NOTICE OF OPEN MEETING

Posted at 8:00 A.M. Monday, October 24, 2022
Notice is hereby given that the Neosho City Council will meet in special session on
TUESDAY, OCTOBER 25, 2022 at 9 A.M., in the Council Chambers at City Hall 203 East Main Street, Neosho, Missouri.

AGENDA
SPECIAL SESSION
NEOSHO CITY COUNCIL

The agenda of this meeting includes:

CALL TO ORDER

ROLL CALL

APPROVAL OF AGENDA

BIDS

1. Golf Course Cart Paths

NEW BUSINESS

1. Bill No. 2022-79: Contract with Stafford Fencing for the Scenic Park Dog Park.
2. Bill No. 2022-80: Contract with Construction Services Group, LLC for Construction of Morse Park Restrooms
3. Bill No. 2022-81: Contract with Double Down Asphalt for the Golf Course Cart Path

ADJOURN

City of Neosho CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE: October 25, 2022
ITEM: Golf Course Cart Paths

ORIGINATING DEPARTMENT: Public Works Department
ATTACHMENT:
1. Bids

PURPOSE:
To seek councils approval of bids for the asphalt overlay of golf cart paths.

BACKGROUND:
In the last two years, the front 9 holes have had asphalt improvements to the cart paths. This left the back 9 holes to be improved. Staff sent out multiple bids and received 3 back.

Double Down Asphalt	$120,613.00
Logan Paving	$151,835.00
Springfield Striping	$202,443.71

RECOMMENDATION:
The City Staff recommends the council approve the bid from Double Down Asphalt for the project amount of $120,613.00**.**

City of Neosho
203 E. Main St.
Neosho, MO 64850
(417) 451-8050 phone
(417) 451-8065 fax
www.neoshomo.org

October 14th, 2022

RE: INVITATION TO BID

To Whom It May Concern:

Enclosed you will find an invitation to bid on services or equipment for the City of Neosho. The invitation to bid is self-explanatory.

The bid packet is for the Neosho Golf Course cart path asphalt resurfacing.

The City of Neosho invites you to bid on the Neosho Golf Course cart path asphalt resurfacing.

The City of Neosho retains the right to refuse any bids for the Neosho Golf Course cart path asphalt resurfacing

Anyone working within the City of Neosho, should be licensed with the City of Neosho.

If you have any questions, feel free to contact our office.

Thank you,

Nate Siler
Public Works Director
417-451-8071

INSTRUCTIONS TO BIDDERS

The City of Neosho, Missouri will accept sealed bids until the bid opening on

October 21st, 2022, at 10:00 am at the City of Neosho City Hall Building.

Please address and send sealed bids to the office of the

City Of Neosho
ATTN: City Clerk
203 E Main St
Neosho, MO 64850

Sealed bid envelopes are to be marked as **Neosho Golf Course cart path asphalt resurfacing**
The bid packet is for:
Neosho Golf Course cart path asphalt resurfacing. Specifications and instructions are listed in the Specifications included in this document.

The City of Neosho retains the right to refuse bids for the Neosho Golf Course cart path asphalt resurfacing.

In section 605.040 of the City of Neosho code, it states that if a contractor performs work for the City a performance bond is required.

☐ Section 605.040 **Certain Insurance Policies, Etc., Required Before Issuance of Licenses for Plumbers, Electricians, Contractors and Subcontractors.**

[CC 1979 §15-19; Ord. No. 87-13, 6-16-1987; Ord. No. 511-2012 §1, 8-7-2012]

A. In addition to payment of the license fees required of plumbers, electricians and general and special contractors and subcontractors in Section **605.010**, before a plumber's, electrician's or general or special subcontractor's license may be issued to any applicant, each applicant shall produce for the inspection and approval of the City Collector the following policies of insurance together with receipts showing the premiums fully paid for the period for which the license is sought:

1. Bodily injury insurance liability coverage of twenty-five thousand dollars ($25,000.00) per incident.
2. Property damage, twenty-five thousand dollars ($25,000.00).
3. *Bonding requirements.*
   a. If a contractor performs work within the City limits of Neosho, a license and permit bond, ten thousand dollars ($10,000.00).
   b. Unless otherwise provided, if a contractor performs work for the City of Neosho, a performance bond running to the City, ten thousand dollars ($10,000.00).

Questions concerning the specifications and bid procedure should be directed to Nate Siler, at 200 Nelson Ave. Neosho, MO 64850

*Missouri Prevailing Wage Rate Applies **Yes**
A copy of the Missouri Prevailing Wage Rate is attached Yes
***HB 1729 Prevailing Wage
The City reserves the right to reject any or all bids and to accept the best bid.

Thank you,

Nate Siler
Public Works Director
Neosho, MO

SPECIFICATIONS

NEOSHO GOLF COURSE CART PATH ASPHALT RESURFACING

ASPHALT SURFACE COURSE: Asphalt overlay shall be **BP2** hot mix asphalt pavement. The overlay course shall be 2'' as noted in the scope of Work Quantities document. The mix shall conform to Missouri State Highway Department requirements for section **401** Asphaltic pavements and be in accordance ASTM design grades. Transitions from newly paved asphalt to existing pavement shall be milled to ensure smooth gradation. A 6' wide path will be the minimum width. Areas that exceed this width shall be matched to the original width.

TACK COAT APPLICATION: The tack coat shall be anionic emulsified asphalt. Immediately prior to paving, a tack coat shall be applied to the clean surface at a rate of 0.10 to 0.20 gallons per sq. yd. Pools of primer material remaining on the surface after application shall be removed. All traffic not essential to the work shall be kept off the tack coat. Care shall be taken when applying the tack coat to prohibit the spray from adhering to any objects other than the surface to be paved. The contractor shall be held responsible for removing the tack coat from such objects. The contractor shall apply tack coat only to those paths which he/she will resurface each day. **Tack oil application shall be included in the bid amount.**

WEATHER LIMITATIONS: Bituminous mixtures shall not be placed (1) when either the air temperature or the temperature of the surface on which the mixture is to be placed is below 40 degrees F. (2) on any wet or frozen surface or (3) when weather conditions prevent the proper handling or finishing of the mixture, as determined by the Director or his/her designated representative. The mixture shall not be placed during inclement weather.

WEDGING AND SURFACE PREPARATION: Wedging shall be applied as needed to ensure a smooth surface. All uneven surfaces due to tree roots or damaged asphalt will need to be milled prior to the application of new asphalt. All edges of existing asphalt will need to be scrapped of grass and dirt to ensure positive drainage once new asphalt is applied. **Wedging and surface preparation shall be included in the bid amount.**

DRAINAGE AND DIRT WORK: Four areas within the project will need dirt work to help alleviate standing water and promote positive drainage. Please refer to the map attached to these documents for these problematic locations. Each site will need seeded and mulched to promote the regrowth of grass. Site visit and proposal for each area is requested.

EXAMINATION OF BID DOCUMENTS AND SITE:

A) It is the responsibility for each Bidder before submitting a Bid to (a) examine the Bid Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Bid Documents, and (e) notify the Public Works Dpt. of all conflicts, errors or discrepancies in the Bid Documents.

C) Before submitting a bid each Bidder will be responsible to make or obtain such explorations, tests and data concerning physical conditions (surface, subsurface and underground facilities) at or contiguous to the site, or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Bid Documents.

D) Each bidder, upon request in advance, will be provided access to the site to conduct such explorations and tests as each Bidder deem necessary for the submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

F) The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey an understanding of all terms and conditions to performance and furnishing of the Work.

SCOPE OF WORK

CART PATHS	LENGTH	WIDTH	DEPTH	TOTAL TON.
1. Holes 10-18	11,550'	6'	2"	855

Cart Path Overlay **855 Tons** **$Unit Price** 2.50/SF (80,850 SF) **$Total Cost** 202,443.71

Drainage and Dirt Work Proposal Included in Unit Price/ 1 Lump Sum **$Total Cost** (Included)

$Total Project Cost 202,443.71

Two Hundred Two Thousand Four Hundred Fourty-Three Dollars and Seventy-One Cents.

BID FORM

Description: (To be completed by bidding party)

Asphalt Overlay (Approximately 80,850 SF): Clean and prepare existing surface, scrape off grass edges, install double 6" schedule 40 culvert pipes in (4) different areas. Excavate areas as well as build areas up with base rock to allow water to pass through. Apply SS-1 tack and install 2" of MODOT BP2 hot mix asphalt overlay.

Price(s) for unit(s) meeting enclosed specifications:

F.O.B. Neosho, MO
Projected Start Date: November 1, 2022

After completion - payment made on third Tuesday of month delivered

I certify that this bid on stated piece(s) of equipment meets or exceeds the bid specifications (unless otherwise noted).

COMPANY: Springfield Sealing Service, Inc./ DBA: Springfield Striping & Sealing

SIGNED BY: Jon Schlup

ADDRESS: 3809 E. Energy Place
Springfield, MO 65803

EMAIL: jon@springfieldstriping.com

PHONE: 417-830-4780

CITY OF NEOSHO
AFFIDAVIT of COMPLIANCE
Section 285.530.2

State of Missouri) ss

County of Lawrence)

Now this 20 day of October, 2022, the undersigned, being first duly sworn, deposes and says:

1. I am more than 18 years of age.

2. I make this affidavit from my personal knowledge of the facts stated herein or upon information and facts available to me as a duly authorized owner, partner, corporate or LLC officer or Human Relations Director of

Springfield Sealing Service, Inc/DBA:
Springfield Striping & Sealing (name of Corporation, LLC, sole proprietorship, or partnership)

3. I am authorized to make this affidavit on behalf of

Springfield Sealing Service, Inc./DBA:
Springfield Striping & Sealing . (Name of business entity, same as above)

4. I state and affirm that Springfield Sealing Service, Inc./ DBA: Springfield Striping & Sealing is enrolled and is (name of business entity, same as above) currently participating in E-Verify, a federal work authorization program or another equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986.

5. Further, Springfield Sealing Service, Inc./DBA: Springfield Striping & Sealing does not knowingly employ any person
(Name of business entity, same as above)
who is an unauthorized alien.

6. Further, Springfield Sealing Service, Inc./DBA: Springfield Striping & Sealing has performed an electronic verification check as described above on all workers hired since January 1, 2009, or obtained documents required for completion of a federal I-9 form before it began participating in E-Verify.

(Name of business entity, same as above)

7. Attached to this affidavit is a true and accurate copy of this company's Memorandum of Understanding with the United States concerning the use of E-Verify.

I certify under penalty of perjury that the statements above are complete, true, and accurate to the best of my knowledge and belief.

Authorized Agent, Partner, Owner or Officer

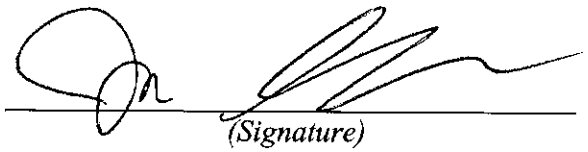
If business has a Human Relations Director or equivalent that person must sign as an affiant as well.

I certify under penalty of perjury that the statements above are complete, true, and accurate to the best of my knowledge and belief.

Human Relations Director

This form is promulgated pursuant to 15CSR 60-15-.020. Use of this form is not required but the Attorney General has deemed this affidavit sufficient in form to satisfy the requirements of section 285.540, RSMo., Supp. 2008

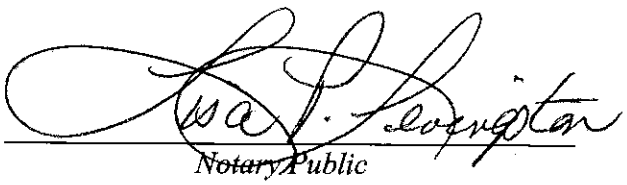
FURTHER THE AFFIANT SAYETH NOT



(Signature)

On this 20th day of October in the year 20 22 , before me, Lisa P. Levingston a Notary Public in and for said State, personally appeared Jon Schlup, known to me to be the person who executed the within affidavit, and acknowledged to me that he/she executed the same for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the county and State aforesaid, the day and year first above written.



Notary Public

My Commission Expires September 17, 2025

LISA P. LEVINGSTON
Notary Public – Notary Seal
STATE OF MISSOURI
Lawrence County
My Commission Expires Sept. 17, 2025
Commission #13527575

E-Verify

Company ID Number: 344837

To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

Employer SPRINGFIELD SEALING SERVICE, INC.	
SARAH TITTSWORTH Name (Please Type or Print)	Title
Electronically Signed Signature	07/20/2010 Date

Department of Homeland Security – Verification Division

USCIS Verification Division Name (Please Type or Print)	Title
Electronically Signed Signature	07/20/2010 Date

Information Required for the E-Verify Program

Information relating to your Company:

Company Name:	SPRINGFIELD SEALING SERVICE, INC.
Company Facility Address:	3809 E ENERGY PLACE SPRINGFIELD, MO 65803
Company Alternate Address:	
County or Parish:	GREENE
Employer Identification Number:	431325545

C) Before submitting a bid each Bidder will be responsible to make or obtain such explorations, tests and data concerning physical conditions (surface, subsurface and underground facilities) at or contiguous to the site, or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Bid Documents.

D) Each bidder, upon request in advance, will be provided access to the site to conduct such explorations and tests as each Bidder deem necessary for the submission of a Bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

F) The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this article 4, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey an understanding of all terms and conditions to performance and furnishing of the Work.

SCOPE OF WORK

CART PATHS	LENGTH	WIDTH	DEPTH	TOTAL TON.
1. Holes 10-18	11,550	6'	2"	855

Cart Path Overlay **855 Tons** **$Unit Price** $177 **$Total Cost** $151,335

Drainage and Dirt Work Proposal **$Total Cost** $500

$Total Project Cost $151,835

BID FORM

Description: (To be completed by bidding party)

Clean & Prep Asphalt paths for 2" overlay (milling & pre-patch)
TACK coat
2" Hot-mix overlay & compact
(4) area's that need swell's cut, pipe installed & removal of some of the existing pavement.
Clean up job site & final walk thru.

