

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH MYNETWORKS, LLC FOR INFORMATION TECHNOLOGY SERVICES; FIXING AN EFFECTIVE DATE

WHEREAS, it is the City’s intention to maintain the integrity of all software operating systems and equipment needed to properly facilitate the administrative needs of the City; and

WHEREAS, the City desires to retain the services of MyNetWORKS, LLD to perform specific duties in order to meet those intentions.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WAYNESVILLE, MO AS FOLLOWS:

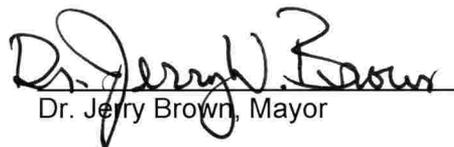
Section 1. That the Agreement between the City of Waynesville, Missouri and MyNetWORKS, LLC, which is attached hereto and made a part thereof, is hereby approved.

Section 2. That the Mayor is authorized to execute this Agreement on behalf of the City.

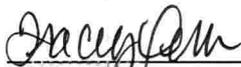
Section 3. That the City Administrator is authorized to implement policy and procedure to facilitate this agreement and may, in the absence of the Mayor, be allowed to negotiate terms concerning the Agreement for the good of the City, with MyNetWORKS.

Section 4. This ordinance shall be in full force and effect from and after tis passage and approval.

PASSED BY THE CITY COUNCIL ON THIS 24th **DAY OF** March, 2021.


Dr. Jerry Brown, Mayor

ATTEST:



Tracey York, Deputy City Clerk

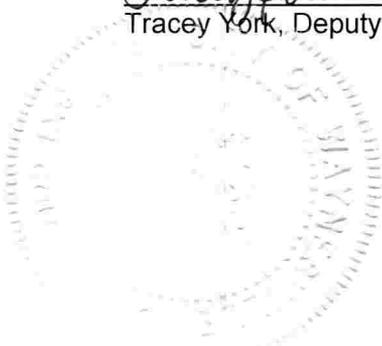


EXHIBIT "A"
SCOPE OF WORK
CITY OF WAYNESVILLE

CONTRACT SERVICES AGREEMENT FOR

INFORMATION/TECHNOLOGY SERVICES

THIS CONTRACT SERVICES AGREEMENT (this "Agreement") is made and entered into this 24th day of March, 2021 by and between the CITY OF WAYNESVILLE, MISSOURI (the "City") and MY NETWORKS, LLC, an information and technology (IT) service located in Lebanon, Missouri (the "Contractor").

WITNESSETH:

WHEREAS, it is the City's intent to enter into an agreement with the Contractor, whereby the Contractor will provide certain services to the City, all as set forth hereinafter in this Agreement.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. SERVICES OF CONTRACTOR

- A. **Scope of Services.** In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A", and incorporated herein by reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, the Contractor represents and warrants that the Contractor is a provider of first-class work and services and the Contractor is experienced in performing the work and services contemplated herein and, in light of such status and experience, the Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder. For the purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.
- B. **Familiarity with Work.** By executing this Agreement, the Contractor warrants that the Contractor
- (1) has thoroughly investigated and considered the scope of services to be performed,
 - (2) has been on the premises where the work and services are to be performed and is thoroughly familiar with the premises and the structures thereon,
 - (3) has carefully considered how the services should be performed, and
 - (4) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement, be fully acquainted with the conditions there existing, prior to commencement of services hereunder.
 - (5) should the Contractor discover any latent or unknown conditions which will materially affect the performance of the services hereunder, the Contractor shall immediately inform the City of such fact and shall not proceed except at the Contractor's risk until written instructions are received from the City.
- D. **Care of Work.** The Contractor shall be responsible for all such damages, to persons or property, for the work performed and services provided to the City, except such losses or damages as may be caused by the City's own negligence.

E. Additional Services. The City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless written order is first given by the City to the Contractor, incorporating therein any adjustment in

- (1) the Contract Sum, and/or
- (2) the time to perform the Agreement, which said adjustments are subject to the written approval of the Contractor.

It is expressly understood by the Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. The Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than the Contractor anticipates and that the Contractor shall not be entitled to additional compensation therefore.

F. Presence of Hazardous Materials. The Contractor acknowledges that the City stores and uses hazardous materials throughout the City's facilities. The Contractor assumes the risk of harm to its employees, their property or the property of the Contractor resulting from contact with hazardous materials while the Contractor's employees or property are on the City's property.

2. COMPENSATION

A. Contract Sum. For the services rendered pursuant to this Agreement, the Contractor shall be compensated up to but not exceeding the following:

- (1) \$1,080 a month for a bank of 144 hours, yearly.

B. Method of Payment. Provided that the Contractor is not in default under the terms of this Agreement, the Contractor shall be paid on receipt of a monthly invoice from the Contractor, detailing the days and work performed for that month and the amount due.

3. COORDINATION OF WORK

A. Representative of Contractor. **Ryan Jaynes** is hereby designated as being the principal and representative of the Contractor authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith.

B. Contract Officer. The City Administrator, or his/her designated representative, is hereby designated as being the representative of the City authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith ("Contract Officer"). Unless otherwise specified herein, any amendment to this Agreement must be approved on behalf of the City by action of its City Council.

- C. Prohibition against Subcontracting or Assignment. The Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of the City. Any such prohibited assignment or transfer shall be void.
- D. Independent Contractor. Neither the City nor any of its officials or employees shall have any control over the manner, mode or means by which the Contractor, its agents or employees, perform the services required herein, except as otherwise set forth. The Contractor shall perform all services required herein as an independent contractor of the City and shall remain under only such obligations as are consistent with that role. The Contractor shall not at any time or in any manner represent that it, or any of its agents or employees, are agents or employees of the City.

4. INSURANCE, INDEMNIFICATION AND BONDS

- A. Workers' Compensation Insurance. The City shall maintain a policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of Missouri and which shall indemnify, insure and provide legal defense for both the Contractor and the City against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

The insured shall waive all rights of subrogation and contribution it may have against the City, its officers, officials, employees and agents, and their respective insurers. In the event any of said policies of insurance are canceled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 4.A to the Contract Officer. No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, endorsements or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance, endorsements, or binders are approved by the City. The Contractor agrees that the provisions of Section 4.A shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible.

In the event the Contractor subcontracts any portion of the work in compliance with Section 3.C of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section. 4.A&B.

- B. Indemnification. The Contractor agrees to indemnify the City, its officers, officials, agents and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection

with the negligent performance of the work, operations or activities of the Contractor, its agents, employees, subcontractors, or invitees, provided for herein, or arising from the negligent acts or omissions of the Contractor hereunder, or arising from the Contractor's negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, whether or not there is concurrent passive or active negligence on the part of the City, its officers, officials, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the City, its officers, agents or employees, who are directly responsible to the City, and in connection therewith:

- (1) The Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
- (2) The Contractor will promptly pay any judgment rendered against the City, its officers, officials, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of the Contractor hereunder; and the Contractor agrees to save and hold the City, its officers, officials, agents, and employees harmless therefrom;
- (3) In the event the City, its officers, officials, agents or employees is made a party to any action or proceeding filed or prosecuted against the Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of the Contractor hereunder, the Contractor agrees to pay to the City, its officers, officials, agents or employees, any and all costs and expenses incurred by the City, its officers, officials, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

5. TERM AND ADDITIONAL PERIODS

- A. Initial Term. The initial term of this Agreement shall begin on April 1, 2021 and shall end on December 31, 2019. The payment of any compensation due under this Agreement for any year within the initial term provided for herein is contingent upon the annual appropriation of funds by the City Council of the City. The failure of the City Council to appropriate funds for this purpose shall relieve all parties from any responsibility under this Agreement.
- B. Renewal Terms. The City may extend the term of this Agreement for up to two (2) additional (1) year periods, these periods to run from January 1st to December 31st starting on January 1, 2022. Not less than sixty (60) days prior to the expiration date of the initial term or any renewal term, the City shall notify the Contractor in writing of its intent to exercise any renewal option or allow the Agreement to expire.
- C. Termination Prior to Expiration of Term. Either party may terminate this Agreement at any time, with or without cause, upon sixty (60) days' written notice to the other party. Upon receipt of the notice of termination, the Contractor shall immediately cease all work or services hereunder except as may be specifically approved by the City Administrator. In the event of termination by the City, the Contractor shall be entitled to compensation for all services rendered prior to the effectiveness of the notice of termination and for such

additional services specifically authorized by the City Administrator and the City shall be entitled to reimbursement for any compensation paid in excess of the services rendered.

6. MISCELLANEOUS

- A. **Non-liability of City Officers and Employees.** No officer, official or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.
- B. **Conflict of Interest.** No officer, official or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to this Agreement which effects his/her financial interest or the financial interest of any corporation, partnership or association in which he/she is, directly or indirectly interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.
- C. **Notice.** Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Clerk and to the attention of Michele Brown, CITY OF WAYNESVILLE, 100 Tremont Center, Waynesville, MO. 65583, and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement.
- D. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.
- E. **Severability.** In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.
- F. **Governing Law and Forum.** This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

CITY OF WAYNESVILLE
a Missouri Municipal Corporation

By: George Brown
Authorized Representative

CONTRACTOR:
MyNetWORKS, LLC

By: Ryan Jaynes

Ryan Jaynes - Owner
Print Name and Title

ATTEST:
By: Tracey York
Tracey York, Deputy City Clerk

Mailing Address of Contractor:
2916 Burgundy St.
Lebanon, MO 65536

