



ROUTING ORDER	(1) ORIGINATING DEPARTMENT	(2) LICENSEE	(3) FINANCE DEPARTMENT
	(4) LAW DEPARTMENT	(5) CITY MANAGER'S OFFICE	(6) CITY CLERK'S OFFICE
EFFECTIVE DATE	TERMINATION DATE	CONTRACT NUMBER:	
(X) NEW CONTRACT			
SPRINGFIELD		SAFEACROSS LICENSEE	
City of Springfield 840 Boonville, P.O. Box 8368 Springfield, MO 65802 Phone: (417) 864 1801 Fax: (417) 864 1983 Attn: Mandy Buettgen-Quinn		City of Jackson 101 Court Street Jackson, MO 63755 Phone: (573) 243-2300 Fax: (573) 243-3322 Attn: Janet Sanders Email: jsanders@jacksonmo.org	

SAFEACROSS – SERVICES CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____, 20____, by the parties identified above,

WITNESSETH:

THAT, WHEREAS, the City of Springfield ("Springfield") is the distributor of the program known as "SafeAcross", which is a pedestrian safety program that aims to increase safety in crosswalks; and

WHEREAS, the program implementation guide and generic resources of SafeAcross are available to this Licensee and other approved participating communities/states free of charge; and

WHEREAS, SafeAcross is comprehensive program that utilizes public education, engineering, public engagement, data evaluation and other elements to promote a pedestrian friendly culture within a community; and

WHEREAS, the SafeAcross campaign is built around an iconic statue installation, called "Mr. Walker" functions as the spokesperson relaying pedestrian safety information to the public; and

WHEREAS, the above-named community ("Licensee") has expressed interest in implementing the SafeAcross program and has received a license to use SafeAcross-related images, signs, and other intellectual property;

NOW, THEREFORE, for the considerations herein expressed, it is agreed by and between Springfield and Licensee as follows:

1. **Services.** Springfield agrees to provide the services and training hereinafter set forth in **Exhibit A** in accordance with the ordinary standard of care, skill and expertise in performing similar services. No services shall be provided by Springfield until this Contract has been fully executed.

2. **Addition to Services.** Licensee may add to the services or delete therefrom activities of a similar nature as provided in **Exhibit B**, provided that the total cost of such work does not exceed the total cost allowance as specified in Paragraph 7 hereof. All such directives and changes shall be in written form and prepared and approved by the Licensee and accepted and countersigned by Springfield.

3. **Exchange of Data.** All information, data, and reports in a party's possession necessary for the carrying out of the services related to this Contract, shall be furnished to the other without charge, and the parties shall reasonably cooperate in connection with this Contract.

4. **Personnel.** Springfield represents that it will secure, at its own expense, all personnel required to perform the services called for under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Licensee except as employees or independent contractors of Springfield. All of the services required hereunder will be performed by Springfield or under its direct supervision and all personnel engaged in the services shall be fully qualified and shall be authorized under state and local law to perform such services.

5. **Term.** The services of Springfield shall commence as soon as practicable after the execution of this Contract, unless otherwise directed in writing by Licensee, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the Contract, but in any event, all of the services required hereunder shall be completed as set forth in the schedule for the project which is attached hereto as **Exhibit A**.

6. **Costs not to Exceed.** The City of Springfield is limited by law with respect to the amount of money it can pay. Therefore, the City has established a fixed sum for this Contract which cannot be exceeded unless this Contract is amended in writing. The Contractor providing services hereunder shall be required to keep track of the amount of hours billable under this Contract at all times; and any work in excess of the fixed sum for this Contract shall not be eligible for payment. The Contractor shall promptly notify the City if Contractor anticipates that the Contract amount may be exceeded, in order to determine whether or not the City is prepared to increase the total compensation. The Contractor shall establish a billing system documenting the amount of money remaining on the Contract which shall be shown in each incremental billing statement.

7. **Payment.**

a. **Conditioned upon acceptable performance.** Provided Springfield performs the services in the manner set forth in Paragraph 1 hereof, Licensee agrees to pay Springfield in accordance with the terms set forth in **Exhibit A**, which shall constitute complete compensation for all services to be rendered under this Contract. The services and resources in **Exhibit A** developed with the assistance of Highway Safety Program funds are available without charge.

b. **Total compensation not to exceed.** It is expressly understood that in no event will the total compensation and reimbursement to be paid to Springfield under the terms of this Contract exceed the sum of **Zero and no/100 Dollars (\$0.00)**.