Price(s) for unit(s) meeting enclosed specifications:

F.O.B. Neosho, MO
Projected Start Date: Mid Nov. * weather permitting

After completion - payment made on third Tuesday of month delivered

I certify that this bid on stated piece(s) of equipment meets or exceeds the bid specifications (unless otherwise noted).

COMPANY: Logan Paving
SIGNED BY: Matt Logan
ADDRESS: 29693 Hunter Rd. Carl Junction, Mo. 64834
EMAIL: loganpaving@gmail.com
PHONE: 417-825-6480

C) Before submitting a bid each Bidder will be responsible to make or obtain such explorations, tests and data concerning physical conditions (surface, subsurface and underground facilities) at or contiguous to the site, or otherwise which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Bid Documents.

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SCOPE OF WORK

CART PATHS	LENGTH	WIDTH	DEPTH	TOTAL TON.
1. Holes 10-18	11,550'	6'	2"	855

Cart Path Overlay **855 Tons** **$Unit Price** 127.62 **$Total Cost** 109,113.00

Drainage and Dirt Work Proposal **$Total Cost** 11,500

$Total Project Cost 120613.00

BID FORM

Description: (To be completed by bidding party)

Mill All Roots 4" Deep And Compact. Scrape All Edges and Apply RM43 Weed Killer Any Place Cart Path Encroaches on Grass. Tack Coat And Lay 6' wide in All Areas. In the Areas That are Slightly Wider We will Either Remove Existing Overage and Reseed or Overlay Accordingly. Much Care Will Be To Protect Existing Grass. We Will Dump Asphalt in one Central Location and Move Asphalt To Pave With Skid Loaders.

Price(s) for unit(s) meeting enclosed specifications:

F.O.B. Neosho, MO
Projected Start Date: 10-31-2022

After completion - payment made on third Tuesday of month delivered

I certify that this bid on stated piece(s) of equipment meets or exceeds the bid specifications (unless otherwise noted).

COMPANY: Double Down Asphalt L.L.C.

SIGNED BY: [signature]

ADDRESS: 11522 Holly RD Neosho MO 64850

EMAIL: Chris.DoubleDownAsphalt@gmail.com

PHONE: 417-389-1709

CITY OF NEOSHO
AFFIDAVIT of COMPLIANCE
Section 285.530.2

State of Missouri) ss

County of Newton)

Now this 21 day of October, 2022 the undersigned, being first duly sworn, deposes and says:

1. I am more than 18 years of age.

2. I make this affidavit from my personal knowledge of the facts stated herein or upon information and facts available to me as a duly authorized owner, partner, corporate or LLC officer or Human Relations Director of

Double Down Asphalt L.L.C. (name of Corporation, LLC, sole proprietorship, or partnership)

3. I am authorized to make this affidavit on behalf of

Double Down Asphalt L.L.C. . (Name of business entity, same as above)

4. I state and affirm that Double Down Asphalt L.L.C. is enrolled and is (name of business entity, same as above) currently participating in E-Verify, a federal work authorization program or another equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986.

5. Further, Double Down Asphalt L.L.C. does not knowingly employ any person
(Name of business entity, same as above)
who is an unauthorized alien.

6. Further, Double Down Asphalt L.L.C. has performed an electronic
(Name of business entity, same as above)
verification check as described above on all workers hired since January 1, 2009, or obtained documents required for completion of a federal I-9 form before it began participating in E-Verify.

7. Attached to this affidavit is a true and accurate copy of this company's Memorandum of Understanding with the United States concerning the use of E-Verify.

I certify under penalty of perjury that the statements above are complete, true, and accurate to the best of my knowledge and belief.

Authorized Agent, Partner, Owner or Officer

If business has a Human Relations Director or equivalent that person must sign as an affiant as well.

I certify under penalty of perjury that the statements above are complete, true, and accurate to the best of my knowledge and belief.

Human Relations Director

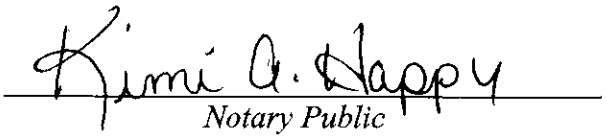
This form is promulgated pursuant to 15CSR 60-15-.020. Use of this form is not required but the Attorney General has deemed this affidavit sufficient in form to satisfy the requirements of section 285.540, RSMo., Supp. 2008

FURTHER THE AFFIANT SAYETH NOT

(Signature)

On this 21 day of October in the year 2022 before me, Kimi A Happy a Notary Public in and for said State, personally appeared Chris Hawkins, known to me to be the person who executed the within affidavit, and acknowledged to me that he/she executed the same for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the county and State aforesaid, the day and year first above written.



Notary Public

My Commission Expires
June 28, 2023

KIMI A. HAPPY
NOTARY PUBLIC - NOTARY SEAL
STATE OF MISSOURI
COMMISSIONED FOR NEWTON COUNTY
MY COMMISSION EXPIRES JUN. 28, 2023
ID #15636134

City of Neosho CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE: October 25, 2022

ITEM: Bill No. 2022-79: Contract with Stafford Fencing for the Scenic Park Dog Park.

ORIGINATING DEPARTMENT: Parks and Recreation Department

ATTACHMENT:

1. **Bill No. 2022-79 agreement w Stafford Fencing RE Scenic Park dog park**
2. **City of Neosho agreement w Stafford Fencing RE Scenic Park dog park**

PURPOSE:

To review the contract for the Scenic Park Dog Park.

BACKGROUND:

Received three bids for construction of the Scenic Park Dog Park. The bid from Stafford Fencing was accepted.

RECOMMENDATION:

The recommendation is to accept the contract with Stafford Fencing for the construction of the Scenic Park Dog Park.

COUNCIL BILL NO. 2022-79 **ORDINANCE NO. 350-2022**

AN ORDINANCE authorizing the City of Neosho, Missouri, to enter into an Agreement for Construction Services with Jeremy and Candace Stafford, d/b/a Stafford Fencing, for the purpose of constructing a dog park in Scenic Park located at 1500 N. Main Ave., Neosho, MO 64850, for the not to exceed price of Seventeen Thousand Two Hundred Sixty and 00/100 Dollars ($17,260.00); and authorizing the Mayor to execute the same by and on behalf of the City of Neosho.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, as follows:

Section 1. That the Agreement for Construction Services by and between the City of Neosho, Missouri, and Jeremy and Candace Stafford, d/b/a Stafford Fencing, for the purpose of constructing a dog park in Scenic Park located at 1500 N. Main Ave., Neosho, MO 64850, for the not to exceed price of Seventeen Thousand Two Hundred Sixty and 00/100 Dollars ($17,260.00), a true and accurate copy of said Agreement being attached hereto and incorporated as Exhibit "A," be and the same is hereby approved.

Section 2. That the Mayor of the City of Neosho, Missouri, is hereby authorized and directed to execute said Agreement by and on behalf of the City of Neosho.

PASSED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, this _____ day of _____, 2022, by a vote of _____.

