



RFP #24-11 Sale of City-Owned Property in Downtown District – Northside of Church Street

**THE CITY OF SMITHVILLE, MISSOURI REQUESTS SEALED PROPOSALS
FOR THE FOLLOWING:**

The City of Smithville, Missouri (the “City”) is soliciting proposals from qualified individuals and entities to buy real estate in the Downtown District which is currently an undeveloped gravel lot (the “Property”). The City desires to sell the Property with a restriction that the Property remain available for public parking during business hours from 6 a.m. until 6 p.m. every day, but may be used at all other times exclusively for its customers or tenants.

The Property, legally described on **Exhibit 1** attached hereto, is being sold "as is" without any representation as to its current condition for the limited future purpose of improving and maintaining a public parking lot. The sale will be upon the condition that the parking lot be constructed, and thereafter maintained and operated pursuant to the terms and specifications set forth in this Request for Proposals (the “RFP”). If the public parking lot is not timely constructed, maintained, and operated pursuant to the terms and conditions of this RFP the ownership of the Property shall revert back to the City. Such reversion shall not relieve the Purchaser of responsibility for any liability for damages caused by the Purchaser prior to such reversion even if the liability or damages are not discovered until after the reversion.

The purpose of this RFP is to identify a buyer with the interest, resources, and experience to purchase and develop (as more fully described in **Exhibit 2** attached hereto) the Property. The bidder deemed to have submitted the highest and best bid will be offered the opportunity to sign a real estate purchase contract with the City as drafted and prepared by the City generally in the form attached hereto as **Exhibit 3**. If the City and the Purchaser are reasonably unable to reach agreement as to the terms of the contract, the City may, at its option, select the second highest and best bid or reject all bids submitted in response to this RFP.

All bidders for the Property submitting a bid recognize and agree that the contract for sale is in fee simple determinable. The Property is and will be subject to all applicable rules, regulations, and procedures attendant with regard to the building/construction and maintenance of the parking lot in accord with the specifications set forth in **Exhibit 2**. Such public parking lot is to be built, and continually thereafter maintained and operated as a public parking lot on the Property as described in **Exhibit 2** and used for no other purpose(s), subject to the terms herein and in any subsequent real estate purchase contract or deed. After completion of the public parking lot, (other than with the express written approval of the City) if it is not maintained and operated as a public parking lot from 6 a.m. to 6 p.m. every day, the Property will revert back to the City.

INSTRUCTIONS TO BIDDERS

1. RFPs must be addressed to Gina Pate, 107 West Main Street, Smithville, Missouri 64089, and be received before 10:00 a.m. on the date of closing.

2. Responses and anything pertaining to the RFP should be in a sealed envelope. It is preferred that the PROPOSAL RESPONSE FORM in this RFP be used. All responses must be sealed and marked on the outer envelope by RFP number. The only information read after opening of bids will be the vendors, contractors, or proposers who responded. All bids must be submitted on or before 10:00 a.m. on the 8th day of March, 2024, at City Hall (the "Bid Date").
3. Disabled persons wishing to participate in the RFP closing and who require a reasonable accommodation may call the City at (816) 532-3897. A forty-eight-hour notice is required.
4. Any questions regarding this RFP should be directed to Gina Pate, Assistant City Administrator, 107 West Main Street, Smithville, Missouri 64089; (816) 532-3897.

THE CITY RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS.



Finance Director

Issued: February 15, 2024

**RFP #24-11 Sale of City-Owned Property
in the Downtown District – Northside of Church Street
General Information**

I. Site Information

The City of Smithville, Missouri (the “City”) was established in 1867 and still retains its strong agricultural roots. Downtown Smithville seeks to be the civic, entertainment, and cultural heart of the community. The City is completing a multi-phase, multi-million dollar streetscape project in the general downtown area which includes asphalt street replacement, curb and gutter, sidewalk, storm sewer, streetlights, traffic signs, and other amenities. A 1.6-mile trail connecting downtown Smithville to Smithville Lake has recently been constructed.

The Property offered for sale is more fully described in **Exhibit 1** which is attached hereto. The site is currently used as a public car park and is being offered for sale "as is" without any representation concerning its current condition. **The Property is included within a redevelopment area pursuant to the 110 Smithville Tax Increment Financing Plan (the “TIF Plan”) on file with the City. The Property must be developed in conformance with the TIF Plan.**

The Property is currently zoned B-4. Section 400.170 of the City Code provides the precise language of generally allowed uses. The Property must be used as a public parking lot as described herein or it will automatically revert back to ownership by the City. The Property will need to be developed and maintained in accordance with the specifications set forth in **Exhibit 2** attached hereto or as otherwise agreed to in writing by the City.

II. Evaluation & Selection

The City will evaluate proposals and select the proposal that it judges to be in the highest and best bid.