8. **Termination of Contract.**

a. **Termination for breach.** Failure of the Licensee to fulfill Licensee's obligations under this Contract, or under the terms of the SafeAcross Intellectual Property License Agreement, in a timely and satisfactory manner in accordance with the schedule and description of services set forth in **Exhibit A** shall constitute a breach of the Contract, and Springfield shall thereupon have the right to immediately terminate the Contract. The City shall give written notice of termination to the Contractor by one of four different means: Facsimile Transmission ("FAX") if Contractor has a FAX number; U.S. Postal Service Mail; or by hand delivering a copy of the same to the Contractor; or by electronic mail to the address indicated below; or may give notice by any combination of the above methods. The date of termination shall be the date upon which notice of termination is hand delivered to Contractor or given by FAX or electronic mail, or the third day following mailing of the notice of termination, whichever first occurs.

b. **Termination for Convenience.** The parties shall have the right at any time upon 15 days' written notice to terminate and cancel this Contract, without cause, for the convenience of the parties, and Springfield shall immediately stop work upon issuance of such notice. In such event Licensee shall not be liable to Springfield except for payment for actual work performed prior to such notice in an amount proportionate to the completed contract price and for the actual costs of preparations made by Springfield for the performance of the cancelled portions of the Contract, including a reasonable allowance of profit applicable to the actual work performed and such preparations. Anticipatory profits and consequential damages shall not be recoverable.

9. **Conflicts.** No salaried officer or employee of Springfield and no member of Springfield City Council shall have a financial interest, direct or indirect, in this Contract. A violation of this provision renders the Contract void. Any applicable federal regulations and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Licensee covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services to be performed under this Contract. Licensee further covenants that in the performance of this Contract no person having such interest shall be employed or compensated by Licensee.

10. **Assignment.** This Contract shall extend to and be binding upon the parties hereto and their respective successors and assigns. Licensee 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 Springfield. In the event Springfield no longer administers the SafeAcross program, Springfield may assign this Contract without Licensee's prior written consent.

11. **Confidentiality of Documents.** Any reports, data, design or similar information given to or prepared or assembled by the parties under this Contract which a party requests to be kept as confidential shall not be made available to any individual or organization by without prior written approval of the other party, unless disclosure is otherwise required by law.

12. **Discrimination.** The parties agree in the performance of this Contract not to discriminate on the ground or because of race, color, religion, sex, sexual orientation, gender identity, national origin, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of the parties or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a), if applicable.

a. The parties and any authorized subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

b. The parties and any authorized subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

13. **Compliance with Laws.** The parties agree to comply with all applicable federal, state and local laws and rules and regulations applicable to the provision of services and products hereunder.

14. **General Independent Contractor Clause.** This Contract does not create an employee/employer relationship between the parties. It is the parties' intention that Springfield will be an independent contractor and not the Licensee's employee for all purposes, including, but not limited to: the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Missouri revenue and taxation laws, Missouri workers' compensation and unemployment insurance laws.

15. **Liability and Indemnity.** The parties mutually agree to the following:

a. To the fullest extent permitted by law, Springfield will not be liable to Licensee or any other person for any injury or loss of goodwill, reputation, business, production, revenues, profits, anticipated profits, contracts, or opportunities (regardless of how these are classified as damages), or for any consequential, incidental, indirect, exemplary, special, punitive, or enhanced damages whether arising out of breach of contract, tort (including negligence), strict liability, product liability, or otherwise (including the entry into, performance, or breach of this Agreement), regardless of whether such loss or damage was foreseeable or the party against whom such liability is claimed has been advised of the possibility of such loss or damage, and notwithstanding the failure of any agreed or other remedy of its essential purpose.

b. In no event shall Springfield be liable to Licensee for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct directly and solely resulting in a breach of this contract. The maximum liability of the City shall be limited to the amount of money to be paid or received by the City under this Contract.

c. Licensee shall defend, indemnify, and hold Springfield harmless from and against all claims, including but not limited to losses, and liabilities arising out of personal injuries, including death, and damage to property, which are caused by Licensee arising out of or in any way connected with this Contract.

d. Licensee shall indemnify and hold Springfield harmless from all wages or overtime compensation due Licensee's employees in rendering services pursuant to this Contract, including payment of reasonable attorney fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law.

16. **Attorney Fees.** In the event of any litigation arising from breach of this Agreement Springfield shall be entitled to recover from Licensee all reasonable costs incurred for such litigation, including staff time, court costs, attorney fees, and all other related expenses incurred in such litigation.

17. **Insurance.** Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall secure and maintain at its own cost and expense, throughout the duration of this Contract and until the work is completed and accepted by the City of Springfield, insurance of such types and in such amounts as may be necessary to protect it and the interests of the City of Springfield against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Contract Documents. The form and limits of such insurance, together with the underwriter thereof in each case, are subject to approval by the City of Springfield. 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 Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability in general or under the Contract Documents.

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 Contractor and prior to the start of work. All insurance policies shall require that the insurance company in question provide thirty (30) days written notice prior to modification or cancellation of such insurance. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Springfield - Public Works, P.O. Box 8368, Springfield, MO 65801-8368; and

Such policies shall name the City as an additional insured.

