

AGREEMENT ADDENDUM

THIS AGREEMENT ADDENDUM is made this ____ day of _____, 20____, by and between the City of Republic, Missouri (“City”) and Anderson Engineering, Inc. (“Engineer”).

WHEREAS, the City is a municipal corporation and Charter City located in Greene County, Missouri, and

WHEREAS, Engineer is a corporation in good standing authorized to conduct business in the State of Missouri, and

WHEREAS, Engineer has made written proposal to provide engineering services related to intersection improvements at Hines & Lynn in the City, which proposal is anticipated to be part of the Agreement between the Parties, and

WHEREAS, in order to clarify the terms of the Agreement, the Parties desire to include this Addendum.

THEREFORE, IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. **Costs Not to Exceed**: The City is limited by law with respect to the amount of money it can pay. Therefore, the Parties have established fixed sums, including maximum amounts, which cannot be exceeded without amendment to the Agreement. As to costs incurred on an hourly (or other) rate and expenses billable under the Agreement, Engineer shall be required to keep track of the rate time and expenses, and any amounts in excess of that fixed or otherwise authorized under the Agreement shall not be eligible for payment. Engineer shall notify the City if Engineer anticipates that the Agreement amounts may be exceeded in order to determine whether or not the City is prepared to increase the total compensation. Engineer shall establish a billing system showing the amount of money remaining on the Agreement, which shall be shown in each monthly billing.
2. **Supplemental and Additional Services**: Should City desire or need any supplemental and/or additional services related to the Agreement, City shall have the right to use their own employees or contractors or enter into an agreement addendum with Engineer for any supplemental and/or additional services. Such decision shall be within the sole discretion of the City.
3. **Jurisdiction and Venue**: This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. The Parties agree that any disputes or litigation that may arise out of this Agreement shall be litigated in the Circuit Court of Greene County, Missouri. The Parties agree to submit themselves to the jurisdiction of such court and waive any defenses they may have to lack of jurisdiction over the person or subject matter. The Parties do hereby further consent and stipulate venue shall be proper in Greene County, Missouri in any such actions.
4. **No Assumption of Liability**: Nothing in this Agreement shall be construed to create any liability on behalf of the City, including its officers, employees, agents, attorneys, or assigns, for any direct, special, indirect, liquidated, consequential, or damages of any kind, or for attorney fees.

5. **Indemnification/Hold Harmless:** The Parties acknowledge that Missouri law does not authorize a public entity to indemnify a private company. In any event, the City does not agree to indemnify or hold harmless Engineer. To the extent, if any, that any part of the Agreement suggests otherwise, that part is deleted. Nothing in this Agreement shall be construed to create any obligation by the City to indemnify or hold harmless Engineer, including its officers, employees, agents, attorneys, successors, or assigns; or any third-party.

6. **Independent Contractor:** The Parties are separate and independent from each other. This Agreement shall not be construed as creating any type of joint venture or partnership.

7. **City Benefits:** Engineer, including its officers, employees, agents, attorneys, successors, or assigns are not employees of City and shall not be entitled to any of the benefits established for the employees of the City nor be covered by Workers' Compensation through the City, including that they shall not be construed as statutory employees.

8. **Conflict of Interest:** No salaried officer or employee of the City, and no member of City Council, shall have a financial interest, direct or indirect, in this Agreement. A violation of this provision renders this Agreement void.

9. **E-verify:** All applicable law shall be complied with in the course of performing acts related to this Agreement. This includes that Engineer shall comply with all applicable laws regarding classification of employees, such as pursuant to § 285.500, RSMo. et al., and regarding verification of eligibility for employment, such as pursuant to § 285.530, RSMo. et al. For all contracts related to this Agreement, including this Agreement, Engineer will provide necessary affidavit(s) to show enrollment in a federal work authorization program that Engineer does not knowingly employ any person who is an unauthorized alien in connection with the contracted service.

10. **Proof of Lawful Presence:** All applicable law shall be complied with in the course of performing acts related to this Agreement. This includes that Engineer shall comply with all applicable laws regarding prohibiting persons who are unlawfully present in the United States of America from receiving any public benefit as a result of the Agreement, such as § 208.009, RSMo. Affirmative representations of lawful presence may be established through an authorized officer of Engineer providing documentary evidence, including such recognized by the department of revenue when processing an application for a driver's license, a Missouri driver's license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States.

11. **Certificates of Insurance:** All insurance required under the Agreement shall be filed with the City within ten (10) days after the effective date of the Agreement and prior to the start of work, by providing the City with a Certificate of Insurance, including evidence of the required enforcements hereunder or the policies. All insurances 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. Such notices shall be mailed, certified mail, return receipt requested, to:

City of Republic, 213 North Main, Republic, MO 65738

12. **Professional/Occupational/Business Licenses:** Engineer represents that it and all the individuals through whom it may act in providing services contemplated under this Agreement are authorized to conduct business and shall maintain such professional/occupational/business licenses as are required by law to provide the services contemplated by this Agreement. All such costs shall be borne by Engineer.

13. **Nonresident/Foreign Contractors:** Engineer shall procure and maintain during the life of this Agreement:

a. If Engineer is a foreign corporation, a certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt under applicable law, such as § 351.572, RSMo.

b. A certificate from the Missouri Director of Revenue evidencing compliance with the transient employer financial assurance law, unless exempt under applicable law, such as § 285.230, RSMo.

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

15. **Execution:** The Parties agree that signatures transmitted by facsimile or scanned and emailed shall have the same legal effect of original signatures. This Agreement may also be executed in accordance with the applicable version of the Uniform Electronic Transactions Act (UETA) and the Electronic Signatures in Global and National Commerce Act (ESIGN). The Parties hereto agree to conduct transactions by electronic means and hereby affirmatively consent to use electronic records to memorialize and execute this Agreement and any alterations thereto. At the request of any Party, the Parties shall promptly exchange executed original counterparts of this Agreement or any amendment.

16. **Headings:** The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning thereof.

17. **Whereas Clauses:** The “Whereas” clauses stated above are incorporated herein by reference.

18. **Assignment:** This Agreement may not be assigned by Engineer without the prior written consent of all Parties.

19. **Public Entity/Officer Immunities and Protections:** In no event shall the language or requirements of this Agreement constitute or be construed as a waiver or limitation of rights or defenses with regard to applicable sovereign, governmental or official or individual immunities and any other protections or defenses as provided by federal and state constitutions, statutes, and laws. This includes that no insurance policies or coverage

required by this Agreement will be construed to waive such public entity or officer immunities or protections. Engineer represents that it will, and shall, require and arrange that all insurance policies or coverage required by this Agreement will include substantially the language of this provision.

20. **Severability Clause:** A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part, of this Agreement shall not affect the validity of the remaining parts of this Agreement.

21. **Contingent Upon Funds and Approval:** This Agreement is contingent upon the City having sufficient funds available for the subject of this Agreement. Engineer shall have no right of action against City in the event City is unable to perform its obligations under this Agreement as a result of insufficient funds. Further, this Agreement is subject to and conditioned upon approval on the record by the City Council.

22. **Inconsistencies:** To the extent there are any conflicts or inconsistencies between the Addendum and Agreement, or any contract document or understanding and the Addendum, the Addendum supersedes and shall govern.

23. **Contract Documents:** The Agreement consists of:
a. this Addendum;
b. the document captioned “agreement,” including Engineer’s proposal described therein as “exhibit A,” and “exhibit B,” and the attached documents, including fee and material schedules.

24. **Notices:** Any notice, request or demand provided for in this Agreement shall be deemed to have been given when the same shall have been personally delivered to the following offices or deposited in the United States Mail, registered or Certified, with postage thereon prepaid as follows:

To the City:

City of Republic, Missouri
Attn: City Administrator
213 North Main Street
Republic, MO 65738

To Engineer:

Anderson Engineering, Inc.
3213 S. West Bypass
Springfield, MO 65807

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties have caused this to be signed by their duly authorized representatives, the day and year set forth below.

Anderson Engineering, Inc.

Andrew T. Novinger

Signature

Dated: 9-3-21

Andrew T. Novinger, Vice President
Printed Name and title

City of Republic, Missouri

Signature

Dated: _____

David Cameron, City Administrator

Attest: Laura Burbridge, City Clerk

Approved as to form:

DocuSigned by:
Damon Phillips 9/2/2021

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Damon Phillips, City Attorney