The City's evaluation criteria will include, in no particular order, but shall not be limited to the following:

- Price to be paid for said property.
- Overall responsiveness to the RFP.
- The generally anticipated ability of the bidder to timely construct, and thereafter maintain and operate the property as a parking lot in accordance with the terms and conditions of this RFP including **Exhibit 2**.

The proposal evaluation and selection process will follow the following general timeline. The City reserves the right to change this schedule to meet the needs of City staff, and the Board of Alderman.

Issue RFP: February 15, 2024

Proposals due: March 8, 2024, 10:00 a.m.

After selection by the Board of Alderman, within 30 days the City will present the successful bidder a real estate purchase contract in substantially the form attached hereto in **Exhibit 3**. The successful bidder will have 10 days, or as otherwise agreed by the Board of Aldermen in writing, to execute the contract.

The City may also request additional information from respondents at any time prior to final approval of a selected respondent to clarify (but not substantially change the bid as submitted). The City reserves the right to reject any or all of the responses.

All submittals shall become the property of the City, and, after the selection process, will be a public record.

III. Response Requirements

Responses shall include the following information, presented in this order:

A. Cover Letter: On firm letterhead, please identify the principal contact, providing the name, title, street address, email address, and telephone number, as well as all persons authorized to make representations for the respondent. The letter must indicate the type of organization of the respondent (e.g., individual, partnership, corporation, limited liability company, joint venture, etc.). The letter should briefly acknowledge that the property will be used in accordance with the terms and conditions of this RFP.

B. Qualifications and Experience: Summarize the respondent's ability and experience, to timely build, maintain and operate the parking lot.

C. Legal Disclosure: Disclosure of any judgments, bankruptcies, legal proceedings, or conflicts of interest related to projects the respondent has developed, owned, or has a substantial ownership interest in.

D. Purchase Price: Provide a statement of the proposed purchase price associated with the respondent's proposal.

IV. Questions & Information Requests

Any amendments or addenda to this RFP will be posted on the City's website and distributed directly to respondents known to have the RFP. To ensure you are sent the latest information regarding this request, you must register as an interested respondent by submitting your contact information to Assistant City Administrator Gina Pate. The City will distribute any amendments or addenda by email. Questions about the RFP may be directed to Gina Pate, Assistant City Administrator, at 816-532-3897 or GPate@smithvillemo.org. Contact regarding the RFP with any persons other than Gina Pate, including other City staff, other third parties hired by the City, and City elected officials, may result in the disqualification of the submitted response to the RFP.

All respondent communications with the City will be considered confidential prior to the opening of responses. Responses will be sent to all registered respondents.

V. Terms & Conditions

- A.** All proposals shall become an integral part of any real estate purchase contract and/or development agreement executed between the City and the bidder/Purchaser.
- B.** Supplemental materials will not be accepted after the proposals have been opened, unless requested of all bidders by the City.
- C.** The City reserves the right to amend, modify, or withdraw this RFP for any reason, or no reason whatsoever, and at the City's sole and absolute discretion.
- D.** This RFP does not commit the City to select any proposal submitted for the Property or enter into an agreement with any bidder.
- E.** The City reserves the right to reject any proposal or all proposals if deemed to be in the best interest of the City. The City reserves the right to waive informalities or irregularities in the RFP or the response.
- F.** No respondent may withdraw their proposal for a period of ninety (90) days from the response date.
- G.** All responses to this RFP and documents and meetings relating thereto may remain closed records or meetings under the Missouri Sunshine Act until a contract is executed or until RFP responses are rejected. All responses to this RFP, proposals and supplementary material will become the property of the City when submitted. Thereafter, all responses to the RFP and all proposals will become public information.
- H.** The selection of a bidder is subject to the approval of the City by its Board of Alderman, at its sole discretion.
- I.** The City will not be liable for any expenses incurred by any respondent in replying to this RFP or for expenses incurred by the successful respondent during the negotiation of a development agreement between the respondent and the City.

(It is preferred that the Bid Response use the Form, however, the City reserves the right to accept Bids which provide the necessary information without using this form.)

RFP #24-11 Sale of City-Owned Property
in the Downtown District – Northside of Church Street
PROPOSAL RESPONSE FORM

Name of Company or Individual _____ (Print Name) submitting the Proposal.

If submitted by an agent _____ (Print the Name of the Agent Submitting RFP.

Acknowledgment, _____ (Firm or Company), have read and reviewed the RFP and attached specifications.

I state the _____ hereby offer meets or exceeds all requirements. All other required information must be attached.

Company Name

Authorized Person (Print)

Address

Signature

City/State/Zip

Title

Tax ID No.

E-Mail Address

Exhibit 1

Legal Description

Lot 4, except the East 30 feet, and all of Lots 5 and 6, all in Block 2, ORIGINAL TOWN OF SMITHVILLE, a subdivision in Smithville, Clay County, Missouri.

Exhibit 2

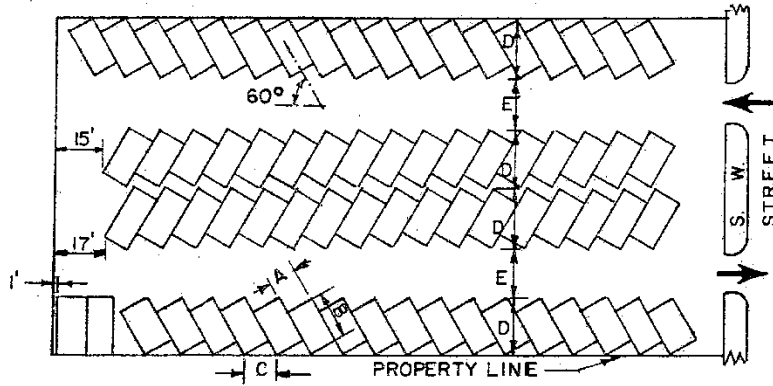
Minimum Parking Lot Requirements

- Standard space size 8.5 ft wide by 19 ft long (minimum).
- ADA Spaces shall meet requirements of the Americans with Disabilities Act for number of spaces required and size.
 - Van accessible space shall be a minimum of 11 ft. wide.
 - Pedestrian access aisle shall be a minimum of 5 ft. wide.
- Lighting shall be provided – a photometric plan shall be provided.
 - Light poles, base and head shall be equivalent to the streetlights used in the downtown Streetscape (attached specification).
- Vehicle overhang shall not encroach pedestrian walkways / sidewalks.
- Responses should include the ability of the Bidder/Purchaser to include EV-Capable and EV-Ready parking spaces, as defined below, and the number of EV-Capable and EV-Ready parking spaces the Bidder/Purchaser intends to consider including. The City agrees to work with the Bidder/Purchaser in exploring additional funding to allow for including EV-Capable and EV-Ready parking spaces more financially feasible.
 - EV-CAPABLE SPACE. A dedicated parking space with electrical panel capacity and space for a branch circuit dedicated to the EV parking space that is not less than 40-ampere and 208/240-volt and equipped with raceways, both underground and surface mounted, to enable the future installation of electric vehicle supply equipment. For two adjacent EV-Capable spaces, a single branch circuit is permitted.
 - EV-READY SPACE. A designated parking space which is provided with a dedicated branch circuit that is not less than 40-ampere and 208/240-volt assigned for electric vehicle supply equipment terminating in a receptacle or junction box located in close proximity to the proposed location of the EV parking space. For two adjacent EV-Ready spaces, a single branch circuit is permitted
- Drainage Study required.
 - Drainage study shall include pre and post developed runoff calculations.
 - Storm sewer and detention as necessary based on study.
- Pavement and subgrade specifications.
 - Compact subgrade to 95% compaction.
 - Base 6" compacted AB-3.
 - 5" Concrete or 6" asphalt pavement.
 - Except if there are trash dumpsters and/or commercial loading areas, the commercial loading areas, solid waste truck path and dumpster area will need to be 8" concrete or 9" asphalt.
 - All concrete is KCMMB 4000psi.
 - Asphalt to meet City Specifications for maximum 15% RAP in base course, Virgin top lift, asphalt cement PG 64-22.
 - Drive approach shall be 6" concrete to R/W (except if SW or other commercial activities accesses the parking lot the approach will need to be 8" concrete).
- Striping shall be Thermo-plastic.

- Must maintain property to the following standards:
 - Clean, sightly and healthy condition and in good repair.
 - Bidder/Purchaser shall promptly repair any damage, excessive wear and tear, or decay on the Property.
 - Provide for regular maintenance, including, but not limited to mowing, landscaping, snow removal, litter cleanup, waste removal and the like.
 - Bidder/Purchaser must keep the Property in compliance with the City Code and failure to do so will result in enforcement and/or fines as determined by the City.

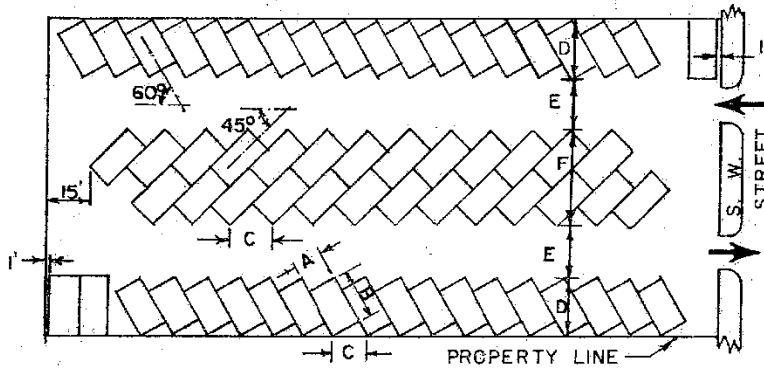
OFF-STREET PARKING STANDARDS

60° PERIMETER & ISLAND PARKING



60° PERIMETER & ISLAND PARKING					
STALL WIDTH	A	8.5'	9'	9.5'	10'
STALL LENGTH	B	19'	19'	19'	19'
CURB LENGTH/ CAR	C	9.8'	10.5'	11'	11.5'
STALL DEPTH	D	21'	21'	21'	21.5'
DRIVEWAY WIDTH	E	18.5'	18'	18'	18'

45° & 60° HERRINGBONE PATTERN PARKING



STALL WIDTH		STALL LENGTH		CURB LENGTH PER CAR		STALL DEPTH		DRIVEWAY WIDTH		ISLAND WIDTH	
A	B	C/45°	C/60°	D/60°	E/60°	F					
8.5'	19'	12'	9.8'	21'	18.5'	33'					
9'	19'	12.7'	10.5'	21'	18'	33'					
9.5'	19'	13.5'	11'	21'	18'	33'					
10'	19'	14'	11.5'	21.5'	18'	34'					

PARALLEL PARKING

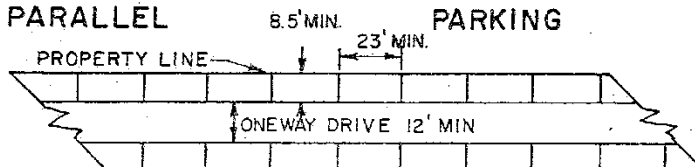


Exhibit 3

Sample Real Estate Purchase Contract

THIS REAL ESTATE SALE CONTRACT (the “**Contract**”) is made by and between the **CITY OF SMITHVILLE, MISSOURI**, a municipal corporation and fourth-class city of the State of Missouri (“**City**”), and

[**BUYER**], a _____ (“**Buyer**”),

dated as of the date on which either party last signs this Contract as dated beneath the parties’ signature (the “**Effective Date**”).

BACKGROUND:

A. City owns the real property located in the Downtown District of the City in Clay County, Missouri, described as follows (the “**Property**”):

Lot 4, except the East 30 feet, and all of Lots 5 and 6, all in Block 2, ORIGINAL TOWN OF SMITHVILLE, a subdivision in Smithville, Clay County, Missouri.

B. Pursuant to the authority of Missouri law, City has issued **RFP # 24-11 Sale of City-Owned Property in the Downtown District** soliciting sealed proposals to purchase the Property as surplus City-owned Property, a copy of which is attached to and by this reference incorporated into this Contract as **Exhibit A** (the “**RFP**”).

C. In response to the **RFP**, Buyer delivered a detailed Proposal Response Form and bid for the Property, a copy of which is attached to and by this reference incorporated into this Contract as **Exhibit B** (the “**Buyer’s Response**”)

D. Based on Buyer’s response and bid as set forth in the Buyer’s Response, City deemed Buyer the successful bidder under the terms of the **RFP**.

AGREEMENTS:

In consideration of the Purchase Price (defined below), the facts recited above, the mutual covenants and agreements set forth in this Contract, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged by each of them, City and Buyer agree as follows:

1. Contract Documents. The Contract between City and Buyer consists of this Contract, incorporating the RFP and the Buyer’s Response. City and Buyer agree that in the event of a conflict in the interpretation of the contract documents, the terms within the contract documents shall be construed or given binding effect in the following order: this Contract, the RFP, the Buyer’s Response.

2. Sale of Property; Condition; Reverter. City agrees to sell the Property to Buyer, and Buyer agrees to purchase the Property from City, for the price and upon and subject to the terms, conditions and provisions set forth in this Contract, and upon the express condition that the Property be developed and maintained as a parking lot under the terms and conditions of the RFP.

If for any reason Buyer or its heirs, successors or assigns fail to develop and maintain the Parking Lot pursuant to the terms of the RFP, the property shall revert back to the City.

3. Purchase Price, Earnest Money Deposit. The purchase price (“**Purchase Price**”) for the Property is \$ _____, which Buyer agrees to pay as follows:

(a) \$ _____ in good funds, to be deposited by Buyer within one business day after the Effective Date in the insured trust or escrow account of **Coffelt Land Title, Inc.** 9574 N McGee, Kansas City, Missouri 64155 (the “**Title Company**”), to be held by the Title Company without interest as an earnest money deposit (the “**Earnest Money Deposit**”); and

(b) the balance of \$ _____ by federal wire transfer of funds or other certified funds at Closing (defined below), adjusted at Closing for credits, prorations closing costs and any other adjustments set forth in this Contract.

4. Closing; Possession. Subject to all the terms of this Contract, this transaction will be closed (the “**Closing**”) at the office of the Title Company on _____, 2024 (the “**Closing Date**”), or a prior date mutually agreed to by the parties, and possession of the Property will be delivered to Buyer upon Closing. An executed copy of this Contract will be delivered to the Title Company by City and will constitute the instructions to the Title Company to complete the Closing.

5. “As-Is” Purchase. Buyer is purchasing the Property **AS IS, WHERE IS, IN ITS PRESENT CONDITION, WITH ALL FAULTS**, patent and latent, and, only except as otherwise expressly stated in this Contract, without any representations or warranties by City or on behalf of City. Buyer represents to City that Buyer knows, has examined and investigated or will, under the provisions of this Contract, examine and investigate to the full satisfaction of Buyer, the physical nature and condition, including environmental condition, of the Property; and agrees that neither City nor any of City’s elected officials, officers, employees, agents, or other representative of City has, except as expressly stated in this Contract, made any representation, promise or warrant whatsoever regarding the Property or any part thereof, including without limiting the generality of the foregoing, any representation as to the physical nature or condition, including environmental condition, thereof, restrictions thereon, the value or the financial prospect therefor, its suitability for a particular purpose, or the availability of utilities; and agrees that Buyer executing, delivering, and/or performing this Contract, does not, except as expressly set forth in this Contract, rely upon any statement or information to whomever made or given, directly or indirectly, verbally or in writing, by City or any party purporting to act or speak on behalf of the City. By accepting the deed to the Property at Closing, Buyer shall be deemed to have waived, released, forever discharged from, and agreed not to sue City, its elected officials, officers, employees, agents, or other representative of City, or their respective heirs, personal representatives, successors and assigns, for, any and all claims, actions, suits and proceedings of whatever kind or nature arising out of, as a result of or in connection with the physical or financial condition of the Property or any improvements thereon.

6. Title Insurance; Survey. As soon after the Effective date as reasonably possible, City will cause the Title Company to deliver to Buyer a title insurance commitment (the “**Title Commitment**”) for an ALTA Owner’s Policy in the amount of the Purchase Price (the “**Title Policy**”), along with a copy of any exception documents listed in Schedule B of the Title Commitment. If Buyer desires to obtain a survey of the Property (a “**Survey**”), Buyer will order the Survey not later than 5 days after the Effective Date, and Buyer assumes responsibility for paying for the Survey. Buyer will have 20 days after receipt of the Title Commitment (the

“Objection Period”) in which to notify City in writing of any reasonable objections Buyer has regarding any matters shown or referred to in the Title Commitment or the Survey. Any matters which are stated in the Title Commitment or disclosed by the Survey and to which Buyer does not object within the Objection Period will be deemed to be permitted exceptions to the status of City’s title (the **“Permitted Exceptions”**). Regarding items to which Buyer does object within the Objection Period, City will have 30 days after receipt of Buyer’s written notice of objections to cure such objections (**“Title Cure Period”**). If such matters are not corrected within the Title Cure Period, or if City and Buyer have not agreed to extend the Title Cure Period by amending this Contract, Buyer’s sole remedy will be to either accept such title as City is able to deliver, without diminution to the Purchase Price, or to terminate this Contract by written notice to City within 5 days after the expiration of the Objection Period. If Buyer does not deliver the notice of termination to City within the 5 days, Buyer will be deemed to have irrevocably waived all objections to title to the Property which were disclosed by the Title Commitment or the Survey, all such matters will be deemed to be Permitted Exceptions , and this Contract will remain in full force and effect and the parties will proceed to close this transaction according to the terms of this Contract. If Buyer delivers a notice of termination of the Contract within the 5 days, the Earnest Money Deposit will be returned to Buyer and neither party will have any further obligation under this Contract, except as to any obligations that are to survive termination under the express terms of this Contract. Nothing in this Contract will be construed to require City to bring any action or proceeding or otherwise to incur any expense to cure any title or survey objections under the terms of this Contract.

7. Prorations; Closing Costs. As a government entity, City is not subject to general state, county and city taxes and installments of special assessments assessed against its property. To the extent general taxes or assessments are levied or assessed against the property post-Closing, they shall be the sole responsibility of Buyer.

(a) City will pay:

- (i) all expenses in connection with the payment of any encumbrances and recording costs to release any encumbrances which City elects or is obligated to release or satisfy by the terms of this Contract, and
- (ii) City’s attorneys’ fees.

(b) Buyer will pay:

- (i) all charges for the Title Policy, including for extended coverage and endorsements,
- (ii) costs of recording the deed and any loan documents related to financing arranged by Buyer,
- (iii) the cost of any Survey or survey update Buyer obtains,
- (iv) Buyer’s attorneys’ fees,
- (v) any escrow and closing fees charged by the Title Company,
- (vi) Buyer’s expenses for tests and inspections, and (vii) any other costs or obligations Buyer has incurred with respect to the property or the purchase transaction.

Otherwise, all expenses accrued prior to and on the Closing Date with respect to the Property shall be paid by City, and all expenses with respect to the Property accruing after the Closing Date shall be paid by Buyer. The agreements of City and Buyer set forth in this Section shall survive the Closing or any termination of this Contract.

8. Physical Inspection.

(a) Buyer may, on or before 30 days after the Effective Date (the “**Inspection Period**”), at Buyer’s cost and expense, cause such engineering and physical tests, inspections, and examinations to be made by firms designated by Buyer with respect to the elevations, topography, soil conditions, storm water drainage, environmental matters (including a Phase I and a Phase II environmental audit), availability of utilities, and all other matters regarding the condition of the Property (collectively, the “**Inspections**”) as Buyer deems reasonably appropriate. Buyer and its designees may enter the Property to perform the Inspections and will be given access to City’s records and personnel at such times and to the extent reasonably necessary to the Inspections. Buyer shall provide at least 48 hours prior notice (by telephone or email) to the City Administrator, or to any other party whom the City may designate, of any proposed entry or inspection of any Property.

(b) Buyer will cause all results and reports (collectively the “**Inspection Results**”) with respect to the Inspections to be completed and delivered to Buyer prior to the expiration of the Inspection Period. If any of the Inspection Results disclose conditions or other matters reasonably unacceptable to Buyer, then Buyer will have the right to terminate this Contract by giving notice to City of its election to do so at any time within the Inspection Period, and shall deliver to City along with such notice a copy of any report demonstrating the reasonably unacceptable condition or matter. If Buyer timely gives such notice to terminate this Contract, the Earnest Money Deposit will be returned to Buyer and, except as to any obligations that are to survive termination under the express terms of this Contract, neither party will have any further obligation or liability to the other under this Contract. If Buyer does not timely give such notice to terminate this Contract, then Buyer will be deemed to have waived its right to terminate under this paragraph and thereafter will not have the right to do so.

(c) Buyer agrees, at its sole cost and expense, to repair any damage to the Property arising from the Inspections, including such repairs as are necessary to restore the Property to its original condition prior to the Inspections, and agrees to indemnify and hold harmless City from and against all liability, loss, damages, and expenses (including reasonable attorneys’ fees) for death, bodily injury, personal injury, property damage, or otherwise, arising from or related to the performance of the Inspections by Buyer or its agents, contractors or designees, all such obligation to survive the termination of this Contract or the reversion of the property, notwithstanding any contrary provision in this Contract. Any defense conducted by Buyer of any such claims, actions, damages, liability, and expense will be conducted by attorneys chosen by City, and Buyer will be liable for the payment of any and all court costs, expenses of litigation, reasonable attorneys’ fees and any judgment that may be entered therein.

(d) Prior to Buyer entering the Property to conduct the Inspections, Buyer shall, at Buyer’s sole cost and expense, obtain and maintain, or shall cause each of its agents, contractors and designees to obtain, and deliver to City certificates of insurance evidencing, the following insurance coverage,: commercial liability insurance, from an insurer licensed to do business in the State of Missouri, in an amount not less than the then-current absolute statutory waivers of sovereign immunity in Sections 537.600 and 537.610 of the Revised Statutes of Missouri (which for calendar year 2023 is equal to \$3,258,368 for all claims arising out of a single accident or occurrence and \$488,755 for any one person in a single accident or incurrence). Such policy or policies shall name City as an additional insured party, which insurance shall provide coverage

against any claim for personal injury or property damage caused by Buyer or its agents, contractors, designees or employees or contractors in connection with any Inspections.

9. Buyer's Acknowledgment, Representations and Warranties. Buyer represents that _____ is duly authorized to execute this Contract on behalf of Buyer. Buyer further acknowledges, represents, and warrants that it is familiar with its obligation (pursuant to the terms of the **RFP**) to complete the construction of a public parking lot on the property, and continually thereafter to maintain and operate it as a public parking lot during business hours from 6 a.m. until 6 p.m. every day, but may be used at all other times exclusively for its customers or tenants. If Buyer fails to build, maintain, and operate a public parking lot on the property as required, then the property will revert back to the City.

