

AGREEMENT FOR PROFESSIONAL ENGINEERING AND DESIGN SERVICES

THIS AGREEMENT made and entered into this 16<sup>th</sup> day of October, 2019 by and between the County of Jackson, Missouri hereinafter referred to as "County" and **TRANSYSTEMS CORP.,** hereinafter referred to as "Engineer."

WITNESSETH:

WHEREAS, County requires design architectural services in connection with the following improvement: **Miscellaneous trail planning, engineering and design projects within the Parks + Rec Department;** and,

WHEREAS, County desires to enter into an Agreement with Engineer to perform planning, engineering, and design services as aforementioned; and,

WHEREAS, Engineer represents that the firm is equipped, competent, and able to undertake such an assignment;

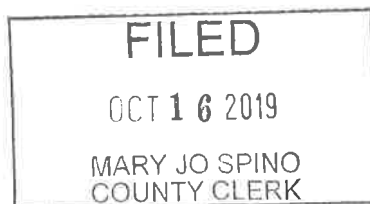
NOW, THEREFORE, in consideration of the mutual covenants and considerations herein contained, IT IS HEREBY AGREED by the parties hereto as follows:

ARTICLE I – SCOPE OF SERVICE TO BE PROVIDED BY THE ENGINEER:

Engineer, upon receipt of written notice from the County that this Agreement has been approved, will provide Scopes of Work to the County, on a project-by-project basis, as requested. Each Scope of Work submitted hereunder shall be subject to written approval by the County. Each approved Scope of Work shall specify the total fee payable for the specific project, which will be paid pursuant to Article XIII hereof.

ARTICLE II - ADDITIONAL SERVICES:

The County reserves the right to request additional work, based on changed or unforeseen conditions which require changes and work beyond the scope of this Agreement. In this event, an Addendum to this Agreement shall be executed prior to performing the additional changed work or incurring any additional cost therefore. Any change in compensation will be covered in the Addendum.



### ARTICLE III – PROJECT ASSUMPTIONS

The County and the Engineer acknowledge that the Scopes of Work required by ARTICLE I above will be developed based on the following assumptions:

- A. The County will acquire all necessary access for Engineer or its sub-consultants to perform inspections, and other services associated with each project.
- B. The County will provide all necessary title work, deeds, plats, etc. as required for the completion of each project.
- C. Submittals will be made to the Public Works Development Division for permits.

Services other than those stipulated in the scope of services listed in Article I or in conflict with the assumptions listed above shall constitute additional services not covered under this Agreement. The County shall retain the right to request additional services, based on changed or unforeseen conditions. In that event, a Supplement to this Agreement shall be executed prior to performing the additional change in work or incurring any additional cost thereof. Any change in compensation will be covered in the Supplement.

### ARTICLE IV - SCOPE OF SERVICES TO BE PROVIDED BY THE COUNTY:

The County agrees to furnish information and have work done without cost to the Engineer as follows:

1. Make available to the Engineer existing records, maps, plans, and other data possessed by County when such are necessary, advisable or helpful to the Engineer in the completion of its work under this Agreement. The County shall furnish a copy of property ownership information from County tax records.
2. Pay publishing costs for advertisements of notices, public hearings, request for bids, and other similar items. Pay for all permits and licenses that may be required by local, state or federal authorities.
3. Designate a representative who will serve as its primary point of contact and who will be authorized to act for and on behalf of the County throughout completion of the services covered by this Agreement.
4. Examine all studies and drafts developed by the Engineer, obtain reviews by other agencies involved and render decisions thereon in a prompt manner so as not to delay the Engineer.

### ARTICLE V - PERIOD OF SERVICE:

The Engineer will commence work within two (2) weeks after receiving Notice-to-Proceed from the County. The general phases of work will be completed in accordance with the schedule submitted by the Engineer.

The County will grant time extensions for unavoidable delays beyond the control of the Engineer. The Engineer, stating fully the reasons for the request, should make requests for extensions of time in writing.

This Agreement shall commence upon its execution and extend for a period of twenty-four months. Upon mutual written agreement, the parties may extend the Agreement for an additional twelve- month period.

**ARTICLE VI - PROGRESS SCHEDULE:**

The contracting parties agree that time is of the essence. Once a project has commenced, each month the Engineer shall submit a Progress Report to the County. The Progress Report will be in the form of either a bar graph or a Critical Path Method (CPM) Schedule. It shall include scheduled periods for each of the elements into which the Engineer's work is divided. Each work element shall be assigned a percentage of the total work upon which progress can be computed for interim payments. The total percentage completed shall be shown. The schedule periods shall also include a time allowance for review and approvals by the County.

**ARTICLE VII - COVENANT AGAINST CONTINGENT FEES:**

The Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement the price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee plus reasonable attorney's fees.

**ARTICLE VIII - SUBLETTING ASSIGNMENT:**

No portion of the work covered by this Agreement, except as provided herein, shall be sublet or transferred without the written consent of the County. Engineer is specifically authorized to subcontract a portion of the work to Hg Consult, Inc., of Kansas City, MO, TSi of Kansas City, KS, Landworks Studio of Olathe, KS, MTS Quanta, LLC of Overland Park, KS, and Parsons & Associates of Kansas City, MO, in such amounts as are agreed to in an approved Scope of Work for each project. The subletting of the work shall in no way relieve the Engineer of its primary responsibility for the quality and performance of the work.

**ARTICLE IX - PROFESSIONAL ENDORSEMENT:**

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work.

## ARTICLE X - STANDARD OF CARE

Engineer warrants that it shall perform the services in accordance with the standards of care and diligence normally practiced by recognized engineering firms in performing services of a similar nature. If, during the two year period following the earlier of completion or termination of the Services under the applicable Request for Service it is shown there is an error in the Services caused solely by the Engineer's failure to meet such standards, and County has promptly notified Engineer of any such error within that period, Engineer shall perform, at Engineer's cost, such corrective architectural services as may be necessary to remedy such error.

## ARTICLE XI - MISCELLANEOUS PROVISIONS:

The following miscellaneous provisions are agreed to by both parties to this Agreement.

1. Inspection of Documents.  
The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this Agreement and to the project covered by this Agreement, for a period of not less than three (3) years following final payment. An authorized representative of the County shall have access to the records for inspection, during regular working hours at the Engineer's place of business. County shall have the right to audit and inspect Engineer's records and accounts covering costs hereunder at all reasonable times during the performance of the Services and for a period of three (3) years after the acceptance thereof. Engineer shall not be required to keep records of or provide access to those of its costs expressed as fixed rates, a lump sum, or of costs which are expressed in terms of percentages of other costs.
2. Conferences, Visits to Site, Inspection of Work.  
A representative of the County shall have the privilege of inspecting and reviewing the work being done by the Engineer and consulting with its staff at any time. Conferences are to be held at the request of the County or the Engineer.
3. Accuracy of Work. The Engineer shall be responsible for the accuracy of the work and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of the Engineer without additional compensation. Acceptance of the work by the County will not relieve the Engineer of the responsibility for subsequent correction of any such errors and the clarification of any ambiguities during construction. The Engineer shall give immediate attention to these revisions or corrections so there will be a minimum of delay to the project or to the contractor.
4. Relationship with Others. The Engineer shall cooperate fully with Engineers on adjacent projects, municipalities, local government officials, public utility companies, and others as may be directed by the County. This shall include attendance at meetings, discussions and hearings, as may be requested by the County; furnishing plans and other data as may be requested from time to time by the County, and compliance with all directives issued by the County.

5. Ownership of Documents. Plans, electronic data, and maps and specifications prepared under this Agreement shall be delivered to and become the property of the County upon termination or completion of work. Basic survey notes, design computations and other data prepared under this Agreement shall be made available to the County upon request. All such information produced under this Agreement shall be available for use by the County. If the County incorporates any portion of the work into a project other than that for which it was performed, the County shall save the Engineer harmless from any claims and liabilities resulting from such use.
6. Termination. Engineer or the County may terminate this Agreement by giving written notice to the other party. Termination of this Agreement shall not constitute a waiver of the rights or obligations which County or Engineer may be entitled to receive or be obligated to perform under this Agreement. Should this Agreement terminate, all books, brochures, flier, lists, and all other County materials must be delivered and returned by the Engineer to the County within 15 calendar days of the demand of the County.

If the Agreement is terminated due to the Engineer's service being unsatisfactory in the judgment of the County, or if the Engineer fails to prosecute the work with due diligence, the County may procure completion of the work in such manner as it deems to be in the best interest of the County. The Engineer will be responsible for any excess cost in addition to that provided for in this agreement or any damages the County may sustain by reason of the termination of this Agreement due to unsatisfactory performance or prosecution.

7. Successors and Assigns. The County and the Engineer each bind themselves, their successors, executors, administrators, and assigns to the other party to this Agreement, and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this Agreement.
8. Compliance with Laws. The Engineer shall keep itself fully informed of all existing and current regulations of the County, State, and Federal laws which in any way limit or control the actions or operations of those engaged upon the work, or affecting the materials supplied to or by them. It shall at all times observe and comply with all ordinance, laws, and regulations, and shall protect and indemnify the County against any claims or liability arising from or based on any violations of the same.
9. Nondiscrimination. The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors. The Engineer will comply with Title VI of the Civil Rights Act of 1964, as amended. More specifically, the Engineer will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405(b), which are herein incorporated by reference and made a part of this

agreement. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified of the Engineer's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of color, race or national origin.

10. Independent Contractor. The Engineer shall work as an independent contractor and not as an employee of the County. The Engineer shall be subject to the direction of the County only as to the result to be accomplished and not as to the means and methods for accomplishing the result. The Engineer shall report all earnings received hereunder as gross income, and be responsible for its own Federal, State, and City withholding taxes and all other taxes, and operate its business independent of the business of the County except as required by this Agreement.
11. Severability. If any covenant or other provision of this Agreement is invalid, or incapable of being enforced, by reasons of any rule of law or public policy, all other conditions and provision of this Agreement shall nevertheless remain in full force and effect and no covenant or provision shall be deemed dependent upon any other covenant or provision unless as expressed herein.
12. Incorporation. This Agreement along with the Engineer's attached fee breakdown incorporates the entire understanding and agreement of the parties.
13. Decisions under this Agreement. The County will determine the acceptability of work performed under this Agreement, and will decide all questions which may arise concerning the project. The County's decision shall be final and conclusive.
14. Breach of Contract. The prevailing party, in whole or in part, shall be entitled to reimbursement for all costs and reasonable attorneys' fees in any legal action brought against the other party based on a breach of this Agreement.
15. Safety Requirements. Engineer shall make every reasonable effort to perform the Services in a manner complying with all applicable safety legislation and with applicable environmental laws, rules, and regulation in force at the time of development of designs. Engineer shall also be responsible for the safety of its own employees at all times during the performance of any Request for Services.
16. Purchase Orders. In the event the County uses a purchase order form to administer this Agreement, the use of such form shall be for convenience purposes only and any typed provision in conflict with the terms of this Agreement and all-preprinted terms and conditions contained in or on such forms shall be deemed stricken and null and void.

ARTICLE XII - INSURANCE AND INDEMNIFICATION:

INSURANCE: Engineer shall purchase and maintain insurance coverages as stated in this Article.

PROFESSIONAL LIABILITY: Engineer shall secure Professional Liability insurance coverage with limits of \$1,000,000 each claim/\$1,000,000 aggregate.

The County understands that it cannot be a named insured on this coverage and that it is available only in a "claims made" form.

INSURANCE

Engineer shall procure and maintain in effect throughout this duration of the contract insurance coverages not less than the types and amounts specified in this section. If due to the nature of the goods and/or services provided by the Engineer are such that they may be excluded from coverage listed below, an addendum shall be made to the contract requesting coverage and limits required (professional liability, work on bodies of water, garage or tow services, liquor liability are some examples).

All subcontractors of the Engineer are required to carry the same coverage's and limits as the contractor. All liability policies required are to be written on an "occurrence" basis unless an agreement, in writing is made with the County.

**1. COMMERCIAL GENERAL LIABILITY**

Commercial General Liability Insurance: with limits of not less than \$1,000,000 per occurrence and \$2,000,000 Annual Aggregate (both General and Products-Completed Operations). Aggregate shall be on a "per project" basis where more than one project is to be performed by the contractor under this contract. Policy shall include Severability of Interests coverage applying to Additional Insured and also include Contractual Liability with no limitation endorsements. Policy shall include \$100,000 limit each occurrence for Damage Rented Premises, \$1,000,000 limit each occurrence for Personal & Advertising injury liability, \$5,000 Medial Expense (any one person), and Employee Benefits Liability coverage with a \$1,000,000 limit.

**2. COMMERCIAL AUTOMOBILE LIABILITY**

Commercial Automobile Liability Insurance: with a limit not less than \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage Limit (each accident), covering owned, hired, borrowed, and non owned vehicles. Coverage shall be provided on "an auto" basis and be on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operations of motor vehicles in connection with this contract.

**3. WORKERS COMPENSATION AND EMPLOYERS LIABILITY COVERAGE**

Engineer shall provide coverage for Workers Compensation and Employers Liability for all claims by employees of the Engineer or by anyone for whose acts it may be liable under the statutes of the State of Missouri with limits of:

-Workers Compensations	Statutory
-Employers Liability	\$500,000 each accident
	\$500,000 Disease-each employee
	\$500,000 Disease-Policy limit

**4. ADDITIONAL INSURED & CERTIFICATE OF INSURANCE**

The Commercial General and Automobile Liability Insurance specified above shall provide that Jackson County Missouri and its agencies, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insured for the services performed under this contract.

A Certificate of Insurance shall be filed with the County's Director of Finance and Purchasing within 10 calendar days of the date when requested or before commencement of the work that are acceptable to the Director that the insurance requirements (a sample of an acceptable Certificate is attached) have been satisfied. The Certificate shall contain a provision that the policies may not be cancelled by the insurance carrier without 30 days written notice of cancellation, 10 days for non-payment of premium, to Jackson County. In the case of multi-year, renewable, or extended term on the contract; Contractor must supply the Director with current Certificate(s) on any coverage's mentioned above with Thirty (30) days prior to the expiration date of coverage(s). The Director may request copies of the Engineer's insurance policies for verification of coverage's.

**5. QUALIFICATIONS INSURANCE CARRIERS**

All insurance coverage must be written by companies that have an A. M. Best's rating of "B+V" or better or Lloyd's of London, and are licensed and approved by the State of Missouri to do business in Missouri.

**6. FAILURE TO MAINTAIN INSURANCE COVERAGE**

Regardless of any approval by Jackson County, it is the responsibility of the Engineer to maintain the required insurance coverage in force at all times; its failure to do so will not relieve it of any contractual obligation or responsibility. In the event of Engineer's failure to maintain the required insurance in effect, Jackson County may order Engineer to stop work immediately and, upon 10 days notice and an



opportunity to cure, may pursue its remedies for breach of this contract as provided for herein and by law.

### **FILING OF CERTIFICATES OF INSURANCE AND POLICIES WITH THE COUNTY**

The Engineer shall file with the County upon request a copy of all policies of insurance required under the Agreement.

Within ten (10) calendar days of the date when requested or before commencement of the work, Engineer shall file with the County's Director of Finance and Purchasing certificates acceptable to him of the insurance required by the Agreement. These certificates shall contain a provision that coverage's afforded under the policies will not be canceled until at least thirty (30) days prior written notice of cancellation has been given to the County's Public Works Department Director. Failure to so file these certificates is a breach hereof.

### **INDEMNIFICATION:**

The Engineer agrees to indemnify, defend and save harmless the County, against all damages to property, structures and utilities together with all claims for damages arising out of personal injury, including accidental death due to the Engineer's negligent or willful acts or the negligent or willful acts of the Engineer's subcontractors, agents or employees, in the performance of work under this Agreement.

### **ARTICLE XIII - PAYMENTS TO THE ENGINEER:**

For the services performed by Engineer under this Agreement and as full compensation therefore, and for all expenditures made and all expenses incurred by Engineer in connection with this Agreement, except as otherwise expressly provided herein, subject to conformance with all provisions of this Agreement, County will pay Engineer as follows:


1. Subject to the availability of appropriated funds, County will pay Engineer the total fee specified in each approved Scope of Work, as compensation for Engineer's services and expenses as set forth in the Engineer's proposed and approved Scope of Work. Fees shall be owed based on the hourly rates set out in Exhibit A, attached. Additional funds may be made available for Engineer's services in the County's 2020 and future years' annual budget.
  
2. Invoices are to be submitted on a monthly basis.

### **ARTICLE XIV – ENCLOSURES & ATTACHMENTS**

Exhibit A, Fee Schedule

IN WITNESS WHEREOF, Jackson County, Missouri, has caused these presents to be executed in its behalf by its duly authorized agent; and the Engineer has hereunto set it hand and seal.

Approved by:


  
Bob Crutsinger  
Director of Finance and Purchasing

Attest:

  
Mary Jo Spino  
Clerk of the Legislature

Approved to form this 16<sup>th</sup> day of October, 2019

  
County Counselor

By:   
Engineer

REVENUE CERTIFICATE

This contract is entered into 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.

Date 10-16-2019   
Finance Director

FMS Agreement Number N/A

Account Code N/A - -

Tax ID # \_\_\_\_\_

**TranSystems Corporation  
Schedule of Hourly Rates for 2019**

Classification	Rate	Classification	Rate
Principal/Civil Engineer V	\$291	Industry Specialist V	\$350
Civil Engineer IV	\$220	Industry Specialist IV	\$285
Civil Engineer III	\$169	Industry Specialist III	\$190
Civil Engineer II	\$122	Inspector V	\$230
Civil Engineer I	\$98	Inspector IV	\$132
Planner III	\$180	Inspector III	\$95
Planner II	\$100	Inspector II	\$76
Planner I	\$91	Marketing Administrator III	\$144
Scientist III	\$117	Marketing Administrator II	\$104
Scientist II	\$105	Administrator III	\$180
Scientist I	\$78	Administrator II	\$99
Technician V	\$175	Administrator I	\$68
Technician IV	\$128	Electrical Engineer IV	\$206
Technician III	\$104	Electrical Engineer I	\$133
Technician II	\$82	Construction Services I	\$76
Technician I	\$68	Construction Services II	\$84
Principal/ Structural Engineer V	\$288	Construction Services III	\$127
Structural Engineer IV	\$220	Construction Services IV	\$136
Structural Engineer III	\$182	Architect IV	\$236
Structural Engineer II	\$134	Architect III	\$205
Structural Engineer I	\$102	Architect II	\$97

Sub-contracted labor, material testing equipment, printing and technical photography, and all other direct job costs to be paid at cost.

Vehicle mileage to be paid at the current IRS rate per mile.

The rates set forth on this initial Schedule of Rates shall be the rates provisions in effect from the date of this Agreement until December 31, 2019. TranSystems will revise the Schedule of Rates annually and will submit the revised Schedule of Rates which shall automatically become effective with regard to this Agreement and the Services performed under this Agreement on January 1st of the next calendar year.