As of January 1, 2022, the minimum coverage for the insurance referred to herein shall be as set out below:

- a. Workers' Compensation....Statutory coverage per RSMo 287.010 et seq.
Employer's Liability..... \$1,000,000.00
- b. Commercial General Liability Insurance, including coverage for Contractual Liability and Independent Contractors Liability. Such coverage shall apply to bodily injury and property damage on an "Occurrence Form Basis" with limits of at least Three Million and 00/100 Dollars (\$3,000,000) for all claims arising out of a single accident or occurrence. Contractor agrees that the proceeds of such insurance policy shall first be used to pay any award, damages, costs, and/or attorneys' fees incurred by or assessed against City, its employees, officers and agents, before payment of any award, damages, costs or attorneys fees of Contractor, its employees, officers or agents. Contractor agrees to cause its insurer to name City as an additional insured on such insurance policy, including the City as an additional insured for coverage under its products-completed operations hazard, and said policy shall be primary and noncontributory.
- c. Automobile Liability Insurance covering bodily injury and property damage for owned, non-owned and hired vehicles, with limits of at least Three Million and 00/100 Dollars (\$3,000,000) for all claims arising out of a single accident or occurrence.

18. **Notices.** All notices required or permitted hereinunder and required to be in writing may be given by FAX, electronic mail (if to Contractor), or by first class mail addressed to Springfield or Licensee at the addresses shown above. The date of delivery of any notice provided by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by FAX transmission or electronic mail (if to Contractor) shall be deemed to be the date transmission occurs, except where the transmission is not completed by 5:00 p.m. on a regular business day at the location of the receiving party, in which case the date of delivery shall be deemed to fall on the next regular business day for the receiving party.

19. **Force Majeure.** Neither party will be in default by reason of any failure or delay in the performance of such party's obligations hereunder where such failure or delay is due to any circumstance or cause beyond its reasonable control, including strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, pandemic, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, or fluctuations or non-availability of electrical power.

20. **DISCLAIMERS OF WARRANTIES.** EXCEPT AS EXPRESSLY SET FORTH ABOVE, SPRINGFIELD DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, CONCERNING THE VALIDITY, ENFORCEABILITY, AND SCOPE OF THE LICENSED PRODUCTS, THE ACCURACY, COMPLETENESS, SAFETY, USEFULNESS FOR ANY

PURPOSE, OR LIKELIHOOD OF SUCCESS (COMMERCIAL, REGULATORY OR OTHER) OF THE LICENSED PRODUCTS, AND ANY OTHER TECHNICAL INFORMATION, TECHNIQUES, MATERIALS, METHODS, PRODUCTS, PROCESSES, OR PRACTICES AT ANY TIME MADE AVAILABLE BY RIVER SPEED LLC, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, RIVER SPEED LLC WILL HAVE NO LIABILITY WHATSOEVER TO LICENSEE OR ANY OTHER PERSON FOR OR ON ACCOUNT OF ANY INJURY, LOSS, OR DAMAGE, OF ANY KIND OR NATURE, SUSTAINED BY, OR ANY DAMAGE ASSESSED OR ASSERTED AGAINST, OR ANY OTHER LIABILITY INCURRED BY OR IMPOSED ON LICENSEE OR ANY OTHER PERSON, ARISING OUT OF OR IN CONNECTION WITH OR RESULTING FROM (A) THE MANUFACTURE, USE, OFFER FOR SALE, SALE, OR IMPORT OF A LICENSED PRODUCT; (8) THE USE OF OR ANY ERRORS OF OMISSIONS IN ANY KNOW-HOW, TECHNICAL INFORMATION, TECHNIQUES, OR PRACTICES DISCLOSED BY SAFEACROSS; OR (C) ANY ADVERTISING OR OTHER PROMOTIONAL ACTIVITIES CONCERNING ANY OF THE FOREGOING.

21. **Jurisdiction.** This Contract and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this Contract be litigated, venue shall be proper only in the Circuit Court of Greene County, Missouri.

22. **Entire Agreement.** This Contract and all referenced Exhibits contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this Contract shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto evidence their agreement to the terms of this Contract by their signatures below.

CITY OF SPRINGFIELD, MISSOURI

SAFEACROSS LICENSEE:

By: _____
City Manager or designee

By: _____

Name & Title: Dwain Hahs, Mayor

APPROVED AS TO FORM

APPROVED AS TO FORM

City Attorney or designee

City Attorney or designee

Exhibit A to SafeAcross Agreement

Products and Services

Basic Scope of Work (Job Description)	<ol style="list-style-type: none">1) Login Information – SafeAcross will supply licensee with a login and password to the password-protected resources on www.safeacross.com.2) Implementation Manual – The step-by-step outline of the implementation will be accessible online and routinely updated by SafeAcross to provide updated and relevant information.3) Forms, Reports, Templates, Guidance Documents – SafeAcross.com provides digital access to all generic documents and SafeAcross will notify host communities about important updates.4) Educational and Promotional Materials - SafeAcross provides digital access to all generic documents and notifies host communities about important updates.5) The following services are available only if City receives grant funding to administer the SafeAcross program:<ol style="list-style-type: none">a. Quarterly Host Meetings – SafeAcross facilitates quarter-annual virtual meetings for all license holders to attend and exchange updates.b. Telephone support – SafeAcross representatives will be on call once a week for an hour to provide guidance and support to the Licensee.c. Commitment to process - SafeAcross will provide Licensee with periodic updates to materials and program strategies based upon research results and continuous program improvement.
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Exhibit B

Additional Services Available
No additional services available at this time.