

EXECUTION OF CONTRACT

The Contractor, in executing the Contract, shall follow the following requirements:

The Contractor and the City shall sign the Contract Documents in not less than triplicate.

If the Contractor is a corporation, the following certificate shall be executed:

I, Rick Matteson certify that I am the Secretary of the corporation named as Contractor herein above, that Rick Matteson who signed the foregoing Contract on behalf of the Contractor was then of said corporation; that said Contract was duly signed for and in behalf of said corporation by Authority of its governing body, and is within the scope of its corporate powers.

If the Contract is signed by the secretary of the corporation, the above certificate shall be executed by some other officer of the corporation under the corporate seal. In lieu of the foregoing certificate there may be attached to the contract copies of as much of the records of the corporation as will show the official character and authority of the officers signing, duly certified by the secretary or assistant secretary under the corporate seal to be true copies.

If the Contractor is a partnership, each partner shall sign the Contract. If the Contract is not signed by each partner, there shall be attached to the Contract a duly authenticated power of attorney evidencing the signer's (signers") authority to sign such a Contract for and in behalf of the partnership.

If the Contractor is an individual, the trade name (if the Contractor is operating under a trade name) shall be indicated in the Contract and the Contract shall be signed by such individual. If signed by one other than the Contractor there shall be attached to the Contract a duly authenticated power of attorney evidencing the signer's authority to execute such contract for and in behalf of the Contractor.

The full name and business address of the Contractor shall be inserted and the Contract shall be signed with his official signature. The name of the signing party or parties shall be typewritten or printed under all signatures to the Contract.

The Contract shall be deemed as having been awarded when formal notice of award shall have been duly served upon the intended awardee (i.e., the Bidder with whom the City contemplates entering into a Contract) by some officer or agent of the City duly authorized to give such notice.

CITY-CONTRACTOR AGREEMENT

This is an Agreement made and entered into the 11th day of May, 2022,
by and between the City of Sunset Hills, Missouri (hereinafter called the "City") and,

M&H Concrete Contractors, Inc.

a corporation with offices at 3151 Industrial Park Place West; St. Peters, MO. 63376
(hereinafter called the "Contractor"). The project identified as City of Sunset Hills 2022
Concrete Slabs Replacement Project.

WITNESSETH:

The Contractor and the City for the consideration set forth herein agree as
follows:

ARTICLE I

The Contract Documents

The Contract Documents consist of the General Conditions of City-Contractor
Agreement, State Wage Determination, Performance Payment Bond, Specifications,
Drawings, the Construction Schedule, all Addenda, and all Modifications issued after
execution of this Contract, which together with this Agreement form the Contract, and
are all as fully a part of the Contract as if attached to this Agreement or repeated herein.
All definitions set forth in the General Conditions of City-Contractor Agreement are
applicable to this Agreement.

ARTICLE II

Scope of Work

The Contractor, acting as an independent contractor, shall do everything required
by the Contract Documents. Contractor represents and warrants that he has special
skills which qualify him to perform the Work in accordance with the Contract and that he
is free to perform all such Work and is not a party to any other agreement, written or

oral, the performance of which would prevent or interfere with the performance, in whole or in part, of the Work.

ARTICLE III

Time of Completion

All time limits stated in the Contract Documents are of the essence. The Work to be performed under the Contract shall commence within **Ten (10)** days of the date of the written notice to proceed from the City to the Contractor and shall be completed within **Ninety (90)** calendar days from and including the date of said written notice to proceed and receipt by contractor permitting necessary to commence work.

ARTICLE IV

The Contract Sum and Payments

Based upon Applications for Payment submitted by the Contractor on or before the twentieth day of the month for work performed, in accordance with the General Conditions, the City shall pay the Contractor for the performance of the Work, the sum of \$ 283,111.00 as follows:

(1) On or about the last day of each following month, ninety percent (90%) of the portion of the Contract Sum properly allocable to labor, materials and equipment incorporated into the Work, and ninety percent (90%) of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site to be incorporated into the Work, through the period ending up to the twentieth of the preceding month, less the aggregate of all previous progress payments;

(2) Upon completion of the Work, a sum sufficient to increase the total payments to ninety percent (90%) of the Contract Sum; and

(3) Final payment within 30 days after the Work is fully completed and accepted by the City and the Contract fully performed.

ARTICLE V

Performance of the Work

(a) Within seven calendar days (7) after being awarded the Contract, the Contractor shall prepare and submit for the City's approval a Traffic Control Plan indicating the location of all proposed signage, detours and road closures throughout the project. All traffic control shall be according to the standards of the Manual on Uniform Traffic Control Devices developed by the Federal Highway Administration. The Notice To Proceed shall be issued within 10 working days of the award, however no work will commence until the Contractor's traffic control plan is submitted and approved by the City. The contractor shall be required to substantially finish portions of the work as designated by the Director of Public Works or designee prior to continuation of further work remaining on the project. This may include cleanup as designated by the Director of Public Works or designee.

(b) Completion of the Work in accordance with the time limits set forth in the Construction Schedule is an essential condition of the Contract. If the Contractor fails to complete the Work in accordance with the Construction Schedule, unless the delay is excusable under the provisions of Article VI hereof, the Contractor shall pay the City as liquidated damages and not as a penalty, the sum of \$500.00 for each calendar day the Contractor fails to comply with the Construction Schedule. The total amount so payable to the City as liquidated damages may be deducted from any sums due or to become due to Contractor from City.

(c) After Commencement of the Work, and until final completion of the Work, the Contractor shall report to the City as such intervals as the City may reasonably direct, the actual progress of the work compared to the Construction Schedule. If the Contractor falls behind the Construction Schedule for any reason, he shall promptly take, and cause his Subcontractors to take, such action as is necessary to remedy the delay,

and shall submit promptly to the City for approval a supplementary schedule or progress chart demonstrating the manner in which the delay will be remedied; provided, however, that if the delay is excusable under Article VI hereof, the Contractor will not be required to take, or cause his Subcontractors to take, any action which would increase the overall cost of the Work (whether through overtime premium pay or otherwise), unless the City shall have agreed in writing to reimburse the Contractor for such increase in cost. Any increase in cost incurred in remedying a delay which is not excusable under Article VI hereof shall be borne by the Contractor.

ARTICLE VI

Delays Beyond Contractor's Control

(a) If the Contractor fails to complete the Work in accordance with the Construction Schedule solely as a result of the act or neglect of the City, or by strikes, lockouts, fire or other similar causes beyond the Contractor's control, the Contractor shall not be required to pay liquidated damages to the City pursuant to paragraph (b) of Article V hereof, provided the Contractor uses his best efforts to remedy the delay in the manner specified in paragraph (c) of Article V hereof. If, as a result of any such cause beyond the Contractor's control, the delay in completion of the Work in accordance with the Construction Schedule is so great that it cannot be remedied in the aforesaid manner, or if the backlog of Work is so great that it cannot be remedied without incurring additional cost which the City does not authorize, then the time of completion and the Construction Schedule shall be extended pursuant to a Change Order for the minimum period of delay occasioned by such cause. The period of delay and extension shall be determined by the City.

(b) Notwithstanding the foregoing paragraph (a), no extension of time shall be granted for any delay the cause of which occurs more than seven (7) days before claim therefore is made in writing by the Contractor to the City, and no extension of time shall

be granted if the Contractor could have avoided the need for such extension by the exercise of reasonable care and foresight. In the case of a continuing cause of delay, only one claim is necessary.

(c) Weather shall not constitute a cause for granting an extension of time.

(d) In the event a delay is caused by the City, the Contractor's sole remedy shall consist of his rights under this Article VI.

ARTICLE VII

Changes in the Work

(a) The City may make changes within the general scope of the contract by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such changes in the Work shall be executed under the conditions of the Contract. No extra work or change shall be made except pursuant to a Change Order from the City in accordance with the General Conditions. Any claim for an increase in the Contract Sum resulting from any such change in the Work shall be made by the Contractor in accordance with the General conditions.

