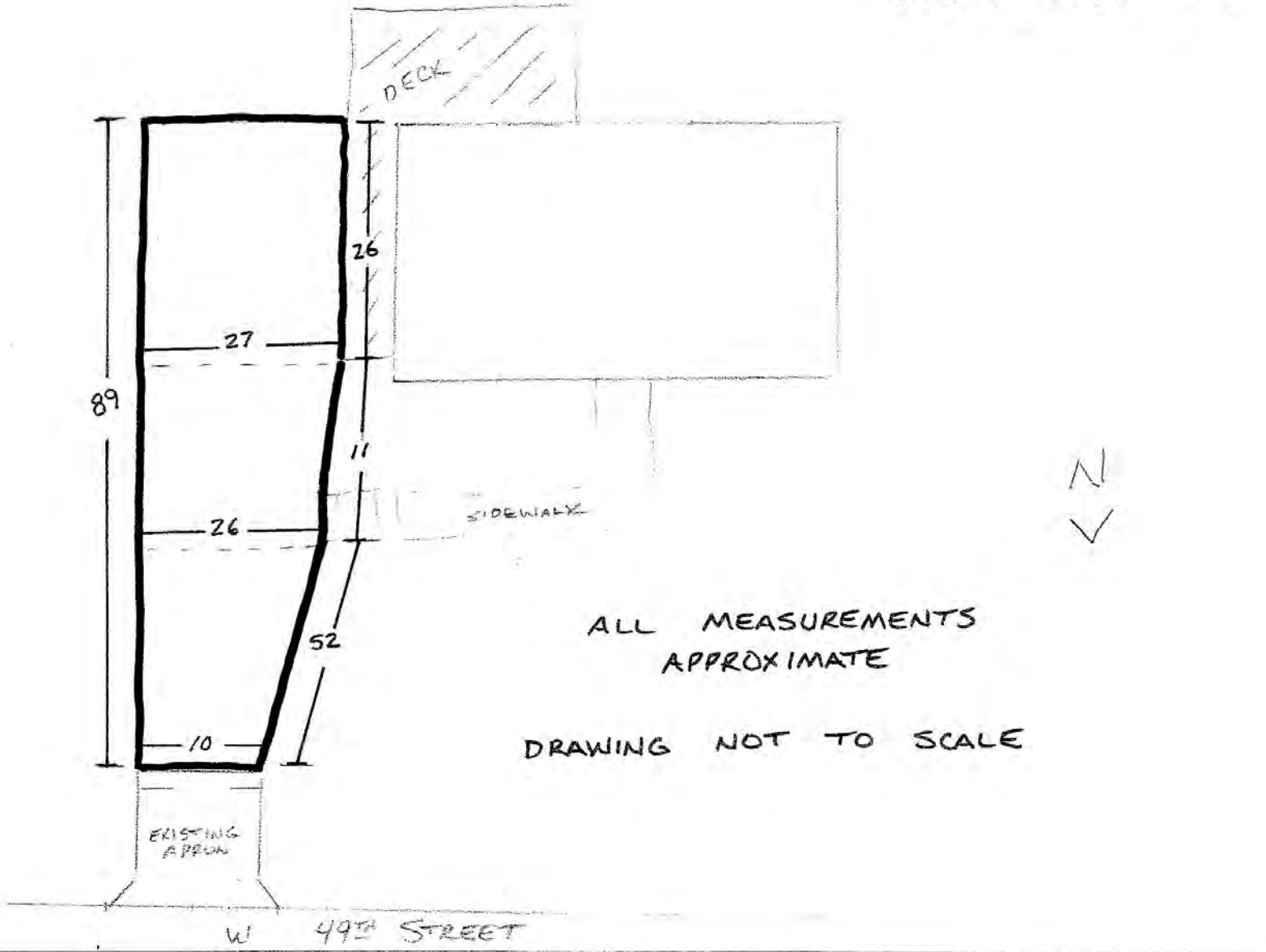


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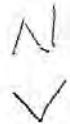


10217 W 49TH ST.



ALL MEASUREMENTS
APPROXIMATE

DRAWING NOT TO SCALE



ATTACHMENT C (Example Contract)

CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT, (“Agreement”) is entered into this ____ day of _____, 20____, by and between the City of Merriam, Kansas, a municipal corporation, (“City,) and _____, a corporation having its principle place of business in _____ (“Contractor”).