_____
Tyler DeWitt, Mayor

ATTEST:

_____
Cheyenne Wright, City Clerk

APPROVED AS TO FORM:

_____
Jordan L. Paul, City Attorney

AGREEMENT
FOR CONSTRUCTION SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 2022, hereinafter referred to as "the Effective Date," by and between the City of Neosho, Missouri, a Missouri Municipal Corporation, hereinafter referred to as "City," and Jeremy and Candace Stafford, d/b/a Stafford Fencing, hereinafter referred to as "Contractor," and with City and Contractor hereinafter referred to as "the Parties."

WITNESSETH:

WHEREAS, City desires to engage a contractor for the purpose of constructing a dog park in Scenic Park located at 1500 N. Main Ave., Neosho, MO 64850, as described in City's Request for Proposal, attached hereto and incorporated by reference as Exhibit A; and

WHEREAS, Contractor desires to be engaged as City's contractor for the purpose of constructing a dog park in Scenic Park located at 1500 N. Main Ave., Neosho, MO 64850, as described in Contractor's Response to City's Request for Proposal, attached hereto and incorporated by reference as Exhibit B; and

WHEREAS, City has selected Contractor as the lowest and best bidder based on full consideration of all factors, preferences, and conditions deemed applicable by City.

NOW, THEREFORE, in exchange for valuable consideration each received from the other, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. Manner and Time for Completion. Contractor agrees to furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the Contract Documents and any applicable City ordinances and state and federal laws within ninety (90) calendar days from the date Contractor is ordered to proceed, which order shall be issued by the City Manager or his designee within thirty (30) days after the Effective Date of this Agreement.

2. Scope of Work. Contractor agrees to diligently perform in a professional and workmanlike manner the construction services described in City's Request for Proposal, attached hereto and incorporated by reference as Exhibit A, and in Contractor's Response to City's Request for Proposal, attached hereto and incorporated by reference as Exhibit B. Specifically, Contractor agrees to construct a dog park in Scenic Park located at 1500 N. Main Ave., Neosho, MO 64850.

3. Payment. City will pay Contractor as set forth herein, which shall constitute full and complete compensation for Contractor's work. City will pay Contractor Seventeen Thousand Two Hundred Sixty and 00/100 Dollars ($17,260.00) – the full amount of this contract – as follows. Contractor will be paid $8,630.00 – 50% of this contract – within thirty (30) days of the Effective Date and $8,630.00 – 50% of this contract – within thirty (30) days of completion of the project.

4. Amendments. The covenants and obligations herein contained are the full and complete terms of this Agreement, and no alteration, amendments, or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this Agreement.

5. Assignment. This Agreement, including payment hereunder, shall not be sub-let, assigned, or otherwise disposed of, except with the prior written consent of City.

6. Attorney's Fees and Expenses. If City files suit in order to enforce any term of this Agreement and is the prevailing party, Contractor shall be liable for City's reasonable attorney's fees and expenses. In no event shall City be liable for Contractor's reasonable attorney's fees and expenses.

7. Choice of Law and Venue. This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Newton County, Missouri.

8. Compliance with laws. Contractor shall observe and comply with all Federal, State, and local laws and ordinances that affect those employed or engaged by it on the project, or the material or equipment used, or the conduct of the work, and shall procure all necessary licenses, permits, and insurance.

9. Consequential Damages. In no event shall City be liable to Contractor for special, indirect, or consequential damages.

10. Contract Documents. The contract documents shall consist of the following: this Agreement, City's Request for Proposal, and Contractor's Response to City's Request for Proposal. In the event of conflict between the contract documents, this Agreement will prevail. In the event of conflict between City's Request for Proposal and Contractor's Response to City's Request for Proposal, City's Request for Proposal will prevail.

11. Entire Agreement. This Agreement (including any Exhibits) contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by both parties.

12. Ethics. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, gift, or contingent fee.

13. Guards and Lights. Intentionally omitted.

14. Headings. The headings of paragraphs in this Agreement are for convenience only. The headings form no part of this Agreement and shall not affect its interpretation.

15. Indemnification. Contractor hereby assumes all risk of, and responsibility for, and agrees to indemnify and save harmless City, from and against any and all claims, demands, suits,

actions, recoveries, judgments, costs, and expenses, including reasonable attorney's fees and expenses, therewith made, brought or obtained on account of the loss of life or property or injury or damage to the person or property of any person or persons whomsoever, whether such person or persons be Contractor, its agents or employees, or City, its agents or employees, or any third-person in any way connected with the parties hereto, which loss of life or property, or injury or damage to persons or property, shall be due to, or arise out of, result from, or be in any way connected with, this Agreement, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of City, its agents or employees.

16. Independent Contractor. This Agreement does not create an employer-employee relationship between the parties. Contractor is an independent contractor and is not entitled to any benefits including health, dental, vision, disability, life, and unemployment insurance, worker's compensation coverage, and LAGERS. Contractor is an independent contractor and not an employee for all purposes including the application of the Fair Labor Standards Act Minimum Wage and Overtime Payments, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, and the provisions of the Internal Revenue Code, Missouri Revenue and Taxation Laws, and Missouri's Worker Compensation Laws and Unemployment Insurance Laws. Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out its activities and responsibilities.

17. Insurance. Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Agreement, insurance of such types, including but not limited to Worker's Compensation Insurance, Commercial General Liability Insurance, and Automobile Liability Insurance, and in such amounts as may be necessary to protect it and the interests of City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of this Agreement. Such policies shall name City as an additional insured, with limits of liability not less than the Certificate of Liability Insurance attached hereto and incorporated by reference as Exhibit C.

18. Liquidated Damages. Time is of the essence of this Agreement. If Contractor shall neglect, fail, or refuse to complete its work by the date specified, then Contractor does hereby agree, as part of the consideration for the award of this Agreement, to pay to City, as liquidated damages and not as penalty, the sum of $500.00 per day for each calendar day beyond the specified completion date the Contractor fails to complete the work. The Parties agree to this arrangement due to the impracticability and difficulty in ascertaining the true value of the damages the City will incur as a result of such delay, and said sum per day is agreed to be a reasonable estimate of the amount of such damages which City will sustain. The Parties further agree that such liquidated damages shall be deducted from any amounts owing to Contractor, and if such amounts owing are insufficient, the Contractor shall pay to City the amount of the difference.

19. Non-Discrimination. Contractor agrees in the performance of this Agreement not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

20. Notices. All notices required or permitted hereinunder and required to be in writing

may be given by first class mail addressed to City and Contractor at the addresses as follows:

City of Neosho
ATTN: David Kennedy
203 E. Main St.
Neosho, MO 64850

Jeremy and Candace Stafford
802 Spencer Drive
Neosho, MO 64850

The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing.

21. Payment for Labor and Materials. Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

22. Payment Bond. Intentionally omitted.

23. Performance Bond. Intentionally omitted.

24. Prevailing Wages. Intentionally omitted.

25. Records and Audits. Intentionally omitted.

26. Representations. The signatories hereto represent and warrant that they have read this Agreement, that they are fully authorized in the capacities shown, that they understand the terms of this Agreement, and that they are executing the same voluntarily and solely for the consideration described herein.

27. Right to Proceed. In the event this contract is terminated, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

28. Safety Training. Intentionally omitted.

29. Severability. If any of the provisions of this Agreement shall be construed to be invalid or illegal, the legality or validity of the other provisions of this Agreement shall not be affected thereby. Any illegal or invalid provision of this Agreement shall be severable and any other provisions shall remain in full force and effect.

30. Subcontractors. Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all

subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as City may exercise over Contractor under any provisions of this Agreement. Nothing contained in this Agreement shall create any contractual relation between the subcontractor and City or between any subcontractors.

31. Subsurface Conditions. Intentionally omitted.

32. Termination. City reserves the right to terminate this contract by giving at least five (5) days prior written notice to Contractor, without prejudice to any other rights or remedies of City, should Contractor be adjudged bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly fail or refuse to supply enough properly skilled workmen or proper material, or if Contractor should fail or refuse to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of City or fail to observe or perform any provisions of the contract. City may terminate this Agreement, without cause, by giving Contractor thirty (30) days' written notice of the same.

33. Unauthorized Aliens. That pursuant to Missouri Revised Statute Sections 285.525 through 285.555, if this contract exceeds the amount of $5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

34. Waiver. Waiver of any provision of this Agreement or breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties to this Agreement to assert its rights for any breach of this Agreement shall not be deemed a waiver of such rights.

IN WITNESS WHEREOF, the Parties have caused these presents to be executed in duplicate as of the day and year first above written.

CITY OF NEOSHO, MISSOURI

_____
Tyler DeWitt, Mayor

ATTEST:

_____
Cheyenne Wright, City Clerk

JEREMY AND CANDACE STAFFORD
D/B/A STAFFORD FENCING

_____
Jeremy Stafford

_____
Candace Stafford

City of Neosho CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE: October 25, 2022

ITEM: Bill No. 2022-80: Contract with Construction Services Group, LLC for Construction of Morse Park Restrooms

ORIGINATING DEPARTMENT: Parks and Recreation Department

ATTACHMENT:

1. **Bill No. 2022-80 agreement w CSG RE Morse Park restrooms**
2. **City of Neosho agreement w CSG RE Morse Park restrooms**

PURPOSE:

To seek the Council's approval for the contract with CSG, LLC to construct new restrooms that will be located at MorsePark.

BACKGROUND:

Received two bids for the construction of the Morse Park restrooms, and the bid from CSG was accepted.

RECOMMENDATION:

The recommendation is to accept the contract with CSG for the construction of the new restrooms to be built at Morse Park.

COUNCIL BILL NO. 2022-80 **ORDINANCE NO. 351-2022**

AN ORDINANCE authorizing the City of Neosho, Missouri, to enter into an Agreement for Construction Services with Marion Company, LLC, a Missouri Limited Liability Company, d/b/a Construction Services Group, for the purpose of constructing restrooms at Morse Park for the not to exceed price of One Hundred Sixteen Thousand Seven Hundred Ninety-Five and 00/100 Dollars ($116,795.00); and authorizing the Mayor to execute the same by and on behalf of the City of Neosho.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, as follows:

Section 1. That the Agreement for Construction Services by and between the City of Neosho, Missouri, and Marion Company, LLC, a Missouri Limited Liability Company, d/b/a Construction Services Group, for the purpose of constructing restrooms at Morse Park for the not to exceed price of One Hundred Sixteen Thousand Seven Hundred Ninety-Five and 00/100 Dollars ($116,795.00), a true and accurate copy of said Agreement being attached hereto and incorporated as Exhibit "A," be and the same is hereby approved.

Section 2. That the Mayor of the City of Neosho, Missouri, is hereby authorized and directed to execute said Agreement by and on behalf of the City of Neosho.

PASSED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, this _____ day of _____, 2022, by a vote of _____.

_____
Tyler DeWitt, Mayor

ATTEST:

_____
Cheyenne Wright, City Clerk

APPROVED AS TO FORM:

_____
Jordan L. Paul, City Attorney

AGREEMENT
FOR CONSTRUCTION SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 2022, hereinafter referred to as "the Effective Date," by and between the City of Neosho, Missouri, a Missouri Municipal Corporation, hereinafter referred to as "City," and Marion Company, LLC, a Missouri Limited Liability Company, d/b/a Construction Services Group, hereinafter referred to as "Contractor," and with City and Contractor hereinafter referred to as "the Parties."

WITNESSETH:

WHEREAS, City desires to engage a contractor for the purpose of constructing restrooms at Morse Park, as described in City's Request for Proposal, attached hereto and incorporated by reference as Exhibit A; and

WHEREAS, Contractor desires to be engaged as City's contractor for the purpose of constructing restrooms at Morse Park, as described in Contractor's Response to City's Request for Proposal, attached hereto and incorporated by reference as Exhibit B; and

WHEREAS, City has selected Contractor as the lowest and best bidder based on full consideration of all factors, preferences, and conditions deemed applicable by City.

NOW, THEREFORE, in exchange for valuable consideration each received from the other, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. Manner and Time for Completion. Contractor agrees to furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the Contract Documents and any applicable City ordinances and state and federal laws within one hundred twenty (120) calendar days from the date Contractor is ordered to proceed, which order shall be issued by the City Manager or his designee within thirty (30) days after the Effective Date of this Agreement.

2. Scope of Work. Contractor agrees to diligently perform in a professional and workmanlike manner the construction services described in City's Request for Proposal, attached hereto and incorporated by reference as Exhibit A, and in Contractor's Response to City's Request for Proposal, attached hereto and incorporated by reference as Exhibit B. Specifically, Contractor agrees to construct restrooms at Morse Park as follows. Contractor agrees to construct a 12x20 foot men and women's restroom. The men's restroom will include two stalls, one a urinal and one an ADA-compliant stall. The women's restroom will include two stalls, at least one of which will be an ADA-compliant stall. The building will be constructed on a concrete slab with a split faced 8x8x16 block for the exterior walls, wood frame rafters, and painted metal roof. The roof will be a peaked roof with a 4/12 pitch. The gable ends will be painted metal that matches the roof. Contractor agrees to perform all necessary work to construct and connect the building to sewer and water utilities.

3. Payment. City will pay Contractor as set forth herein, which shall constitute full

and complete compensation for Contractor's work. City will pay Contractor One Hundred Sixteen Thousand Seven Hundred Ninety-Five and 00/100 Dollars ($116,795.00) – the full amount of this contract – as follows. Contractor will submit monthly applications for payment based on the progress of the work. Within fifteen (15) days of City's receipt and approval of a properly submitted, complete, and correct Progress Payment Application, City shall make payment to Contractor of the amount approved by City for payment, subject to 5% retainage.

4. Amendments. The covenants and obligations herein contained are the full and complete terms of this Agreement, and no alteration, amendments, or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this Agreement.

5. Assignment. This Agreement, including payment hereunder, shall not be sub-let, assigned, or otherwise disposed of, except with the prior written consent of City.

6. Attorney's Fees and Expenses. If City files suit in order to enforce any term of this Agreement and is the prevailing party, Contractor shall be liable for City's reasonable attorney's fees and expenses. In no event shall City be liable for Contractor's reasonable attorney's fees and expenses.

7. Choice of Law and Venue. This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Newton County, Missouri.

8. Compliance with laws. Contractor shall observe and comply with all Federal, State, and local laws and ordinances that affect those employed or engaged by it on the project, or the material or equipment used, or the conduct of the work, and shall procure all necessary licenses, permits, and insurance.

9. Consequential Damages. In no event shall City be liable to Contractor for special, indirect, or consequential damages.

10. Contract Documents. The contract documents shall consist of the following: this Agreement, City's Request for Proposal, and Contractor's Response to City's Request for Proposal. In the event of conflict between the contract documents, this Agreement will prevail. In the event of conflict between City's Request for Proposal and Contractor's Response to City's Request for Proposal, City's Request for Proposal will prevail.

11. Entire Agreement. This Agreement (including any Exhibits) contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by both parties.

12. Ethics. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, gift, or contingent fee.

13. Guards and Lights. Contractor agrees that during the performance of said work, it will maintain proper guards for the prevention of accidents and put up and maintain suitable and sufficient lights.

14. Headings. The headings of paragraphs in this Agreement are for convenience only. The headings form no part of this Agreement and shall not affect its interpretation.

15. Indemnification. Contractor hereby assumes all risk of, and responsibility for, and agrees to indemnify and save harmless City, from and against any and all claims, demands, suits, actions, recoveries, judgments, costs, and expenses, including reasonable attorney's fees and expenses, therewith made, brought or obtained on account of the loss of life or property or injury or damage to the person or property of any person or persons whomsoever, whether such person or persons be Contractor, its agents or employees, or City, its agents or employees, or any third-person in any way connected with the parties hereto, which loss of life or property, or injury or damage to persons or property, shall be due to, or arise out of, result from, or be in any way connected with, this Agreement, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of City, its agents or employees.

16. Independent Contractor. This Agreement does not create an employer-employee relationship between the parties. Contractor is an independent contractor and is not entitled to any benefits including health, dental, vision, disability, life, and unemployment insurance, worker's compensation coverage, and LAGERS. Contractor is an independent contractor and not an employee for all purposes including the application of the Fair Labor Standards Act Minimum Wage and Overtime Payments, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, and the provisions of the Internal Revenue Code, Missouri Revenue and Taxation Laws, and Missouri's Worker Compensation Laws and Unemployment Insurance Laws. Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out its activities and responsibilities.

17. Insurance. Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Agreement, insurance of such types, including but not limited to Worker's Compensation Insurance, Commercial General Liability Insurance, and Automobile Liability Insurance, and in such amounts as may be necessary to protect it and the interests of City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of this Agreement. Such policies shall name City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, http://insurance.mo.gov/industry/sovimmunity.php)

18. Liquidated Damages. Time is of the essence of this Agreement. If Contractor shall neglect, fail, or refuse to complete its work by the date specified, then Contractor does hereby agree, as part of the consideration for the award of this Agreement, to pay to City, as liquidated damages and not as penalty, the sum of $500.00 per day for each calendar day beyond the specified completion date the Contractor fails to complete the work. The Parties agree to this arrangement due to the impracticability and difficulty in ascertaining the true value of the damages the City will incur as a result of such delay, and said sum per day is agreed to be a reasonable estimate of the

amount of such damages which City will sustain. The Parties further agree that such liquidated damages shall be deducted from any amounts owing to Contractor, and if such amounts owing are insufficient, the Contractor shall pay to City the amount of the difference.

19. Non-Discrimination. Contractor agrees in the performance of this Agreement not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

20. Notices. All notices required or permitted hereinunder and required to be in writing may be given by first class mail addressed to City and Contractor at the addresses as follows:

City of Neosho
ATTN: David Kennedy
203 E. Main St.
Neosho, MO 64850

Marion Company, LLC
ATTN: Chris Marion
12451 Hwy 59
Neosho, MO 64850

The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing.

21. Payment for Labor and Materials. Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

22. Payment Bond. Contractor shall furnish a Payment Bond with surety approved by City and on forms approved by City in the amount of One Hundred Sixteen Thousand Seven Hundred Ninety-Five and 00/100 Dollars ($116,795.00) – full amount of contract – conditioned upon payment of all labor and material suppliers. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful payment of labor and material suppliers, City shall deem the surety or sureties upon such bond to be unsatisfactory, or if, for any reason, such bond ceases to be adequate to cover the payment of the work, Contractor shall, at its expense, within five (5) days after the receipt of notice from City to do so, furnish an additional bond, in such form and amount, and with such surety as shall be satisfactory to City. In such event no further payment to Contractor shall be deemed to be due under this contract until such new or additional security for the payment of labor and material suppliers shall be furnished in a manner and form satisfactory to City. The corporate surety on any payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

23. Performance Bond. Contractor shall furnish a Performance Bond with surety approved by City and on forms approved by City in the amount of One Hundred Sixteen Thousand Seven Hundred Ninety-Five and 00/100 Dollars ($116,795.00) – full amount of contract – conditioned upon performance of the Scope of Work. It is further mutually agreed between the parties hereto that if at any time after the execution of this agreement and the surety bond(s) hereto attached for its faithful performance of the Scope of Work, City shall deem the surety or sureties upon such bond to be unsatisfactory, or if, for any reason, such bond ceases to be adequate to cover

the performance of the work, Contractor shall, at its expense, within five (5) days after the receipt of notice from City to do so, furnish an additional bond, in such form and amount, and with such surety as shall be satisfactory to City. In such event no further payment to Contractor shall be deemed to be due under this contract until such new or additional security for the performance of the Scope of Work shall be furnished in a manner and form satisfactory to City. The corporate surety on any payment bond must be licensed by the State of Missouri and if the required bond exceeds $25,000.00 must be listed in United States Treasury Circular 570.

24. Prevailing Wages. It is agreed that all labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri.

25. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract.

26. Representations. The signatories hereto represent and warrant that they have read this Agreement, that they are fully authorized in the capacities shown, that they understand the terms of this Agreement, and that they are executing the same voluntarily and solely for the consideration described herein.

27. Right to Proceed. In the event this contract is terminated, then the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

28. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus $100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

29. Severability. If any of the provisions of this Agreement shall be construed to be invalid or illegal, the legality or validity of the other provisions of this Agreement shall not be affected thereby. Any illegal or invalid provision of this Agreement shall be severable and any other provisions shall remain in full force and effect.

30. Subcontractors. Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as City may exercise over Contractor under any provisions of this Agreement. Nothing contained in this Agreement shall create any contractual relation between the subcontractor and City or between any subcontractors.

31. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

32. Termination. City reserves the right to terminate this contract by giving at least five (5) days prior written notice to Contractor, without prejudice to any other rights or remedies of City, should Contractor be adjudged bankrupt, or if Contractor should make a general assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly fail or refuse to supply enough properly skilled workmen or proper material, or if Contractor should fail or refuse to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of City or fail to observe or perform any provisions of the contract. City may terminate this Agreement, without cause, by giving Contractor thirty (30) days' written notice of the same.

33. Unauthorized Aliens. That pursuant to Missouri Revised Statute Sections 285.525 through 285.555, if this contract exceeds the amount of $5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

34. Waiver. Waiver of any provision of this Agreement or breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties to this Agreement

to assert its rights for any breach of this Agreement shall not be deemed a waiver of such rights.

IN WITNESS WHEREOF, the Parties have caused these presents to be executed in duplicate as of the day and year first above written.

CITY OF NEOSHO, MISSOURI

_____
Tyler DeWitt, Mayor

MARION COMPANY, LLC

_____
By:
Its: authorized signatory

ATTEST:

_____
Cheyenne Wright, City Clerk

City of Neosho CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE: October 25, 2022

ITEM: Bill No. 2022-81: Contract with Double Down Asphalt for the Golf Course Cart Path

ORIGINATING DEPARTMENT: Public Works Department

ATTACHMENT:

1. **Bill No. 2022-81 Agreement w Double Down Asphalt Services LLC RE golf course cart path overlay and repair - 2022-2023**
2. **Amended City of Neosho agreement w Double Down Asphalt Services LLC RE golf course cart path overlay and repair - 2022-2023**

PURPOSE:

To seek council's approval of a contract with Double Down Asphalt for repaving golf cart paths.

BACKGROUND:

This is the agreement with Double Down Asphalt to conduct an overlay of asphalt on the back 9 holes on the golf course where the council approved the bid of $120,613.00.

RECOMMENDATION:

The City Staff recommends the council approve the agreement with Double Down Asphalt for $120,613.00 and authorize the Mayor to sign.

COUNCIL BILL NO. 2022-81 **ORDINANCE NO. 352-2022**

AN ORDINANCE authorizing the City of Neosho, Missouri, to enter into an Agreement for Construction Services with Double Down Asphalt Services, LLC, a Missouri Limited Liability Company, for the purpose of constructing improvements at the Neosho Municipal Golf Course located at 1850 Clubhouse Road, Neosho, MO 64850, to include golf cart path overlay and repair, for the not to exceed price of One Hundred Twenty Thousand Six Hundred Thirteen and 00/100 Dollars ($120,613.00); and authorizing the Mayor to execute the same by and on behalf of the City of Neosho.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, as follows:

Section 1. That the Agreement for Construction Services by and between the City of Neosho, Missouri, and Double Down Asphalt Services, LLC, a Missouri Limited Liability Company, for the purpose of constructing improvements at the Neosho Municipal Golf Course located at 1850 Clubhouse Road, Neosho, MO 64850, to include golf cart path overlay and repair, for the not to exceed price of One Hundred Twenty Thousand Six Hundred Thirteen and 00/100 Dollars ($120,613.00), a true and accurate copy of said Agreement being attached hereto and incorporated as Exhibit "A," be and the same is hereby approved.

Section 2. That the Mayor of the City of Neosho, Missouri, is hereby authorized and directed to execute said Agreement by and on behalf of the City of Neosho.

PASSED BY THE COUNCIL OF THE CITY OF NEOSHO, MISSOURI, this _____ day of _____, 2022, by a vote of _____.

_____
Tyler DeWitt, Mayor

ATTEST:

_____
Cheyenne Wright, City Clerk

APPROVED AS TO FORM:

_____
Jordan L. Paul, City Attorney

AGREEMENT
FOR CONSTRUCTION SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 2022, hereinafter referred to as "the Effective Date," by and between the City of Neosho, Missouri, a Missouri Municipal Corporation, hereinafter referred to as "City," and Double Down Asphalt Services, LLC, a Missouri Limited Liability Company, hereinafter referred to as "Contractor," and with City and Contractor hereinafter referred to as "the Parties."

WITNESSETH:

WHEREAS, City desires to engage a contractor for the purpose of constructing improvements at the Neosho Municipal Golf Course located at 1850 Clubhouse Road, Neosho, MO 64850, to include golf cart path overlay and repair, as described in City's Request for Proposal, attached hereto and incorporated by reference as Exhibit A; and

WHEREAS, Contractor desires to be engaged as City's contractor for the purpose of constructing improvements at the Neosho Municipal Golf Course located at 1850 Clubhouse Road, Neosho, MO 64850, to include golf cart path overlay and repair, as described in Contractor's Response to City's Request for Proposal, attached hereto and incorporated by reference as Exhibit B; and

WHEREAS, City has selected Contractor as the lowest and best bidder based on full consideration of all factors, preferences, and conditions deemed applicable by City.

NOW, THEREFORE, in exchange for valuable consideration each received from the other, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

1. Manner and Time for Completion. Contractor agrees to furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform, and to perform said work at Contractor's own expense in accordance with the Contract Documents and any applicable City ordinances and state and federal laws within ninety (90) calendar days from the date Contractor is ordered to proceed, which order shall be issued by the City Manager or his designee within thirty (30) days after the Effective Date of this Agreement.

2. Scope of Work. Contractor agrees to diligently perform in a professional and workmanlike manner the construction services described in City's Request for Proposal, attached hereto and incorporated by reference as Exhibit A, and in Contractor's Response to City's Request for Proposal, attached hereto and incorporated by reference as Exhibit B. Contractor agrees to construct improvements at the Neosho Municipal Golf Course located at 1850 Clubhouse Road, Neosho, MO 64850. Specifically, Contractor agrees to construct golf cart path overlay and repair, the quantity of which is approximately 855 tons over 11,550 feet of 6-foot-wide, 2-inch-depth of paths. Overlay and repair includes the removal of any roots under said path. Additionally, Contractor agrees to perform the described drainage and dirt work.

3. Payment. City will pay Contractor as set forth herein, which shall constitute full

and complete compensation for Contractor's work. City will pay Contractor One Hundred Twenty Thousand Six Hundred Thirteen and 00/100 Dollars ($120,613.00) – the full amount of this contract – as follows. Contractor will submit monthly applications for payment based on the progress of the work. Within fifteen (15) days of City's receipt and approval of a properly submitted, complete, and correct Progress Payment Application, City shall make payment to Contractor of the amount approved by City for payment.

4. Amendments. The covenants and obligations herein contained are the full and complete terms of this Agreement, and no alteration, amendments, or changes to such terms shall be binding unless first reduced to writing and executed with the same formality as this Agreement.

5. Assignment. This Agreement, including payment hereunder, shall not be sub-let, assigned, or otherwise disposed of, except with the prior written consent of City.

6. Attorney's Fees and Expenses. If City files suit in order to enforce any term of this Agreement and is the prevailing party, Contractor shall be liable for City's reasonable attorney's fees and expenses. In no event shall City be liable for Contractor's reasonable attorney's fees and expenses.

7. Choice of Law and Venue. This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Newton County, Missouri.

8. Compliance with laws. Contractor shall observe and comply with all Federal, State, and local laws and ordinances that affect those employed or engaged by it on the project, or the material or equipment used, or the conduct of the work, and shall procure all necessary licenses, permits, and insurance.

9. Consequential Damages. In no event shall City be liable to Contractor for special, indirect, or consequential damages.

10. Contract Documents. The contract documents shall consist of the following: this Agreement, City's Request for Proposal, and Contractor's Response to City's Request for Proposal. In the event of conflict between the contract documents, this Agreement will prevail. In the event of conflict between City's Request for Proposal and Contractor's Response to City's Request for Proposal, City's Request for Proposal will prevail.

11. Entire Agreement. This Agreement (including any Exhibits) contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by both parties.

12. Ethics. Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, gift, or contingent fee.

13. Guards and Lights. Contractor agrees that during the performance of said work, it will maintain proper guards for the prevention of accidents and put up and maintain suitable and sufficient lights.

14. Headings. The headings of paragraphs in this Agreement are for convenience only. The headings form no part of this Agreement and shall not affect its interpretation.

15. Indemnification. Contractor hereby assumes all risk of, and responsibility for, and agrees to indemnify and save harmless City, from and against any and all claims, demands, suits, actions, recoveries, judgments, costs, and expenses, including reasonable attorney's fees and expenses, therewith made, brought or obtained on account of the loss of life or property or injury or damage to the person or property of any person or persons whomsoever, whether such person or persons be Contractor, its agents or employees, or City, its agents or employees, or any third-person in any way connected with the parties hereto, which loss of life or property, or injury or damage to persons or property, shall be due to, or arise out of, result from, or be in any way connected with, this Agreement, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of City, its agents or employees.

16. Independent Contractor. This Agreement does not create an employer-employee relationship between the parties. Contractor is an independent contractor and is not entitled to any benefits including health, dental, vision, disability, life, and unemployment insurance, worker's compensation coverage, and LAGERS. Contractor is an independent contractor and not an employee for all purposes including the application of the Fair Labor Standards Act Minimum Wage and Overtime Payments, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, and the provisions of the Internal Revenue Code, Missouri Revenue and Taxation Laws, and Missouri's Worker Compensation Laws and Unemployment Insurance Laws. Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out its activities and responsibilities.

17. Insurance. Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Agreement, insurance of such types, including but not limited to Worker's Compensation Insurance, Commercial General Liability Insurance, and Automobile Liability Insurance, and in such amounts as may be necessary to protect it and the interests of City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of this Agreement. Such policies shall name City as an additional insured, with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1 each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, http://insurance.mo.gov/industry/sovimmunity.php)

18. Liquidated Damages. Time is of the essence of this Agreement. If Contractor shall neglect, fail, or refuse to complete its work by the date specified, then Contractor does hereby agree, as part of the consideration for the award of this Agreement, to pay to City, as liquidated damages and not as penalty, the sum of $500.00 per day for each calendar day beyond the specified completion date the Contractor fails to complete the work. The Parties agree to this arrangement due to the impracticability and difficulty in ascertaining the true value of the damages the City will incur as a result of such delay, and said sum per day is agreed to be a reasonable estimate of the

amount of such damages which City will sustain. The Parties further agree that such liquidated damages shall be deducted from any amounts owing to Contractor, and if such amounts owing are insufficient, the Contractor shall pay to City the amount of the difference.

19. Non-Discrimination. Contractor agrees in the performance of this Agreement not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

20. Notices. All notices required or permitted hereinunder and required to be in writing may be given by first class mail addressed to City and Contractor at the addresses as follows:

City of Neosho
ATTN: David Kennedy
203 E. Main St.
Neosho, MO 64850

Double Down Asphalt Services, LLC
ATTN: Chris Hawkins
11522 Holly Road
Neosho, MO 64850

The date of delivery of any notice given by mail shall be the date falling on the second full day after the day of its mailing.

21. Payment for Labor and Materials. Contractor agrees and binds itself to pay for all labor done, and for all the materials used in the construction of the work to be completed pursuant to this contract.

22. Payment Bond. Intentionally omitted.

23. Performance Bond. Intentionally omitted.

24. Prevailing Wages. It is agreed that all labor utilized in the construction of the aforementioned improvements shall be paid a wage of no less than the "prevailing hourly rate of wages" for work of a similar character in this locality, as established and amended at any time by the Department of Labor and Industrial Relations of the State of Missouri.

25. Records and Audits. The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the City to assure proper accounting for all project funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Contract.

26. Representations. The signatories hereto represent and warrant that they have read this Agreement, that they are fully authorized in the capacities shown, that they understand the terms of this Agreement, and that they are executing the same voluntarily and solely for the consideration described herein.

27. Right to Proceed. In the event this contract is terminated, then the City may take

over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case, the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, city ordinances, and state and federal laws.

28. Safety Training. Pursuant to Missouri Revised Statute Section 292.675, Contractors and subcontractors who sign a contract to work on public works projects must provide a 10-hour OSHA construction safety program, or similar program approved by the Department of Labor and Industrial Relations, to be completed by their on-site employees within sixty (60) days of beginning work on the construction project. Contractors and subcontractors in violation of this provision will forfeit to the public body $2,500 plus $100 a day for each employee who is employed without training. Public bodies and contractors may withhold/assess these penalties from the payment due to those contractors and subcontractors if found to be in non-compliance.

29. Severability. If any of the provisions of this Agreement shall be construed to be invalid or illegal, the legality or validity of the other provisions of this Agreement shall not be affected thereby. Any illegal or invalid provision of this Agreement shall be severable and any other provisions shall remain in full force and effect.

30. Subcontractors. Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, and insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as City may exercise over Contractor under any provisions of this Agreement. Nothing contained in this Agreement shall create any contractual relation between the subcontractor and City or between any subcontractors.

31. Subsurface Conditions. Contractor agrees that information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey shall be conclusive and binding upon the Contractor as to what subsurface conditions at the job site are reasonably anticipated or reasonably foreseeable. Contractor acknowledges and agrees that it shall not be entitled to any adjustment in the Contract Sum or Contract Times for any concealed condition of any nature, including but not limited to unknown physical conditions of an unusual nature which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, in addition to the information contained in the published reports and public actions of the Missouri Division of Geology and Land Survey. Contractor recognizes that it has assumed the risks of concealed conditions and is being compensated for assuming these risks.

32. Termination. City reserves the right to terminate this contract by giving at least five (5) days prior written notice to Contractor, without prejudice to any other rights or remedies of City, should Contractor be adjudged bankrupt, or if Contractor should make a general

assignment for the benefit of its creditors, or if a receiver should be appointed for Contractor or for any of its property, or if Contractor should persistently or repeatedly fail or refuse to supply enough properly skilled workmen or proper material, or if Contractor should fail or refuse to make prompt payment to any person supplying labor or materials for the work under the contract, or persistently disregard instructions of City or fail to observe or perform any provisions of the contract. City may terminate this Agreement, without cause, by giving Contractor thirty (30) days' written notice of the same.

33. Unauthorized Aliens. That pursuant to Missouri Revised Statute Sections 285.525 through 285.555, if this contract exceeds the amount of $5,000.00 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

34. Waiver. Waiver of any provision of this Agreement or breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties to this Agreement to assert its rights for any breach of this Agreement shall not be deemed a waiver of such rights.

IN WITNESS WHEREOF, the Parties have caused these presents to be executed in duplicate as of the day and year first above written.

CITY OF NEOSHO, MISSOURI	DOUBLE DOWN ASPHALT SERVICES, LLC
_____	_____
Tyler DeWitt, Mayor	By: Its: authorized signatory

ATTEST:

_____
Cheyenne Wright, City Clerk