

SERVICES AGREEMENT

THIS AGREEMENT (“Agreement” and/or “Agreement”), made and entered into this ____ day of ____, 20____, by and between City of Republic, Missouri (the “City”) and Grooms Office Environments (“Grooms” and/or “Contractor”), (together, “the Parties”) shall be governed by the following terms and conditions:

WITNESSETH:

WHEREAS, City wishes to enter into an agreement with Grooms for the provision of certain services as further described herein below in paragraph (1) (“Services”); and

WHEREAS, Contractor wishes to provide the Services to City in exchange for fair and adequate consideration.

NOW, THEREFORE, for the consideration stated herein below, the validity and sufficiency of which is acknowledged by the Parties, it is agreed by and between City and Contractor as follows:

1. **Services.** City agrees to engage the Services of Contractor and Contractor agrees to perform furniture consultation and design support services, including the sale and installation of certain furniture and furnishings for City’s BUILDS Department’s new facility, as more fully detailed in **EXHIBIT A**, attached hereto and incorporated by reference herein. The Services shall be provided by Contractor in accordance with the standard of care, skill, and expertise ordinarily used by other members of Contractor’s profession in performing similar Services. Contractor shall furnish all supervision, labor, tools, equipment, materials, and supplies necessary to perform the Services.

2. **Exchange of Data.** All information, data, and reports in City’s possession and necessary for the carrying out of the work, shall be furnished to Contractor without charge, and the Parties shall cooperate with each other in every way possible in carrying out the scope of Services.

3. **Personnel.** Contractor shall secure, at its own expense, all personnel required to perform the Services. Such personnel shall not be employees of or have any contractual relationship with City, except to the extent such a relationship exists by way of this Agreement as employees of Contractor. The Services shall be performed by Contractor, or under Contractor’s direct supervision, and all personnel engaged in performing the Services shall be fully qualified and authorized under local, state and federal law to perform such Services. None of the Services covered by this Agreement shall be subcontracted without the written approval of City.

4. **Term.** Contractor shall fully complete provision of the Services by no later than May 1, 2023.

5. **Payment Conditioned upon Acceptable Performance and Total Payment Not-to-Exceed.** Provided Contractor performs the Services in the manner set forth herein, City and Contractor agree the total compensation paid to Contractor will be mutually agreed upon by and between the Parties, but in no event will exceed the amount of four hundred thousand dollars (\$400,000). City expressly reserves the right to disapprove in whole or in part a request for payment where the Services rendered during the period for which payment is claimed are not performed in a timely and satisfactory manner in accordance with the fee schedule and description of Services set forth herein.

6. Termination of Agreement.

a. This Agreement may be terminated by either party without cause, upon ninety (90) days

written notice. This Agreement may be terminated with cause upon twenty-four (24) hours written notice. In either such event, final payment to Contractor shall be limited to Services provided by Contractor as of the effective date of said termination. In any event, this Agreement shall terminate automatically upon the termination of funding in City's budget for the work. The final commission payment by Contractor to City shall be limited to Services provided by Contractor as of the effective date of said termination.

- b. Noncompliance with any portion of the Agreement, or violation of State, Federal, or local law will be just cause for immediate termination of this Agreement. Just cause may include any other grounds determined by City to be just cause.
- c. This Agreement may be terminated by City without penalty or other monies or damages owed to Contractor in the event the City Council for the City of Republic, Missouri declines or otherwise fails to approve and/or appropriate funds for this Agreement.

7. **City's Right to Proceed.** In the event this Agreement is terminated pursuant to the provisions of Paragraph 6, above, City may take over and complete the work, by Agreement or otherwise. The foregoing provisions are in addition to, and not in limitation of, the rights of City under any other provisions of the Agreement, applicable city ordinances, state and/or federal law.

8. **Confidentiality.** Any reports, data, or similar information given to, prepared or assembled by Contractor under this Agreement which City requests be kept as confidential shall be considered the property of City and shall not be made available to any individual or organization by Contractor without prior written approval of City.

9. **Conflicts.** Contractor 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 Agreement. In accepting this Agreement, Contractor certifies all local, state, and federal laws and regulations related to conflicts of interest shall be followed, specifically Chapter 105, RSMo.

10. **Assignment.** Contractor shall neither assign nor transfer any interest in this Agreement, whether by assignment, sale, gift, novation or otherwise, without prior written consent of City; provided, however, that claims for money due or owing to Contractor under this Agreement 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 City. Any such assignment is expressly subject to all rights and remedies of City under this Agreement, including the right to change or delete activities from the Agreement or to terminate the same as provided herein, and no such assignment shall require City to give any notice to any such assignee of any actions which City may take under this Agreement.

11. **Nondiscrimination.** In providing the Services under this Agreement, Contractor agrees not to discriminate in any way on the basis 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 Contractor or applicant for employment, and shall include a similar provision in any sub-contracts executed 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. Contractor shall abide by the provisions of 41 C.F.R. § 60-300.5(a), which prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

- b. Contractor shall abide by the provisions of 41 C.F.R. § 60-741.5(a), which 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.

12. **Compliance with Laws and Tax Obligations.** Contractor agrees to comply with all applicable federal, state and local laws, rules and regulations applicable in providing the Services pursuant to this Agreement. Contractor affirmatively represents that payment of all local, state, and federal taxes and assessments owed by Contractor is current.

13. **Occupational License.** If required by City code or other applicable state or federal law, Contractor shall obtain and maintain an occupational license with the City, the cost for which shall be the sole responsibility of Contractor.

14. **Affidavit for Contracts Over \$5,000.** Pursuant to Sections 285.525 through 285.550, RSMo., if this Agreement exceeds the amount of \$5,000 and Contractor is associated with a business entity, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the Services, and that said business entity does not knowingly employ any person who is an unauthorized alien in connection with the Services. Additionally, Contractor must provide documentation for said business entity evidencing current enrollment in a federal work authorization program.

15. **Affidavit for Compliance with Anti-Discrimination against Israel Act for Contracts Over \$100,000.** Pursuant to Section 34.600, RSMo., if this Agreement exceeds the amount of \$100,000 and Contractor is associated with a business entity that has ten or more employees, Contractor shall provide an acceptable notarized affidavit stating that the associated business entity is not currently engaged in and shall not for the duration of the Agreement, engage in a boycott of goods or services from the State of Israel; is not currently engaged in and shall not, for the duration of the Agreement, engage in a boycott of goods or services from companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or is not currently engaged in and shall not for the duration of this Agreement, engage in a boycott of goods or services from persons or entities doing business in the State of Israel.

16. **General Independent Contractor Clause.** This Agreement does not create an employee/employer relationship between the Parties. It is the Parties' intention that Contractor is and shall be an independent contractor for City and is not an employee of City for any purpose, 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. Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out Contractor's activities and responsibilities hereunder. Contractor agrees that it is a separate and independent enterprise from City, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the Services. This Agreement shall not be construed as creating any joint employment relationship between Contractor and City, and City will not be liable for any obligation incurred by Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

17. **City Benefits.** Contractor shall not be entitled to any of the benefits established for the employees of City nor be covered by City's worker's compensation program/benefits.

18. **Liability and Indemnity.** The Parties mutually agree to the following:

- a. In no event shall City be liable to Contractor for special, indirect, or consequential damages,

except those caused by City's gross negligence or willful or wanton misconduct arising out of or in any way connected with a breach of this Agreement. The maximum liability of City shall be limited to the amount of money to be paid or received by City under this Agreement.

- b. Contractor shall defend, indemnify, and hold harmless City, its elected officials, agents, and employees from and against any and all liability, suits, damages, costs (including attorney's fees), losses, outlays and expenses, from claims arising out of or relating in any way to this Agreement, or the work or any subcontract thereunder (Contractor hereby assuming full responsibility for relations with subcontractors), including, but not limited to, claims for personal injuries, death, property damage, or for damages from the award of this Agreement to Contractor, notwithstanding any alleged negligence on the part of City, its officials, agents, and employees. This provision does not require Contractor to defend, indemnify or hold harmless City for gross negligence or intentional misconduct on the part of City.
- c. Contractor shall indemnify and hold City harmless from all wages or overtime compensation due and owing to its employees in rendering Services pursuant to this Agreement or any subcontract under this Agreement, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, the Missouri Prevailing Wage Law, or any other federal or state law.

19. **Insurance Requirements.** Contractor shall secure and maintain, at its own cost, throughout the duration of this Agreement and until the work is completed and accepted by City, insurance of such types and in such amounts as may be necessary to protect it and the interests of City against all hazards or risks of loss as hereunder specified or which may arise out of the performance of the Agreement. The forms and minimum coverages required under this Agreement are listed herein below. Certificates of Contractor's insurance(s) shall be provided to City prior to the start of any work under the Agreement. The form and limits of such insurance are subject to approval by City. The insurance requirements below may be modified or waived by City at City's sole discretion. Regardless of such approval, it shall be the responsibility of Contractor to maintain adequate insurance coverage during the term of the Agreement. Contractor's refusal or failure to maintain coverage shall not relieve it of any contractual obligation or liability owed to City under the Agreement.

In the event the scope or extent of City's tort liability as a governmental entity, as described in Sections 537.600 through 537.650, RSMo., is broadened during the term of this Agreement, either by legislative or judicial action, City may require Contractor, upon ten (10) days advance written notice to Contractor, to execute an addendum to the Agreement whereby Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as City may require to protect City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance and shall take effect within the time set forth in the addendum.

- a. **Workers' Compensation:** Contractor shall maintain Employers Liability and Workers' Compensation Insurance for all persons it will employ or retain to perform any portion of the Services or any other work in connection with this Agreement, and in the event Contractor will sublet or subcontract any such work, Contractor shall require the subcontractor to maintain similar Workers' Compensation Insurance for the subcontractor's employees, unless such employees are covered by Contractor's coverage. Workers Compensation coverage under this paragraph shall meet the minimum requirements under Missouri law; but, in no event shall be less than \$500,000 each employee and \$500,000 each accident.

- b. **Commercial General Liability:** Contractor shall maintain Commercial General Liability coverage for personal and advertising injury, bodily injury including accidental death, and broad-form property damage, which may arise from the performance of this Agreement, in an aggregate amount of not less than \$2,000,000 each occurrence and \$1,000,000 each person.
- c. **Commercial Automobile Liability:** Contractor shall maintain Commercial Automobile Liability coverage of not less than \$2,000,000 each occurrence and \$1,000,000 each person for “any auto” on an occurrence basis.

20. **Notices.** All notices required or permitted under this Agreement and required to be in writing may be given by facsimile or by first class mail addressed to City and Contractor at the addresses shown above. The date of delivery of any notice given by mail shall be the date falling on the third day after the day of its mailing. The date of delivery of notice by facsimile transmission 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 terminal 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.

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

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

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals on the day and year herein stated.

GROOMS OFFICE ENVIRONMENTS

By: _____

Printed Name

Title

Date: _____

THE CITY OF REPUBLIC, MISSOURI

By: _____
David Cameron, City Administrator

Approved as to Form:

Megan McCullough, City Attorney

Attest: _____
Laura Burbridge, City Clerk