WHEREAS, the City desires that the project described in Exhibit A, Scope of Work (“Work,”) be constructed in a workmanlike manner;

WHEREAS, the Contractor represents that it has sufficient experience and qualified personnel to perform, and the City desires the Contractor to perform, the Work set forth in Exhibit A, Scope of Work;

WHEREAS, the City has determined, based upon information provided by the Contractor, that Contractor is qualified to provide the Work described in this Agreement.

WHEREAS, the City and Contractor desire to enter this Agreement to set forth the specific terms and conditions of their relationship.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth herein, the parties agree as follows:

SECTION 1. Engagement. The City hereby engages Contractor as an independent contractor to perform the Work described in this Agreement and Contractor accepts that engagement.

SECTION 2. Scope of Work. The Contractor agrees to provide the services set forth in Exhibit A, Scope of Work, and shall furnish at its own cost and expense all labor, tools, equipment, and materials necessary to timely and in a workmanlike manner complete the Work.

SECTION 3. Time of Completion. The Contractor shall begin the Work on or before _____, 20____, and shall complete such Work on or before _____, 20____.

SECTION 4. Compensation.

- (a) **The Contract Price.** The Contractor agrees to provide the Work described in Exhibit A, Scope of Work, for the amount of \$_____ (“Contract Price”), subject to additions and deductions authorized by written change orders signed by the City Administrator and the Contractor.
- (b) **Payment Terms.** The Contract Price shall be paid within 30 days after the completion of and the formal acceptance of the Work by the City; upon receipt of final lien waivers from the Contractor and any subcontractors if applicable for all work performed or materials provided; and upon satisfaction of the terms of this Agreement.

SECTION 5. Termination of Agreement. The City may terminate this Agreement at any time for convenience or cause upon written notice to the Contractor. If the City terminates the Agreement before the completion of Work, City shall compensate Contractor for all Work satisfactorily completed to date of its receipt of the termination notice. Under no circumstances will the Contractor be entitled to anticipatory profits or consequential damages. The provisions regarding indemnity and insurance shall survive the termination of this Agreement.

SECTION 6. Permits. The Contractor shall secure and maintain throughout the term of this Agreement all permits, licenses, certifications, and bonds that may be required to construct the Work included in this Agreement. All cost in connection therewith shall be borne by the Contractor.

SECTION 7. Condition of Premises. The Contractor agrees to leave the premises in a reasonably clean condition after each work day and in a completely clean condition at the end of the Work.

SECTION 8. Qualified Personnel. The Contractor shall employ only workers who are competent to perform the work assigned to them and, in the case of skilled labor, who are adequately trained and experienced in their respective trades and who do satisfactory work. If directed by the City, the Contractor shall remove any person the Contractor employs in connection with the Work.

SECTION 9. Warranty Period. The Contractor warrants all Work for a period of two years. Such two-year Warranty Period shall begin on the date the City issues its formal acceptance of the project.

SECTION 10. Protection of Property. Without in any manner limiting Contractor's responsibilities as provided elsewhere in the Agreement, the Contractor shall assume full responsibility for protection of all public and private property, structures, sewers, and utilities, both above and below ground, along, beneath, above, across, or near the site or sites of the Work being performed under this Agreement, or that are in any manner affected by the prosecution of the Work or the transportation of workers or materials in connection therewith.

SECTION 11. Compliance with Laws. Contractor shall comply with local, state, and federal ordinances, statutes, laws, codes, rules, resolutions, and regulations affecting Contractor's performance of the obligations contained in this Agreement, regardless of whether such requirements are specifically referred to in this Agreement. Contractor shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, and agents against any claim or liability arising from or based on any violation of the same.

SECTION 12. Compliance with Equal Opportunity Laws, Regulations, and Rules.

- (a) **Discrimination Prohibited.** Contractor agrees to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 *et seq.*) and shall not discriminate against any person in the performance of work under this Agreement because of race, religion, color, sex, disability, national origin or ancestry, or age.
- (b) **Solicitations.** In all solicitations or advertisements for employees, Contractor shall include the phrase “equal opportunity employer” or a similar phrase approved by the Kansas Human Rights Commission (Commission).
- (c) **Non-Compliance.** Contractor shall be deemed to have breached this Agreement and it may be cancelled, terminated, or suspended in whole or in part by the City, if the Contractor:
 - 1. fails to comply with the reporting requirements of K.S.A. 44-1031 or K.S.A. 44-1116, and amendments thereto; or
 - 2. is found guilty of the Kansas Act Against Discrimination or the Kansas Age Discrimination in Employment Act under a decision or order of the Commission that has become final.
- (d) **Flow Through Requirements.** Contractor shall include the provisions of Section 12(a)-(c) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
- (e) **Exempt Contractors.** The provisions of this Section 12(a)-(d) are recommended but not enforceable against Contractor if:
 - 1. Contractor employs fewer than four employees at all times during the term of this Agreement; or
 - 2. All of Contractor’s contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City pursuant to K.S.A. 44-1030(c).
- (f) **ADA Compliance.** Contractor agrees to comply with the American with Disabilities Act of 1990 (“ADA”), codified as amended at 42 U.S.C. § 12101 *et seq.*, as well as all other federal, state, and local laws, ordinances, rules, and regulations applicable to this project and to furnish any and all certification that may be required by federal, state, or local governmental agencies in connection therewith.
- (g) **Code Compliance.** Contractor agrees to comply with Chapter 35, Article III of the Merriam Code, which prohibits discrimination in employment, housing, and public accommodations on the basis of an individual’s sexual orientation or gender identity.

SECTION 13. Insurance.

- (a) **General.** Contractor shall secure and maintain throughout the duration of the Agreement and all applicable warranty periods insurance (on an occurrence basis unless otherwise agreed in writing) of such types and in at least such amounts as required herein. The City shall be named as an additional insured for all coverages required herein except workers' compensation coverage and professional liability coverage. All insurance procured for this Agreement by the Contractor, including additional insured designations, shall be primary and noncontributory. Contractor shall provide certificates of insurance on forms acceptable to the City at the time of this Agreement's execution. The Certificate shall specify the date when such insurance expires. A renewal certificate shall be furnished to the City before the expiration date of any coverage. The City shall be notified by receipt of written notice from the insurer at least 30 days before material modification or cancellation of any policy listed on the Certificate.
- (b) **Notice of Claim.** Contractor, upon receiving notice of any claim in connection with this Agreement, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.
- (c) **Reduction of Policy Limits.** Contractor shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by this Agreement) if the Contractor's limits of protection have been impaired or reduced to such extent that the limits fall below the minimum amounts required hereunder. In that event, Contractor shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.
- (d) **Industry Ratings.** Contractor agrees that its insurance carrier must:
 - 1. a. Be licensed to do business in the State of Kansas;
 - b. Carry a Best's policyholder rating of "A-" or better; and
 - c. Carry at least a Class VIII financial rating; OR
 - 2. Be acceptable to the City.
- (e) **Insurance Required.** Contractor agrees to secure and maintain the following insurance:
 - 1. **Commercial General Liability.** Contractor shall maintain General Liability coverage including Premises-Operations Liability, Independent Contractors Liability, Products and Completed Operations, and Broad Form Property Damage within these minimum limits:

Bodily Injury & Property Damage	\$1,000,000 combined single limit per occurrence: \$2,000,000 annual aggregate
Fire Damage Liability	\$50,000
Medical Payments	\$5,000

The property damage liability coverage shall contain no exclusion relative to blasting, explosion, collapse of buildings, or damages to underground property.

2. **Comprehensive Automobile Liability.** Contractor shall maintain Automobile Liability coverage including coverage for Owned, Hired and Non-owned Auto Liability providing for all injuries to members of the public and damage to property of others arising from the use of motor vehicles on and off the Work site with these minimum limits:

Bodily Injury & Property Damage	\$1,000,000 combined single limit per occurrence
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3. **Workers' Compensation and Employer's Liability.** Contractor shall maintain Workers' Compensation coverage for all claims made under applicable state workers' compensation laws. Contractor shall also maintain Employer's Liability coverage for claims made for injury, disease, or death of an employee that, for any reason, may not fall within the provisions of a workers' compensation law. The following minimum limits shall apply:

Workers' Compensation	Statutory Limits
Employers' Liability	\$500,000 each accident
	\$500,000 disease – policy limit
	\$500,000 disease – each employee

4. **Professional Liability Insurance.** Contractor shall maintain Professional Liability Insurance in an amount of no less than \$1,000,000.

(f) **Subcontractor's Insurance.** If a part of this Agreement is to be sublet, the Contractor shall either:

1. Cover all subcontractors under its insurance policies; or
2. Require each subcontractor not so covered to secure insurance that will protect subcontractor against all applicable hazards or risks of loss as and in the minimum amounts designated.

Whichever option is chosen, Contractor shall indemnify and hold harmless the City as to any and all damages, claims, or losses, including attorneys' fees, arising out of or resulting from the acts or omissions of its subcontractors.

SECTION 14. Indemnification. Without in any way limiting indemnification obligations that may be set forth elsewhere in this Agreement, Contractor shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, and agents, from all claims, damages, losses, liabilities, costs,

and expenses, including attorneys' fees, arising out of or resulting from the performance of Contractor's services, provided that any such claim, damage, loss, liability, cost, or expense is caused in whole or in part by a negligent and/or intentional act, error, or omission of the Contractor, its subcontractors, anyone directly or indirectly employed or retained by any of them, or anyone for whose acts any of them may be liable, whether or not arising before or after completion of Contractor's services. The Contractor shall give the City immediate written notice of any claim, suit, or demand that may be subject to this provision.

SECTION 15. Disputes. The City and Contractor agree that disputes relative to the Work performed should first be addressed by good faith negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis of the dispute shall be free to take such steps as it deems necessary to protect its interest; provided, however, that notwithstanding any such dispute, the Contractor shall proceed with its services under this Agreement as though no dispute exists; and provided further, that no arbitration proceedings shall be initiated by Contractor without prior written consent of the City.

SECTION 16. Conflicts of Interest. The Contractor shall, prior to, or contemporaneously with, the execution of this Agreement, complete and swear to the Bidder's Affidavit, which is attached as Exhibit B.

SECTION 17. Observation by City Representative. The Contractor shall comply with the directions and instructions of the (INSERT TITLE OF PERSON OVERSEEING THE WORK) when the same are consistent with the obligation of this Agreement. Observation by (INSERT TITLE OF PERSON OVERSEEING THE WORK) or their designee shall not relieve the Contractor from any obligation to perform the Work strictly in accordance with the Scope of Work or other provisions of this Agreement or modifications thereof as herein provided, and work not so constructed shall be removed and made good by the Contractor at the Contractor's own expense, and free of all expense to the City, whenever so ordered by the (INSERT TITLE OF PERSON OVERSEEING THE WORK).

SECTION 18. Traffic Control. All traffic control will be in conformance with the most recent revision of the Manual Uniform Traffic Control Devices (MUTCD).

SECTION 19. Losses from Natural Causes. All loss or damage arising out of the nature of work to be done, or from action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, that may be encountered in the prosecution of the Work shall be sustained and borne by the Contractor at the Contractor's own cost and expense.

SECTION 20. Force Majeure. If any action of the City causes a delay in the Work and if, within seven days after such an action, the Contractor makes a written claim for extension of time, the time for performance of the Agreement may be extended commensurately with the length of the delay so caused. The same right of extension of time for performance shall apply with respect to delays caused

by employee strikes, lock outs, fire, floods, intergalactic invasion, unusual delay in transportation, severe adverse weather conditions not reasonably anticipatable, or unavoidable casualties, provided, however, that the Contractor shall notify the City in writing not later than seven days after the occurrence causing delay, specifying in detail the cause and length of the delay. Each extension of time shall be evidenced by a change order for the period of time caused by such delay.

SECTION 21. Assignment. Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by Contractor without the prior written consent of the City. This Agreement is binding upon and fully enforceable against the successors and assigns of Contractor, whether consented to or not.

SECTION 22. Subcontractors. Contractor may not, without first obtaining the City's written consent, subcontract any of the Work. Notwithstanding the City's consent to any subcontracting, Contractor shall remain fully responsible for all obligations under this Agreement.

SECTION 23. Notice. Any formal notice required or permitted under this Agreement shall be deemed sufficiently given if the notice is in writing and personally delivered or sent by First Class mail, postage prepaid, to the party to whom said notice is to be given. Notices delivered in person shall be deemed to be served effective as of the date the notice is delivered. Notices sent by First Class Mail shall be deemed to be served 72 hours after the date the notice is postmarked to the addressee, postage prepaid.

Until changed by written notice given by one party to the other, notice to the Contractor shall be made at the address set forth following the Contractor's signature block. Notice to the City shall be made as follows:

City of Merriam, Kansas
9001 W. 62nd Street
Merriam, KS 66202

Attn: _____

SECTION 24. Independent Contractor. In no event, while performing under this Agreement, shall Contractor be deemed to be acting as an employee of the City; rather, Contractor shall be deemed to be an independent contractor. Contractor shall be responsible for and pay all taxes and withholdings required by law upon the compensation paid under this Agreement, and shall defend, indemnify, and hold harmless the City from liability in connection therewith. Nothing expressed herein or implied herein shall be construed as creating between Contractor and the City the relationships of employer and employee, principal and agent, a partnership, or a joint venture.

SECTION 25. Compliance with Kansas Cash Basis Law. The right of the City to enter into this Agreement is subject to the provisions of the Cash-Basis Law (K.S.A. 10-1101 et seq.), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted in such a manner as to ensure the City shall remain in conformity with such laws. 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 any laws of the State of Kansas.

SECTION 26. Legal Action. The parties agree that the appropriate venues for any legal actions arising out of this Agreement are the District Court of Johnson County, Kansas, or, if federal jurisdiction exists, the United States District Court for the District of Kansas.

SECTION 27. Governing Law. This Agreement, the rights and obligations of the parties, and any claim or dispute arising hereunder shall be construed in accordance with the laws of the State of Kansas.

SECTION 28. Phraseology. In this Agreement, the singular includes the plural, the plural includes the singular, and any gender includes the other gender.

SECTION 29. Descriptive Headings and Capitalization. The descriptive headings of the provisions of this Agreement are formulated and used only for convenience and shall not be deemed to affect the meaning and construction of any such provision. Some terms are capitalized throughout the Agreement, but use of or failure to use capitals shall have no legal bearing on the interpretation of such terms.

SECTION 30. Invalidity. If any provision in this Agreement shall be adjudicated invalid under applicable laws, such invalid provision shall automatically be considered reformed and amended so as to conform to all applicable legal requirements, or, if such invalidity cannot be cured by reformation or amendment, the same shall be considered stricken and deleted, but in neither such event or events shall the validity or enforceability of the remaining valid portions hereof be affected thereby.

SECTION 31. Waiver. The failure of either party to insist upon the strict performance of any of the terms or conditions of this Agreement or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue and remain in full force and effect. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by the waiving party.

SECTION 32. Merger. This Agreement and the documents incorporated by reference constitute the entire Agreement between the parties with respect to the Work set forth in Exhibit A. There are no verbal understandings, agreements, representations, or warranties between the parties that are not expressly set forth herein. This Agreement supersedes all prior agreements and understandings between the parties, both written and oral.

SECTION 33. Verbal Statements Not Binding. It is understood and agreed that the written terms and provisions of this Agreement supersede all verbal statements of any and every official or other representative of the City, and such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any way whatsoever, this written Agreement.

SECTION 34. Amendments. This Agreement may not be amended unless such amendment is in writing and signed by both parties.

SECTION 35. Survivorship. Notwithstanding the termination of this Agreement, Contractor’s obligations with respect to the Warranty Period (Section 9), Insurance (Section 12), Indemnification (Section 14), and any other terms or conditions that by their nature should survive termination, shall survive the termination of this Agreement.

SECTION 36. Exhibits. The following Exhibits are attached to and made a part of this Agreement, including **Exhibit A: Scope of Work and Exhibit B: Bidder’s Affidavit.**

IN WITNESS WHEREOF, the City and Contractor have executed this Agreement as of the day and year first above written.

CITY OF MERRIAM, KANSAS

By: _____

Title: _____

CONTRACTOR

By: _____

Title: _____

Address: _____

EXHIBIT A: Scope of Work