

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE authorizing the County Executive to execute an Agreement with the Missouri Highways and Transportation Commission in connection with the Off-System Bridge Program for the Miller Road Bridge Repair, County Project No. 3214.

ORDINANCE NO. 5036, October 23, 2017

INTRODUCED BY Greg Grounds, County Legislator

WHEREAS, repairs are need to the Miller Road Bridge, located one-half mile north of County Line Road in unincorporated Jackson County; and,

WHEREAS, these repairs are eligible for the Off-System Bridge Program, which provides for reimbursement of 80 percent of project costs with the Local Entity responsible for the remaining 20 percent matching fund; and,

WHEREAS, the Public Works Department proposes using soft match credit funds for the Local Entity portion of the funding, thereby covering 100 percent of the repair project costs; and,

WHEREAS, the attached Agreement between Jackson County and the Missouri Highways and Transportation Commission (MHTC) defines the obligations of each entity related to the design and construction of this project; and,

WHEREAS, MHTC has requested that this authorization be adopted by Ordinance; and,

WHEREAS, execution of the attached Agreement is in the best interest of the health,

safety, and welfare of the citizens of Jackson County; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri that the County Executive be and hereby is authorized to execute the attached Agreement with the Missouri Highways and Transportation Commission for the Miller Road Bridge Repair, County Project No. 3214.

Effective Date: This Ordinance shall be effective immediately upon its passage by the County Executive.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

I hereby certify that the attached ordinance, Ordinance No. 5036 introduced on October 23, 2017, was duly passed on _____, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

This Ordinance is hereby transmitted to the County Executive for his signature.

Date

Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 5036.

Date

Frank White, Jr., County Executive

CCO Form: FS13
Approved: (DPP)
Revised: 03/17 (MWH)
Modified:

CFDA Number: CFDA #20.205
CFDA Title: Highway Planning and Construction
Award name/number: BRO – BO48 (56)
Award Year: (2018)
Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
OFF-SYSTEM BRIDGE PROGRAM AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and Jackson County (hereinafter, "County").

WITNESSETH:

WHEREAS, the Congress of the United States has authorized, in the Fixing America's Surface Transportation Act (FAST), 23 U.S.C. §144, the Secretary of Transportation to grant funds to states for projects for the replacement and rehabilitation of toll-free public bridges which are not part of any Federal-Aid System and which are under the jurisdiction of and maintained by a public authority and are open to public travel; and

WHEREAS, the County desires to replace a certain bridge, more specifically described below, under the Off-System Bridge Program. Said improvement is to be designed and constructed in compliance with the provisions of 23 U.S.C. §144 and applicable federal directives.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The improvement contemplated by this Agreement, and designated as Project BRO-BO48 (56) by the Commission is on Miller Road in Jackson County. The length of this improvement is 0.1 mile. This improvement involves a bridge which has been inventoried by the County or Commission in accordance with 23 U.S.C. §144.

(2) LOCATION: The general location of the improvement is shown on the attachment labeled "Exhibit A" and that attachments incorporated by reference. The location is as follows:

Bridge is located on Miller Rd. between County Line Rd. and Casey Rd.

(3) REASONABLE PROGRESS POLICY: The project as described in this agreement is subject to the reasonable progress policy set forth in the Local Public Agency (LPA) Manual [and the final deadline specified in Exhibit B attached hereto and incorporated herein by reference. In the event, the LPA Manual and the final deadline within Exhibit B conflict, the final deadline within Exhibit B controls]. If the project is within a Transportation Management Area that has a reasonable progress policy in place, the project is subject to that policy. If the project is withdrawn for not meeting reasonable progress, the County agrees to repay the Commission for any progress payments made to the County for the project and agrees that the Commission may deduct progress payments made to the County from future payments to the County.

(4) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the County shall defend, indemnify and hold harmless the Commission, including its members and the Missouri Department of Transportation ("MoDOT" or "Department") employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the County's wrongful or negligent performance of its obligations under this Agreement.

(B) The County will require any contractor procured by the County to work under this Agreement:

1. To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

2. To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and MoDOT and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo. The County shall cause insurer to increase the insurance amounts in accordance with those published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(5) MAINTENANCE: Upon completion of this improvement, the County shall accept control and maintenance of the improved road as a part of its road system and at

its own cost and expense. Once construction of this improvement is completed, all obligations of the Commission under this Agreement shall terminate.

(6) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the County, and the County may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the County" is to be substituted. The County agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set out in Form FHWA 1273.

(7) TRAFFIC CONTROL: The plans shall provide for handling traffic with signs, signals, and markings in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

(8) ACQUISITION OF RIGHT OF WAY: With respect to the acquisition of right of way necessary for the completion of the project, County shall acquire any additional necessary right of way required for this project and in doing so agrees that it will comply with all applicable federal laws, rules and regulations, including 42 U.S.C. §4601-§4655, the Uniform Relocation Assistance and Real Property Acquisition Act, as amended and any regulations promulgated in connection with that Act.

(9) PERMITS: The County shall secure approval or permits from the Federal Government and the State of Missouri as required to permit the construction and maintenance of the improvements contemplated by this Agreement.

(10) DISADVANTAGED BUSINESS ENTERPRISES (DBE): It is the policy of the U.S. Department of Transportation and the Commission that businesses owned by socially and economically disadvantaged individuals (DBE's), as defined in 49 C.F.R. Part 26, have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

(11) NONDISCRIMINATION ASSURANCE: With regard to work under this Agreement, the County agrees as follows:

(A) Civil Rights Statutes: The County shall comply with all state and federal statutes relating to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000d and §2000e, *et seq.*), as well as any applicable titles of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*). In addition, if the County is providing services or operating programs on behalf of the Department or the Commission, it shall comply with all applicable

provisions of Title II of the "Americans with Disabilities Act".

(B) Administrative Rules: The County shall comply with the administrative rules of the United States Department of Transportation relative to nondiscrimination in federally-assisted programs of the United States Department of Transportation (49 C.F.R. Part 21) which are herein incorporated by reference and made part of this Agreement.

(C) Nondiscrimination: The County shall not discriminate on grounds of the race, color, religion, sex, disability, national origin, age or ancestry of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The County shall not participate either directly or indirectly in the discrimination prohibited by 49 C.F.R. §21.5, including employment practices.

(D) Solicitations for Subcontracts, Including Procurements of Material and Equipment: These assurances concerning nondiscrimination also apply to subcontractors and suppliers of the County. These apply to all solicitations either by competitive bidding or negotiation made by the County for work to be performed under a subcontract including procurement of materials or equipment. Each potential subcontractor or supplier shall be notified by the County of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, religion, sex, disability or national origin, age or ancestry of any individual.

(E) Information and Reports: The County shall provide all information and reports required by this Agreement, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Commission or the United States Department of Transportation to be necessary to ascertain compliance with other contracts, orders and instructions. Where any information required of the County is in the exclusive possession of another who fails or refuses to furnish this information, the County shall so certify to the Commission or the United States Department of Transportation as appropriate and shall set forth what efforts it has made to obtain the information.

(F) Sanctions for Noncompliance: In the event the County fails to comply with the nondiscrimination provisions of this Agreement, the Commission shall impose such contract sanctions as it or the United States Department of Transportation may determine to be appropriate, including but not limited to:

1. Withholding of payments under this Agreement until the County complies; and/or
2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The County shall include the provisions of paragraph (11) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The County will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the County becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the County may request the United States to enter into such litigation to protect the interests of the United States.

(12) ACCESS TO RECORDS: The County and its contractors must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at no charge to the FHWA and the Commission and/or their designees or representatives during the period of this Agreement and any extension, and for a period of three (3) years after the date on which the County receives reimbursement of their final invoice from the Commission.

(13) INSPECTION OF PERFORMANCE: The County shall insure that representatives of the Commission and the FHWA shall have access to the project for the purpose of inspecting and reviewing work performed in connection with this Agreement.

(14) PROGRESS PAYMENTS: The County may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. All progress payment requests must be submitted for reimbursement within 90 days of the project completion date for the final phase of work. The County shall repay any progress payments which involve ineligible costs.

(15) PROMPT PAYMENTS: Progress invoices submitted to MoDOT for reimbursement more than thirty (30) calendar days after the date of the vendor invoice shall also include documentation that the vendor was paid in full for the work identified in the progress invoice. Examples of proof of payment may include a letter or e-mail from the vendor, lien waiver or copies of cancelled checks. Reimbursement will not be made on these submittals until proof of payment is provided. Progress invoices submitted to MoDOT for reimbursement within thirty (30) calendar days of the date on the vendor invoice will be processed for reimbursement without proof of payment to the vendor. If the County has not paid the vendor prior to receiving reimbursement, the County must pay the vendor within two (2) business days of receipt of funds from MoDOT.

(16) REIMBURSEMENT: The cost of the contemplated improvements will be borne by the United States Government and by the County as follows:

Any federal funds for project activities shall only be available for reimbursement of eligible costs that have been incurred by County. Any costs incurred by County prior to authorization from FHWA and notification to proceed from the Commission are not reimbursable costs. All federally funded projects are required to have a project end date. Any costs incurred after the project end date are not eligible for reimbursement. A pro-rata share shall be established for each phase of a project, i.e. Preliminary Engineering, Right of Way, Utilities and Construction. All costs incurred by County will be reimbursed at the pro-rata share established for each project phase. The pro-rata share for federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to that project phase by the total participating costs for that phase. The pro-rata share for the Construction Phase shall be established at concurrence in award and cannot be increased. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of County. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(17) FINAL AUDIT: The Commission will perform a final audit of project costs. The United States Government shall reimburse the County through the Commission, any monies due. The County shall refund any overpayments as determined by the final audit.

(18) AUDIT REQUIREMENTS: If the County expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required to have an independent annual audit conducted in accordance with 2 CFR Part 200. A copy of the audit report shall be submitted to MoDOT within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subject to the requirements of 2 CFR Part 200, if the County expend(s) less than seven hundred fifty thousand dollars (\$750,000) a year, the County may be exempt from auditing requirements for that year but records must be available for review or audit by applicable state and federal authorities.

(19) FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006: The County shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act (FFATA) of 2006, as amended. This Agreement is subject to the award terms within 2 C.F.R. Part 170.

(20) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the County and the Commission.

(21) COMMISSION REPRESENTATIVE: The Commission's _____ is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by

written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(22) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(23) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The County shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(24) CONFLICT OF INTEREST: The County shall comply with conflict of interest policies identified in 23 CFR 1.33. A conflict of interest occurs when an entity has a financial or personal interest in a federally funded project.

(25) MANDATORY DISCLOSURES: The County shall comply with 2 CFR 200.113 and disclose, in a timely manner, in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by the County this _____ day of _____, 20____.

Executed by the Commission this _____ day of _____, 20____.

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

JACKSON COUNTY

Title _____

By _____
Title _____

ATTEST:

Secretary to the Commission

By _____
Title _____

Approved as to Form:

Commission Counsel

By _____
Title _____

ATTEST:

Clerk

Approved as to Form:

Title _____

**[If needed to authorize a city official
to execute the agreement.]**

Ordinance No. _____

*If contracting party is not a county, the additional two lines for the county commissioners can be removed.

Exhibit A - Location of Project

Exhibit B – Project Schedule

Project Description: BRO B048 (56) Miller Rd. Bridge Rehab

Improvements and repairs to Bridge #3220007

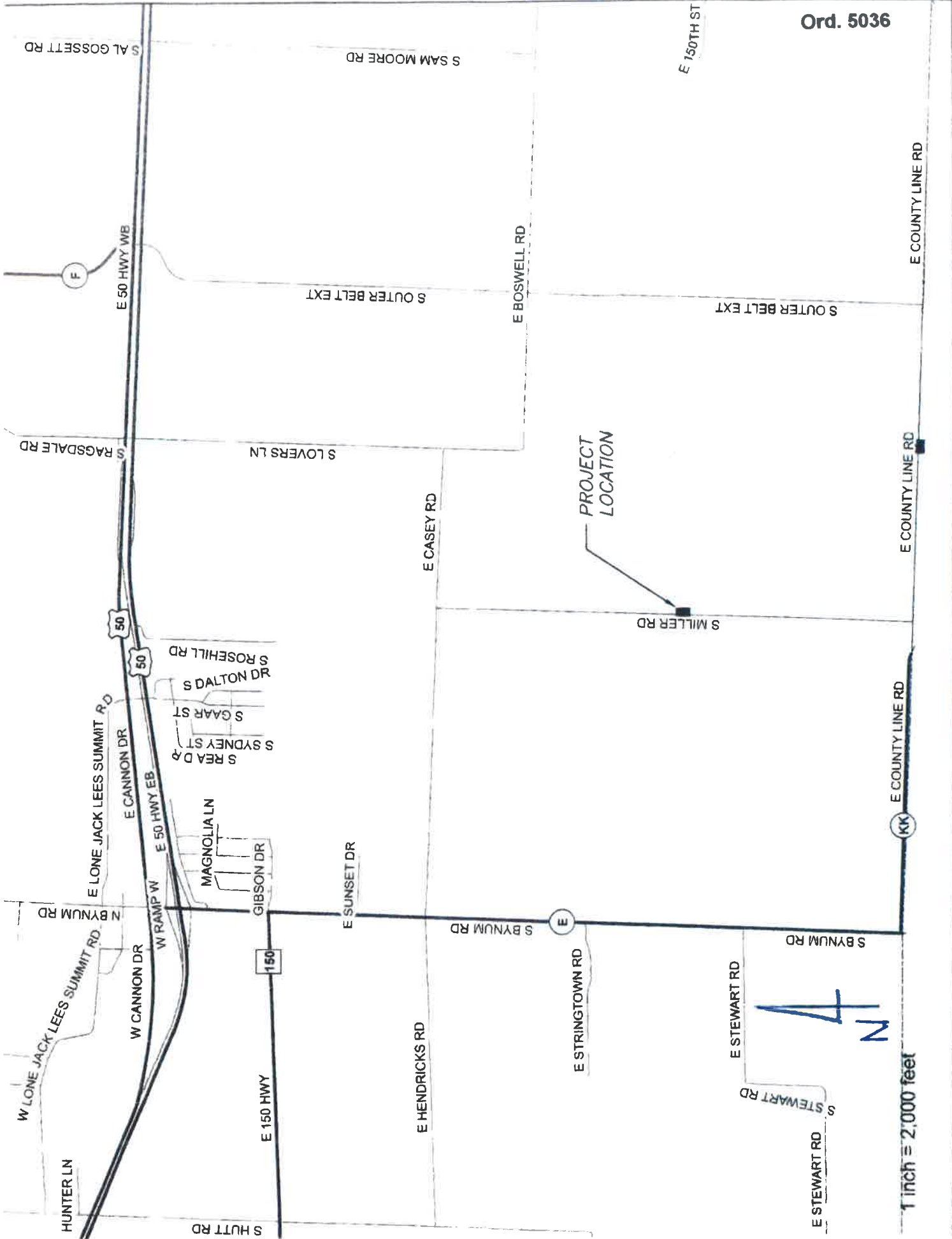
Task	Date
Date funding is made available or allocated to recipient	10/01/2017
Engineering Services Contract Approved	02/01/2018
Preliminary and Right-of-Way Plans Submittal (if Applicable)	04/01/2018
Plans, Specifications & Estimate (PS&E) Submittal	06/01/2018
Plans, Specifications & Estimate (PS&E) Approval	07/01/2018
Advertisement for Letting	08/01/2018
Bid Opening	09/01/2018
Construction Contract Award or Planning Study completed (REQUIRED)	11/15/2018

*Note: the dates established in the schedule above will be used in the applicable ESC between the sponsor agency and consultant firm.

**Schedule dates are approximate as the project schedule will be actively managed and issues mitigated through the project delivery process. The Award Date or Planning Study Date deliverable is not approximate and a Supplemental Agreement is required to push this date back.

Exhibit C - Required Contract Provisions
Federal-Aid Construction Contracts

DRAFTER'S NOTE: Print Form 1273 from the following website and attach as Exhibit C <http://www.fhwa.dot.gov/programadmin/contracts/1273.pdf>.



**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.




REQUEST FOR LEGISLATIVE ACTION

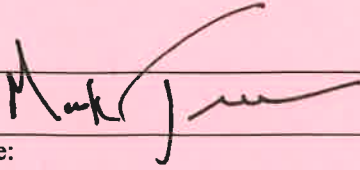
Completed by County Counselor's Office:

Res/Ord No.: 5036

Sponsor(s): Greg Grounds

Date: October 23, 2017

SUBJECT	Action Requested <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Ordinance Project/Title: Approve an Agreement with Missouri Highway and Transportation Commission for funding from the Off – System Bridge Program for Miller Road Bridge Repairs County Project #3214											
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" data-bbox="308 525 1193 745"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td>\$0.00</td> </tr> <tr> <td>Amount previously authorized:</td> <td>\$0.00</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td>\$0.00</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td>\$0.00</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO</td> <td>FROM ACCT:</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: NA</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input checked="" type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Estimated Use: \$</p> <p>Prior Year Budget (if applicable): N/A Prior Year Actual Amount Spent (if applicable): N/A</p>		Amount authorized by this legislation this fiscal year:	\$0.00	Amount previously authorized:	\$0.00	Total amount authorized after this legislative action:	\$0.00	Amount budgeted for this item * (including transfers):	\$0.00	Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT:
Amount authorized by this legislation this fiscal year:	\$0.00											
Amount previously authorized:	\$0.00											
Total amount authorized after this legislative action:	\$0.00											
Amount budgeted for this item * (including transfers):	\$0.00											
Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT:											
PRIOR LEGISLATION	Prior ordinances and (date): <u>N/A</u> Prior resolutions and (date): <u>N/A</u>											
CONTACT INFORMATION	RLA drafted by: Earl Newill, P.E., 816 401-6401 cell,											
REQUEST SUMMARY	Miller Bridge, located about 1/2 miles north of County Line Road, is eligible for repairs in the Off System Bridge Program (BRO). This program provides for 80% funding on eligible costs for the project. The Local Entity is responsible for the 20% match. The Public Works Department intends to use soft match credit for the match and so the project will be 100% funded. The structure is a double cell Reinforced Concrete Box with an eroded bottom slab and scour at the outlet. The project will address these issues. Construction is anticipated in late 2018. The Public Works Department has requested funding and received approval from Missouri Highways and Transportation department for this project. We request that an ordinance be prepared authorizing the County Executive to enter into an agreement with Missouri Department of Transportation for the design and construction.											
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)											
ATTACHMENTS	MoDOT agreement, Area Map and Picture of existing structure											
REVIEW	Department Director: 	Date: 10.16.17										
	Finance (Budget Approval): <i>If applicable</i>	Date: 10/14/17										

Division Manager: 	Date: 10/22/17
County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in ____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:
NA	NA	NA

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION authorizing the Jackson County Legislature to hold a closed meeting on Monday, October 23, 2017, for the purpose of conducting privileged and confidential communications between itself and the Jackson County Counselor under section 610.021(1) of the Revised Statutes of Missouri, and closing all records prepared for discussion at said meeting.

RESOLUTION NO. 19617, October 23, 2017

INTRODUCED BY Scott Burnett, County Legislator

WHEREAS, the Jackson County Legislature desires to hold a closed meeting on Monday, October 23, 2017, during the regularly scheduled meeting of the Legislature; and,

WHEREAS, public notice of such closed meeting has been given by inclusion of this Resolution on the published agenda for said meeting; and,

WHEREAS, the purpose of such closed meeting is to conduct privileged and confidential communications between the Legislature and the Jackson County Counselor concerning the status of legal actions, causes of action, and/or litigation; and,

WHEREAS, such closed meeting is allowable under section 610.021(1) of the Revised Statutes of Missouri; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the Legislature be authorized to hold a closed meeting during the regularly scheduled meeting of the Legislature on Monday, October 23, 2017, pursuant to section 610.021(1), RSMo, and closing all records prepared in connection therewith.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief/Deputy County Counselor



County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No. 19617 of October 23, 2017, was duly passed on _____, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

Date

Mary Jo Spino, Clerk of Legislature

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION authorizing the County Executive and the Jackson County Sheriff to execute an agreement with Virtual Academy in acceptance of an Online Training Grant received from the Missouri Police Chiefs Charitable Foundation, at no cost to the County.

RESOLUTION NO. 19618, October 23, 2017

INTRODUCED BY Alfred Jordan, County Legislator

WHEREAS, the Sheriff's Office has been awarded a grant received from the Missouri Police Chiefs Charitable Foundation to allow law enforcement personnel within the department to participate in online training programs; and,

WHEREAS, said training is at no cost to the County, with fees for the online programs to be paid by the Missouri Police Chiefs Association; and,

WHEREAS, the Sheriff has requested the execution of the attached agreement with Virtual Academy, a division of Savant Learning Systems, Inc., which sets out the rights and obligations of each party related to this online training grant program; and,

WHEREAS, the execution of this agreement is in the best interest of the health, safety, and welfare of the citizens of Jackson County; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the County Executive and the Jackson County Sheriff be and are hereby authorized to execute the attached agreement with Virtual Academy, and any other documents necessary to give effect to this Resolution.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No. 19618 of October 23, 2017, was duly passed on _____, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

Date

Mary Jo Spino, Clerk of Legislature



Missouri Police Chiefs Charitable Foundation

1001 East High Street, Jefferson City, MO 65101 573-636-5444, fax 573-636-6634

Missouri Law Enforcement ON-LINE TRAINING Project

Award Letter

Date: 10/03/2017
To: Jackson County Sheriff's Office
From: Sheldon Lineback, MPCCF Executive Director
Re: Award of one year of no-cost on-line training
Grand Award Year: 2016
Contract Number: EMW-2016-SS-00049-180 SHSGP LETPA 2016
Grant Award Amount: \$9,760.00

It is our pleasure to inform you that your application for "On-line Training Grant" has been selected for award. This project is funded under the Law Enforcement Terrorism Prevention Program in which the Missouri Police Chiefs Charitable Foundation was selected to manage.

Your agency award includes the following:

One year of no-cost on-line training for ___122___ law enforcement personnel employed by your agency. This on-line training award will provide over 200 hours of training for each of your law enforcement personnel, the training is certified for Missouri POST Continuing education, and will be uploaded into the Missouri POST training tracking system.

Missouri Police Chiefs Charitable Foundation will as its deliverables under this award will:

1. Provide this award notification.
2. Provide a V-Academy contract.
3. Enroll and activate your law enforcement personnel for use of the system.
4. Ensure that the training provided is certified POST CEHs and ensure state entry.
5. Provide a Completed Project to be completed when agency is activated.

Awarded agency will in accepting this award:

1. Sign and return this award Letter.
2. Sign and return the V-Academy Contract along with its roster of users.
3. Sign and return the Completed Project form when their agency is activated.
4. Sign, complete, and return if there is a change in contacts with the agency.
5. Utilize the system and ensure that, and meet all requirements by policy, state and federal law for the use of the provided by this award.
6. Require all of their law enforcement personnel to take that following courses required by Missouri Homeland Security within the twelve month award period.
 1. Cultural Diversity
 2. Emergency Operations Planning for Schools
 3. ISIS and Social Media: How they Operate
 4. Violent Jihadist Radicalization: Case Study of the Toronto 18
7. Comply with all federal, state, local, and administrative laws relating to, but not limited to reporting requirements involving award funds origination.

In affixing the required signatures of the local governmental body and the law enforcement agency agree to the responsibilities and terms of this award.

For the local governmental body and law enforcement agency:

(Applicant Authorized Official)

(Date)

(Applicant Project Director)

(Date)

For the Missouri Police Chiefs Charitable Foundation



(MPCCF Chairman or MPCCF Executive Director)

(Date)

Upon signing this Award Letter, the MPCCF will sign and return a copy to your agency and will establish activation and training arrangements with you designated Project Contact. If you choose to decline this award please send an email or letter to Sheldon Lineback, MPCCF Executive Director at the address on this letter or at slineback@mopca.com.

VIRTUAL ACADEMY
VIRTUAL ACADEMY SOLUTION AGREEMENT

Res. 19618

Cover Sheet

THIS VIRTUAL ACADEMY SOLUTION AGREEMENT (comprising this Cover Sheet and the Terms and Conditions attached hereto, collectively, the "Agreement") is entered into as of the date of the later signature below ("Effective Date") by and between Virtual Academy, a division of Savant Learning Systems, Inc. ("Virtual Academy"), and the law enforcement agency identified below ("Law Enforcement Agency").

A. WHEREAS, Virtual Academy has developed a comprehensive suite of content, products and services (each individually, a "Solution" and, collectively, the "Solutions") designed to permit Law Enforcement Agency to offer training online, which Solutions include Virtual Academy's custom on-line training management system ("TMS"), currently offered under the brand "Virtual Academy."

B. WHEREAS, Law Enforcement Agency desires to arrange for access to and use of the TMS and the additional Solutions specifically elected by Law Enforcement Agency ("Elected Solution(s)") as indicated below, and Virtual Academy is willing to provide such Elected Solutions, subject to the terms and conditions herein.

Elected Solutions

Package Options	Number of Users
Complete \$80 / year / officer – Full TMS and Unlimited Courses (to be paid by the Missouri Police Chiefs Association)	122

VIRTUAL ACADEMY, A DIVISION OF SAVANT LEARNING SYSTEMS, INC.

By: _____
(signature)

Name: Tommy Legins

Title: EVP/CFO

Date: _____

Jackson County Sheriff Office
(department name)

By: _____
(signature)

Name: _____

Title: _____

Date: _____

Address: 4001 NE Lakewood Ct
 Lees Summitt, MO 64064

MISSOURI POLICE CHIEFS ASSOCIATION

Signature: _____

Name: Sheldon Lineback, Executive Director

Date: _____

Address: 1001 East High Street
 Jefferson, Missouri 65101

VIRTUAL ACADEMY SOLUTION AGREEMENT – TERMS AND CONDITIONS

1. TMS Access. Virtual Academy hereby grants Law Enforcement Agency a non-exclusive, limited, revocable, non-transferable, non-sublicenseable right and license to access the TMS, subject to the terms of this Agreement, solely in connection with Law Enforcement Agency's offering of the training to its sworn and non-sworn employees and affiliates.
2. Virtual Academy Warranty. Virtual Academy warrants that (i) it will use commercially reasonable efforts to ensure that the TMS, courseware, instructional materials, software or source code do not contain any malware or other code that could cause damage to Law Enforcement Agency's computer systems or data; and (ii) it owns and/or has all necessary rights to use and to permit the use of the TMS, courseware, instructional materials, software or source code as provided herein. Virtual Academy makes no other warranty, express or implied, in connection with the Solutions, and hereby disclaims and excludes any warranty of fitness for a particular purpose and/or warranty of merchantability.
3. Access. Virtual Academy will use commercially reasonable efforts to provide continuous access to the Virtual Academy platform, excluding planned maintenance periods and unplanned downtime beyond the reasonable control of Virtual Academy. Law Enforcement Agency understands that Virtual Academy cannot guarantee access at all times. Virtual Academy shall not be responsible for any failure by Law Enforcement Agency or its officers to gain access to the Solutions due to causes beyond Virtual Academy's reasonable control, including power outages, and damage to or defects in computer hardware.
4. Maintenance and Software Upgrades. Maintenance and software upgrades to the TMS, courseware, instructional materials, software, or source code may be performed at the discretion of Virtual Academy. Virtual Academy agrees to provide Law Enforcement Agency with reasonable advance notice of scheduled maintenance and/or software upgrades.
5. Compliance with Certain Regulatory Requirements.
 - a. Privacy Protection. Each party will ensure that officer grades and/or other protected information related to this Agreement will be treated as confidential and protected from disclosure as required by federal and applicable state law. Officer grades are the property of Law Enforcement Agency and Law Enforcement Agency shall be responsible for maintenance of such data.
6. Confidentiality. To the extent permitted by applicable law, the terms of this Agreement are confidential. Except as required by law, neither party shall furnish confidential information of the other party to any unauthorized person or entity. Nothing in this section prevents Virtual Academy from issuing a mutually acceptable press release or naming Law Enforcement Agency as a client in advertising materials and/or as a case study of the TMS, courseware, instructional materials, software, or source code. Law Enforcement Agency further authorizes Virtual Academy to monitor performance and/or service level information and data associated with Law Enforcement Agency's use of the TMS, courseware, instructional materials, software or source code, and Virtual Academy will seek authorization from Law Enforcement Agency to make such performance and/or service level information and data publicly available for promotional and/or advertising purposes.
7. Intellectual Property. Virtual Academy owns all right, title and interest in the intellectual property embodied in or related to the TMS, courseware, Solutions, instructional materials, software or source code (including any and all tangible and intangible ideas, items, works of authorship and other materials resulting from such Solutions, such as all works of authorship forming any part of the TMS, courseware, Solutions, instructional materials, software or source code, whether or not registered or capable of registration, including but not limited to the source code, any graphical or pictorial works such as but not limited to logos, graphical user interfaces, architecture and also including any copyrights, trade secrets, patents, trademarks, know-how and/or specifications). Virtual Academy shall retain ownership over all instructional and/or reference content, excluding officer data and supplemental Law Enforcement Agency or training materials uploaded by Law Enforcement Agency or any of its officers, employees or agents, or by users of the TMS.
8. Proprietary Rights and Restrictions. Virtual Academy holds and retains all right, title, and interest in its software, original applications, documentation, materials, and all other intellectual property. Nothing in this Agreement is intended to transfer any ownership rights to Law Enforcement Agency. Law Enforcement Agency shall not:
 - a. Decompile, disassemble, or reverse engineer, or attempt to decompile, disassemble or reverse engineer, the TMS, courseware, instructional materials, software or source code;
 - b. Modify or attempt to modify the TMS, courseware, instructional materials, software or source code;
 - c. Rent, lease, license, assign, sell or otherwise provide access to any unauthorized individual or entity to Virtual Academy's intellectual property, including the TMS, courseware, Solutions, instructional materials, software or source code, and also including any copyrights, trade secrets, patents, trademarks, know-how and/or specifications on a temporary or permanent basis;
 - d. Upload, or attempt to upload, to Virtual Academy's servers any information, material or content that infringes upon any third party copyright, trademark, patent or trade secret, or material or content that is in violation of any law of the United States;
9. Trademarks. During the term of this Agreement (and thereafter, for historical purposes), Law Enforcement Agency grants Virtual Academy a limited, non-exclusive license to use Law Enforcement Agency's trademarks, as designated in writing by Law Enforcement Agency, solely for the purpose of fulfilling

Virtual Academy's obligations and exercising Virtual Academy's rights hereunder.

of officer performance, and (iv) decisions to award course credit and/or training credentialing.

10. Assignment. Law Enforcement Agency may not assign this Agreement, or any of its rights or obligations hereunder, in whole or in part, by operation of law or otherwise, without the express written consent of Virtual Academy, which Virtual Academy may withhold in its sole discretion.

d. Law Enforcement Agency warrants that it has policies and procedures in place to comply with, and will comply with, all applicable federal, state, and local laws and regulations with respect to the training. Without limiting the foregoing, Law Enforcement Agency will be responsible for compliance with all applicable state accrediting agency requirements and state law authorizations and requirements.

11. Compensation. Law Enforcement Agency shall pay to Virtual Academy the amounts on the schedule set forth on the Cover Page.

e. Law Enforcement Agency will provide such other reasonable administrative support for the implementation and functioning of the TMS and the Solutions not otherwise specifically set forth in this Agreement as being the responsibility of Virtual Academy.

12. Payment Terms. Payment is due upon receipt of invoice. Law Enforcement Agency and Virtual Academy hereby agree that:

f. Law Enforcement Agency will make reasonable efforts to prevent unauthorized access to the TMS, courseware, instructional materials, software or source code and to maintain confidentiality of login information used by officers and instructors to access the TMS, courseware, instructional materials, software or source code.

a. Late payments are subject to an interest charge of 1 1/2% per month, or the maximum rate permitted by law, if lower.

b. If Virtual Academy incurs costs in collecting overdue invoices, Law Enforcement Agency is responsible for collection costs including reasonable attorneys' and/or collection fees.

c. Law Enforcement Agency may not reduce or offset any amounts due to Virtual Academy.

d. Acceptance of partial payment from Law Enforcement Agency by Virtual Academy does not waive the right to collect the full amount due.

g. Any additional responsibilities of Virtual Academy and Law Enforcement Agency with respect to the Solutions shall be mutually agreed in writing.

13. Responsibilities of Law Enforcement Agency. Law Enforcement Agency agrees to perform the following:

14. Indemnification.

a. Law Enforcement Agency will provide to Virtual Academy a list of enrolled officers and officer identification as is needed for Virtual Academy to perform its obligations under this Agreement. The list provided by Law Enforcement Agency will reflect officers enrolled as of the first day of implementation and will be provided to Virtual Academy a minimum of five (5) days prior to the initiation of implementation.

a. To the extent permitted by applicable law, each party shall indemnify and hold harmless the other party, including its officers, directors, employees and agents, against any losses, damages, or expenses (including, without limitation, reasonable attorneys' fees) arising from any claim, suit or proceeding brought by a third party against the other party and arising out of the indemnifying party's (i) gross negligence, willful misconduct or fraud; (ii) breach of the terms of this Agreement or (iii) failure to comply with any applicable law.

b. Law Enforcement Agency will arrange and provide for a qualified officer to administer and oversee Law Enforcement Agency's use and implementation of the TMS, courseware, instructional materials, software, source code and the Solutions in connection with the training. Law Enforcement Agency will ensure that all such officers participate in the training and orientation provided by Virtual Academy with respect to the TMS, courseware, Solutions, instructional materials, software or source code. Law Enforcement Agency will take such steps as necessary to ensure that officers respect Virtual Academy copyrights and proprietary information.

b. Without limiting the foregoing, Law Enforcement Agency agrees to indemnify and hold harmless Virtual Academy, and its officers, directors, employees and agents from all losses, damages, expenses and costs, including reasonable attorney's fees, resulting from or related to:

c. Law Enforcement Agency shall exercise the sole decision-making authority in the (i) appointment of training officers, (ii) admission of officers to the training, (iii) evaluation

i. Any claim brought against Virtual Academy or its officers, directors, employees or agents alleging violation of a patent, copyright, trademark or trade secret based on any material that is generated by, altered by, modified by, distributed by, copied by or uploaded by any trainer, officer or staff member of Law Enforcement Agency or any individual or entity who gains unauthorized access to the TMS, courseware, instructional materials, software or source code due to a failure on behalf of Law Enforcement Agency to make reasonable efforts to prevent unauthorized access thereto or to maintain confidentiality of login information used by officers and instructors to access same;

ii. Any infringement of third party copyrights or patents by Law Enforcement Agency's management; and/or

iii. Any damages caused by materials uploaded or distributed via Virtual Academy's system and/or the training by the Law Enforcement Agency, including those materials which may: (x) contain malware; (y) include content determined to be illegal, including file sharing of third party intellectual property; or (z) contain defamatory content.

15. Term. The term of this Agreement will commence on the Effective Date and continue in effect thereafter, unless terminated earlier as provided herein, for one (1) year. Notwithstanding the foregoing, unless Virtual Academy or Law Enforcement Agency provides written notice of its intent not to renew at least sixty (60) days prior to the end of the applicable term, this Agreement shall renew for an additional (1) year term or as otherwise negotiated.

16. Termination for Breach. In the event of a material breach of this Agreement, the non-breaching party may terminate this Agreement upon provision of thirty (30) days' written notice to the breaching party, provided that such breach has not been cured within said period. If Virtual Academy terminates this Agreement due to Law Enforcement Agency's failure to make adequate or timely payment, all Solutions may be terminated at Virtual Academy's option. In the event of termination following such breach, Virtual Academy may, at its option, (a) charge a reinstatement fee to reinstate support Solutions; or (b) decline to reinstate support Solutions until breach is cured. In addition, either party may terminate this Agreement, effective immediately upon notice, if the other party files for bankruptcy protection, is determined to be bankrupt or insolvent or enters into any bankruptcy or insolvency proceeding, except that Virtual Academy shall continue to provide courses still in session in accordance with the terms of this Agreement to the extent legally permitted to do so.

17. Effect of Termination. Virtual Academy also agrees that in case of termination by either party, it will make reasonable efforts to protect officer data, subject to the terms of this Agreement. Notwithstanding anything herein to the contrary, as of the date that is twelve (12) months following any expiration or termination of this Agreement, officer data may be destroyed at the discretion of Virtual Academy. Upon the expiration or any termination of this Agreement the following Sections shall survive: 5, 6, 7, 8, 9, 11; 12; 17; 18; 20 and 21.

18. Limitation of Liability. Excluding a party's fulfillment of its indemnification obligations hereunder, neither party shall be liable or responsible to the other party for any indirect, special, punitive, incidental, or consequential damages in connection with or arising out of this Agreement, even if that party has been advised of the possibility of such damages or it is otherwise foreseeable. Virtual Academy's total liability to Law Enforcement Agency for damages, costs, losses, or expenses relating to this Agreement is limited to the fees paid or owed by Law Enforcement Agency with respect to previous year.

19. Force Majeure. Virtual Academy warrants that it shall use commercially reasonable efforts to maintain Solutions and protect data. Virtual Academy shall not be liable for any failure to perform its obligations where such failure is a result of acts of nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout, interruption or failure of electricity, telephone, or internet service.

20. Mediation and Arbitration. Any controversy between the parties to this Agreement involving the construction or application of any of the terms, provisions, or conditions of this Agreement shall, on written request of either party served on the other, be submitted first to mediation and then if still unresolved to binding arbitration. Said mediation or binding arbitration shall comply with and be governed by the provisions of the American Arbitration Association for Commercial Disputes.

21. Governing Law. This Agreement is governed by the laws of the State of Tennessee. Legal action arising from this Agreement shall only be filed in the State of Tennessee. The parties waive any right to a jury trial.

22. Legal and Regulatory Changes. If any law or regulation governing this Agreement, the Solution or the training changes such that any aspect of this Agreement, the Solution or any training as then provided does not comply with such law or regulation, the Parties shall amend this Agreement solely to the extent necessary to comply with such law or regulation.

23. Entire Agreement. This Agreement contains the entire Agreement between the parties and supersedes all prior agreements.

24. Amendment. No amendment, modification, termination or waiver of any provision of this Agreement is effective unless it is in writing and signed by both parties.

25. Severability. If a court declares any part of this Agreement void or unenforceable, the remaining terms and provisions shall remain in force.

26. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

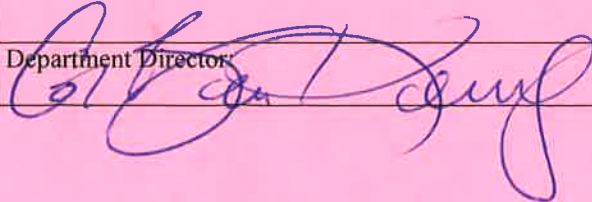
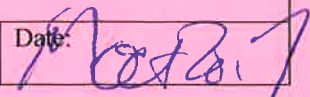
REQUEST FOR LEGISLATIVE ACTION

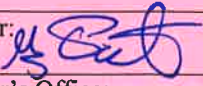
Completed by County Counselor's Office:

Res/~~Ord~~ No.: 19618

Sponsor(s): Alfred Jordan

Date: October 23, 2017

<p>SUBJECT</p>	<p>Action Requested <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance</p> <p>Project/Title: A Resolution authorizing the Jackson County Sheriff's Office to accept an "On-Line Training" Grant from the Missouri Police Chiefs Foundation, to provide Missouri Post certified Continuing Education hours for one year to 122 law enforcement personnel, at no cost to Jackson County.</p>										
<p>BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i></p>	<table border="1"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td>\$</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td>\$</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td>\$</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td>\$</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM TO</td> <td>FROM ACCT TO ACCT</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Estimated Use: \$</p> <p>Prior Year Budget (if applicable): Prior Year Actual Amount Spent (if applicable):</p>	Amount authorized by this legislation this fiscal year:	\$	Amount previously authorized this fiscal year:	\$	Total amount authorized after this legislative action:	\$	Amount budgeted for this item * (including transfers):	\$	Source of funding (name of fund) and account code number; FROM TO	FROM ACCT TO ACCT
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Total amount authorized after this legislative action:	\$										
Amount budgeted for this item * (including transfers):	\$										
Source of funding (name of fund) and account code number; FROM TO	FROM ACCT TO ACCT										
<p>PRIOR LEGISLATION</p>	<p>Prior ordinances and (date): Prior resolutions and (date):</p>										
<p>CONTACT INFORMATION</p>	<p>RLA drafted by Captain Scott Goodman, Sheriff's Office, 816-541-8017</p>										
<p>REQUEST SUMMARY</p>	<p>A Resolution authorizing the Jackson County Sheriff's Office to accept an "On-Line Training" Grant from the Missouri Police Chiefs Foundation, to provide Missouri Post certified Continuing Education hours for one year to 122 law enforcement personnel, at no cost to Jackson County.</p>										
<p>CLEARANCE</p>	<p><input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)</p>										
<p>ATTACHMENTS</p>											
<p>REVIEW</p>	<p>Department Director:  Date: </p>										

Finance (Budget Approval): <i>If applicable</i>	Date:
Division Manager: 	Date: 10/18/17
County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION transferring \$1,623,837.00 within the 2017 General Fund, \$245,449.00 within the Anti-Drug Sales Tax Fund, and \$40,000.00 within the 2017 Inmate Security Fund to cover budget shortfalls for overtime and other services within the Department of Corrections.

RESOLUTION NO. 19619, October 23, 2017

INTRODUCED BY Alfred Jordan, County Legislator

WHEREAS, the Department of Corrections has experienced a budget shortfall in its accounts for overtime, food, utilities, and other costs; and,

WHEREAS, a transfer is necessary to cover these costs; and,

WHEREAS, the County Executive recommends this transfer; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the following transfers within the 2017 General Fund, within the Anti-Drug Sales Tax Fund, and within the 2017 Inmate Security Fund be and hereby are made:

<u>DEPARTMENT/DIVISION</u>	<u>CHARACTER DESCRIPTION</u>	<u>FROM</u>	<u>TO</u>
General Fund Corrections 001-2701	55010 – Regular Salaries		\$1,202,133
General Fund Corrections - RCC/KCPD 001-2702	55010 – Regular Salaries	\$	336,704
General Fund Facilities Mgmt – Detention Center 001-1210	56470 – Steam	\$	85,000

General Fund

Correction

001-2701	55030 – Overtime	\$1,159,682
001-2701	57190 – Wearing Apparel	\$ 130,000

General Fund

Facilities Mgmt – Detention Center

001-1210	56445 – Chilled Water	\$ 77,000
001-1210	56440 - Water	\$ 136,000
001-1210	56420 – Electricity	\$ 60,500
001-1210	56450 – Sewer	\$ 60,655

Anti-Drug Sales Tax Fund

Corrections

008-2701	55010 – Regular Salaries	\$245,449
008-2701	55030 – Overtime Salaries	\$ 19,104
008-2701	56450 – Sewer	\$202,345
008-2701	55055 – Union Pension	\$ 24,000

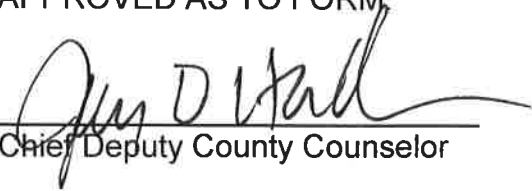
Inmate Security Fund

Corrections

036-2701	56870 – Food Service	\$40,000
036-2701	56450- Sewer	\$ 40,000

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No. 19619 of October 23, 2017, as duly passed on _____, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

Date

Mary Jo Spino, Clerk of Legislature

Funds sufficient for this transfer are available from the sources indicated below.

ACCOUNT NUMBER: 001 2701 55010
ACCOUNT TITLE: General Fund
Corrections
Regular Salaries
NOT TO EXCEED: \$1,202,133.00

ACCOUNT NUMBER: 001 2702 55010
ACCOUNT TITLE: General Fund
Corrections – RCC/KCPD
Regular Salaries
NOT TO EXCEED: \$336,704.00

ACCOUNT NUMBER: 001 1210 56470
ACCOUNT TITLE: General Fund
Facilities Management Detention Center
Steam
NOT TO EXCEED: \$85,000.00

ACCOUNT NUMBER: 008 2701 55010
ACCOUNT TITLE: Anti-Drug Sales Tax Fund
Corrections
Regular Salaries
NOT TO EXCEED: \$245,449.00

ACCOUNT NUMBER: 036 2701 56870
ACCOUNT TITLE: Inmate Security Fund
Corrections
Food Service
NOT TO EXCEED: \$40,000.00

10-19-17
Date


Chief Financial Officer

REQUEST FOR LEGISLATIVE ACTION




Completed by County Counselor's Office:

Res/~~Ord~~ No.: 19619

Sponsor(s): Alfred Jordan

Date: October 23, 2017

SUBJECT	<p>Action Requested <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance</p> <p>Project/Title: A Resolution Authorizing the Transfer of Funds Within the Corrections Department General, Anti-Drug Sales Tax and Inmate Security Funds to Cover OT, Utilities, Union Pension, & Wearing Apparel to the end of the year.</p>																																																																		
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:70%;">Amount authorized by this legislation this fiscal year:</td> <td style="text-align: right;">\$1,909,286</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td></td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td style="text-align: right;">\$1,909,286</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td></td> </tr> </table> <p>Source of funding (name of fund) and account code number:</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"><u>General Fund</u></td> </tr> <tr> <td><u>FROM ACCT:</u></td> <td style="text-align: right;"><u>FROM AMOUNT</u></td> </tr> <tr> <td>001-2701-55010 Regular Salaries</td> <td style="text-align: right;">1,202,133</td> </tr> <tr> <td>001-2702-55010 Regular Salaries</td> <td style="text-align: right;">336,704</td> </tr> <tr> <td>001-1210-56470 Steam</td> <td style="text-align: right;">85,000</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td><u>TO ACCT:</u></td> <td style="text-align: right;"><u>TO AMOUNT</u></td> </tr> <tr> <td>001-2701-55030 Overtime Salaries</td> <td style="text-align: right;">1,159,682</td> </tr> <tr> <td>001-1210-56445 Chilled Water</td> <td style="text-align: right;">77,000</td> </tr> <tr> <td>001-1210-56440 Water</td> <td style="text-align: right;">136,000</td> </tr> <tr> <td>001-1210-56420 Electricity</td> <td style="text-align: right;">60,500</td> </tr> <tr> <td>001-1210-56450 Sewer</td> <td style="text-align: right;">60,655</td> </tr> <tr> <td>001-2701-57190 Wearing Apparel</td> <td style="text-align: right;">130,000</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td colspan="2"><u>Anti-Drug Sales Tax Fund</u></td> </tr> <tr> <td><u>FROM ACCT:</u></td> <td style="text-align: right;"><u>FROM AMOUNT</u></td> </tr> <tr> <td>008-2701-55010 Regular Salaries</td> <td style="text-align: right;">245,449</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td><u>TO ACCT:</u></td> <td style="text-align: right;"><u>TO AMOUNT</u></td> </tr> <tr> <td>008-2701-55030 Overtime Salaries</td> <td style="text-align: right;">19,104</td> </tr> <tr> <td>008-2701-56450 Sewer</td> <td style="text-align: right;">202,345</td> </tr> <tr> <td>008-2701-55055 Union Pension & Insurance</td> <td style="text-align: right;">24,000</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td colspan="2"><u>Inmate Security Fund</u></td> </tr> <tr> <td><u>FROM ACCT:</u></td> <td style="text-align: right;"><u>FROM AMOUNT</u></td> </tr> <tr> <td>036-2701-56470 Food Service</td> <td style="text-align: right;">40,000</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td><u>TO ACCT:</u></td> <td style="text-align: right;"><u>TO AMOUNT</u></td> </tr> <tr> <td>036-2701-56450 Sewer (NEW ACCOUNT)</td> <td style="text-align: right;">40,000</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p>	Amount authorized by this legislation this fiscal year:	\$1,909,286	Amount previously authorized this fiscal year:		Total amount authorized after this legislative action:	\$1,909,286	Amount budgeted for this item * (including transfers):		<u>General Fund</u>		<u>FROM ACCT:</u>	<u>FROM AMOUNT</u>	001-2701-55010 Regular Salaries	1,202,133	001-2702-55010 Regular Salaries	336,704	001-1210-56470 Steam	85,000	 		<u>TO ACCT:</u>	<u>TO AMOUNT</u>	001-2701-55030 Overtime Salaries	1,159,682	001-1210-56445 Chilled Water	77,000	001-1210-56440 Water	136,000	001-1210-56420 Electricity	60,500	001-1210-56450 Sewer	60,655	001-2701-57190 Wearing Apparel	130,000	 		<u>Anti-Drug Sales Tax Fund</u>		<u>FROM ACCT:</u>	<u>FROM AMOUNT</u>	008-2701-55010 Regular Salaries	245,449	 		<u>TO ACCT:</u>	<u>TO AMOUNT</u>	008-2701-55030 Overtime Salaries	19,104	008-2701-56450 Sewer	202,345	008-2701-55055 Union Pension & Insurance	24,000	 		<u>Inmate Security Fund</u>		<u>FROM ACCT:</u>	<u>FROM AMOUNT</u>	036-2701-56470 Food Service	40,000	 		<u>TO ACCT:</u>	<u>TO AMOUNT</u>	036-2701-56450 Sewer (NEW ACCOUNT)	40,000
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PRIOR LEGISLATION	<p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required)</p> <p><input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: _____ Estimated Use: \$ _____</p> <p>Prior Year Budget (if applicable): _____</p> <p>Prior Year Actual Amount Spent (if applicable): _____</p> <p>Prior ordinances and (date): _____</p> <p>Prior resolutions and (date): _____</p>																																																																		

CONTACT INFORMATION	RLA drafted by (name, title, & phone): Laura J. Scott, Asst. Dir Admin 816 881-4232	
REQUEST SUMMARY	These transfers are utilized from within the Corrections General Funds, Anti-Drug Sales Tax Fund, and Inmate Security Fund from Regular and Overtime Salaries, and Food Services to cover Overtime, Utilities, Union Pension, & Wearing Apparel to the end of Fiscal Year, 2017.	
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)	
ATTACHMENTS		
REVIEW	Department Director: 	Date: 10-11-17
	Finance (Budget Approval): <i>If applicable</i> 	Date: 10/2/17
	Division Manager: 	Date: 10/17/17
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

Fiscal Note: Jackson County, Missouri

Funds sufficient for this transfer are available from the sources indicated below.

Date: October 11, 2017 PC# RES # 19619

<u>Department / Division</u>	<u>Character/Description</u>	<u>From</u>	<u>To</u>
<u>General Fund - 001</u>			
<u>2701 - Corrections</u>	<u>55010 - Regular Salaries</u>	<u>\$ 1,202,133</u>	
<u>2702 - Corrections-RCC & KCPD</u>	<u>55010 - Regular Salaries</u>	<u>336,704</u>	
<u>1210 - Fac. Mgmt - Detention Center</u>	<u>56470 - Steam</u>	<u>85,000</u>	
<u>2701 - Corrections</u>	<u>55030 - Overtime Salaries</u>		<u>1,159,682</u>
<u>1210 - Fac. Mgmt - Detention Center</u>	<u>56445 - Chilled Water</u>		<u>77,000</u>
<u>1210 - Fac. Mgmt - Detention Center</u>	<u>56440 - Water</u>		<u>136,000</u>
<u>1210 - Fac. Mgmt - Detention Center</u>	<u>56420 - Electricity</u>		<u>60,500</u>
<u>1210 - Fac. Mgmt - Detention Center</u>	<u>56450 - Sewer</u>		<u>60,655</u>
<u>2701 - Corrections</u>	<u>57190 - Wearing Apparel</u>		<u>130,000</u>
		<u>\$ 1,623,837</u>	<u>\$ 1,623,837</u>
<u>Anti-Drug Sales Tax Fund - 008</u>			
<u>2701 - Corrections</u>	<u>55010 - Regular Salaries</u>	<u>\$ 245,449</u>	<u>\$ -</u>
<u>2701 - Corrections</u>	<u>55030 - Overtime Salaries</u>		<u>19,104</u>
<u>2701 - Corrections</u>	<u>56450 - Sewer</u>		<u>202,345</u>
<u>2701 - Corrections</u>	<u>55055 - Union Pension</u>		<u>24,000</u>
		<u>\$ 245,449</u>	<u>\$ 245,449</u>
<u>Inmate Security Fund - 036</u>			
<u>2701 - Corrections</u>	<u>56870 - Food Service</u>	<u>\$ 40,000</u>	<u>\$ -</u>
<u>2701 - Corrections</u>	<u>56450 - Sewer</u>		<u>40,000</u>
		<u>\$ 40,000</u>	<u>\$ 40,000</u>

 10/12/17
Budget Office

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION authorizing the County Executive to execute a twelve-month term and supply contract with two twelve-month options to extend for the furnishing of cafeteria plan administration for use countywide to Application Software Inc., (ASI Flex) of Columbia, MO, under the terms and conditions of Request For Proposals No. 56-17.

RESOLUTION NO. 19620, October 23, 2017

INTRODUCED BY Crystal Williams, County Legislator

WHEREAS, the Director of Finance and Purchasing has solicited written proposals for cafeteria plan administration for County employees, pursuant to Request for Proposals No. 56-17; and,

WHEREAS, a total of thirty-eight notifications were distributed and six responses were received, as follows:

RESPONDENTS

Application Software, Inc. (ASI Flex)
Columbia, MO

NueSynergy
Leawood, KS

Discovery Benefits
Fargo, ND

Wage Works
San Mateo, CA

P&A Group
Buffalo, NY

Frates Benefit Administrators
Oklahoma, OK

and,

WHEREAS, the Director of Finance and Purchasing recommends the County Executive be authorized to execute a twelve-month term and supply contract with two twelve-month options to extend for the furnishing of cafeteria plan administration for use countywide to Application Software, Inc., (ASI Flex) of Columbia, MO, under the terms and conditions of RFP No. 56-17, as the best bidder as set forth in the attached recapitulation and analysis; and,

WHEREAS, the proposed agreement with ASI Flex includes indemnification language that requires legislative approval; and,

WHEREAS, this award is made on an as needed basis and does not obligate Jackson County to pay any specific amount, with the availability of funds for specific purchases subject to annual appropriation; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the County Executive be and is hereby authorized to execute the attached agreement for the furnishing of cafeteria plan administration for use countywide with ASI Flex of Columbia, MO; and,

BE IT FURTHER RESOLVED that the Director of the Department of Finance and Purchasing be and hereby is authorized to make all payments, including final payment, on the agreement to the extent that sufficient appropriations to the using spending agency are contained in the then current Jackson County budget.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No. 19620 of October 23, 2017, was duly passed on _____, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

Date

Mary Jo Spino, Clerk of Legislature

This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases is subject to annual appropriations.

10/19/17

Date



Chief Financial Officer



JACKSON COUNTY
Human Resources Department

Res. 19620

Jackson County Courthouse
415 East 12th Street, First Floor
Kansas City, Missouri 64106
jacksongov.org

(816) 881-3135
Fax: (816) 881-3474

MEMORANDUM

TO: Katie Bartle, Senior Buyer

FROM: Dennis Dumovich, Director of Human Resources
Michelle Chrisman, Deputy Director of Human Resources

DATE: October 2, 2017

RE: Recommendation for Cafeteria Plan – Proposal No. 56-17

The County received 6 bids for the Cafeteria Plan from Discovery Benefits, Wage Works, NueSynergy, ASI Flex, P&A Group and Frates Benefit Administrators.

A committee was formed and after considering the evaluation criteria, we recommend that Cafeteria Plan be awarded to ASI Flex, as the lowest and best bid.

cc: Troy Thomas, Chief Financial Officer

Frank White, Jr., County Executive

REQUEST FOR LEGISLATIVE ACTION

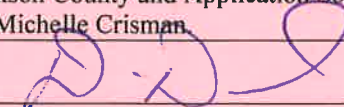
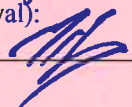
Completed by County Counselor's Office:

Res/Ord No.: 19620

Sponsor(s): Crystal Williams

Date: October 23, 2017

SUBJECT	Action Requested <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance Project/Title: <u>Awarding a Twelve Month Contract with Two Twelve Month Options to Extend for the furnishing of Cafeteria Plan Administration as an optional employee benefit for use by the Human Resources Department to Application Software, Inc. (ASI Flex) of Columbia, MO under the terms and conditions of Request for Proposal 56-17.</u>																																																						
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:80%;">Amount authorized by this legislation this fiscal year:</td> <td style="width:20%;"></td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td></td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td></td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td></td> </tr> <tr> <td>Source of funding (name of fund) and account code number:</td> <td></td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required) <input checked="" type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Human Resources Estimated Use: \$9000/year</p> <p>Prior Year Budget (if applicable): Prior Year Actual Amount Spent (if applicable):</p>						Amount authorized by this legislation this fiscal year:		Amount previously authorized this fiscal year:		Total amount authorized after this legislative action:		Amount budgeted for this item * (including transfers):		Source of funding (name of fund) and account code number:																																								
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PRIOR LEGISLATION	Prior ordinances and (date): Prior resolutions and (date): 16741, October 2008; 18 646, October 2014																																																						
CONTACT INFORMATION	RLA drafted by (name, title, & phone): Katie Bartle, Senior Buyer, 816-881-3465																																																						
REQUEST SUMMARY	The Human Resources Department requires a Contract for Cafeteria Plan Administration due to the current contract expiring. Purchasing issued Request for Proposal 56-17 in response to those requirements. Thirty-eight notifications were distributed, and six responses were received. The responses were evaluated by a committee of personnel from the Human Resources Department as follows: <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width:25%;">Respondent</th> <th style="width:10%;">Price PEPM*</th> <th style="width:10%;">Pricing 30 points</th> <th style="width:15%;">Experience, Qualifications, and References 30 points</th> <th style="width:10%;">Staff to be Assigned to Contract 30 points</th> <th style="width:10%;">Exceptions to Terms and Conditions 10 points</th> <th style="width:10%;">Total Score 100 points</th> </tr> </thead> <tbody> <tr> <td>Discovery Benefits, Fargo, ND</td> <td>\$3.50</td> <td>15</td> <td>14</td> <td>13</td> <td>10</td> <td>52</td> </tr> <tr> <td>Wage Works, San Mateo, CA</td> <td>\$3.00</td> <td>22</td> <td>8</td> <td>9</td> <td>10</td> <td>49</td> </tr> <tr> <td>NueSynergy Leawood, KS</td> <td>\$3.00</td> <td>24</td> <td>22</td> <td>22</td> <td>10</td> <td>78</td> </tr> <tr> <td>ASI Flex Columbia, MO</td> <td>\$2.90</td> <td>28</td> <td>26</td> <td>27</td> <td>10</td> <td>91</td> </tr> <tr> <td>P&A Group Buffalo, NY</td> <td>\$2.95</td> <td>22</td> <td>17</td> <td>16</td> <td>10</td> <td>65</td> </tr> <tr> <td>Frates Benefit Administrators Oklahoma City, OK</td> <td>\$3.00</td> <td>22</td> <td>15</td> <td>8</td> <td>10</td> <td>55</td> </tr> </tbody> </table> <p style="text-align: center; margin-top: 5px;">*Per Employee Per Month</p>						Respondent	Price PEPM*	Pricing 30 points	Experience, Qualifications, and References 30 points	Staff to be Assigned to Contract 30 points	Exceptions to Terms and Conditions 10 points	Total Score 100 points	Discovery Benefits, Fargo, ND	\$3.50	15	14	13	10	52	Wage Works, San Mateo, CA	\$3.00	22	8	9	10	49	NueSynergy Leawood, KS	\$3.00	24	22	22	10	78	ASI Flex Columbia, MO	\$2.90	28	26	27	10	91	P&A Group Buffalo, NY	\$2.95	22	17	16	10	65	Frates Benefit Administrators Oklahoma City, OK	\$3.00	22	15	8	10	55
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	<p>Pursuant to Section 1054.6 of the Jackson County Code, 1984, the Director of Finance and Purchasing recommends the award of Cafeteria Plan Administration to Application Software, Inc. (ASI Flex) of Columbia, MO as the best proposal received.</p> <p>The award is made on an as needed basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases is subject to annual appropriations.</p>	
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) N/A <input checked="" type="checkbox"/> Business License Verified (Purchasing & Department) <input checked="" type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)	
COMPLIANCE	<input type="checkbox"/> MBE Goals <input type="checkbox"/> WBE Goals <input type="checkbox"/> VBE Goals <p style="text-align: center;">No goals were assigned</p>	
ATTACHMENTS	<p>Attached are pertinent pages of the proposal from Application Software, Inc. (ASI Flex), a copy of the Agreement between Jackson County and Application Software, Inc. (ASI Flex), and the Award Recommendation from Michelle Crisman.</p>	
REVIEW	Department Director: 	Date: 10/13/17
	Finance (Budget Approval):  <i>If applicable</i>	Date: 10/12/17
	Division Manager:	Date:
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in ____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

ATTACHMENT I

DESCRIPTION OF REQUIRED SERVICES

Indicate by each number in each section whether or not you are able to provide the described service.

A. Claims Administration

	Item	YES	NO
1.0	The administrator will be responsible for verifying coverage from the initial enrollment data of each plan year and any subsequent changes which are transmitted to it by Jackson County, Missouri. Claims can only be paid to participants in the plan.	✓	
2.0	The administrator must provide all claim forms and return envelopes, fax options, and online options.	✓	
3.0	The administrator must process all claims on a direct claim basis with no verification of claims by Jackson County, Missouri. Claims must be processed, on average, within one business day.	✓	
4.0	The administrator must administer unreimbursed medical expense (eye exams, dental visits, prescription drugs, insurance copays and deductibles, etc.), dependent care, and parking accounts.	✓	
5.0	The Claims Administrator will be responsible for processing claims daily.	✓	
6.0	The administrator must review each claim and determine the appropriate benefit payment based on the terms and conditions of Jackson County Missouri Flexible Benefits Plan in a manner which will ensure compliance with all applicable state and federal regulations.	✓	
7.0	The administrator must be able to recognize actual accrual of employee contributions in the determination of reimbursement amounts.	✓	
8.0	The administrator must have the capacity to accept contribution information transmitted electronically or in a hard copy format by Jackson County Missouri.	✓	
9.0	The administrator must be able to reimburse claims through direct deposit if a debit card option is not elected.	✓	
10.0	A listing of checks, or direct bank deposits to participating bank accounts, issued to pay claims must be made available to Jackson County, Missouri no less frequently than monthly.	✓	
11.0	The administrator must provide with each payment an explanation of the benefit paid which clearly identifies the details of each submitted claim included in any payment.	✓	
12.0	The administrator must be able to respond to questions from employees by making available telephone access and staff who can address issues which are raised from time to time. Such access must at least be available during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday.	✓	
13.0	The administrator must maintain enrollment, claim and contribution accrual data in machine readable format that would allow for transfer of claim information to another administrator at the termination of the contract.	✓	
14.0	The administrator must agree to make every effort to facilitate the transfer of claims data to another administrator at the culmination of the contract.	✓	
15.0	The administrator must review the current Summary Plan Description and recommend changes if necessary.	✓	
16.0	The administrator will be required to bill the County on a monthly basis.	✓	
17.0	The administrator must inform the participant when a claim is denied.	✓	

B. Data Analysis and Reporting Requirements

	Item	YES	NO
1.0	The administrator must provide Jackson County, Missouri with at least quarterly reports of each participant's status in each FSA account. Such reports, for each employee , should include:	✓	
	Participation election amount	✓	
	Actual accrual of contributions year to date	✓	
	Reimbursements year to date	✓	
	Pending claim amounts	✓	
	Net FSA account amounts (contributions less reimbursements) year to date	✓	
2.0	The administrator must provide a report (in electronic format, if requested) of Dependent Care contributions by participant at the end of the plan year for W-2 reporting purposes. The administrator must provide reports (in electronic format, if requested) of any other information on FSA participants required for regulatory compliance.	✓	
3.0	The administrator must provide each plan participant with a status report of participation on each account no less frequently than semi-annually. A status report must also be sent to the employee, no less than ten days after the administrator is alerted to an employee ' s coverage termination (or break) due to employment termination (or leave status), or alerted to an employee's coverage resumption, or COBRA participation. The report must include a reminder regarding the forfeiture risk born by the employee and applicable dates for claims accrual and reimbursement filing restrictions. A composite status report must be prepared for those employees participating in both the Unreimbursed Medical Expenses and Dependent Care account.	✓	

C. Administration Services

	Item	YES	NO
1.0	The administrator must provide assistance with the development of plan language provisions and communication materials to employees. This would include, but not be limited to, plan documents, brochures, articles, paycheck stuffers, tapes and meetings. It is expected that plan documents will be reviewed and updated periodically to remain in full legislative compliance.	✓	
2.0	The administrator must maintain a knowledge base of all applicable regulatory Compliance requirements and advise Jackson County, Missouri of those as they develop or change.	✓	
3.0	The administrator must assist Jackson County, Missouri in performing, measuring, and meeting all applicable regulatory tests such as non-discrimination testing. A discrimination test must be conducted at least annually.	✓	
4.0	The administrator must provide analysis and commentary on plan participation and activity. This service should include advice regarding enrollment procedures, plan maximums and minimums , and other plan design features.	✓	
5.0	All correspondence and periodic reports to Jackson County, Missouri employees shall be sent to the participants either electronically by text alerts and e-mails; or by USPS mail, based on each participant's choice.	✓	

**ATTACHMENT II
MINIMUM QUALIFICATIONS**

1. Company has been in existence for at least 10 years:

✓ Since 1983 YES - - - - - NO

2. Company has direct experience in administering an FSA plan for at least 10 years

✓ Since 1983 YES _____ NO

3. Company must be licensed in Missouri and Kansas:

As an independent third-party benefit administrator, ASIFlex is not required to be licensed. However, we have included our Missouri Certificate of Good Standing.

List states: _____

4. Company has multiple current commercial clients of similar size as Jackson County (at least 3 other clients of comparable size).

a. Pima County – Tucson, AZ

b. Nevada System of Higher Learning – Las Vegas, NV

c. Shook Hardy & Bacon Law Firm – Kansas City, MO

5. Dedicated Service Representative will be available to assist with account inquiries:

✓ YES - - - - - NO

6. Do you accept claims by:

In addition to the checked items below, ASIFlex also accepts claims via its innovative FlexMinder service for certain integrated carriers, and can also offer direct provide payment.

✓ Debit Card ✓ Online Submission ✓ Mobile Apps ✓ Fax ✓ Mail

7. Company offers participants online access to account statements and ability to file claims only.

In addition to online access, participants can access account statements and submit claims via the ASIFlex Mobile app.

✓ YES - - - - - NO

8. Company provides employer online portal to have on-demand management reports and participant account access:

✓ YES - - - - - NO

9. Company provides participant immediate and direct access to customer service representatives (speak to a live CSR) without navigating phone trees:

Easy and direct access to CSRs provided Monday through Saturday. Hours are 7 am to 7 pm CT Monday through Friday; and 9 am to 1 pm CT on Saturday.

✓ YES - - - - - NO

ATTACHMENT III
GENERAL QUESTIONS

1. Do you have a minimum participation requirement for any of your programs?

There is no minimum participation requirement.

2. Is there a minimum dollar amount for which claims will be issued?

There is a check minimum of \$25. Claims less than this amount will accumulate until the amount equals or exceeds \$25, and will then be paid; except if the plan year limit is met mid-year and if the runout period is completed. The minimum applies only to checks; it does not apply to electronic reimbursement methods.

3. Are you willing to allow representatives of Jackson County, Missouri to audit your records affecting the activity of Jackson County, Missouri participants?

Yes. We only ask that ample notice is provided to ASIFlex and that activity is conducted during non-peak periods.

4. Debit Card questions:

a. What transactions require substantiation? Which ones do not?

The Internal Revenue Service, through Revenue Rulings 2003-43, 2006-69 and 2007-02 issued guidelines that specify the manner in which FSA debit cards can be used to pay tax-favored benefit account claims. Under certain circumstances, the payments made with the cards can be accepted without further manual review (i.e., a paper claim and substantiating documentation) and under other circumstances can be accepted only with manual review of the claim.

Debit card transactions can be accepted by the FSA administrator without any follow up documentation if the merchant is an acceptable merchant type such as a physician's office or hospital and at least one of four other criteria are met. Transactions are electronically substantiated if:

- The dollar amount of the transaction at a health care provider equals the dollar amount of the co-payment or any combination of any known co-pays up to five times the highest known co-pay, for the employer-sponsored medical, vision or dental plan that participant has elected;
- The expense is a recurring expense that matches expenses previously approved as to amount, provider, and time period (e.g., for an employee who pays a monthly fee for orthodontia at the same provider for the same amount);
- A claims feed is provided from the medical, vision and/or dental provider and claims information can be matched to debit card transactions; or
- The merchant maintains a compliant Inventory Information Approval System (IIAS) for over-the-counter and prescription medication (this system is allowable only if the merchant approves only qualifying items; all other purchased items must be paid for in a split tender transaction.)

Any payment that does not meet the above criteria must be reviewed for compliance like any other claim. ASIFlex offers educational material and information on www.asiflex.com/debitcards.

b. Is your Debit Card a smart card?

Yes. The card is a limited-use card that can be used with a variety of health reimbursement plans. Due to the restrictions provided by Revenue Rulings 2003-43, 2006-69 and 2007-02, ASIFlex is offering a debit card program structured in the following way:

ASIFlex's FSA debit card is restricted to purchases at known health care providers (such as health clinics, hospitals, etc.) and retailers that have implemented an appropriate Inventory Information Approval System (IIAS) management system. At the point-of-sale, the ASIFlex Card confirms the merchant is an eligible merchant according to the merchant category code (MCC) coded into the vendor's credit card processing system and/or the individual merchant identification number. If a purchase is attempted at a vendor that has

an allowable MCC, and the participant has available funds, the transaction will be approved. If a participant attempts a purchase at a merchant that does not have an acceptable MCC and does not meet the aforementioned IIAS, the purchase will be declined and the participant will have to provide an alternate form of payment. For all approved transactions, ASIFlex will then attempt to retroactively match the purchase amount with known co-pay amounts for FSA participants. In order to adjudicate the known co-pay amounts, the client will have to provide ASIFlex with a data file that details the known co-pay amounts of each plan, and identify those enrolled in the plans. If a participant purchases an item that does not match the employer plan co-pay or is not an auto-adjudicated purchase, ASIFlex will send the participant notification that substantiating documentation must be submitted to ASIFlex. Participant email is required for purposes of communication and sending requests, and the email can be a work or personal address.

Please note that the Revenue Ruling 2006-69 explicitly stated that healthcare FSA debit card transactions tendered at non-healthcare providers without the inventory control system are not allowed and stated that merchants such as grocery stores and/or whole sale clubs must have this system in place by 1/1/2007 in order for FSA debit card purchases to be allowed. In December, 2006, the IRS issued Revenue Ruling 2007-02 and provided grocery stores and other similar merchants with a reprieve, extending the requirement for implementing the IIAS until January 1, 2008. As of January 1, 2008, FSA debit card purchases cannot be allowed at retail outlets that do not have this inventory system in place. Additionally, RR 2008-104 states that retail outlets that are pharmacies or drugstores must implement IIAS by July 1, 2009, or the debit card must be declined.

How IIAS Works - Peter goes to Walgreens to purchase Band-Aids and a six pack of Coke. When he gets to the counter, Peter swipes his FSA debit card for the total purchase amount of \$13.00. The Walgreens point-of-sale (POS) system confirms that the tender type is an FSA spending card and allows the Band-Aids to be purchased with the card. The POS then splits out the Coke since it is not an FSA eligible expense and the cashier asks Peter to pay \$3.00 in a separate tender type for the soda. Since Walgreens has the appropriate IIAS in place and does not allow any items to be purchased with the FSA debit card that are not eligible for reimbursement, Peter will not have to submit any documentation to ASIFlex for follow-up. Additionally, Walgreens will maintain an auditable database with detailed transaction information, in the event that the client, or the participant, undergoes an IRS audit.

c. Is the Debit Card available for both Medical and Dependent Care accounts?

ASIFlex's card product is not available for use with dependent care spending accounts. While IRS Revenue Ruling 2006-69 created a safe harbor for dependent care expenditures purchased with the FSA debit card, the process for substantiating these purchases is quite cumbersome and confusing for participants. Instead of adding additional costs to the administration and consternation amongst participants, ASIFlex has chosen to focus on reimbursement via next-day claim processing and payment, with no additional monthly costs to dependent care participants.

d. Are there fees for initial card(s)? How is the fee charged (PEPM or by participant)? Do fees apply for lost or replacement cards?

The ASIFlex Card is offered as a value-added service, at no cost to the employer or plan participant. The cards are issued in sets of two; and have a five-year expiration date. The participant may order additional or replacement card sets for only \$5.00 each which is billed to the HCFSA. Participants should keep the card for the five years and any new plan year elections will be loaded to the card annually. FSA participants have a number of other claim submission options including mobile app, online, or toll-free fax.

e. Can you interact and communicate with participants via e-mail?

Yes. ASIFlex requires email to communicate with card holders; and can also communicate via text alerts. Each participant can manage and update these personal settings through his/her online account.

f. Can the debit cards be used for medical and/or dental deductibles? Office visit copays? Prescription copays?

Yes. ASIFlex's FSA debit card is restricted to purchases at known health care providers (such as health clinics, hospitals, etc.) and retailers that have implemented an appropriate Inventory Information Approval System (IIAS) management system. This includes out-of-pocket expenses for deductibles, coinsurance,

copays for office visits or prescriptions, and qualified over-the-counter health care products.

g. What is the process for turning a debit card "off" if a claim is unsubstantiated?

Use of the card is not paperless! Although the card may provide an easy way to pay, it does not negate the need to provide back-up documentation to substantiate certain card transactions. In many cases, the IRS requires the participant to submit documentation.

ASIFlex sends three requests for card documentation as follows:

- Initial Notice – Sent approximately five days after ASIFlex receives notice of the card transaction
- Reminder Notice – Sent 21 days after the first request
- De-activation Notice – Sent 21 days after the reminder notice and card is inactivated, and future claim submissions may be offset by the outstanding amount

ASIFlex has included a Quick Guide on www.asiflex.com/debitcards that explains the timeline above, and how to submit documentation.

IRS guidelines provide specific correction procedures for plan sponsors to recoup money from participants for card transactions that have not been substantiated. The employer must treat the improper payment as a debt that must be repaid. This repayment can be satisfied by:

- Requiring repayment of the amount to the plan
- Withholding the amount from the participant's compensation (employers should check with their legal counsel regarding state law)
- Offsetting the amount with a substitute valid claim

If the amount is not satisfied within a reasonable time, the card must be deactivated until it is satisfied.

If none of these actions is successful, the employer must treat the payment as any other business indebtedness by taking the same steps it would take to collect an equivalent business debt. As a last resort, the employer may forgive the indebtedness and report the amount as wages on Form W-2. Note: The IRS has cautioned that treating an improper payment (i.e., an unsubstantiated card transaction) as uncollectible should be the exception and not a routine process. To assist employers, ASIFlex provides an "Outstanding Card Transaction" report listing participants who have outstanding card transactions.

h. Do you have an insured protection for lost or stolen cards? What fees apply to this protection?

Unlike regular debit or credit cards, the ASIFlex Card is a limited use card. Lost or stolen cards should be reported to ASIFlex as soon as possible and will be permanently cancelled. A new card can be issued upon request for \$5.00 which is billed to the health care FSA of the participant. Participants can view account activity on-demand, 24/7 via the secure ASIFlex Mobile app or online at asiflex.com. The VISA® cardholder agreement includes this provision:

Your Liability for Unauthorized Transactions: Contact us at once if you believe your Card has been lost or stolen. Telephoning is the best way to minimize your possible losses. If you believe your Card has been lost or stolen, or that someone has transferred or may transfer money from your Card Account without your permission, call your plan claims administrator at the number on the back of your Card. Under VISA U.S.A. Operating Regulations, your liability for unauthorized Visa debit transactions on your Card Account is \$0.00 if you notify us promptly and you are not grossly negligent or fraudulent in the handling of your Card. If you notify us within two (2) business days of unauthorized Visa debit transactions, you can lose no more than \$50.00 if someone used your Card without your permission. If you do not notify us within two (2) business days after you learn of the loss or theft of your Card and we can prove that we could have stopped someone from using your Card without your permission if you had promptly notified us, you could lose as much as \$500.00. Also, if you become aware of and/or your statement shows transactions that you did not make, notify us at once. If you do not notify us within sixty (60) days after you become aware of the transaction and/or after the statement was made available to you, you may not get back any value you lost after the sixty (60) days if we can prove that we could have stopped someone from taking the value if you had notified us in time and you are grossly negligent or fraudulent in the handling of your Card. If your Card has been lost or stolen, we will close your Card Account to keep losses down.

5. What account balance statements are available to participants (paper, online, etc.)?

a. How often are statements issued?

Account statements can be sent to participants quarterly, semi-annually, annually; or made available online only. These options can be discussed during the renewal/implementation process.

b. Are account balances readily accessible on demand?

Yes. Participant can access account balance statements 24/7 via the ASIFlex Mobile App or online at asiflex.com

6. Are employees' account balances displayed on the reimbursement check or direct deposit notification each time a claim is submitted?

Yes. In addition to the above options, account balance information is provided with each reimbursement.

7. If you have an online system, are the plan SPDs and other required disclosures integrated into the system?

ASIFlex provides a full-service educational website for plan participants. The site is educational and not client-specific.

8. How do you handle such costs for an employee who ceases participation mid-year? Is the charge discontinued when:

- a. Coverage ceases?**
- b. Coverage ceases + 90 days grace period?**
- c. End of plan year?**
- d. End of plan year+ 90 days grace period?**
- e. Other? Please describe.**

Administrative fee billings are produced at the end of each calendar month and are posted to the secure employer portal on the first of each month. For example, the January 2018 billing will be posted on February 1, 2018. Participants are billed through the end of the calendar month following termination or cessation of participation. There is not additional fee billed during the runout period if the individual participates in both plan years; except upon contract termination.



ATTACHMENT IV
RATE QUOTATION FORM

Pricing should be Unit Cost per Employee per Month

Provide pricing in a separate sealed envelope within the original Request for Proposal Package

	INITIAL TWO YEAR RATE	YEARS THREE - FIVE
Medical/Dental Expense Account Based on 136 participants*	\$2.90	\$2.90
Dependent Care Account Based on 19 participants*	\$2.90	\$2.90
Parking Account	N/A	N/A
Debit Card Option	FREE	FREE
Monthly Administrative Charge	FREE	FREE
Lump Sum Start-Up Costs	FREE	FREE
Lump Sum Renewal Costs	FREE	FREE
Total Projected Annual Costs	\$5,394	\$5,394

**One fee billed for any Section 125 FSA participation; one account or two. Fees are guaranteed for five years, January 1, 2018 through December 31, 2022. Included continued use of ASIFlex online open enrollment system.*

Submitted by:

ASIFlex
201 West Broadway, Bldg. 4C
Columbia, MO 65203
800.659.3035
ASIFlex.com

ABSTRACT OF BIDS

NO	DESCRIPTION	Frates Benefit Administrators		P&A Group		ASI Flex		WageWorks		NueSynergy		Discovery Benefits	
		AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
1.0	Proposal for FSA and H.S.A	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>	<i>see bid</i>

CERTIFICATION OF BID OPENING
 BIDS WERE PUBLICLY
 OPENED AND RECORDED
 ON: Sept 12, 2017
Mario Spino
 CLERK OF THE LEGISLATURE
[Signature]
 PURCHASING



REQUEST FOR PROPOSAL 56-17 Evaluation Matrix

RFP NAME: Cafeteria Plan

DEPARTMENT NAME: Human Resources

No	Respondent	Pricing	Experience, Qualifications and References	Staff to be Assigned to Contract	Exceptions to Terms and Conditions	Total Score
		30 points	30 points	30 points	10 points	
1	Discovery Benefits	10	10	10	10	0.0
2	Wage Works	15	5	5	10	0.0
3	NueSynergy	20	20	20	10	0.0
4	ASI Flex	25	25	15	10	0.0
5	P&A Group	20	10	8	10	0.0
6	Frates Benefit Administrators	15	10	5	10	0.0
		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

40
35
70
85
48
40

COMMENTS:

Instructions:

• Up to 30 pts ea. max total score 100

K. Sullivan



REQUEST FOR PROPOSAL 56-17 Evaluation Matrix
RFP NAME: Cafeteria Plan
DEPARTMENT NAME: Human Resources

No	Respondent	Pricing	Experience, Qualifications and References	Staff to be Assigned to Contract	Exceptions to Terms and Conditions	Total Score
		30 points	30 points	30 points	10 points	
1	Discovery Benefits -	15	13	13	10	51 0.0
2	Wage Works -	25	10	12	10	57 0.0
3	NueSynergy	25	20	21	10	76 0.0
4	ASI Flex	28	27	28	10	73 0.0
5	P&A Group	23	18	18	10	69 0.0
6	Frates Benefit Administrators	25	15	10	10	60 0.0
		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

COMMENTS:

Instructions:



Michelle

REQUEST FOR PROPOSAL 56-17 Evaluation Matrix

RFP NAME: Cafeteria Plan

DEPARTMENT NAME: Human Resources

No	Respondent	Pricing	Experience, Qualifications and References	Staff to be Assigned to Contract	Exceptions to Terms and Conditions	Total Score
		30 points	30 points	30 points	10 points	
1	Discovery Benefits	.20	.18	.15	10	63 0.0
2	Wage Works	.26	.10	.10	10	56 0.0
3	NueSynergy	.27	.25	.25	10	.87 0.0
4	ASI Flex	.30	.27	.27	10	94 0.0
5	P&A Group	.23	.23	.23	10	69 0.0
6	Frates Benefit Administrators	.25	.19	.10	10	67 0.0
		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!

COMMENTS:

Instructions:

ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement (the Agreement) is made and entered into as of this ___ day of October, 2017, by and between Jackson, County, Missouri (hereinafter Client) and Application Software, Inc., dba ASI and ASIFlex (hereinafter ASIFlex).

Background

For Cafeteria Plan. Client has requested ASIFlex to provide administrative services for the following Benefit Programs, as described in Attachment A, offered under an Internal Revenue Code §125 Cafeteria Plan established by Client:

- Health Flexible Spending Arrangement (Health FSA)
- Dependent Care Assistance Program (DCAP)

The Health FSA and DCAP will hereinafter be collectively referred to as the Program.

In consideration of the mutual promises and conditions contained in this Agreement, Client and ASIFlex agree as follows:

Section 1 Effective Date and Term

Applies to All Services

1.1 Effective Date

The effective date of this Agreement is January 1, 2018 (Effective Date).

1.2 Term

The initial term shall be the 12 month period commencing on the Effective Date. This Agreement will renew automatically for successive periods of 12 months unless this Agreement is terminated in accordance with the provisions of Section 9.

Section 2 Scope of Undertaking

Applies to All Services

2.1 Scope of Undertaking

Client has sole and final authority to control and manage the operation of the Program. ASIFlex is and shall remain an independent contractor with respect to the services being performed hereunder and shall not for any purpose be deemed an employee of Client. ASIFlex and Client shall not be deemed partners, engaged in a joint venture or governed by any legal relationship other than that of independent contractor.

ASIFlex does not assume any responsibility for the general policy design of the Program, the adequacy of its funding, or any act or omission or breach of duty by Client. ASIFlex shall not in any way be deemed an

insurer, underwriter, or guarantor with respect to any benefits payable under the Program. ASIFlex generally provides reimbursement services only and does not assume any financial risk or obligation with respect to claims for benefits payable by Client under the Program.

Except as otherwise expressly set forth herein, nothing herein shall be deemed to constitute ASIFlex as a party to the Program or to confer upon ASIFlex any authority or control respecting management of the Program, authority or responsibility in connection with administration of the Program, or responsibility for the terms or validity of the Program. Nothing in this Agreement shall be deemed to impose upon ASIFlex any obligation to any employee of Client or any person who is participating in the Program (Participant).

2.2 Non-Discretionary Duties

Except as otherwise expressly set forth herein, the services to be performed by ASIFlex under this Agreement shall be ministerial in nature and will generally be performed in accordance with the terms of the Benefit Programs established by the Client.

2.3 Limited Fiduciary Duties (*Applies to Health FSA only*)

Notwithstanding the foregoing, pursuant to Section 405(c)(1) of ERISA (if applicable), Client delegates to ASIFlex certain functions which might be deemed to be of a fiduciary nature, including authority to determine claims for benefits as set forth in Section 4, and to pay Program benefits by checks written (or other draft payment or debit) on a bank account established and maintained in the name of Client for the payment of Program benefits claims as set forth in Section 6, as further modified by Attachment A.

The parties agree that ASIFlex is fiduciary of the Program only to the limited extent necessary to perform such limited fiduciary duties as expressly delegated under this Agreement. ASIFlex shall not be deemed a fiduciary in connection with any other duty or responsibility in the administration of the Program.

Section 3 Client's Responsibilities

Applies to All Services

3.1 General Fiduciary Duties

Except as otherwise specifically delegated to ASIFlex in this Agreement, Client has the sole authority and responsibility for the Program and its operation, including the authority and responsibility for administering, construing and interpreting the provisions of the Program and making all determinations thereunder. Client gives ASIFlex the authority to act on behalf of Client in connection with the Program, but only as expressly stated in this Agreement or as mutually agreed in writing by Client and ASIFlex. Client is considered the Plan Administrator and Named Fiduciary of any Program benefits subject to ERISA.

3.2 Funding

Client shall promptly fund an account maintained for the payment of Program benefits as described in Section 6.

3.3 Information to ASIFlex

Upon request, Client agrees to provide ASIFlex with information necessary for ASIFlex's performance of duties and obligations under this Agreement, including information concerning the Program and the

eligibility of individuals to participate in and receive Program benefits. ASIFlex shall be entitled to rely, without investigation or inquiry, upon any written or oral information or communication of the Client or its agents. Such information shall be provided to ASIFlex in the time and in the manner agreed to by Client and ASIFlex. ASIFlex shall have no responsibility with regard to benefits paid in error due to Client's failure to timely update such information.

Client also agrees to provide ASIFlex with frequent updated reports summarizing eligibility data (Eligibility Reports). Unless otherwise agreed by Client and ASIFlex, the Eligibility Reports should be provided to ASIFlex by electronic medium. The Eligibility Reports shall specify the effective date for each Participant who is added to or terminated from participation in the Program.

Client shall be responsible for ensuring the accuracy of its Eligibility Reports, and bears the burden of proof in any dispute with ASIFlex relating to the accuracy of any Eligibility Reports.

ASIFlex incurs no liability to Client or any Participant as a consequence of an inaccurate Eligibility Report. Additionally, ASIFlex is under no obligation to credit Client for any claims expenses or administrative fees incurred or paid to ASIFlex as a consequence of Client failing to review Eligibility Reports for accuracy.

ASIFlex shall assume that all such information is complete and accurate and is under no duty to question the completeness or accuracy of such information. Eligibility Reports are considered Protected Health Information (PHI) and, when transmitted by or maintained in electronic media shall be considered electronic PHI, and subject to the Privacy and Security Rules under HIPAA, and Section 5 of this Agreement.

3.4 Plan Documents

Client is responsible for the Program's compliance with all applicable federal and state laws and regulations and shall provide ASIFlex with all relevant documents, including but not limited to, the Program documents and any Program amendments. Client will notify ASIFlex of any changes to the Program at least 30 days before the effective date of such changes.

If requested by Client in Section 4.8, ASIFlex will provide sample plan documents and forms for review by Client and Client's legal counsel, including plan document/summary plan description, election forms and other documents. ASIFlex will customize such documentation only to the extent to incorporate Client's responses to certain plan design questions submitted by ASIFlex. In addition, ASIFlex will provide sample document changes to reflect revisions in applicable legislation or regulations. Although ASIFlex has taken steps to ensure that its sample documents and forms are of high quality and generally comply with the applicable laws, it cannot be aware of all of the facts and circumstances that may apply to the Client or the Program.

Client acknowledges that ASIFlex is not providing tax or legal advice and that Client should ask its legal counsel to review such documents for legal and tax compliance. Client bears sole responsibility for determining the legal and tax status of the Program. Further, ASIFlex is not a law firm and has no authority to provide legal advice.

3.5 Liability for Claims

Client is responsible for payment of claims made pursuant to, and the benefits to be provided by, the Program. ASIFlex does not insure or underwrite the liability of Client under the Program. Except for expenses specifically assumed by ASIFlex in this Agreement, Client is responsible for all expenses incident to the Program.

3.6 Financial and Medical Records

In order to permit Client and/or ASIFlex to perform their obligations under this Agreement, personal financial records or medical records may be requested. If required by law or regulation, the Client must either, in accordance with applicable state and federal law:

- Notify each Participant and provide each Participant an opportunity to opt out (if required); or
- Obtain from each Participant written authorization for release of the requested records.

3.7 HIPAA Privacy

Client shall provide ASIFlex with the following documents, where required or applicable:

- Notice of Privacy Practices;
- Any subsequent changes to the Notice of Privacy Practices;
- Certification that Client amended the plan document as regulated by the Privacy Rule to permit disclosure of PHI to Client for plan administrative purposes;
- Certification that Client agrees to the conditions set forth in the plan amendment;
- Copies of any authorizations of Participants or beneficiaries to use or disclose PHI (and any later changes to or revocations of such authorizations);
- Notice of any restriction on the use or disclosure of PHI that Client agrees to under the Privacy Rule; and
- Notice of any requests that communications be sent to a Participant or beneficiary by an alternative means or at an alternative location that Client agrees to under the Privacy Rule.

Client shall not request ASIFlex to use or disclose PHI in any manner that would not be permissible under the Privacy or Security Rules if done by Client, except that ASIFlex may use or disclose PHI for purposes of Data Aggregation and the management and administrative activities of ASIFlex, as provided in Section 5 of this Agreement.

Section 4

ASIFlex's Responsibilities

Sections 4.1 through 4.12 Apply to All Services

4.1 Delegated Responsibilities

ASIFlex's responsibilities shall be as expressly delegated to ASIFlex in this Agreement (including the obligations listed in any Attachment to this Agreement) or any other written and signed Agreement between Client and ASIFlex. ASIFlex generally provides certain reimbursement and recordkeeping services, as described further below.

4.2 Service Delivery

ASIFlex agrees to provide customer service personnel by telephone during ASIFlex's normal business hours. ASIFlex also agrees to provide electronic administrative services 24 hours per day, 7 days per week. However, ASIFlex websites shall occasionally be unavailable in cases of required maintenance. Scheduled maintenance notices will be published in advance of closure.

ASIFlex will not be deemed in default of this Agreement, nor held responsible for any cessation, interruption or delay in the performance of its obligations hereunder due to causes beyond its reasonable control, including, but not limited to, natural disaster, acts of God, labor controversy, civil disturbance, disruption of the public markets, war or armed conflict, or the inability to obtain sufficient materials or services required in the conduct of its business, including Internet access, or any change in or the adoption of any law, judgment or decree.

4.3 Benefits Payment

ASIFlex agrees to, on behalf of Client, operate under the express terms of this Agreement and the Program. ASIFlex makes the initial determination if persons covered by the Program (as described in the Eligibility Reports) are entitled to benefits under the Program and shall pay Program benefits in its usual and customary manner, to Participants as set forth in this Section 4.

Client agrees that:

- ASIFlex has no responsibility or obligation with respect to Prior Reimbursement Requests and/or Prior Administration;
- Client shall indemnify and hold ASIFlex harmless for any liability relating to Prior Reimbursement Requests and Prior Administration;
- Client will be responsible for processing Prior Reimbursement Requests (including any run-out claims submitted after the Effective Date) and maintaining legally required records of all Prior Reimbursement Requests and Prior Administration sufficient to comply with applicable legal (e.g., IRS substantiation) requirements.

4.4 Bonding

ASIFlex has, and will maintain, a fidelity bond and/or ERISA bond (where applicable) for all persons involved in collecting money or making claim payments, and all officers of the company. This bond covers the handling of Client's and Participants' money and must protect such money from losses by dishonesty, theft, forgery or alteration, and unexplained disappearance.

4.5 Reporting

ASIFlex agrees to make available to Client each month via electronic medium (unless otherwise agreed by the parties) a master report showing the payment history and status of Participant claims and the amounts and transactions of Participant accounts during the preceding month.

For those Program benefits subject to HIPAA, Client must provide certification that the plan document requires the Client to comply with applicable Privacy and Security Rules under HIPAA before ASIFlex will make available the reports provided for in this Section to the Client. ASIFlex agrees to also make available to Participants each month via electronic medium a report showing their individual payment history and status of claims and the amounts and transactions in their individual accounts during the preceding month.

For those Program benefits subject to HIPAA, Client is responsible for ensuring that any beneficiary of the Participant who submits a claim agrees to the disclosure of PHI to the Participant, if required by the Privacy Rule.

4.6 Claims Appeals

ASIFlex agrees to refer to Client or its designee, Plan Administrator, and/or Named Fiduciary for the following:

- The second and final level of appeal of an adverse benefit determination; and
- Any class of claims Client may specify, including:
 - o Questions of eligibility or entitlement of the claimant for coverage under the Program;
 - o Questions with respect to the amount due; or
 - o Any other appeal.

4.7 Forfeited Funds

Any unclaimed benefit payments (e.g. uncashed benefit checks) are deemed forfeited.

- Client may use forfeited funds to offset reasonable administrative expenses.

4.8 Additional Documents

Client requests that ASIFlex furnish Client with sample documents for review by Client with its legal counsel, for creation of customized documentation for the Program to be approved and executed by Client, including summary plan description, plan document and plan amendments; and sample administrative forms needed for ASIFlex to perform its duties under this Agreement.

4.9 Communication

ASIFlex agrees to provide development of certain communication information.

4.10 Recordkeeping

ASIFlex agrees to maintain for the duration of this Agreement the usual and customary books, records and documents ASIFlex has prepared or received possession in the performance of its duties hereunder. These books, records, and documents, including electronic records, are the property of Client, and Client has the right of continuing access to them during normal business hours at ASIFlex's offices with reasonable prior notice. If this Agreement terminates, ASIFlex may deliver, or at Client's request, will deliver all such books, records, and documents to Client, subject to ASIFlex's right to retain copies of any records it deems appropriate. Client shall be required to pay ASIFlex reasonable charges for transportation or duplication of such records.

4.11 Standard of Care; Erroneous Payments

ASIFlex shall use reasonable care and due diligence in the exercise of its powers and the performance of its duties under this Agreement. If ASIFlex makes any payment under this Agreement to an ineligible person, or if more than the correct amount is paid, ASIFlex shall make a diligent effort to recover any payment made to or on behalf of an ineligible person or any overpayment. However, ASIFlex will not be liable for such payment, unless ASIFlex would otherwise be liable under another provision of this Agreement.

ASIFlex owes a duty of care only to the Client, which duty is one of reasonable care under the attendant circumstances. ASIFlex is not liable for any mistake of judgment or for any action taken in good faith unless such mistake or action results in a breach of such duty of care.

4.12 Notices to Client

ASIFlex shall provide to Client all notices (including any required opt-out notice) reflective of its privacy policies and practices as required by state and/or federal law (including the Gramm-Leach-Bliley Act).

Section 5 Compliance with Privacy and Security Rules Under HIPAA

Applies to All Services, except DCAP

5.1 Compliance with Privacy and Security Rules Under HIPAA

Contemporaneously with this Agreement, Client and ASIFlex have entered into a Business Associate Agreement pursuant to HIPAA and the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act).

Section 6 Payment of Benefits and Funding Responsibility

Applies to All Services

6.1 Payment of Benefits

Client authorizes ASIFlex to pay Program benefits by checks written (or other draft payment or debit) each day or at such other interval as mutually agreed upon. ASIFlex will notify Client of the amount needed to pay approved benefit claims, and Client shall agree to allow ASI to debit the Client's bank account to reimburse ASI for such payments. Alternatively, Client may pay or transfer into ASI's bank account the amount needed for the payment of Program benefits. Client shall enter into such agreements and provide instructions to its bank as are necessary to implement this Section. ASIFlex has sole authority to provide whatever notifications, instructions, or directions are necessary to accomplish the disbursement of such Program funds to, or on behalf of, Participants in payment of approved claims.

6.2 Funding of Benefits

Funding for any payment on behalf of the Participants under the Program, including, but not limited to, all benefits to Participants in accordance with the Program, is the sole responsibility of Client, and Client agrees to accept liability for, and provide sufficient funds to satisfy, all payments to Participants under the Program, including claims for reimbursement for covered expenses, if such expenses are incurred and the claim is presented for payment during the terms of this Agreement.

6.3 Representation of Plan Assets

Client further represents and agrees that:

- Neither it nor any of its employees, directors, representatives, fiduciaries, or employee benefits plans (or any entity performing services for Client or such plans) nor any of its predecessors, successors, or assigns have represented, or will represent to any Participant or beneficiary of the Program, that a separate account, fund, or trust is being held on behalf of the Program that may be used to provide or secure benefits under the plan; and
- Client shall advise the Participants and beneficiaries of the Program that the benefits under the Program shall at all times be paid out of the general assets of the Client.

Client is responsible for payment of claims made pursuant to, and the benefits to be provided by, the Program. ASIFlex does not insure or underwrite the liability of the Client under the Program. Except for expenses required for ASIFlex to be in the business of providing services under this Agreement and expenses specifically assumed by ASIFlex in this Agreement, Client is responsible for all expenses incident to the Program.

6.4 Debit Card

ASIFlex agrees to:

- Process debit card swipes reported to ASIFlex on behalf of the Client;
- Request receipt notification on all swipes not eligible for electronic adjudication under the current IRS guidelines;
- Report to the debit card provider any account reimbursements that are a result of activities mentioned above; and
- Request data from debit card providers each business day to ensure participants are properly reimbursed for their expenses.

Any interchange shared between the debit card provider and ASIFlex will be retained wholly by ASIFlex. Any fees charged to ASIFlex by the debit card provider shall be the responsibility of ASIFlex, unless noted in Attachment A of this Agreement. ASIFlex currently contracts with Evolution Benefits for the ASIFlex Debit Card. Under this Agreement, ASIFlex reserves the right to change card providers during the year, providing at least 90 day notice to the Client.

Section 7 Indemnification

Applies to All Services

7.1 Indemnification by Client

Upon ASIFlex's adherence to the standard of care set forth in Section 4, Client shall indemnify ASIFlex and hold it harmless from and against all loss, liability, damage, expense, attorneys' fees or other obligations, resulting from, or arising out of, any act or omission of Client in connection with the performance of its duties hereunder. In addition, Client shall indemnify ASIFlex and hold it harmless from and against any

liability, expense, demand, or other obligation, resulting from, or out of any premium charge, tax or similar assessment (federal or state), for which the Program or Client is liable.

Client agrees to reimburse ASIFlex for all attorney's fees and costs incurred by ASIFlex as a result of any collection action taken by ASIFlex to recover overdue service charges required to be paid in accordance with this Agreement or any Attachment hereto.

7.2 Indemnification by ASIFlex

Upon Client's adherence to the standard of care set forth in Section 3, ASIFlex shall indemnify Client and hold it harmless from and against all loss, liability, damage, expense, attorneys' fees or other obligations, resulting from, or arising out of, any act or omission of ASIFlex in connection with the performance of its duties hereunder.

Section 8 Service Charges

Applies to All Services

8.1 Service Charges

The amounts of the monthly services charges of ASIFlex are described in the Attachments. ASIFlex may change the amount of such service charges by providing at least 60 days written or electronic notice to Client. ASIFlex may also change the monthly service charges as of the date any change is made in the Program.

8.2 Billing of Service Charges

All services charges of ASIFlex, whether provided for in this or any other Section, shall be billed separately from statements for payment of claims so that proper accounting can be made by Client of the respective amounts paid for claims and for administrative expenses.

8.3 Payment of Service Charges

ASIFlex will determine all service charges under this Section and bill Client monthly. Alternatively, if the parties agree, ASIFlex may deduct payment for monthly service charges from the bank account maintained by Client as described in Section 6. Client shall make payment to ASIFlex within 10 business days of receipt of notice of the amount due, or such amount will automatically be deducted from the bank account maintained by Client as described in Section 6.

Section 9 General Provisions

Applies to All Services

9.1 Severability; Headings

If any term of this Agreement is declared invalid by a court, the invalid term will not affect the validity of any other provision, provided that the basic purposes of this Agreement are achieved through the remaining valid provisions. The headings of sections and subsections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

9.2 Compliance; Non-Waiver

Failure by Client or ASIFlex to insist upon strict performance of any provision of this Agreement will not modify such provision, render it unenforceable, or waive any subsequent breach. No waiver or modification of any of the terms or provisions of this Agreement shall be valid unless in each instance the waiver or modification is accomplished pursuant to the amendment provisions of Section 9 below.

9.3 Assignment; Amendment

Neither Client nor ASIFlex can assign this Agreement without the other party's written consent. This Agreement may be amended only by written agreement of duly authorized officers of Client and ASIFlex.

9.4 Audits

Each party is authorized to perform audits of the records of payment to all Participants and other data specifically related to performance of the parties under this Agreement upon reasonable prior written notice to the other. Audits shall be performed during normal working hours. Audits may be performed by an agent of either party provided such agent signs an acceptable confidentiality agreement and business associate agreement required by HIPAA and the HITECH Act. Each party agrees to provide reasonable assistance and information to the auditors. Each party also agrees to provide such additional information and reports as the other party shall reasonably request.

9.5 Non-Disclosure of Proprietary Information

- **General.** Client and ASIFlex each acknowledge that in contemplation of entering into this Agreement (and as a result of the contractual relationship created hereby), each party has revealed and disclosed, and shall continue to reveal and disclose to the other, proprietary and/or confidential information of such party. Client and ASIFlex agree that each party shall:
 - Keep such proprietary and/or confidential information of the other party in strict confidence;
 - Not disclose proprietary and/or confidential information of the other party to any third parties or to any of its employees not having a legitimate need to know such information; and
 - Not use proprietary and/or confidential information of the other party for any purpose not directly related to and necessary for the performance of its obligations under this Agreement (unless required to do so by a court of competent jurisdiction or a regulatory body having authority to require such disclosure).
- **Confidential Information Defined.** Information revealed or disclosed by a party for any purpose not directly related to and necessary for the performance of such party's obligations under this Agreement shall not be considered confidential information for purposes hereof:
 - If, when, and to the extent such information is or becomes generally available to the public without the fault or negligence of the party receiving or disclosing the information; or
 - If the unrestricted use of such information by the party receiving or disclosing the information has been expressly authorized in writing and in advance by an authorized representative of the other party.

For purposes of this Section, confidential information is any information in written, human-readable, machine-readable, or electronically recorded form (and legended as confidential

and/or proprietary or words of similar import) and information disclosed orally in connection with this Agreement and identified as confidential and/or proprietary (or words of similar import); and programs, policies, practices, procedures, files, records, and correspondence concerning the parties' respective businesses or finances. The terms and conditions of this Section 9 shall survive the termination of this Agreement.

- All of Client's obligations under this section are subject to provisions of the Missouri Open Records Act, Chapter 610, RSMo. Client is authorized to make any disclosure of any information, including Confidential Information, that Client reasonably believes is required under the Act.

9.6 Notices and Communications

- **Notices.** All notices provided for herein shall be sent by either:
 - Confirmed facsimile;
 - Guaranteed overnight mail, with tracing capability;
 - Certified mail; or
 - First class United States mail, with postage prepaid, addressed to the other party at their respective addresses set forth below or such other addresses as either party may designate in writing to the other from time to time for such purposes.

All notices provided for herein shall be deemed given or made when received.

- **Addresses.**
 - Client's address for notices as described above is:

415 E. 12th Street, Room 104
Kansas City, Missouri 64106
 - ASIFlex's address for notices as described above is:

ATTN: John Riddick
201 W. Broadway, Suite 4-C
Columbia, MO 65203
- **Communications.** Client agrees that ASIFlex may communicate confidential, protected, privileged or otherwise sensitive information to Client through a named contact designated by Client (Named Contact) and specifically agrees to indemnify ASIFlex and hold it harmless:
 - For any such communications directed to Client through the Named Contact attempted via facsimile, mail, telephone, e-mail or any other media, acknowledging the possibility that such communications may be inadvertently misrouted or intercepted; and
 - From any claim for the improper use or disclosure of any PHI by ASIFlex if such information is used or disclosed in a manner consistent with its duties and responsibilities hereunder.

9.7 Termination of Agreement

- **Automatic.** This Agreement automatically terminates on the earliest of the following:
 - The effective date of any legislation which makes the Program and/or this Agreement illegal;
 - The date Client or ASIFlex becomes insolvent, or bankrupt, or subject to liquidation, receivership, or conservatorship; or
 - The termination date of the Program. This termination is subject to any Agreement between Client and ASIFlex regarding payment of benefits after the Program is terminated.
- **Optional.** This Agreement may be terminated as of the earliest of the following:
 - By ASIFlex upon the failure of Client to pay any service charges within 10 business days after they are due and payable as provided in Section 8;
 - By ASIFlex upon the failure of Client to perform its obligations, including its obligations as Plan Administrator and/or Named Fiduciary where applicable, as such terms are defined in ERISA, and in accordance with this Agreement, including the provisions of Section 3;
 - By Client upon the failure of ASIFlex to perform its obligations in accordance with this Agreement, including the provisions of Section 4;
 - By either Client or ASIFlex, as of the end of the term of this Agreement, by giving the other party 30 days written notice; or
 - By either Client or ASIFlex, upon a material breach of the other party's duties under this Agreement, or upon non-material breaches of a recurrent nature, after 30 days notice in the event of a material breach, or 60 days notice in the event of a non-material breach of a recurrent nature, and the right to cure such breach by the breaching party.
- **Limited Continuation After Termination.** If the Program is terminated, Client and ASIFlex may mutually agree in writing that this Agreement shall continue for the purpose of payment of Program benefits, expenses, or claims incurred prior to the date of Program termination. In addition, Client and ASIFlex may mutually agree in writing that this Agreement shall continue for the purpose of payment of any claims for which requests for reimbursements have been received by ASIFlex before the date of such termination.

If this Agreement is continued in accordance with this subsection, Client shall pay the monthly service charges incurred during the period that this Agreement is so continued and a final termination fee equal to the final month's service charge.

- **Survival of Certain Provisions.** Termination of this Agreement does not terminate the rights or obligations of either party arising out of the period prior to such termination. The indemnity, confidentiality, privacy, and security provisions of this Agreement shall survive its termination.

9.8 Complete Agreement; Governing Law

This Agreement (including the Attachments) is the full Agreement of the parties with respect to the subject matter hereof and supersedes all prior Agreements and representations between the parties. This Agreement shall be construed, enforced and governed by the laws of the State of Missouri.

In Witness Whereof, Client and ASIFlex have caused this Agreement to be executed in their names by their undersigned officers, the same being duly authorized to do so.

Jackson County, Missouri

By: _____

Title: Chief Financial Officer

Application Software, Inc.

By: *Janet Jackson*

Title: VP & General Counsel

Glossary

For the purposes of this Agreement, the following words and phrases have the meanings set forth below.

Wherever appropriate, the singular shall include the plural and the plural shall include the singular.

Agreement means this ASIFlex Administrative Services Agreement, including all Attachments hereto.

Code means the Internal Revenue code of 1986, as amended.

DCAP has the meaning given in the Recitals.

Eligibility Reports has the meaning described in Section 3.

Client has the meaning given in the recitals.

ERISA means the Employee Retirement Income Security Act of 1974, as amended.

Effective Date has the meaning given in Section 1.

Electronic PHI has the meaning assigned to such term under HIPAA.

Health FSA has the meaning given in the Recitals.

HIPAA means the Health Insurance Portability and Accountability Act of 1996, as amended.

Named Fiduciary means the named fiduciary as defined in ERISA §402(a)(1).

Participant has the meaning given in Section 2.

Plan means the Health FSA or DCAP, as applicable.

Plan Administrator means the administrator as defined in ERISA §3(16)(A).

Prior Administration means services arising prior to the Effective Date.

Prior Reimbursement Requests means claims incurred prior to the Effective Date.

Program has the meaning given in the Recitals.

Protected Health Information or **PHI** has the meaning assigned to such term under HIPAA.

**ATTACHMENT A
SERVICE CHARGES**

Capitalized terms used in this Attachment but not defined have the meanings given in the Agreement to which this Attachment is attached.

Client has established a Code §125 Cafeteria Plan to allow eligible employees who make a proper election to pay for their share of certain benefit plan coverage with pre-tax salary reductions. Client has delegated certain administrative responsibilities with respect to the selected benefit options. Depending upon the benefit options chosen by the Client, the Client has established:

- a Code §125 Cafeteria Plan under which a Code §105 Health FSA is offered; and
- a Code §125 Cafeteria Plan under which a Code §129 Dependent Care Assistance Program is offered.

As set forth in Section 8, the applicable service charges shall be as follows:

Standard Services Charges*	Cost
FSA PPPM** Service Charge	\$ 2.90
HRA PPPM Service Charge	N/A
QTP PPPM Service Charge	N/A

Additional Service Charges	Cost
Set-Up Fee	\$0
Sample Documents and Forms	Included at no charge
Staff Training	Included at no charge
Online Enrollment	Included at no charge
Open Enrollment Meetings - Notes:	\$250 per day, plus travel expenses
Non-discrimination Testing (Must be requested by Client)	Included at no charge
Form 5500 Preparation (Must be requested by Client)	Included at no charge
Debit Card (Must be requested by Client)	\$0

***There is a \$50.00 per month minimum service charge.**

**PPPM = per participant per month

If the Client terminates the services, there will be a charge for a runoff period, should the Client choose to request one. This charge will be negotiated at the time of termination.

Services Included

Client is responsible for all legal requirements and administrative obligations with regard to the benefit options selected, except for the following administrative duties specifically delegated to ASIFlex:

- ASIFlex shall make available (by electronic medium and paper copy) enrollment forms and instructions.
- Upon receiving instructions from Client with regard to a Participant's change in status or other event that permits an election change under IRS regulations, ASIFlex shall make the requested change in the Participant's election as soon as possible.
- If requested, ASIFlex shall prepare the information necessary to enable Client to satisfy its Form 5500 filing obligation with regard to the Health FSA option chosen by Client. Client shall be responsible for reviewing the information provided by ASIFlex to ensure its accuracy, and Client shall prepare and submit any Form 5500.
- If requested, ASIFlex shall assist Client in preparing preliminary, mid-year, and final nondiscrimination tests for the Health FSA and DCAP options chosen by Client:
 - Key employee concentration testing required under Code §125;
 - The 55% average benefits test required under Code §129; and
 - The 25% shareholder concentration test required under Code §129.
- ASIFlex shall make initial decisions with regard to Participant claims and disburse any benefit payments that it determines to be due normally within 3 days, but in no case later than within 30 business days, of the day on which ASIFlex receives the claim. Benefit payments shall be made by check or ACH payable to the Participant. Claims of less than \$25.00 may be carried forward and aggregated with future claims until the total amount is equal to or greater than \$25.00, except that any remaining amount shall be paid after the end of the Plan Year without regard to the \$25.00 threshold.
- ASIFlex shall notify Participants with regard to any claims that are denied due to inadequate substantiation or data submission and provide an adequate period of time for the Participant to resubmit the claim. If the Client is subject to ERISA, ASIFlex shall follow the requirements of ERISA with regard to denial of claims.
- ASIFlex shall provide its standard reporting package for exchanging information.

Services Not Included

- Client's compliance with COBRA portability provisions.
- Determining whether Client's Health FSA and DCAP documents are in compliance with the Code or any other applicable state, federal, or local statutes or regulations.
- Determining if and when an event has occurred under the IRS permitted election change regulations such that a change in election is permitted under the Health FSA and DCAP.

- Client's responsibility for the determination on the second and any final level of appeal.

Jackson County, Missouri

Application Software, Inc.

By: _____

By: Lawrence Jackson

Title: Chief Financial Officer

Title: VP & General Counsel

APPROVED TO FORM:

ATTEST:

W. Stephen Nixon
County Counselor

Mary Jo Spino
Clerk of the Legislature

REVENUE CERTIFICATE

This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases is subject to annual appropriations.

Date

Chief Financial Officer

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION transferring \$24,000.00 within the 2017 General Fund to cover the cost of a replacement dock door for use by the Department of Corrections.

RESOLUTION NO. 19621, October 23, 2017

INTRODUCED BY Alfred Jordan, County Legislator

WHEREAS, the dock door located at the Detention Center was damaged as a result of an accident and is in need of replacement; and,

WHEREAS, a transfer is necessary to place the funds needed for this purchase in the proper spending account; and,

WHEREAS, the County Executive recommends this transfer; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the following transfer be made within the 2017 General Fund:

<u>DEPARTMENT/DIVISION</u>	<u>CHARACTER DESCRIPTION</u>	<u>FROM</u>	<u>TO</u>
General Fund Corrections			
001-2701	55025 – Part-time Salaries	\$24,000	
General Fund Facilities Mgmt – Detention Center			
001-1210	56510 – Maint & Repair Buildings		\$24,000

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No. 19621 of October 23, 2017, was duly passed on _____, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

Date

Mary Jo Spino, Clerk of Legislature

Funds sufficient for this transfer are available from the source indicated below.

ACCOUNT NUMBER: 001 2701 55025
ACCOUNT TITLE: General Fund
Corrections Department
Part-Time Salaries
NOT TO EXCEED: \$24,000.00

10/19/17

Date



Chief Financial Officer

REQUEST FOR LEGISLATIVE ACTION



Completed by County Counselor's Office:

Res/~~Ord~~ No.: 19621

Sponsor(s): Alfred Jordan

Date: October 23, 2017

SUBJECT	<p>Action Requested <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance</p> <p>Project/Title: A Resolution Authorizing a Transfer Within the Corrections Department General Fund Part Time Salary Account to Provide Funding for a New Dock Door</p>														
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" data-bbox="313 541 1198 947"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td>\$24,000</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td>\$</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td>\$24,000</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td>\$</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO</td> <td></td> </tr> <tr> <td>FROM: 001-2701-55025 Part Time Salaries</td> <td>FROM ACCT \$24,000</td> </tr> <tr> <td>TO: 001-1210-56510 Maintenance and Repair Buildings</td> <td>TO ACCT \$24,000</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Estimated Use: \$</p> <p>Prior Year Budget (if applicable): Prior Year Actual Amount Spent (if applicable):</p>	Amount authorized by this legislation this fiscal year:	\$24,000	Amount previously authorized this fiscal year:	\$	Total amount authorized after this legislative action:	\$24,000	Amount budgeted for this item * (including transfers):	\$	Source of funding (name of fund) and account code number; FROM / TO		FROM: 001-2701-55025 Part Time Salaries	FROM ACCT \$24,000	TO: 001-1210-56510 Maintenance and Repair Buildings	TO ACCT \$24,000
Amount authorized by this legislation this fiscal year:	\$24,000														
Amount previously authorized this fiscal year:	\$														
Total amount authorized after this legislative action:	\$24,000														
Amount budgeted for this item * (including transfers):	\$														
Source of funding (name of fund) and account code number; FROM / TO															
FROM: 001-2701-55025 Part Time Salaries	FROM ACCT \$24,000														
TO: 001-1210-56510 Maintenance and Repair Buildings	TO ACCT \$24,000														
PRIOR LEGISLATION	<p>Prior ordinances and (date):</p> <p>Prior resolutions and (date):</p>														
CONTACT INFORMATION	<p>RLA drafted by (name, title, & phone): L.J. Scott, Asst Dir Admin 881-4232</p>														
REQUEST SUMMARY	<p>This request transfers \$24,000 from the Part Time Salary account in the Corrections General Fund to the Corrections Facilities Management General Fund to provide monies for the installation of a new dock door. At this time the dock door is currently non functional due to an accident. This situation causes an undue strain on operations as there are daily deliveries of food, commissary and necessary supplies via this dock.</p>														
CLEARANCE	<p><input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)</p>														

ATTACHMENTS		
REVIEW	Department Director: 	Date: 10-9-17
	Finance (Budget Approval): <i>If applicable</i>	Date: 10/11/17
	Division Manager: 	Date: 10/17/17
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:


- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

Fiscal Note: Jackson County, Missouri

Funds sufficient for this transfer are available from the sources indicated below.

Date: October 10, 2017 PC# RES # 19621

<u>Department / Division</u>	<u>Character/Description</u>	<u>From</u>	<u>To</u>
General Fund - 001			
<u>2701 - Corrections</u>	<u>55025 - Part-Time Salaries</u>	<u>\$ 24,000</u>	<u>\$ -</u>
<u>1210 - Fac. Mgmt - Detention Center</u>	<u>56510 - Maint. & Repair Buildings</u>		<u>24,000</u>
		<u>\$ 24,000</u>	<u>\$ 24,000</u>

 10/11/17
Budget Office

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION awarding a twelve-month term and supply contract, with one twelve-month option to extend, for the furnishing of security officer services for use by the Department of Corrections to Twin City Security of Overland Park, KS, under the terms and conditions of Invitation to Bid No. 57-17.

RESOLUTION NO. 19622, October 23, 2017

INTRODUCED BY Alfred Jordan, County Legislator

WHEREAS, the Director of Finance and Purchasing has solicited bids by Invitation to Bid No. 57-17, for the furnishing of security officer services for use by the Department of Corrections; and,

WHEREAS, a total of thirty-four solicitations were distributed and four responses were received, one of which was determined to be non-responsive, with the remaining bids as follows:

<u>BIDDER</u>	<u>PRICE PER HOUR</u>
Twin City Security Overland Park, KS	\$18.85
Homeland Security Protective Service Kansas City (Jackson County), MO	\$18.97
Celtic Hills Security Services Liberty, MO	\$19.00

and,

WHEREAS, following evaluation of the bids submitted, the Director of Finance and Purchasing recommends award to Twin City Security of Overland Park, KS, as the

lowest and best bid; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the award be made as recommended and that the Director of Finance and Purchasing be and hereby is authorized to execute for the County any documents necessary for the accomplishment of the award; and,

BE IT FURTHER RESOLVED that the Director of Finance and Purchasing is authorized to make all payments, including final payment on the contract, to the extent that sufficient appropriations to the issuing spending agency are contained in the then current Jackson County budget.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:



Chief Deputy County Counselor



County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution No. 19622 of October 23, 2017 was duly passed on _____, 2017 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____

Nays _____

Abstaining _____

Absent _____

Date

Mary Jo Spino, Clerk of the Legislature

This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases is subject to annual appropriation.

10/19/17

Date



Chief Financial Officer

REQUEST FOR LEGISLATIVE ACTION

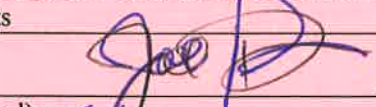
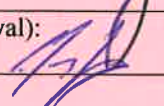
Completed by County Counselor's Office:

Res/Ord No.: 19622

Sponsor(s): Alfred Jordan

Date: October 23, 2017

SUBJECT	<p>Action Requested <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance</p> <p>Project/Title: <u>Awarding a Twelve Month Term and Supply Contract, with One Twelve Month Option to Extend, for the furnishing of Security Officer Services for use by the Department of Corrections to Twin City Security of Overland Park, Kansas under the Terms and Conditions of Invitation to Bid No. 57-17.</u></p>								
BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td style="text-align: right;">\$</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td style="text-align: right;">\$</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required) <input checked="" type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Estimated Use: Department of Corrections \$332,000</p> <p>This RLA only approves the term and supply contract. The funds were appropriated through the annual budget adoption. Figures included in the Budget Information section are for informational purposes to provide an estimate of the contract value.</p> <p>Prior Year Budget (if applicable): \$50,000 Prior Year Actual Amount Spent (if applicable): \$42,729.93</p>	Amount authorized by this legislation this fiscal year:	\$	Amount previously authorized this fiscal year:	\$	Total amount authorized after this legislative action:	\$	Amount budgeted for this item * (including transfers):	\$
Amount authorized by this legislation this fiscal year:	\$								
Amount previously authorized this fiscal year:	\$								
Total amount authorized after this legislative action:	\$								
Amount budgeted for this item * (including transfers):	\$								
PRIOR LEGISLATION	<p>Prior ordinances and (date): Prior resolutions and (date): 19142; May 16, 2016</p>								
CONTACT INFORMATION	<p>RLA drafted by (name, title, & phone): Kyle Brack, Sr. Buyer, 881-3265</p>								
REQUEST SUMMARY	<p>Department of Corrections requires a Term and Supply Contract for the furnishing of Security Officer Services in the Jackson County, Missouri facilities. Additional staffing is required to better manage entry of staff through security perimeters and to help escort maintenance leaders throughout the facility. To meet these requirements, the Purchasing Department issued Invitation to Bid No. 57-17. This is a re-bid of Invitation to Bid No. 3-16 (Resolution 19142) and is necessary due to a change in specifications.</p> <p>A total of thirty four (34) notifications were distributed and four responses received. One bid was rejected due to non-responsiveness to the term & conditions of the Invitation to Bid. The following three bids were evaluated:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Company</th> <th style="text-align: center;">Billing Rate per Hour, per Guard</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Twin City Security (Overland Park, KS)</td> <td style="text-align: center;">\$18.85</td> </tr> <tr> <td style="text-align: center;">Celtic Hills Security Services (Liberty, MO)</td> <td style="text-align: center;">\$19.00</td> </tr> <tr> <td style="text-align: center;">Homeland Security Protective Services (Kansas City, MO)</td> <td style="text-align: center;">\$18.97</td> </tr> </tbody> </table> <p>Department of Corrections has reviewed the bids and recommends Twin City Security of Overland Park, Kansas as the lowest and best bid received.</p>	Company	Billing Rate per Hour, per Guard	Twin City Security (Overland Park, KS)	\$18.85	Celtic Hills Security Services (Liberty, MO)	\$19.00	Homeland Security Protective Services (Kansas City, MO)	\$18.97
Company	Billing Rate per Hour, per Guard								
Twin City Security (Overland Park, KS)	\$18.85								
Celtic Hills Security Services (Liberty, MO)	\$19.00								
Homeland Security Protective Services (Kansas City, MO)	\$18.97								

	Pursuant to Section 1054.6 of the Jackson County Code, the Chief Financial Officer recommends the award of a Term and Supply Contract for the furnishing of Security Officer Services to Twin City Security of Overland Park, Kansas as the lowest and best bid received.	
CLEARANCE	<input type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input checked="" type="checkbox"/> Business License Verified (Purchasing & Department) <input checked="" type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)	
ATTACHMENTS	Abstract of Bids received, Recommendation Memorandum from DOC, and the pertinent pages of Twin City Security's bid documents	
REVIEW	Department Director:  Joe Piccinini	Date: 10-17-17
	Finance (Budget Approval): <i>If applicable</i>  Mark Lang	Date: 10/17/17
	Division Manager:	Date:
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.

BID: 57-17 DATE: 8/29/17 COMMODITY: Security Officer Services		NO	DESCRIPTION	UNIT	QTY	Twin City Security	Celtic Hills Security Services	G4S Secure Solutions	Homeland Security Protective Services	AMOUNT
						AMOUNT	AMOUNT	AMOUNT	AMOUNT	AMOUNT
1.0	Hourly Billing Rate	hour	1	18.85 per hr	19.00 per hr	20.15 per hr	18.97 per hr			

CERTIFICATION OF BID OPENING
 BIDS WERE PUBLICLY
 OPENED AND RECORDED

ON: August 29, 2017, BY

CLERK OF THE LEGISLATURE

Katie Burdette
 PURCHASING



JCDC
Jackson County, MO

Memo

To: Kyle Brack
From: Joseph Piccinini
CC: Laura Scott
Date: 09/18/2017
Re: Recommendation Memo RE: Security Guard Contract for Jackson County Dept. of Corrections

Recommendation Memo RE: Security Guard Contract for Jackson County Dept. of Corrections

Bid No. 57-17 "Security Officer Services," was sent out seeking qualified security officers to monitor and manage security access to the JCDC secured perimeter and other security details as needed. The results of awarding this bid will be the significantly enhanced safety and security of the facility and the inmates, associates and civilian partners who work in and around the facility.

A review of the bid submissions was performed by JCDC associates.

After a review of the bid submissions, we recommend that the County award the bid to Twin City Security. This recommendation is based on the overall review of the bid submissions and information supplied by the bidder. The lower bid of \$18.85/hr was submitted by Twin City Security and represents, in our opinion, the lowest and best bid.

Please accept this as the Jackson County Department of Corrections recommendation to award this contract to Twin City Security.

Respectfully,

Joe Piccinini
Director
Jackson County Department of Corrections

- 5.2 All responses to this Invitation to Bid become the property of the County and will not be returned.
- 5.3 Expenses incurred in the preparation of bid responses are the sole responsibility of the Respondent and shall not be reimbursed by the County.

6.0 Evaluation Process

All bids that are responsive to the General Conditions, Specifications and other provisions of this Invitation to Bid will be evaluated. An Evaluation Committee made up of Jackson County, Missouri staff will evaluate bids and make recommendations. Jackson County, Missouri shall be the sole judge of the bids submitted and its decision shall be final.

7.0 Questions

- 7.1 All questions regarding this Invitation to Bid must be in writing and detailed under General Conditions, Item Number Five on Page Ten of this Invitation to Bid by 5:00 PM, CDT on August 22, 2017. The Point of Contact for the Purchasing Department is kbrack@jacksongov.org. All questions will be answered in the form of Addenda on the Jackson County, Missouri website. Failure to follow this procedure MAY result in the REJECTION OF YOUR BID.
- 7.2 All answers to questions will be posted on the County's website in the form of Addenda.
- 7.3 Bidders and their agents may not contract any other County staff regarding matters covered by this Invitation to Bid during the solicitation and evaluation process. Inappropriate contact are ground for REJECTION of the Bidder's submission.

Quotation

Respondent's Quotation for Invitation to Bid No. 57-17

No.	Description	Quote
1.0	Hourly Billing Rate (hourly wage + company margin)	\$ <u>18.85</u> / hour

Purchase Order Email Address: KANSAS@TWINCITYSECURITY.COM

Bidder's Name	TWIN CITY SECURITY
Authorized Representative	BLAIR BILLINGER
Title	BRANCH MANAGER
Signature	
Phone Number	(913) 831-2525
Fax Number	(913) 831-6033
Cell Number	(913) 356-4024
Email	KANSAS@TWINCITYSECURITY.COM
Web Address	WWW.TWINCITYSECURITY.COM



FRANK WHITE, JR.
Jackson County Executive

EXECUTIVE ORDER NO. 17-17


**TO: MEMBERS OF THE LEGISLATURE
CLERK OF THE LEGISLATURE**

**FROM: FRANK WHITE, JR.
JACKSON COUNTY EXECUTIVE**

DATE: OCTOBER 19, 2017

RE: APPOINTMENT OF ACTING CHIEF FINANCIAL OFFICER

I hereby appoint V. Edwin Stoll as acting Chief Financial Officer to serve until the appointment of a permanent Chief Financial Officer, effective October 19, 2017.



Frank White, Jr., County Executive

Dated: 10-19-2017