10. Closing. The following will be deposited with the Title Company on or before the Closing Date:

(a) City will deposit or cause to be deposited:

- (i) The Deed, in the form of the attached **Exhibit C**, or a form otherwise reasonably acceptable to the Buyer, subject to the reservations and conditions set forth in the RFP and to the Permitted Exceptions (together with such other instruments as may be required by local law in connection with the conveyance of real property), duly executed and acknowledged.
- (ii) A closing statement prepared by the Title Company and executed by City.
- (iii) Such other documents and instruments as City is able to deliver as the Title Company may reasonably require to complete the transaction and issue the Title Policy in conformance with the terms of this Contract.

(b) Buyer will deposit or cause to be deposited:

- (i) By federal wire transfer of funds or other certified funds, an amount equal to the balance of the Purchase Price (as adjusted pursuant to the terms of this Contract).
- (ii) Such documents and instruments as the Title Company may reasonably require evidencing the due organization and valid existence of Buyer and its authority to enter into and fulfil its obligations under this Contract.
- (iii) A closing statement prepared by the Title Company and executed by Buyer; and
- (iv) Such other instruments as are required by this Contract and/or as are reasonably necessary or appropriate to consummate the sale contemplated by this Contract.

(c) Upon receipt of all of the documents and funds described in Paragraph (b), above, the Title Company will (i) record the Deed; (ii) disburse funds as shown in City's closing statement; (iii) deliver to Buyer the Title Policy, the original Deed, as recorded, and a copy of Buyer's closing statement executed Buyer; and (iv) deliver to City a photocopy of the Deed, as recorded, and a copy of City's closing statement.

11. . Default. City or Buyer shall be in default under this Contract if either fails to comply with any material covenant, agreement or obligation within any time limits required by this Contract.

(a) If City defaults, including being unable to deliver title to the Property as contemplated by this Contract, Buyer will have the option as Buyer's sole remedy and relief, to take such title as City can give, or of terminating this Contract, in which event the Earnest Money Deposit will be returned by the Title Company to Buyer.

(b) If Buyer defaults, City may, as City's sole remedy and relief hereunder, terminate this Contract and thereupon be entitled to receive the Earnest Money Deposit as liquidated damages (and not as a penalty). City and Buyer have made the above provision for liquidated damages because it would be difficult to calculate on the Effective Date, the amount of actual damages for such breach, and that these sums represent reasonable compensation to City for such breach.

12. Notice. All notices required under this Contract and all approvals and other communications required or permitted to be given hereunder, must be in writing and be hand-delivered, delivered by courier (guarantying next day delivery), delivered by facsimile transmission to the number herein, emailed, or mailed by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to City:

Cynthia Wagner and Gina Page,
Smithville City Hall
107 West Main Street,
Smithville, Missouri 64089

Email: cwagner@smithvillemo.org; gpate@smithvillemo.org

With copy to:

Kuhlman, Reddoch and Sullivan PC
Suite 200
1201 W. College
Liberty, Missouri 64068
Attn: John Reddoch

Email: johnr@krsr.net

If to Buyer:

With copy to:

Any notice will be deemed given 2 days after the date such notice is mailed as provided above, or on the day of hand-delivery or facsimile transmission.

13. Governing Law. This Contract will be governed by and construed in accordance with the laws of the State of Missouri. Any action regarding or arising out of the terms and conditions of this

Contract shall be instituted and litigated in the courts of the State of Missouri, County of Clay and in no other, and the parties submit to such jurisdiction and venue.

14. Binding Effect. This Contract will be binding upon and, subject to the provisions of Section 16 below regarding assignment, inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and assigns.

15. Brokers. Buyer represents and warrants to City that it has had no dealings with any broker or agent in connection with this transaction. Buyer agrees to indemnify and hold City harmless from any cost or expense (including commissions due or claimed to be due by any licensed real estate broker), including attorneys' fees, arising from the failure of Buyer's representation in the preceding sentence, which obligation will survive Closing or termination of this Contract.

16. Assignment. Buyer may not assign or transfer Buyer's rights or obligations under this Contract without City's consent, which may be withheld or delayed at City's sole discretion. No assignment of this Contract by Buyer shall release Buyer of Buyer's obligations to City under this Contract.

17. Entire Agreement; Modifications. This Contract contains the entire agreement between City and Buyer and there are no other terms, conditions, promises, understandings, statements, or representations, express or implied, concerning the sale contemplated hereunder. No alteration, change or modification of this Contract will be effective unless made in writing and executed by City and Buyer.

18. Time of Performance. If the time for performance of any obligations or satisfaction of any condition hereunder falls on a Saturday, Sunday or a day which is a Missouri state or federal holiday, the time for performance of such obligations or satisfaction of such condition shall be extended to the next day which is not a Saturday, Sunday or Missouri state or federal holiday.

19. Waiver. The waiver by either party of any term, covenant, or condition of this Contract shall not operate as a waiver of any subsequent breach of the same or any other term. No term, covenant, or condition of this Contract can be waived except by the written consent of the party granting the waiver, and forbearance or indulgence by either party in any regard whatsoever shall not constitute a waiver of any term, covenant, or condition to be performed by the other party.

20. Condition Precedent; Counterparts. This Contract shall be null and void and of no effect unless and until the City has, by Ordinance or Resolution passed by the City Board of Aldermen, obtained the authority to enter this Contract. This Contract may be executed in separate counterparts, each of which will be deemed to be an original and all of which, collectively, will be deemed to constitute one and the same Contract. Any signatures to counterparts may be delivered by facsimile or other electronic transmission, and such signatures shall have the same force and effect as originals. If counterparts of this Contract are not executed and delivered by all the parties and a fully executed counterpart delivered to Buyer on or before 10 Days after the City has by Ordinance or Resolution passed by the City Board of Aldermen obtained the authority to enter this Contract, this Contract shall be null and void.

[Remainder of page intentionally left blank. Signature page(s) to follow.]

SIGNATURES:

IN WITNESS WHEREOF, the parties have caused this this Contract to be executed as of the Effective Date.

City:

CITY OF SMITHVILLE, MISSOURI

By: _____

Damien Boley, Mayor

Date:

Buyer:

[BUYER]

By: _____

Printed Name:

Title:

Date:

EXHIBIT A TO REAL ESTATE SALE CONTRACT

THE RFP

[Insert RFP 24-11]

EXHIBIT B TO REAL ESTATE SALE CONTRACT

Buyer's Response and Bid

[Insert Buyer's Response to RFP 24-11]

EXHIBIT C TO REAL ESTATE SALE CONTRACT

MISSOURI SPECIAL WARRANTY DEED DETERMINABLE

THIS MISSOURI SPECIAL WARRANTY DEED DETERMINABLE, is made _____, 2024, by and between

CITY OF SMITHVILLE, MISSOURI,

a municipal corporation and fourth-class city of the State of Missouri

107 West Main Street,

Smithville, Missouri 64089

“Grantor”, and

[BUYER],

[Buyer’s Address]

“Grantee”

WITNESSETH, THAT GRANTOR, in consideration of the sum of Ten Dollars, and other good and valuable consideration paid to Grantor by Grantee (the receipt and sufficiency of which is hereby acknowledged) does by these presents, **SELL and CONVEY** unto Grantee, its successors and assigns, that certain real estate situated in the County of Clay, and State of Missouri, described as:

Lot 4, except the East 30 feet, and all of Lots 5 and 6, all in Block 2, ORIGINAL TOWN OF SMITHVILLE, a subdivision in Smithville, Clay County, Missouri.

EXCEPT: any access, entry, water, sewer, gas, electric, utility, drainage, culvert, channel, maintenance or other easement heretofore granted to or reserved by Grantor; and

SUBJECT TO: (a) liens, encumbrances, easements, restrictions, reservations, declarations, and other agreements and matters of record, if any, (b) taxes and assessments, general and special, if any; and (c) rights of the public in and to the parts thereof in streets, roads, or alleys, if any.

TO HAVE AND TO HOLD the described premises, with all and singular the rights, privileges, appurtenances, and immunities thereto belonging or in anywise appertaining to the premises, unto the Grantee and Grantee’s successors and assigns, forever,

*upon condition that the Grantee constructs, and thereafter maintains and operates a public parking lot on the property in accordance with the City of Smithville **RFP 24-11**; and that if Grantee fails construct the parking lot, or if thereafter, other than with the express written permission of the Grantor, fails to maintain and operate a public parking lot on the property in accordance with Smithville **RFP 24-11** during business hours from 6 a.m. to 6 p.m. every day, then title to the premises shall revert back to Grantor;*

Grantor hereby covenanting that, other than as set forth in Smithville **RFP 24-11**, the said premises are free and clear from any encumbrance done or suffered by Grantor; and that it will warrant and defend the title

to the said premises unto Grantee, and to Grantees successors and assigns forever, against the lawful claims and demands of all persons claiming under Grantor, except as provided above.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed by its duly authorized officer the day and year first above written.

GRANTOR:

CITY OF SMITHVILLE, MISSOURI

By: _____
Damien Boley, Mayor

STATE OF MISSOURI)
) **SS.**
COUNTY OF CLAY)

On this ____ day of _____ 2024, before me, a Notary Public in and for said State, appeared **Damien Boley**, to me personally known, who being by me personally sworn did say that he is the Mayor of the **CITY OF SMITHVILLE MISSOURI**, a municipal corporation and fourth-class city of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said city, and that said instrument said instrument was signed and sealed on behalf of said city by authority of its Board of Aldermen, and acknowledged said instrument to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in _____, _____, the day and year last above written.

Printed Name:
Notary Public in and for said State

My Commission Expires:

