



**CITY OF WILLARD, MISSOURI
REQUEST FOR PROPOSAL #03-2021PKS**

Proposals are invited from qualified organizations. Please submit your offer and proposal for the goods/services specified herein. Your reply shall be submitted in a sealed envelope, unless otherwise directed, **prior to the time specified to City Hall, ATTN: Jennifer Rowe, 224 W. Jackson, Willard, MO 65781** with Request for Proposal number and time of opening in lower left-hand corner of envelope. For a copy of the RFP contact:

Jennifer Rowe, City Clerk
City of Willard
224 W. Jackson, P.O. Box 187
Willard, Missouri 65781

Email: clerk@cityofwillard.org
Telephone Number: 417-742-5302
Fax Number: 417-742-3080
Due Date: April 21, 2021 at 2:00 p.m.

You are invited to submit your proposal and offer to provide the City of Willard, Missouri with the following:

Lease Space at the Willard Recreation Building in strict accordance with the requirements contained herein.

- Proposals submitted must be signed by the individual authorized to legally bind the company.
- Proposals received after the opening date and time will be rejected.
- **FAXED/EMAILED BIDS WILL NOT BE ACCEPTED.**

You are invited to submit your bid to furnish the materials and/or services described herein. Please submit your prices/fees net of all discounts.

Proposals will be accepted at the above address, until **2:00 pm, April 21, 2021**, at which time proposals will be opened and the names of the Offerors will be read aloud.

Proposals must contain all information required by this Request for Proposal otherwise your proposal may be rejected as non-responsive.

CITY OF WILLARD, MISSOURI
STANDARD INSTRUCTIONS TO PROPOSERS AND CONDITIONS OF REQUEST FOR PROPOSAL

1. PREPARATION OF PROPOSALS

Proposers are expected to examine the scope of services, delivery schedule, requirements and all instructions of the Request for Proposal. Failure to do so will be at Proposer's risk. In case of a mistake in extension, the unit price(s) will govern.

2. SUBMISSION OF PROPOSALS

A. A proposal submitted by a Proposer must (1) be manually signed by the Proposer on the Request for Proposal Affidavit of Compliance form; (2) contain all information required by the Request For Proposal; (3) be sealed in an envelope or container; and (4) be delivered to City Hall and officially clocked in no later than the exact time and date specified on the Request For Proposal.

B. The sealed envelope or container containing a proposal should be clearly marked on the outside left corner with (1) the official Request for Proposal number and (2) the official closing date and time.

3. MODIFICATION OR WITHDRAWAL OF PROPOSALS

A. Proposals may be modified or withdrawn by written or telegraphic notice received prior to the official closing date and time specified. A proposal may also be withdrawn or modified in person by the Proposer or his authorized representative provided proper identification is presented before the official closing date and time. Verbal phone requests to withdraw or modify a proposal will not be considered.

B. After the official closing date and time, no proposal may be modified or withdrawn.

4. PROPOSAL OPENING

Proposal openings shall be public on the date and at the time specified on the proposal form. It is the Proposer's responsibility to assure that this proposal is delivered at the proper time and place of the proposal opening. Proposals which for any reason are not so delivered will be not considered. Offers by telegram, telephone, or facsimile will not be accepted, unless specifically authorized by the Request for Proposal. Proposal files may be examined during normal working hours by appointment.

5. AWARDS

A. Unless otherwise stated in the Request for Proposal, cash discounts for prompt payment of invoices will not be considered in the evaluation of prices, if part of the proposal. However, such discounts are encouraged to motivate prompt payment.

B. As the best interest of the City may require, the right is reserved to make awards; to reject any and all proposals or waive any minor irregularity of technicality in proposals received.

C. Awards will be made to the Proposer whose proposal (1) meets the specifications and all other requirements of the Request For Proposal and (2) is the best proposal, considering price, responsibility of the Proposer and all other relevant factors in the criteria for award.

D. Each proposal is received with the understanding that the acceptance in writing by the City of the offer to furnish any or all services described therein shall constitute a contract between the Proposer and the City; and shall bind the Proposer to furnish and deliver at the price, and in accordance with the conditions of said accepted proposal and detailed specifications.

6. OPEN COMPETITION

It is the intent and purpose of the City that the Request for Proposal permits free and open competition. However, it shall be the Proposer's responsibility to advise the City Clerk if any language, requirements, etc., or any combination thereof, inadvertently restricts or limits the requirement to a single source or otherwise prohibits the submission of a proposal. The notification should be received by the City Clerk at least ten days prior to the Request for Proposal opening date and time.

7. CONTRACT MODIFICATIONS

This contract expresses the complete agreement of the parties and performance shall be governed solely by the terms and conditions contained herein. Changes, additions or modifications hereto must be in writing and signed by the Mayor of the City of Willard.

CITY OF WILLARD, MISSOURI

STANDARD INSTRUCTIONS TO PROPOSERS AND CONDITIONS OF REQUEST FOR PROPOSAL

8. INVOICES

Any invoices shall show the purchase order number or contract and contract release number and contain full descriptive information of item or services furnished.

9. BANKRUPTCY OR INSOLVENCY

In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Lessee, or in the event of breach of any of the terms hereof including the warranties of the Lessee, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

10. INTERPRETATION OF CONTRACT AND ASSIGNMENTS

The contract shall be construed according to the laws of the State of Missouri. The contract, or any rights, obligations or duties hereunder may not be assigned by Seller without City's written consent or any attempted assignment without such consent shall be void.

11. TERMINATION OF CONTRACT

The City reserves the right to terminate the contract at any time if any of the provisions of the contract are violated by the Contractor or by any of his Subcontractors, in the sole judgment and discretion of the City. In the event of such termination, the Contractor shall be liable for any excess costs incurred by the City. If the contract is so terminated, the City may purchase upon such terms and in such manner as the City Clerk may deem appropriate, supplies or services similar to those so terminated, and that the Contractor will be liable for excess costs occasioned thereby.

12. NON-DISCRIMINATION IN EMPLOYMENT

In connection with the furnishing of supplies or performances or work under this contract, the Contractor agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder.

13. PROVISIONS BY LAW DEEMED INSERTED

Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.

14. TAX-EXEMPT

The City of Willard is exempt from sales tax, Federal Excise Tax Certificate No. 12494461.

15. ASSIGNMENT

The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the City. Provided, however, that claims for money due or to become due to the Contractor from the City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of such assignment or transfer shall be furnished in writing promptly to the City. Any such assignment is expressly subject to all rights and remedies of the City under this agreement.

REQUEST FOR PROPOSAL # 03-2021PKS

SECTION ONE: GENERAL INFORMATION

1.1 Introduction and Background

The City of Willard, Missouri (“the City”) requests qualified vendors to submit proposals to lease space and enter into a contract to provide Fitness Center Services in the Parks Recreation Center as detailed in the specifications. The City has an approximate population of 5300, plus the surrounding residents provide the customer base for the Recreation Center.

1.2 Proposal Due Date

- 1.2.1 **Sealed proposals in the form of one (1) original and two (2) copies must be received by April 21, 2021 no later than 2:00 p.m. Proposals will not be accepted after that time.**
- 1.2.2 For mail or hand delivery: City of Willard, 224 W. Jackson, PO Box 187, Willard, MO 65781.
- 1.2.3 Proposals should be marked “REC CENTER SPACE LEASE PROPOSAL #03-2021PKS
- 1.2.4 At time of opening, Proposals will be opened and only the name of proposers read, since the selection process will be based on competitive negotiation procedures.

1.3 General Requirements

- 1.3.1 It is the intent and purpose of the City that this RFP provide a fair and equal opportunity for each proposer to submit competitive proposals. It is the proposer’s responsibility to advise the City at least five (5) days prior to the proposal submission date of any language or requirement in this RFP, which unreasonably limits the ability of the offeror to respond.
- 1.3.2 The City reserves the right to accept or reject any or all proposals. The City is not obligated for any cost incurred by the offeror in the preparation or the submittal of this proposal.
- 1.3.3 All proposals shall be firm and irrevocable for 120 days after the date and time set herein for proposal submission.
- 1.3.4 If it becomes necessary to modify or amend any part of this request for proposal, the City will provide the revision in the form of a written addendum to all of the prospective proposers who received an original request for proposal. An addendum will be issued to answer questions as well.
- 1.3.5 In accordance with chapter 610 of the Revised Statutes of the State of Missouri, all firms submitting proposals should be aware that the request for proposal and the responses are considered public information. Each company submitting a proposal is requested to identify specifically any information contained in their proposal they consider confidential or proprietary that they believe is exempt from disclosure, specifically citing the applicable exempting law.

- 1.3.6 The proposer shall furnish such additional information as the City of Willard shall reasonably require. This includes information that indicates financial resources as well as the ability to provide and maintain services.
- 1.3.7 Exceptions to any RFP terms, conditions, and specifications must be placed on the Affidavit of Compliance included herein and will be considered in the final analysis of the proposal. Failure to include an exception on the Affidavit of Compliance will render the exception invalid and the proposer will be treated as being in compliance with the specifications regardless of the intent.
- 1.3.8 To insure fair consideration for all proposals, the City prohibits communication with any department, City employee, or City official other than the Chief Financial Officer during the submission or evaluation process.
- 1.3.9 Awarded contract is to be effective immediately upon acceptance by the Board of Aldermen, and the term of the contract will be three years with 2 (two) additional (1) one year extensions available, at the option of the City.

SECTION TWO: SPECIFICATIONS

2.1 Scope of Requirements

Willard Parks and Recreation and the City of Willard are seeking bids for a tenant to be located in the Willard Recreation Center at 233 N State Highway Z, Willard MO, 65781.

Description of Space Available

The Willard Recreation Center has approximately 1,700 square feet of space currently being utilized as a fitness facility.

- The space is currently accessible both from inside as well as from outside via a magnetic locking system.
- The area is roughly square, and window make up nearly half of the exterior walls.
- There are large mirrors on one wall, with the wall measuring approximately 18' in length.
- The area has separate HVAC unit.
- Area is currently carpeted.
- Area has floor receptacles.
- Area has access to locker room and showers.
- Limited custodial services provided, including restrooms and common areas.
- Lessee is responsible for paying utilities averaging \$220 monthly-proposal should indicate total monthly lease payment including the aforementioned utilities

Proposals Sought

Qualified vendors are encouraged to submit proposals for occupation of the space. The City of Willard will give preference to operators that are engaging in health promotion through exercise, rehabilitation, or physical therapy. Other considerations will include:

- Staffing of facility during normal business hours.
- Thorough description of fees and charges for use of facility.

- The opportunity for a private/public partnership and revenue sharing.

Proposal Inclusions

The City of Willard and Willard Parks and Recreation request proposals include the following:

- Tenant will be required to provide insurance policy
- Complete list of equipment to be included at facility (if proposed as fitness center)
- Hours of operation
- Hours staffed
- Cost to community to utilize facility
- Expected monthly lease payment made to the City of Willard Parks Department (if revenue sharing is an option, please include the proposed structure)
- Anticipated opening date pending bid acceptance and contract completion
- Proposed length of lease, not to exceed 3 years without renewal.

2.2 Submittal Information

Each proposer must submit the following information in order for the proposal to be adequately evaluated and considered:

- 2.2.1 Title Page and Table of Contents - a clear identification of the material by section and page number.
- 2.2.2 Provide the complete legal name, address and telephone number of the proposer, including the name of the person to contact for discussion of the proposal.
- 2.2.3 Provide the name of the person who is authorized to make representations for the proposer, the title, address and phone number or e-mail address.
- 2.2.4 Briefly state the proposers understanding of the scope of services and all other requirements and terms and conditions of this request for proposal.
- 2.2.5 Please provide a brief history of your institution with particular attention to the means and timing of your entry into the area market.
- 2.2.6 What is the state of incorporation of the entity with whom the City would contract? Is this entity licensed to do business in the state of Missouri?
- 2.4.7 Provide a list of at least two client references of similar sized/municipal accounts.

SECTION THREE: EVALUATION INFORMATION

3.1 Evaluation of Proposals

- 3.1.1 An evaluation team will evaluate the proposals.

3.1.2 Award shall be made to the responsive and responsible offer(s) whose proposal is determined to be most advantageous to the city, taking into consideration the evaluation factors set forth below.

- a) Demonstrated experience and expertise of Offeror in providing service.
- b) Demonstration of complete understanding of the City's requirements.
- c) Approach to provide services requested.
- d) Qualifications of staff assigned to perform the services rendered.
- e) Fees, Charges and Discounts provided to the citizens of the City.
- f) Equipment provided for the facility.
- g) Type of negotiation to fulfill contracts with active members of the previous lessee.

3.1.3 All proposal details will be held in confidence during the evaluation process.

3.1.4 The City may, at its discretion, request presentations by or meetings with any or all Offerors whose proposal is deemed responsive and responsible and best meets the needs of The City, to clarify or negotiate modifications to the Offerors' proposals. The City will not be liable for any cost incurred by the proposer in connection with such interviews/presentations.

3.1.5 The City also reserves the right to make an award without further discussion of the proposals submitted, therefore, proposals should be submitted initially on the most favorable terms, from both technical and price standpoints, which the Offeror can propose.

Contract # 03-2021PKS

City of Willard
224 W. Jackson
Willard, MO 65781
Ph. 417-742-5302
Fax 417-742-3080

NAME, ADDRESS & PHONE OF Lessee

Ph. _____
Fax _____

AGREEMENT

The Tenant agrees to perform, in strict accordance with Exhibit A. The agreement between the City of Willard and the Tenant shall consist of:

(1) The Request for Proposal, and any addenda thereto, (2) the proposal, as accepted, submitted in response to the Request for Proposal and 3) the Lease Agreement. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the Lease Agreement shall govern over all other documents, and the Request for Proposal and addenda thereto shall govern over the Tenant's Proposal and addenda thereto. However, the City reserves the right to clarify any contractual relationship in writing with the concurrence of the Tenant, and such written clarification shall govern in case of conflict with the applicable requirements stated in the Request for Proposal or the Tenant's proposal. In all other matters not affected by the written clarification, if any, the Request for Proposal shall govern.

REQUEST FOR PROPOSAL # 03-2021PKS

AFFIDAVIT OF COMPLIANCE

To be submitted with vendor's Proposal

_____ We **DO NOT** take exception to the RFP Documents/Requirements.

_____ We **TAKE** exception to the RFP Documents/Requirements as follows:

I have carefully examined the Request for Proposal and agree to abide by all submitted pricing, delivery, terms and conditions of this bid unless otherwise stipulated herein. If awarded the bid, a corporate officer must sign the contract. If someone other than a corporate officer signs the contract, a letter signed by a corporate officer, stating the authority of the individual signing the contract must be submitted.

SIGNATURE AND IDENTITY OF BIDDER: The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing the intention of binding himself to become the responsible and sole Contractor) he is duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below).

() sole individual () partnership () joint venture

() corporation State Incorporated : _____

Company Name _____

ADDENDA

By _____

Bidder acknowledges receipt of the following amendment:

(Authorized Person's Signature)

Addendum No. _____ Date _____

(Print or type name and title of signer)

Addendum No. _____ Date _____

Company Address _____

Addendum No. _____ Date _____

Addendum No. _____ Date _____

Telephone Number _____ Email _____

Fax: _____ FEID No. _____

Date: _____

**CITY OF WILLARD
STATEMENT OF "NO BID"
IFB ## 03-2021PKS**

**RETURN THIS PAGE ONLY IF YOUR COMPANY PROVIDES THE PRODUCTS/SERVICES BEING BID AND
DECLINES TO DO SO.**

**WE, THE UNDERSIGNED, HAVE DECLINED TO BID ON YOUR IFB ## 03-2021PKS FOR LEASE SPACE IN THE
RECREATION CENTER FOR THE FOLLOWING REASON(S):**

- _____ SPECIFICATIONS ARE TOO "TIGHT"
- _____ INSUFFICIENT TIME TO RESPOND TO INVITATION FOR BID.
- _____ UNABLE TO MEET SPECIFICATIONS.
- _____ UNABLE TO MEET INSURANCE REQUIREMENTS.
- _____ SPECIFICATIONS UNCLEAR (PLEASE EXPLAIN BELOW).
- _____ OTHER (PLEASE SPECIFY BELOW).

REMARKS:

COMPANY NAME: _____

ADDRESS: _____

SIGNATURE AND TITLE: _____

TELEPHONE NUMBER: _____

DATE: _____

EXHIBIT A

LEASE AGREEMENT

This lease agreement ("Agreement" or "Lease"), is made and entered into effective the ___ day of _____, 2021 (the "Effective Date"), by and between City of Willard, a Missouri Municipal Corporation, (herein after called the "Landlord") and _____' (herein after called the "Tenant").

WITNESSETH:

1. PREMISES. Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, in accordance with the terms, provisions and conditions of this Lease, certain real property described as: ± 1,700 square feet located within the Willard Sports and Recreation Center, in Willard, MO, with all improvements thereon (hereinafter referred to as the "Premises"), as more particularly described as the northeast corner of the Willard Sports and Recreation Center located at 133 North Highway Z, Willard Missouri.
2. LEASE TERM. The term of the Lease (the "Lease Term") shall be for a period of three (3) years, commencing on July 1, 2021 (the "Commencement Date") and ending at midnight on the day before the three-year anniversary of the Commencement Date.
3. BASE RENT. During the Lease Term, Tenant agrees to pay Landlord, without prior demand, set-off or deduction, the following rent, which shall be due and payable in advance on the first day of each month during the Lease Term, commencing on the Commencement Date (the "Base Rent"):

(Base Rent details shall be added in accordance with selected vendor proposal and any resulting pre-contract negotiations with said vendor)

The rent shall be payable monthly, in advance, commencing as of the Lease Commencement Date and on the first day of each and every month thereafter during the Lease Term. Unless and until Tenant is notified in writing by Landlord, Tenant shall pay all rent and other amounts payable to Landlord under this Agreement, by check or draft made payable to Landlord, and mailed by Tenant to Landlord's address shown on the signature page hereof.

4. LATE CHARGES. Tenant's failure to promptly pay sums due under this Lease may cause Landlord to incur unanticipated costs. The exact amount of those costs is impractical or extremely difficult to ascertain. Payments due to Landlord under this Lease are not an extension of credit. Therefore, Landlord may, at Landlord's option, and without any prior notice to Tenant, impose a late charge on any payments which are not received by Landlord on or before the tenth day of the month due at a rate of ten percent (10%) of the past-due amount (a "Late Charge"). A Late Charge may be imposed only once ON EACH PAST-DUE AMOUNT. If any check tendered to Landlord by Tenant under this Lease is dishonored for any reason, Tenant shall pay to the party receiving payments under

this Lease a fee of one hundred dollars (\$100.00), plus (at Landlord's option) a Late Charge as provided above until good funds are received by Landlord. The parties agree that any Late Charge and dishonored check fee represent a fair and reasonable estimate of costs Landlord will incur by reason of the late payment or dishonored check. Payments received from Tenant shall be applied first to any Late Charges, second to Base Rent, and last to other unpaid charges or reimbursements due to Landlord.

5. **HOLDING OVER.** Tenant shall vacate the Premises immediately upon the expiration of the Lease Term or earlier termination of this Lease. Tenant shall reimburse Landlord for and indemnify Landlord against all damages incurred by Landlord as a result of any expiration of the Lease Term or earlier termination of this Lease, Tenant's occupancy of the Premises shall be a day-to-day tenancy, subject to all of the terms of this Lease, except that the Base Rent during the hold over period shall be increased to an amount which is two (2) times the Base Rent in effect on the expiration or termination of this Lease, computed on a daily basis for each day of the hold over period, plus all additional sums due under this Lease. This Paragraph shall not be construed as Landlord's consent for Tenant to hold over or to extend this Lease.

6. **USE AND TITLE.** Tenant shall have the right to use the Premises solely for the purpose agreed upon. Tenant is to provide all equipment in the leased Premises which shall include, at a minimum, the fixtures and equipment indicated on the *pre-contract negotiations with said vendor* which is incorporated herein by reference. Tenant shall promptly comply with all material regulations, orders, ordinances and laws of legally-constituted authorities applicable to the use and occupancy of the Premises. Tenant shall not perform any act or carry on any practice which may injure the Premises or be a nuisance or menace. Tenant shall not permit the leased Premises to be used in any way which would, in the opinion of the Landlord, create a fire hazard or other hazard, and/or otherwise which would in any way increase or render void the fire insurance carried by Landlord or any other Tenants in the building. Tenant shall have and hold quiet and peaceable use and possession of the Premises during the entire Lease Term; and Landlord warrants and agrees to defend such use and possession of Tenant against the claims of any and all persons whomsoever.

Tenant shall be required to set hours of operation according to the *pre-contract negotiations with said vendor*. The parties agree that should problems develop with these negotiated hours, the parties will use good faith in addressing said problems to arrive at a mutually agreeable solution.

7. **MEMBERSHIP FEES FOR USE OF FITNESS CENTER.** Tenant will have the right to charge membership fees for the use of the Community Fitness Center at rates to be established each January, but in no event shall rates at the Willard Facility be an amount in excess of those charged by Tenant to its customers at any similar Tenant owned facility within a 25-mile radius of the Community Fitness Center; and, all rates must be agreed upon by both the City and the Tenant addressing said rates to arrive at agreeable rate. Individuals who secure a Tenant membership shall have the right to access the locker facilities in the Willard Sports and Recreation Center.

8. **COVENANT AGAINST LIENS.** If, because of any act or omission of Tenant, any mechanic's lien or other lien, charge, or order for payment of money shall be filed against Landlord or against the Premises or any portion thereof, Tenant shall, at its own cost and expense, cause the same to be discharged of record or bonded in a manner sufficient to allow a title insurer to insure against said claim within ninety (90) days after written notice from Landlord to Tenant of the filing thereof; and Tenant shall indemnify and hold harmless Landlord against and from all costs, liabilities, suits, penalties, claims and demands resulting there from, including reasonable fees of Landlord's attorneys.

9. **CONDITION OF PREMISES.** Tenant acknowledges that it is leasing the Premises in an "as is-where is" physical condition and that there has been no representation or warranty made by Landlord in connection with the physical or operational condition of the Premises, and no warranty of any nature shall be implied other than as expressly stated herein.

10. **MAINTENANCE, REPAIRS, AND CLEANING.**

a. **Landlord's Obligation.** Subject to provisions of the Paragraph titled "Fire or Other Casualty" and except for damage caused by any act or omission of Tenant, or Tenant's employees, agents, invitees or visitors, Landlord shall pay for and maintain the roof in good order, condition and repair. Landlord agrees to bear the cost of maintaining and cleaning the common areas of the Willard Sports and Recreation Center including the maintenance and provision of all consumable products such as soap and paper products in the adjoining restroom and shower facilities; provide all maintenance of the grounds and parking facilities; provide all maintenance of the HVAC systems and shall provide pest control. If any repairs are required to be made by Landlord that will impact the Tenant space, the Tenant shall, at Tenant's sole cost and expense, promptly remove Tenant's furnishings, fixtures, inventory, equipment and other property, to the extent required to enable Landlord to make repairs unless, however, the required repairs are the result of the negligence of Landlord. Landlord's liability under this Paragraph shall be limited to the cost of the required repairs or corrections.

b. **Tenant's Obligation.** Subject to the provisions of the Paragraph titled "Fire or Other Casualty": Tenant shall, at all times, keep and maintain any and all portions of the Premises, in good order, condition and repair, ordinary wear and tear excepted. Should Tenant fail to make such repairs or replacements promptly, Landlord may, at its option and among other remedies, enter the Premises without such entering causing or constituting an interference with the possession of the Premises by Tenant, make such repairs or replacements and Tenant shall pay the cost thereof to Landlord on demand. Tenant shall maintain the Premises in full compliance with all federal, state and/ or local laws, codes and regulations applicable to the Premises. Tenant shall be responsible for the costs of maintaining and cleaning the area leased by Tenant known as the leased Premises, and Tenant shall at all times provide its own housekeeping services for the leased Premises and maintain the interior of the leased Premises in good condition.

11. **ALTERATIONS:** Tenant may, at its own cost and expense, but only after receiving Landlord's written consent (which shall not be unreasonably withheld), make from time to time such alterations, replacements, additions, changes and improvements, in and to the interior or exterior of the Premises as Tenant may find necessary or convenient for its purposes. Tenant agrees to provide copies of all

architectural plans and specifications and related governmental permits to Landlord for aid in its determination for approval of such alterations. Tenant shall pay the costs of any alterations, replacements, additions, changes and improvements done on the Premises, and shall keep the Premises free and clear of liens of any kind. No such alteration or improvement shall impair the structural integrity of any building comprising a part of the Premises. All such alterations and improvements shall be made promptly and in a good workman like manner and in compliance with all applicable permits and authorizations.

All alterations and improvements made on the Premises by Tenant shall become the property of Landlord at the expiration or termination of the Lease Term and shall be surrendered with the Premises.

All equipment, furniture and trade fixtures installed or placed in the Premises by Tenant shall remain the property of Tenant and may be removed by Tenant, at its own cost and expense, at any time before the expiration of ten (10) days after the termination of this Lease; provided, however, that (i) such removal shall not impair the structural integrity of the improvements then located on the Premises, or leave the heating, ventilation, cooling, electrical or plumbing systems thereon incomplete, and (ii) if any such damage to improvements results from such removal, Tenant shall repair such damage immediately at its own cost and expense.

12. SUBORDINATION AND NONDISTURBANCE. Upon request of Landlord, Tenant agrees to execute and deliver a written agreement subordinating this Lease and Tenant's rights under this Lease to the lien of any real estate mortgage or bond issue on the Premises granted by Landlord to a mortgagee, lender, or other; provided, however, that any such written agreement shall provide that so long as there is not outstanding a continuing event of default by Tenant in any term, condition, covenant, or agreement of this Lease, the leasehold estate of the Tenant, its successors and assigns, created under this Lease and Tenant's peaceful and quiet possession, use, and enjoyment of the Premises shall be undisturbed by any foreclosure of said mortgage or bond issue.

13. INSURANCE. Without limiting any of the other obligations or liabilities of the Tenant, the Tenant shall secure and maintain at its own cost and expense, throughout the term of this Agreement and until the services are provided and accepted by the City, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Lease Agreement. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City. Regardless of such approval, it shall be the responsibility of the contractor to maintain adequate insurance coverage at all times during the term of the Lease Agreement. Failure of the Tenant to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability under the Agreement.

The certificates of insurance, including evidence of the required endorsements hereunder or the policies, shall be filed with the City within ten (10) days after the date of the receipt of Notice of Award of the Contract to the Tenant and prior to the start of work. All insurance policies shall provide thirty (30) days written notice to be given by the insurance company in question prior to modification or cancellation of such insurance and shall list the City as additional insured. Such notices shall be mailed via certified mail, return receipt requested, to:

City of Willard - City Clerk - P.O. Box 187, Willard, MO 65781

The minimum coverage for the insurance referred to herein shall be in accordance with the

requirements established below:

A. Workers' Compensation: Statutory coverage per RS.Mo. 287.010 et seq
Employer's Liability: \$1,000,000.00

B. Commercial General Liability Insurance: Including coverage for Premises, Operations Products and Completed Operations, Contractual Liability, Broad Form Property Damage, Independent Contractors, Explosion, Collapse, and Underground Property Damage and endorsed for blasting if blasting required. Such coverage shall apply to Bodily Injury and Property Damage on an "Occurrence Form Basis" with limits of **Two Million Six Hundred Eighteen Thousand Two Hundred Thirty Dollars (\$2,618,230)** for all claims arising out of a single accident or occurrence and **Three Hundred Ninety-Two Thousand Seven Hundred Thirty-Four Dollars (\$392,734)** for any one person in a single accident or occurrence.

C. Automobile Liability Insurance: Covering Bodily Injury and Property Damage for owned, non-owned and hired vehicles with limits of Two Million Six Hundred Eighteen Thousand Two Hundred Thirty Dollars (\$2,618,230) for all claims arising out of a single accident or occurrence and Three Hundred Ninety-Two Thousand Seven Hundred Thirty-Four Dollars (\$392,734) for any one person in a single accident or occurrence.

D. Tenant shall also pay for and keep in force with a Qualified Carrier, fire insurance (with extended coverage and vandalism and malicious mischief coverage), water damage and sprinkler leakage insurance, on the standard forms, insuring all of Tenant's property in the Premises, and all betterments, additions, repairs, improvements and alterations made to the Premises by Tenant, in an amount equal to 100% of the replacement cost thereof excluding Tenant's personal inventory, during the Lease Term. The proceeds of the policies of such insurance shall be held in trust by Tenant for use in repairing and restoring the items covered thereby. Tenant shall continually provide Landlord with a certificate or other evidence of such insurance (the first of which shall be provided prior to the Commencement Date), which shall provide that the insurer will give Landlord at least 10 days' written notice prior to any lapse, cancellation of or material change in such insurance.

14. INDEMNIFICATION. Except with respect to Landlord's willful misconduct or gross negligence, Tenant shall defend all actions against Landlord with respect to, and shall pay, protect, indemnify and save harmless the Landlord from and against, any and all liabilities, lawsuits, damages, costs, expenses (including reasonable attorneys' fees and expenses), causes of action, claims, demands, or judgments of any nature (i) to which the Landlord is subject to because of the Landlord's interest in the Premises, or (ii) arising from (1) injury to or death of any person, or damage to or loss of property, on the Premises or on adjoining sidewalks, streets or ways, or connected with the use, condition or occupancy of the Premises by Tenant, (2) Tenant's violation or breach of this Lease, or (3) any act or omission of Tenant or its agents, contractors, licensees, sub-licensees, invitees or employees.

15. FIRE OR OTHER CASUALTY. In the event the Premises is partially or totally destroyed or damaged by fire or other casualty, Landlord may, at its option, terminate this Agreement, and in such event, the Base Rent hereunder shall be prorated for such month during which Landlord's termination occurs and shall not be due thereafter. In the event the Landlord does not so terminate this Lease, then, subject to the following provisions of this Section, Landlord may proceed as soon as is reasonably practicable, at its sole cost and expense to the extent of insurance proceeds available, if any, to repair and restore the Premises to substantially the same condition as that before the damage occurred; provided, further, the Base Rent due from Tenant hereunder shall be abated during the period of restoration to the extent of

the unusable portion of the Premises. In the event Landlord does not complete such repair and restoration within six months from the date of damage or destruction, Tenant may terminate this Agreement. In the event the damage or destruction to the Premises through fire or other casualty is directly or indirectly attributable to any act of fault or negligence on the part of Tenant, and/or its agents, employee, licensees, or invitees, then (i) such damage or destruction to the Premises shall be promptly repaired by Tenant, at its sole cost and expense; (ii) the Base Rent shall not abate during such period of restoration and refurbishment; (iii) Tenant shall not be entitled to terminate this Agreement; and (iv) Tenant shall fully reimburse Landlord for all costs and expenses, including responsible attorneys' fees, incurred by Landlord on behalf of Tenant in connection with undertaking the obligations of Tenant hereunder.

16. DEFAULT.

(a) By Tenant. If Tenant shall be declared bankrupt, be placed in receivership or take advantage of any law for the relief of debtors, or in the event of any failure of Tenant to pay any charges, rents or fees due hereunder for more than *five* days after due, or any failure by Tenant to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by Tenant for more than twenty (20) days after written notice of such failure shall have been given to Tenant (unless such failure is of such a nature that it commenced the cure thereof within such twenty (20) day period and thereafter proceeded with reasonable diligence and in good faith to remedy such failure), Tenant shall be in default hereunder and Landlord shall have the right and option to pursue all of its legal remedies including, without limitation, the right to terminate this Lease, to re-enter the Premises as agent of Tenant, and to evict Tenant and to *remove* Tenant's possessions, all without being deemed guilty of any trespass and without prejudice to any claim by Landlord for damages for breach of this Lease or for arrears of rent or any other amounts due hereunder.

(b) By Landlord. In the event of any failure by Landlord to perform any of the terms, conditions and covenants of this Lease to be observed or performed by Landlord for more than twenty (20) days after written notice of such failure shall have been given to Landlord (unless such failure is of such nature that it cannot be cured within such twenty (20) day period and thereafter proceeded with reasonable diligence and in good faith to remedy such failure), Landlord shall be in default hereunder, and Tenant may (i) terminate this Lease by giving thirty (30) days written notice to Landlord, or (ii) pursue any remedy at law or in equity that Tenant may have as a result of Landlord's default, including, but not limited to, seeking specific performance of this agreement.

(c) Mitigation of Damages. Each party agrees that it has a duty to mitigate damages and covenants and that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other party's performance or non-performance of this Agreement.

(d) Limitation of Landlord's Liability. As used in this Lease, the term "Landlord" means only the current owner or owners of the fee title to the Premises at the time of question. Each Landlord is obligated to perform the obligations of Landlord under this Lease only during the time such Landlord owns such interest or title. Any Landlord who transfers its title or interest is relieved of all liability with respect to the obligations of Landlord under this Lease accruing on or after the date of transfer, and Tenant agrees to recognize the transferee as Landlord under this Lease.

17. Enforcement. In the event either party to this Lease obtains legal counsel and/or commences legal proceedings to enforce any right under this Lease or to obtain relief for the breach of any term, condition, or covenant herein, the party ultimately prevailing (or substantially prevailing) in such proceedings shall be entitled to recover from the other party the reasonable costs and expenses of

such proceedings, including reasonable attorney fees.

18. Notices. Any notice given hereunder shall be in writing and may be delivered in person or be sent by certified or registered mail, postage prepaid, addressed to the party to receive same at the address of such party shown on the signature page hereof or such other address as such party may hereafter furnish to the other in writing. Any notice mailed in accordance with the preceding sentence shall be deemed to have been served at the time it is received.

19. Memorandum of Lease. At the request of either party, the parties shall also execute and deliver a short form memorandum of this Lease in the real estate records of Greene County, Missouri.

20. Environmental Matters.

(a) Prohibition Against Hazardous Substances. During the Lease Term, Tenant shall not allow at any time the storage, disposal, discharge, burial, incineration, or use of any Hazardous Substances on the Premises unless otherwise in compliance with any and all applicable laws, statues, ordinances or regulations, in addition to Environmental Laws. Tenant shall indemnify and hold the Landlord harmless from and against all claims for or on account of or arising out of any violation of any Environmental Law by Tenant with respect to the Premises, or disposal of or release of any Hazardous Substance on the Premises by Tenant, for any period during the Lease Term. Further, in the event of a violation by Tenant of the terms of this Lease Agreement, the Landlord may elect to terminate this Lease by written notification to Tenant.

(b) Definitions. For purposes of this Paragraph, the following terms shall have the following meanings:

(i) The term "Environmental Law" shall mean and be defined as any federal, state or local law, statute, ordinance, or regulation pertaining the health, industrial hygiene or the environmental conditions on, under, or about the Premises, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, the Resource Conservation and Recovery Act of 1976 ("RCRA"), also known as the Super Fund Amendments and Authorization of 1986 ("SARA").

(ii) The term "Hazardous Substance" shall mean and be defined herein as those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in CERCLA, RCRA, SARA and the Hazardous Materials Transportation Act, as amended, and in the regulations promulgated pursuant to such laws, together with such substances listed in the United States Department of Transportation Table or by the Environmental Protection Agency (or any successor agency) as hazardous substances, together with any other substances, materials, and wastes which are or become

regulated under application local, state, or federal law, or which are classified as hazardous or toxic under federal, state, or local law.

21. Assignment and Subletting. Tenant shall not assign this Lease in whole or in part, or sublet all or any part of the Premises, without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld. Landlord may assign this Lease without the prior consent of the Tenant.

22. Signs. Tenant shall have the right to erect and/or replace a suitable, professional sign on the Premises, subject to compliance with all applicable laws, ordinances, orders, rules, regulations or requirements of any applicable governmental entity and also subject to Landlord's prior written approval, which shall not be unreasonably withheld or delayed.

23. Utilities. Tenant agrees to pay for all gas, electric, basic cable television service, water, sewer and trash services that serves or is utilized upon the Premises during the Lease Term. The Utilities will be prorated according to the square feet of the premises leased by the Tenant.

24. Execution. This Agreement is executed in multiple originals as of the date first above written and shall be binding upon and shall inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns. The Paragraph captions used herein are for convenience only and shall not be deemed to have been included for any other purpose.

25. Severability. A determination by a court of competent jurisdiction that any provision of the Lease is invalid or unenforceable shall not cancel or invalidate the remainder of that provision of this Lease, which shall remain in full force and effect.

26. Amendments or Modifications. This Lease is the only agreement between the parties pertaining to the lease of the Premises, and no other agreements are effective unless made a part of this Lease. All amendments to the Lease must be in writing and signed by all parties. Any other attempted amendment shall be void.

27. Survival. All obligations of any party to this Lease which are not fulfilled at the expiration or the termination of this Lease shall survive such expiration or termination as continuing obligations of the party.

28. Binding Effect. This Lease shall be to the benefit of, and be binding upon, each of the parties to this Lease and their respective heirs, representatives, successors, and assigns. However, Landlord shall not have any obligation to Tenant's successors and assigns unless the rights or interests of the successors or assigns are acquired in accordance with the terms of this Lease.

29. Time of the Essence. Time is of the essence for this Lease and each and every covenant, term, condition, and provision hereof.

30. Governing Law. The laws of the jurisdiction in which the Premises are located shall govern the validity, performance and enforcement of this Lease.

31. Waiver of Jury Trial. AS A SPECIFICALLY BARGAINED INDUCEMENT FOR LANDLORD TO AGREE TO LEASE THE PREMISES TO TENANT, TENANT HEREBY EXPLRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR

PROCEEDING RELATED TO THIS LEASE OR ARISING IN ANY WAY FROM
TENANT'S USE OF THE PREMISES OR LANDLORD'S OBLIGATIONS RELATED
THERE TO.

IN WITNESS WHEREOF, the parties hereto have executed this
agreement as of the Effective Date.

LANDLORD:

City of Willard, a Municipal
Corporation

Mayor

Notice to:

City of Willard
P.O. Box 187
Willard, Missouri 65781
Attn: City Clerk

With Copy to:

Mr. Ken Reynolds
Attorney at Law
1548 E. Primrose
Springfield, Missouri 65804
Attn: Mr. Ken Reynolds

TENANT:
