



**City Council Meeting
Council Chamber**

**June 1, 2023
7:00 P.M.**

Zoom Link – Internet Audio/Video:

<https://us02web.zoom.us/j/88031317150?pwd=STJHSzFxMWg4WVdjOG9ESHNVWGtEZz09>

Dial-in Number: 312 626 6799

Meeting ID: 880 3131 7150

Passcode: 648782

AGENDA

1. Pledge of Allegiance and Opening Prayer
2. Roll Call
3. Business from the Floor
4. Consent Agenda
 - A. Regular Council Meeting Minutes from **May 18, 2023.**
 - B. Payroll Warrant **#T00445 in the Amount of \$345,293.20.**
 - C. General Warrant **#5835 in the Amount of \$785,649.19.**
5. Ordinances:
 - A. **Bill 2856** An Ordinance of the City Council of The City of Arnold, Missouri, Amending Chapter 605 of the Arnold Code of Ordinances with Regard to Definitions and Regulations for General Operation and Licensing of Lodging Establishments.
6. Resolutions:
 - A. **Resolution #23-17** A Resolution Authorizing the Mayor to Enter into A One-Year Agreement with SkyScraper Marine LLC, DBA as Tubbs and Son Construction, to Provide On-Call Residential Building and Structure Demolition Services for The City of Arnold.

7. Motions:

A. A Motion to Approve Liquor License Applications

B. A Motion to Hold a Closed Session Immediately Following the City Council Meeting for the Purpose of Discussing Real Estate Pursuant to RSMo 610.021 (2).

8. Reports from Mayor and Council

9. Administrative Reports

10. Adjournment

Upon request, reasonable accommodations will be provided. Contact Tammi Casey, City Clerk, Arnold City Hall, 2101 Jeffco Boulevard, Arnold, Missouri 63010. Phone: 636-296-2100.

Mayor Ron Counts called the meeting to order at 7:00 p.m.

The council meeting was also presented live via Zoom Video Conferencing.

The pledge of allegiance was recited. Councilman Jason Fulbright offered the prayer.

ROLL CALL

Those present per roll call taken by City Clerk Tammi Casey: Mayor Ron Counts, Hood, McArthur, Plunk, Cooley, Moritz, Mullins, Fleischmann, Fulbright, Richison, Bookless, Lehmann, Sweeney, Crutchley (excused), Wagner, Kroupa and Chief Carroll.

Mayor Counts recognized two boy scouts who were in the audience; Donavan Sweeney with Troop 501 who is working on his Communications Badge and Carter Spink with Troop 892 who is working on his Citizenship in the Community Badge.

BUSINESS FROM THE FLOOR

NONE

CONSENT AGENDA

- A. REGULAR COUNCIL MEETING MINUTES FROM MAY 4, 2023**
- B. PAYROLL WARRANT #T00442 IN THE AMOUNT OF \$332,134.05**
- C. GENERAL WARRANT #5834 IN THE AMOUNT OF \$979,300.83**

Butch Cooley made a motion and so moved to approve the consent agenda. Seconded by EJ Fleischmann. Roll call vote: Hood, yes; McArthur, yes; Plunk, yes; Cooley, yes; Moritz, yes; Mullins, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Motion carried.**

ORDINANCES

BILL NO 2855 – AN ORDINANCE PROVIDING FOR THE AMENDMENT OF THE FISCAL YEAR 2023 BUDGET was read twice by City Clerk Tammi Casey. Roll call vote: Hood, yes; McArthur, yes; Plunk, yes; Cooley, yes; Moritz, yes; Mullins, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Ordinance passed.**

RESOLUTIONS

RESOLUTION NO 23-16 – A RESOLUTION AUTHORIZING GEORGE BUTLER ASSOCIATES, INC. TO PROVIDE PROFESSIONAL ENGINEERING SERVICES RELATIVE TO POMME CREEK BRIDGES

Gary Plunk made a motion and so moved to approve Resolution No 23-16. Seconded by EJ Fleischmann. Roll call vote: Hood, yes; McArthur, yes; Plunk, yes; Cooley, yes; Moritz, yes; Mullins, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Resolution passed.**

MOTIONS

A. A MOTION TO APPROVE LIQUOR LICENSE APPLICATIONS

Tammi Casey informed council that the Liquor Committee met earlier this evening to review all annual liquor license renewals received to date. The committee is forwarding a recommendation of approval for each renewal received.

Butch Cooley made a motion and so moved to approve all annual liquor license renewals received to date. Seconded by Rodney Mullins. Roll call vote: Hood, yes; McArthur, yes; Plunk, yes; Cooley, yes; Moritz, yes; Mullins, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Motion carried.**

B. A MOTION TO HOLD A CLOSED SESSION IMMEDIATELY FOLLOWING THE CITY COUNCIL MEETING FOR THE PURPOSE OF DISCUSSING REAL ESTATE PURSUANT TO RSMo 610.021 (2)

Mark Hood made a motion and so moved to hold a Closed Session immediately following the council meeting. Seconded by Brian McArthur. Roll call vote: Hood, yes; McArthur, yes; Plunk, yes; Cooley, yes; Moritz, yes; Mullins, yes; Fleischmann, yes; Fulbright, yes; 8 Yeas: **Motion carried.**

REPORTS FROM MAYOR AND COUNCIL

Mayor Counts stated that an estimated 2000 people attended the Farmers Market season opening last Saturday.

ADMINISTRATIVE REPORTS

Chief Carroll informed everyone that his department will once again participate in the “Cop on a Rooftop” annual event tomorrow at Dunkin Donuts, which benefits Missouri Special Olympics and encouraged everyone to stop by.

3
Regular Meeting
May 18, 2023

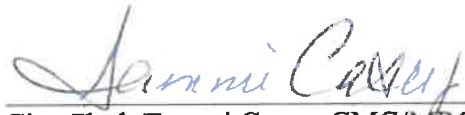
Mayor Counts announced a five-minute recess before going into Closed Session.

Closed Session ended at 8:01 p.m.

A motion to adjourn the meeting was made by Mark Hood. Seconded by EJ Fleischmann.

Voice vote: All Yeas.

Meeting adjourned at 8:01 p.m.



City Clerk Tammi Casey, CMC/MRCC-S

CITY OF ARNOLD, MISSOURI

ROLL CALL

MEETING: COUNCIL MEETING

DATE: 5/18/2023

PAGE: 1

BILL NO - RESOLUTION - MOTION

COUNCIL MEMBERS:

		ROLL CALL	CONSENT AGENDA	BILL NO 2855	RESOLUTION NO 23-16	MOTION TO APPROVE LIQUOR LICENSES RECEIVED TO DATE	MOTION TO HOLD CLOSED SESSION	
MAYOR	RON COUNTS	PRESENT						
COUNCIL:	JASON FULBRIGHT	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	GARY PLUNK	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	MARK HOOD	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	BRIAN MCARTHUR	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	BUTCH COOLEY	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	BILL MORITZ	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	EJ FLEISCHMANN	PRESENT	YES	YES	YES	YES	YES	
COUNCIL:	RODNEY MULLINS	PRESENT	YES	YES	YES	YES	YES	
CITY ADMINISTRATOR	BRYAN RICHISON	PRESENT	PARKS DIR:		DAVE CRUTCHLEY		EXCUSED	
CITY CLERK	TAMMI CASEY	PRESENT	PUBLIC WORKS:		JUDY WAGNER		PRESENT	
COM DEV	DAVID BOOKLESS	PRESENT	TREASURER:		DAN KROUPA		PRESENT	
FINANCE DIRECTOR	BILL LEHMANN	PRESENT	POLICE DEPT.		CHIEF CARROLL		PRESENT	
CITY ATTORNEY	BOB SWEENEY	PRESENT						



CITY COUNCIL DISCUSSION ITEM MEMORANDUM

MEETING DATE:	June 1, 2023
TITLE:	Lodging Establishments (Licensing Amendment)
DEPARTMENT:	Community Development, City Clerk, Police Department
PROJECT MANAGER:	David B. Bookless, Community Development Director
ATTACHMENTS:	Draft Ordinance Amendment

On May 5, 2019, the City Council approved Bill No. 2738, Ord. No. 4.488 establishing Code of Ordinances Section 605.380 *Lodging Establishment Business Licensing And Transient Guest (Hotel/Motel) Tax Reporting And Collection*. After approximately five (5) years of experience with the ordinance following its implementation, the Police Department, the Community Development Department, and the Office of the City Clerk revisited the ordinance and identified areas where the ordinance needed updating and/or clarification. Staff seeks approval of the attached draft ordinance, which contains recommended revisions to the ordinance.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI,
AMENDING CHAPTER 605 OF THE ARNOLD CODE OF ORDINANCES WITH REGARD
TO DEFINITIONS AND REGULATIONS FOR GENERAL OPERATION AND LICENSING
OF LODGING ESTABLISHMENTS.**

WHEREAS, the Arnold City Council has previously adopted regulations and definitions for lodging establishments contained in Chapter 605 of the Arnold Code of Ordinances; and

WHEREAS, it has been determined that a need exists to amend and update said regulations and definitions; and

WHEREAS, the City Council has reviewed the recommended amendments to Chapter 605 of the Arnold Code of Ordinances, has determined that the amendments are in the best interest of the health and safety of the residents of the City of Arnold, and desires to make such amendments; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARNOLD, MISSOURI, AS FOLLOWS:

SECTION 1. Section 605.380(H) is hereby modified and amended by striking the definition of “CALL FOR SERVICE” in its entirety and inserting in lieu thereof the following language:

“CALLS FOR (POLICE) SERVICE

All calls for law enforcement service related to criminal activity and civil disputes, as listed below, or violations of local, state or Federal laws which result in City personnel being dispatched or directed to the lodging establishment. "Calls for service" include any self-initiated investigation based on the observation(s) of law enforcement when it is determined, based on the greater weight of evidence, that a violation of law has occurred. Law enforcement calls for service shall be measured by one (1) event or occurrence at a lodging establishment. Multiple calls for one (1) event shall count as one (1) call for service. Calls for service at a particular lodging establishment are cumulative regardless of ownership. This foregoing shall include any calls for service within the surrounding neighborhood that, through information or investigation, can be traced to the lodging establishment staff, and/or registered guest(s) and/or visitor(s).

1. Law enforcement call types that represent a call for service include, but are not limited to:
 - a. Arson.
 - b. Assault.
 - c. Burglary.
 - d. Endanger welfare of child.
 - e. Civil matter.
 - f. Domestic disturbance.

- g. Death investigation.
- h. Disturbance.
- i. Drug.
- j. Forgery/counterfeiting.
- k. Harassment.
- l. Kidnapping.
- m. State law violation.
- n. Minor in possession of intoxicants.
- o. Noise complaint.
- p. Ordinance violation.
- q. Property damage.
- r. Robbery.
- s. Stealing.
- t. Sexual offenses.
- u. Terrorist threat.
- v. Arrest warrant/search warrant.

2. Calls for service do not include:

- a. Calls originating from the lodging establishment premises but relating to off-premises disturbances observed by a lodging establishment operator or occupant if the activity is not attributable to the lodging establishment.
- b. Medical calls unrelated to criminal activity.
- c. Calls related to traffic citations in which the lodging establishment property address is used as the location of the violation unless such violation occurred on the premises thereof.
- d. Calls that, in the sole discretion of the Chief of Police, are determined not to warrant being classified as Calls for Service under this Section.”

SECTION 2.

Section 605.380(H) is hereby modified and amended by striking the definition of “LODGING ESTABLISHMENT” in its entirety and inserting in lieu thereof the following language:

“LODGING ESTABLISHMENT

Any building, group of buildings, structure, facility, place, or places of business where five (5) or more guest rooms are provided, which is owned, maintained, or operated by any person and which is kept, used, maintained, advertised or held out to the public for hire and which can be construed to be a hotel, motel, motor hotel, inn, apartment hotel, tourist court, resort, tourist home, bunkhouse, dormitory, or other similar place by whatever name called, and includes all such accommodations operated for hire as Lodging Establishments.

In addition to the foregoing, any building, group of buildings, structure, facility, place, or places of business where guests can rent a bed in a single room, where

multiple beds are available in that same room for separate customer rental, shall, for the purposes of this Section, be deemed a Lodging Establishment.”

SECTION 3. Section 605.380(I) is hereby modified and amended by the addition of subparagraph (9) as follows:

“9. Restricted Access Technology. Electronic locking systems and secured access, via magstripe cards, Radio Frequency ID (RFID) cards, mobile device (AKA “keyless”), biometric ID, or similar secure methods (hereinafter referred to as “keys”), to all buildings and rooms shall be required so as to ensure that only authorized persons are permitted in rooms and/or common areas of the lodging establishment. Mechanical locking systems such as, but not limited to pin tumbler, combination, push, or punch button shall not be permitted. All permitted keys shall expire no later than seven (7) days after issuance. No person other than a person who has been duly registered, as provided in this section, shall be given a key by the licensee. Master keys shall only be issued to lodging establishment employees and shall be logged daily to ensure only authorized persons have them in their possession. Missing or unaccounted for master keys or guest keys shall be deactivated immediately.”

SECTION 4. Section 605.380(S)(4)(c), is hereby modified and amended by the striking of the subparagraph in its entirety and inserting in lieu thereof the following language:

- “c. The lodging establishment must hold semi-annual employee training sessions, assisted by the Arnold Police Department.
- i. Where lodging establishment employees speak only or primarily a language other than English, the lodging establishment shall provide adequate interpretive services for the training sessions.
 - ii. Employees who have previously undergone an employee training session assisted by the Arnold Police Department shall only be required to attend such sessions annually.”

SECTION 5. Section 605.380(S)(4)(i), is hereby modified and amended by the striking of the subparagraph in its entirety and inserting in lieu thereof the following language:

“i. At minimum, the lodging establishment shall thoroughly clean each room, to include the provision of clean bed linens, bathing towels, and bathroom tissue, after a guest checks out, and no less frequently than once every seven (7) days when occupied by the same guest. A record of room cleanings shall be maintained for at least one (1) year.”

SECTION 6. Section 605.380(S)(4)(j), is hereby modified and amended by the striking of the subparagraph in its entirety and inserting in lieu thereof the following language:

“j. *[Deleted]*”

SECTION 7. Section 605.380(S)(4)(q), is hereby modified and amended by the striking of the subparagraph in its entirety and inserting in lieu thereof the following language:

“q. The lodging establishment must install and operate video monitoring equipment in all parking lots, monitored and recorded at the front desk twenty-four (24) hours per day, seven (7) days per week. All surveillance recordings shall be stored on-site, or in a cloud-based data storage system, and maintained in good viewing order for a minimum of thirty (30) days after recording. Such recordings shall be date and time stamped and shall be made available upon request by any Law Enforcement Officer in the City.”

SECTION 8. Section 605.380(S)(4)(r), is hereby modified and amended by the striking of the subparagraph in its entirety and inserting in lieu thereof the following language:

“r. The lodging establishment must have either a certified Law Enforcement Officer or a Jefferson County or other public law enforcement agency licensed, and uniformed Security Officer on the premises every day from 10:00 P.M. until 6:00 A.M. Said officer shall be stationed in the lobby of the lodging establishment, but shall make regular rounds of the entirety of the premises. A copy of the officer(s) certificate, license or ID, and copies of their pay logs or work schedules shall be maintained and shall be made available upon request by any City official or by any Law Enforcement Officer in the City.”

SECTION 9. Section 605.380(S)(4)(s), is hereby modified and amended by the striking of the subparagraph in its entirety and inserting in lieu thereof the following language:

“s. The lodging establishment must submit to scheduled annual audits by the City of Arnold Police Department to verify compliance with the above-referenced conditions.

SECTION 10. If any part of this Ordinance is found to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or effectiveness of the remaining provisions of this Ordinance or any part thereof and said Ordinance shall be read as if said invalid provision was struck therefrom and the context thereof changed accordingly with the remainder of the Ordinance to be and remain in full force and effect.

SECTION 11. All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

SECTION 12. This ordinance shall be in full force and effect from and after its passage and approval.

[SIGNATURES ON FOLLOWING PAGE]

READ TWO TIMES, PASSED AND APPROVED ON THIS _____ DAY OF _____ 2023.

Presiding Officer of the Council

Mayor Ron Counts

ATTEST:

City Clerk Tammi Casey

First Reading: _____

Second Reading: _____

APPROVED AS TO FORM:

City Attorney Robert Sweeney

RESOLUTION NO: 23-17

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A ONE-YEAR AGREEMENT WITH SKYSCRAPER MARINE LLC, DBA AS TUBBS AND SON CONSTRUCTION, TO PROVIDE ON-CALL RESIDENTIAL BUILDING AND STRUCTURE DEMOLITION SERVICES FOR THE CITY OF ARNOLD.

BE IT RESOLVED. By the Council of the City of Arnold, Missouri that the Community Development Department, is hereby authorized to accept the bid from Skyscraper Marine LLC, dba Tubbs and Son Construction, for on-call residential building and structure demolition services and to enter into a one-year renewable contract.

A copy of said bid and contract is attached hereto and by this reference made a part hereof.

Presiding Officer of the City Council

Mayor Ron Counts

ATTEST:

City Clerk Tammi Casey

Date: _____

Skyscraper Marine LLC, dba - Tubbs & Son Construction

**REQUEST FOR PROPOSAL
ON-CALL RESIDENTIAL BUILDING AND STRUCTURE DEMOLITION SERVICES**

ON-CALL RESIDENTIAL BUILDING AND STRUCTURE DEMOLITION SERVICES BID FORM

COST SCHEDULE		
Item	Structure Type/Size Range	Price Per Square Foot to Demolish
		Demolition Main Structure / Additional Outer Structures / Abatement
RESIDENTIAL STRUCTURE		
	Less than 1,000 Sq. Ft.	\$ 18,750.00 / \$22,750.00 / \$28,750.00
	1,001 - 2,500 Sq. Ft.	\$ 23,250.00 / \$27,250.00 / \$33,250.00
	Greater than 2,500 Sq. Ft.	\$ 28,275.00 / \$32,275.00 / \$38,275.00
MANUFACTURED/MOBILE HOME		
	Any size	\$ 16,250.00

NON-ORGANIC FILL MATERIAL AND CONCRETE PADS: Sometimes, the City encounters basement or cellar openings that may need to be filled. Provide a unit price per cubic yard of non-organic fill material, to be placed in the basement opening. Should it be determined that mobile home (concrete) pads require removal, provide a unit price per square yard for removal and disposal of same:

Non-organic fill material: \$ 29.00 Cu. Yd. Removal of concrete pads: \$ 9.00 Cu. Yd.

RESPONSE TIME:

Standard Start Time 8:00am calendar days after receipt of permits

Standard Completion Time 3 - 5 calendar days after receipt of permits

Emergency Start Time ASAP calendar days after receipt of notice of permits

Emergency Completion Time ASAP calendar days after receipt of permits

CITY-CONTRACTOR AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2023; and between the City of Arnold, Missouri ("City"), 2101 Jeffco Blvd., Arnold, Missouri, and _____ ("Contractor"), with offices at _____.

WITNESSETH THAT:

WHEREAS, the City issued a Request for Bids dated April 28, 2023, entitled "On-Call Residential Building and Structure Demolition Services" ("RFP"); and

WHEREAS, Contractor submitted the lowest responsible bid meeting the specifications in response to the City's RFP, opened on March 16, 2023 ("Bid"); and

WHEREAS, the City has selected the Contractor to provide services in accordance with the terms of the RFP and the Bid.

NOW, THEREFORE, in consideration of the premises and of the mutual promises, covenants and agreements herein contained, the parties do hereby agree as follows:

- 1) **Contractor Selection:** City does hereby employ Contractor for the purpose of performing the services and work set out herein and per the scope as set forth in the RFP and in the Bid, and Contractor agrees to perform such services and work and to provide such material (hereafter the "Work").
- 2) **Work and Project:** The Work to be performed includes the furnishing of all necessary professional, technical and other services and equipment as described in Exhibit 1 attached hereto ("Project"). Contractor shall perform all of the Work described in this Agreement and in the RFP and in the Bid attached hereto and made a part hereof in Exhibit 1, in accordance with the terms and conditions hereof (the "Contract Documents"). In connection with the Work and the Project, the City requests the Contractor to use American products whenever the quality and price are comparable with other products.
- 3) **Term:** One year beginning on date of award. The City may, at its option, extend the contract for up to four (4) additional one-year terms.
- 4) **Escalation/De-Escalation:** Bid prices shall remain firm for a period of one year from the date of award. The contract prices may be changed after the first year for the following reasons:

An increase or decrease in the supplier's cost of materials may be justification for price change; however, this shall not be construed in any way to increase vendor's margin of profit.

All written request for price increase must include backup documentation as to the nature of the increase and shall be submitted to the City at least 60 days prior to the scheduled price increase/decrease or renewal of contract. Approval of each request shall be by written confirmation from the City. If the City should consider said increase unwarranted or unreasonable, the City reserves the right to terminate the contract with the vendor. Any price decline at the manufacturer's level shall be reflected in an immediate reduction of the contract prices and the vendor shall notify the City Clerk of said decline.

- 5) **Unexpected Costs:** If, by the City's determination, concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time may be subject to equitable adjustment at the City's discretion.
- 6) **Unexpected Savings:** Project pricing may be adjusted, by mutual agreement, if physical conditions encountered at the site are such that the actual cost to perform the work indicated in the Contract Documents is significantly lower than the contract price.
- 7) **Contractor's Personnel:** Personnel are expected to conduct themselves in a courteous, safe, and responsible manner. This includes refraining from any behavior or actions while on City property that may be deemed offensive or unsafe by the City and complying with all related policies and procedures.
- 8) **Service Requirements:** Bids will only be considered from authorized Contractors who are normally engaged in the services as specified herein. The bidder must have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to the City.
- 9) **Personnel:** The Contractor represents that Contractor will secure at Contractor's own expense, all personnel required to perform the services called for under this contract by Contractor. Such personnel shall not be employees of or have any contractual relationship with the City except as employees of the Contractor. All of the services required hereunder will be performed by the Contractor or under Contractor's direct supervision and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without the written approval of the City.
- 10) **Termination:** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner Contractor's obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the City shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective day of such termination. The City may, without cause, terminate this contract upon 30 day's prior written notice. In either such event, all finished or unfinished documents, data, studies, reports, or other materials prepared by the Contractor shall, at the option of the City become its property. The Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of the contract by the Contractor.
- 11) **Assignment-Subcontracting.** 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 thereto. 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, including the right to change or delete activities from the contract or to terminate the same as provided herein, and no such assignment shall require the City to give any notice to any such assignee of any actions which the City may take under this agreement, though City will attempt to so notify any such assignee. The consent of City shall in no way relieve the Contractor of its responsibility for the quality and performance of the Work. Contractor shall include in any such consented to subcontract all of the terms and conditions of this Agreement and make any subcontractor(s) subject thereto.

12) Modification of Contract: The Scope of Work to be done under the Contract shall be subject to modification and supplementation upon the written Agreement of the duly authorized representatives of the Contracting parties. No provision in the Contract shall be changed or modified without the execution of an amendment to the Contract, mutually agreed to by the City and the Contractor and processed through the Finance Department. Upon request by the City, the Contractor shall provide an estimate of cost of any additional work or services to be incorporated by a modification to the Scope of Work and the Contract.

13) Notice: Any notice required or permitted to be delivered hereunder shall be in writing and shall be deemed to have been delivered on the earliest to occur of (a) actual receipt; or (b) three (3) business days after having been deposited in the U.S. Mail, postage prepaid, certified mail, return receipt requested; or (c) one business day after having been deposited with a reputable overnight express mail service that provides tracking and proof of receipt of items mailed to the parties as follows (or to such other addressee or address as shall be set forth in a notice given in the same manner):

City: City Clerk
City of Arnold
2101 Jeffco Blvd.
Arnold, MO 63010

Contractor:

14) Contract Documents: The agreement between the City of Arnold and the Contractor shall consist of (1) This City-Contractor Agreement, (2) The Request for Proposal, and any addenda thereto and, (3) the bid proposal, as accepted, submitted in response to the Request for Proposal. In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth in the Request for Proposal and addenda thereto shall govern over the Contractor's Proposal and addenda thereto. However, the City reserves the right to clarify any Contractual relationship in writing with the concurrence of the Contractor, and such written clarification shall govern in case of conflict with the applicable requirements stated in the Request for Proposal or the Contractor's proposal. In all other matters not affected by the written clarification, if any, the Request for Proposal shall govern. The Contractor is cautioned that the proposal shall be subject to acceptance without further clarification.

15) Compensation and Payment: City shall pay Contractor per Work Order. Contractor shall submit an invoice for all work performed. The City shall make payment in full to the Contractor within thirty (30) days of receipt of said invoice pursuant to the provisions of Exhibit 2. City shall have the right, upon reasonable prior notice, to examine all of the pertinent records of Contractor.

16) Appropriation of Funds: In the event that funds are not appropriated by the Council of the City of Arnold for any term of the contract or extension thereto or portion of any term of the contract which falls in a fiscal period other than a fiscal period for which funds have been appropriated, the contract shall terminate without notice at the end of the fiscal period for which funds are appropriated.

17) Substitution of Personnel: The Contractor agrees and understands that the City of Arnold's Agreement to the Contract may be predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) as identified and/or described in the Contractor's proposal.

Therefore, the Contractor agrees that no substitution of such specific individuals and/or personnel qualifications shall be made without the prior written approval of the City. The Contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the City's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The City of Arnold agrees that an approval of a substitution will not be unreasonably withheld.

18) General Independent Contractor Clause: This agreement does not create an employee/employer relationship between the parties. It is the party's intention that the Contractor will be an Independent Contractor and not the City'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 Contributions 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. The Contractor will retain sole and absolute discretion in the judgment of the manner and means of carrying out the Contractor's activities and responsibilities hereunder. The Contractor agrees that it is a separate and independent enterprise from the public employer, 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 work. This agreement shall not be construed as creating any joint employment relationship between the Contractor and the City, and the City will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums.

19) Workers Compensation Clause: The Contractor shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Workers Compensation Program of the City.

20) Certification of Non-Resident/Foreign Contractors: If the Contractor is a foreign corporation or non-resident Contractor, it is agreed that the Contractor shall procure and maintain during the life of this contract:

- a. A certificate of authority to transact business in the State of Missouri from the Secretary of State, unless exempt pursuant to the provisions of Section 351.570 RSMo.
- b. A certificate from the Missouri Director of Revenue evidencing compliance with transient employer financial assurance law, unless exempt pursuant to the provisions of Section 285.230 RSMo.
- c. A Contractor's License as required by the City of Arnold Code Ordinances.

21) Nondiscrimination: The Contractor agrees in the performance of this contract 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 status as 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 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. This contractor and 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. This contractor and 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.

22) No Interest: Contractor 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. The Contractor further covenants that in the performance of this contract no person having such interest shall be employed.

23) Contractor's Responsibility for Subcontractors: It is further agreed that Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons it directly employs. Contractor shall cause appropriate provisions to be inserted in all subcontracts relating to this work, to bind all subcontractors to Contractor by all the terms herein set forth, insofar as applicable to the work of subcontractors and to give Contractor the same power regarding termination of any subcontract as the City may exercise over Contractor under any provisions of this contract. Nothing contained in this contract shall create any contractual relation between any subcontractor and the City or between any subcontractors.

24) Certificates of Insurance: The certificates of insurance, including evidence of the required endorsements of the policies shall be filed with the City of Arnold within ten (10) days of the date of receipt of the Award of the contract to the Contractor 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 insurance. Such notices shall be emailed to vjones@arnoldmo.org or sent via USPS to:

Veronica Jones, Accounts Payable Specialist
City of Arnold
2101 Jeffco Blvd.
Arnold, MO 63010

25) Liability and Indemnity:

- a. In no event, shall the City be liable to the Contractor for special, indirect, or consequential damages, except those caused by the City's gross negligence or willful or wanton misconduct arising out of or in any way connected with 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.
- b. The Contractor shall defend, indemnify and save harmless the City, its elected or appointed officials, agents and employees from and against any and all liability, suits, damages, costs (including attorney fees), losses, outlays and expenses from claims in any manner caused by, or allegedly caused by, or arising out of, or connected with, this contract, or the work or any subcontract thereunder (the 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 contract to Contractor.
- c. The Contractor shall indemnify and hold the City harmless from all wages or overtime compensation due any employees in rendering services pursuant to this agreement or any subcontract, 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 (Annual Wage Order No. 25, Section 050,

Jefferson County) or any other federal or state law.

- d. The indemnification obligations of Contractor hereunder shall not be limited by any limitations as to the amount or type of damages, compensation or benefits payable by or for the Contractor, under any federal or state law, to any person asserting the claim against City, its elected or appointed officials, agents and employees, for which indemnification is sought.
- e. The indemnification obligations herein shall not negate, abridge or reduce in any way any additional indemnification rights of the City, its elected or appointed officials, agents and employees, which are otherwise available under statute, or in law or equity.
- f. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this agreement in its contract price. Contractor's obligation under this agreement to defend, indemnify and hold harmless any person from that person's own negligence or wrongdoing is limited to the coverage and limits of the applicable insurance.

26) Conflict of Interest: No salaried officer or employee of the City and no member of the City council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations and applicable provisions in RSMo. Chapter 105 shall not be violated.

27) Entire Agreement: This agreement, including the terms and conditions contained or referenced herein, including but not limited to this RFP and all submitted bid documents constitutes the entire agreement between the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto.

28) Waiver: No provision of the contract documents shall be construed, expressly or by implication, as a waiver by the City of any existing or future right or remedy available by law in the event of any claim of default or breach of contract.

29) Jurisdiction: This Agreement shall be governed, construed and interpreted under Missouri law, and shall be deemed to be executed and performed in the County of Jefferson, Missouri. Any legal action arising out of, or relating to this Agreement shall be governed by the laws of the State of Missouri, and the parties agree to the exclusive exercise of jurisdiction and venue over them by a court of competent jurisdiction located in the County of Jefferson, Missouri, or federal court located in the City of St. Louis, Missouri.

30) Headings: All paragraph headings contained in this Agreement are for convenience of reference only, do not form a part of this Agreement and shall not affect in any way the meaning or interpretation of this Agreement.

31) Non-Exclusive Agreement: This Request for Proposal will result in a non-exclusive contract and the City of Arnold reserves the right to purchase same or like services from other sources as deemed necessary and appropriate. If at any time the Offeror does not fulfill their contractual obligations the City of Arnold may procure services from another source.

32) Conflicts of Interest:

- a. Contractor 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. The Contractor further covenants that in the performance of this

contract no person having such interest shall be employed.

- b. No salaried officer or employee of the City and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated.

- 33) **Safety Precautions:** The contractor shall maintain and enforce all necessary and adequate safety precautions for the protection of life and property on all work performed under the provisions of these Contract Documents. The contractor shall also comply with all regulatory agencies' requirements for safety.
- 34) **Delay by The City:** City and Contractor agree that the schedule of services to be provided by Contractor under this agreement may depend upon timely fulfillment of City responsibilities. If the City is unable to provide services and/or facilities as specified in the contract documents, and/or causes delays to the project beyond Contractor's control, the Contractor shall be entitled to an extension of the time for contract completion but such contract time of completion shall be extended no more than one day for each day of delay caused by the City. Any such agreement to modify or extend the time of contract completion shall be made in writing by formal addendum to the contract. The time of application of liquidated damages shall not begin until after the amended date for contract/phase completion. The contract time of completion shall not be extended because of delay caused by the City unless and until the Contractor has notified the City, in writing, that the City has caused a delay; such notice shall be made not later than seven (7) days after the beginning of the delay caused by the City.
- 35) **City's Right to Proceed:** In the event this contract is terminated, the City may take over the work and prosecute the same to completion, by contract or otherwise, and Contractor and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, the rights of the City under any other provisions of the contract, City ordinances, and state and federal laws.
- 36) **Cooperation:** All information, data, and reports as are existing, available and necessary for the carrying out of the work, shall be furnished to the Contractor without charge, and the parties shall cooperate with each other in every way possible in carrying out of the scope of services. It is understood that City has no responsibility for the accuracy of any such information provided.
- 37) **Coordination:** The Contractor shall fully coordinate its activities in the performance of the contract with the activities of the City.
- 38) **Contractor License:** The Contractor shall obtain and maintain a contractor's license with the City of Arnold, Missouri. The cost for this license shall be borne by the Contractor. No contract will be executed by the City until this license has been obtained.
- 39) **Authorization:** The services of the Contractor shall commence only as authorized in writing by City Purchase Order or other written notice to proceed and shall be undertaken and completed as promised by the Contractor in its bid.
- 40) **Insurance Requirements:** 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, 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 Contract Documents. 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 Contract. Failure of the Contractor to maintain coverage shall not relieve it of any contractual responsibility or obligation or liability 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 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 an additional insured and shall be accompanied by the policy's endorsements adding the City as an additional insured. Such notices shall be sent via email to vjones@arnoldmo.org or mailed to:

Veronica Jones, Accounts Payable Specialist
City of Arnold
2101 Jeffco Blvd.
Arnold, MO 63010

The minimum coverage for the insurance referred to herein shall be in accordance with the requirements established below: Such policies shall name the City as an additional named insured with limits of liability not less than the sovereign immunity limits for Missouri public entities calculated by the Missouri Department of Insurance as of January 1, each calendar year and published annually in the Missouri Register pursuant to Section 537.610, RSMo. (See, <http://insurance.mo.gov/industry/sovimmunity.php>) as follows:

As of January 1, 2020, 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 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 Dollars (\$2,000,000.00) aggregate for all claims arising out of a single accident or occurrence and One Million Dollars (\$1,000,000.00) 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 not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, leased/rented and non-owned autos).
- d. **Subcontracts:** In case any or all of this work is sublet, the Contractor shall require the subcontractor to procure and maintain all insurance required by the City of Arnold as listed above. Contractor shall require any and all subcontractors with whom it enters into a contract to perform work on this project to protect the City through insurance against applicable hazards or risks.

- e. **Notice:** The Contractor shall furnish the City prior to beginning the work, satisfactory proof of carriage of all the insurance required by this contract, with the provision that policies shall not be canceled, modified or non-renewed without thirty (30) days written notice to the City of Arnold.

41) Immunity Retention: By execution and performance of this Agreement, the City does not intend to, nor shall it be deemed to have waived or relinquished any immunity or defense on behalf of the City, and the City's board members, officers, directors, servants, employees, agents, successors or assigns.

42) Severability: If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be deemed severable. In such event, this Agreement shall be enforced as if such invalid or unenforceable provision had never formed a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision.

43) City Decisions: The City will determine whether the documents to be furnished hereunder are in compliance with the requirements of this Agreement and will decide all questions which may arise concerning the proper performance of this Agreement. The City's decisions in these respects shall be final and conclusive.

44) Legal Compliance: Contractor and its employees, agents and representatives shall comply with the City's policies and procedures and all applicable federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, codes and ordinances required of Contractor in performing the services pursuant to this Agreement.

45) Contractor Warranties: Contractor warrants and represents that it has the experience, skill, expertise, personnel and equipment necessary in order to perform and to complete the Work and the Project and that it will perform all of such Work in accordance with the terms hereof and in accordance with the highest standards of competency, in a professional and workmanlike manner.

46) E-Verify: In accordance with Section 285.530, RSMo., Contractor shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Contractor shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

(Signatures on following page.)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF ARNOLD, MISSOURI

Bryan Richison, City Administrator

ATTEST:

City Clerk

CONTRACTOR'S NAME:

REPRESENTATIVE'S SIGNATURE:

ATTEST:

DATE:

SAMPLE CONTRACT

EXHIBIT1

SCOPE OF SERVICES

ON-CALL RESIDENTIAL BUILDING AND STRUCTURE DEMOLITION SERVICES

- 1) The City's Request for Bids for the On-Call Residential Building and Structure Demolition Services; and also,
- 2) The Contractor's Bid including all supplemental information submitted therewith.

SAMPLE CONTRACT

EXHIBIT2

PAYMENT

Upon completion of the Work and the Project, Contractor shall submit to the City an application or request for payment along with adequate supporting documentation, for all labor performed and material provided and installed, all of which shall be acceptable to the City. Upon receipt and approval of the application or request for payment and the related supporting documentation, the City shall make payment in full to the Contractor within thirty (30) days.

SAMPLE CONTRACT