(b) If the requested change would result in a delay in the Construction Schedule, the provisions of paragraph (c) of Article V and of Article VI hereof shall apply. If the requested change would result in a decrease in the time required to perform the Work, the completion date and the Construction Schedule shall be adjusted by agreement between the parties to reflect such decrease.

(c) Any adjustment in the Contract Sum for duly authorized extra work or change in the Work shall be determined based on the unit prices previously specified to the extent such unit prices are applicable. To the extent such unit prices are not applicable, the adjustment in the Contract Sum shall, at the option of the City, be determined by an acceptable lump sum properly itemized and supported by sufficient substantiating data to permit evaluation, or by an acceptable cost plus percentage or fixed fee.

ARTICLE VIII

Termination by City or Contractor

(a) If the Contractor is adjudged as bankrupt, or if the Contractor makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor persistently or repeatedly fails, except in cases for which extension of time is provided, to make progress in accordance with the Construction Schedule, or if the Contractor fails to make prompt payment to Subcontractors or for material or labor, or persistently disregards laws, ordinances or the instructions of the City, or otherwise breaches any provision of the Contract, the City may, without prejudice to any other right or remedy, by giving written notice to the Contractor and his surety, terminate the Contract, take possession of the Work and of all materials and equipment thereon and finish the Work by whatever method the City may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract Sum shall exceed the expenses of finishing the Work, including additional architectural, managerial and administrative expenses, such excess shall be paid to the Contractor. If such expenses shall exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the City promptly upon demand.

In the event of termination pursuant to this paragraph, the Contractor, upon the request of the City, shall promptly

(i) assign to the City in the manner and to the extent directed by the City all right, title and interest of the Contractor under any subcontracts, purchase orders and construction equipment leases to which the Contractor is a party and which relate to the Work or to construction equipment required therefore, and

(ii) make available to the City to the extent directed by the City all construction equipment owned by the Contractor and employed in connection with the Work.

(b) Performance of the Work hereunder may be terminated by the City by giving three (3) days prior written notice to the Contractor if the City, in its sole discretion, decides to discontinue or suspend construction. In the event of such termination, as opposed to termination pursuant to paragraph (a) of this Article VIII, the Contract Sum shall be reduced in an equitable manner by agreement between the parties or by arbitration.

ARTICLE IX

Contractor's Liability Insurance

The Contractor shall purchase and maintain in full force and effect, the following insurance coverage with an insurance carrier acceptable to the City:

The policy shall be endorsed to cover the contractual liability of the Contractor under the General Conditions.

The Contractor and his Subcontractors shall procure and maintain during the life of this agreement insurance of the types and minimum amounts as follows:

- (a) Workers' Compensation in full compliance with statutory requirements of Federal and State of Missouri law and Employers' Liability coverage in the amount of \$1,000,000.
- (b) Comprehensive General Liability and Bodily Injury
Including Death: \$1,000,000 each person \$1,000,000 each occurrence
Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate
- (c) Comprehensive Automobile Liability, Bodily Injury
Including Death: \$1,000,000 each person \$1,000,000 each occurrence
Property Damage: \$1,000,000 each accident

(d) Owner's Protective Bodily Injury

Including Death: \$1,000,000 each person \$1,000,000 each occurrence

Property Damage: \$1,000,000 each occurrence \$1,000,000 aggregate

The Owner's Protective policy shall name the City as the insured. Certificates evidencing such insurance shall be furnished the City prior to Contractor commencing the work on this project. The certificates must state **"The City of Sunset Hills is an additional insured"**.

ARTICLE X

Equal Opportunity and Non-Discrimination

The contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the basis of race, color, religion, sex, national origin or disability in the selection and retention of subcontractors. The contractor will comply with Title VI of the Civil Rights Act of 1964, as the same has been or may be amended from time to time. In all solicitation either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified of the contractor's obligations under this contract and the regulations relative to nondiscrimination on the ground of race, color religion, sex, national origin or disability.

The contractor will take action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin or disability. Such action shall include, but not be limited to the employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor agrees to post notices pertaining to the foregoing in conspicuous places available to employees and applicants for employment.

The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or disability.

The contractor will comply with all provisions of federal, state and local codes, ordinances and regulations governing the regulation of Equal Employment Opportunity and Non-Discrimination.

During performance of the obligations set forth in this Agreement, each party agrees that it shall not discriminate against any employee or applicant for employment in the terms or conditions of employment including but not limited to: recruitment, selection, training, upgrading, promotion, demotion, transfer, layoff, or termination due to said person's race, religion, creed, color, sex, age, national origin, handicap, or disability.

In the event that any or all of the provision(s) of the foregoing paragraphs (a) or (b) conflict with federal, state or other local laws, ordinances or regulations, then the requirements of such federal, state or local laws, ordinances, or regulations shall prevail. Compliance with the foregoing provisions shall not relieve the contractor from adherence to any and all additional requirements regarding equal employment or non-discrimination set forth in such federal, state or other local laws, ordinances or regulations.

ARTICLE XI

Conflicts of Interest

The parties agree to abide by all applicable federal, state and local laws, ordinances and regulations relating to conflicts of interest. Additionally, but not in limitation of the foregoing, no elected official or other official of Sunset Hills having any power of review or approval of any of the undertakings contemplated by this Agreement, shall knowingly participate in any decision(s) relating thereto which affect his or her personal interests or those of his/her immediate family, or those of any corporation or

partnership in which he or she or a member of his/her immediate family is directly or indirectly interested.

Sunset Hills shall not knowingly, after due inquiry, employ or contract with any person if a member of his or her immediate family is a member of the Sunset Hills Board of Aldermen, or is employed by Sunset Hills in an administrative capacity (i.e., those who have selection, hiring or supervisory or operational responsibility for the work to be performed pursuant to this Agreement); provided, however, that the foregoing shall not apply to temporary or seasonal employment. Sunset Hills shall not knowingly, after due inquiry, employ or contract with any corporation or partnership if an elected official of Sunset Hills or a person employed by Sunset Hills in an administrative capacity (as defined in the foregoing sentence), or a member of the immediate family of such elected official or person employed in an administrative capacity shall have an interest, directly or indirectly, therein.

For the purposes of this section "immediate family" includes: husband, wife, son, daughter, father, mother, brother, sister, brother-in-law, sister-in-law, father-in-law, mother-in-law, uncle, aunt, nephew, niece, stepparent and stepchild.

For purposes of this section, a person shall be deemed to have an interest in a corporation or partnership if he or she, or any member of his/her immediate family shall own, whether singularly or collectively, directly or indirectly, ten percent (10%) more of any corporation or partnership, or shall own an interest having a value of ten thousand dollars (\$10,000) or more therein, or an individual or a member of his/her immediate family shall receive, whether singularly or collectively, directly or indirectly, of a salary, gratuity, or other compensation or remuneration of five thousand dollars (\$5,000) or, per year there-from.

In the event that any or all of the foregoing provision(s) shall conflict with federal, state or other local laws, ordinances or regulations, then the requirements of such

federal, state or local laws, ordinances, or regulations shall prevail. Compliance with the foregoing provisions shall not relieve parties contracting with the City of Sunset Hills from adherence to any and all additional requirements regarding conflicts of interest set forth in such federal, state or other local laws, ordinances or regulations.

ARTICLE XII

The Work

The Contractor shall furnish all labor, materials and equipment necessary to complete all activities within the project limits. The Scope of Work includes the construction of the City of Sunset Hills "2022 Selected Slab Replacement Project" as outlined in the construction drawings and specifications.

The Contract contains a binding arbitration provision which may be enforced by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

CITY OF SUNSET HILLS

By _____
Past Fribis, Mayor or
Brittany Gillett, City Administrator

(SEAL)

Attest: _____
Lori Stone, Deputy City Clerk

DATE: _____

By _____
"Contractor"

Rick Matteson
Printed Name

Secretary
Title

(SEAL)

Attest: _____

DATE: _____