



LEE'S SUMMIT MISSOURI

NOTICE OF PARTICIPATION-COOPERATIVE RENEWAL CONTRACT

June 4, 2020

Kenton Brothers, Inc.
Attn: Gina Stuelke
1718 Baltimore Avenue
Kansas City, MO 64108 27

3401 E TRUMAN ROAD

Please update address Business moved

Re: City of Lee's Summit Participation in Cooperative/Piggyback Contract for Locksmith Services
LS Contract #2017-131/2R
Originating Entity: Jackson County, MO
Originating Contract/Agreement # 14-17

Dear Ms. Stuelke:

You are hereby notified that the City of Lee's Summit, Missouri may be a participant in the above referenced Contract. All terms, conditions and pricing of the Contract will apply to purchases and/or utilization of said Contract by the City of Lee's Summit, Missouri.

Your organization shall return the following document(s) within (7) seven days after receipt of this Notice of Participation via email to Mrs. Des Collins at desiree.collins@cityofls.net:

- Sign and return Notice of Participation

Missouri Prevailing Wage may apply to this Contract. The current prevailing wage order is applicable for any work that may be required throughout the course of the contract.

This procedure does not imply an exclusive contract, nor does it preclude the city from bidding or purchasing items from other sources. The Contract pricing is effective from May 9, 2020 through May 8, 2021.

The Departments will contact you directly to place orders. Please be advised that all orders or work regarding this Contract/Agreement will require a Purchase Order and all invoices provided to the City for payment must reference the Purchase Order number. For prompt payment, all invoices (an original and one duplicate), shall be sent directly to Accounts Payable, City of Lee's Summit, MO, 220 S.E. Green Street, Lee's Summit, MO 64063, faxed to 816-969-1113, or e-mailed to ap@cityofls.net.

If you have any questions or problems during the contract year, do not hesitate to contact the Procurement Division at 816-969-1082.

CITY OF LEE'S SUMMIT:

Authorized Signature

Title

Date

ATTESTED: Office of City Clerk

Approved as to Form:

Office of the City Attorney

CONTRACTOR

Type or Print Name Legibly

Authorized Signature

Title

Name of Company

Mark Whiting

Asst. City Manager

6/11/2020

Trisha Wade Arcene

David R. Whit

GINA STUELKE

[Signature]

CEO

KENTON BROTHERS INC.

Systems for Security



The mission of the Purchasing Division is to provide innovation, value and cost-effective solutions with integrity while preserving the public trust.



PURCHASING DEPARTMENT

415 East 12th Street
Kansas City, Missouri 64106

816-881-3465
Fax 816-881-3268

*2nd
Renewal*

May 7, 2020

Kenton Brothers, Inc
Attn: Gina Stuelke
3401 E. Truman Road
Kansas City, MO 64127

Dear Ms. Stuelke:

Please consider this letter as Contract Award Extension Notification for a Twelve (12) Month Term & Supply Contract for the furnishing of **Locksmith Services** for use by **Various Departments** as listed below:

Bid No: 14-17
Resolution No: 19472
Commodity: **Locksmith Services**
Contract Term: **May 9, 2020 – May 8, 2021**
Jackson County Point of Contact: **Keith Allen, 816-881-3465, kallen@jacksongov.org**
Vendor Point of Contact: **Gina Stuelke, 816-888-5840, GinaS@kentonbrothers.com**


The following required documents shall be furnished by your firm within ten (10) days after receipt of this agreement in accordance with the bid specifications.

CERTIFICATE OF INSURANCE

NOTE: INDICATE JACKSON COUNTY'S BID NUMBER ON ALL DOCUMENTS

The Jackson County Executive, or designee, shall be the sole judge as to the fact of the fulfillment of this agreement and upon any breach hereof said Executive or designee shall, at their option, declare this agreement void, and for any loss or damage by reason of such breach, whether this agreement is annulled or not, said Supplier and the sureties on said bond shall be liable.

JACKSON COUNTY MISSOURI


BOB CRUTSINGER
Director of Finance and Purchasing

R 19472

Jackson County Missouri Invitation to Bid No. 14-17
Page 2 of 38

A TERM AND SUPPLY CONTRACT for Locksmith Services and Security Systems Equipment for use by Various County Departments.

A Contract between Jackson County Missouri ("County") and the undersigned ("Contractor"), collectively referred to as the "parties". The term "offer" as used herein refers to Contractor's offer made in response to this Bid Number. The parties agree as follows in consideration of the mutual covenants contained herein.

This Contract shall be binding when it is signed by the County's Purchasing Officer and shall run from such date until the end of the 24th consecutive month from the month during which it first took effect unless it is sooner terminated in accord herewith.

This Contract consists of: (1) Contractor's offer, including those papers which Contractor submitted with or expressly incorporated in its offer as a part thereof, to the extent the terms of such papers were expressly or impliedly accepted by the County, or were modified in writing with the express or implied consent of the parties; (2) written modification to this Contract signed by the County's Purchasing Officer and consented to expressly or impliedly by Contractor. This Contract represents the entire agreement between the parties in regard to this Bid Number. All modifications to this Contract must be in writing signed by the County's Purchasing Officer.

The laws of the State of Missouri and Jackson County, Missouri govern this Contract. This Contract shall be binding upon and to the benefit of the successor and assignees of the parties. The Contractor shall not assign this Contract or any monies payable hereunder without the prior written consent of the County. Contractor is an independent contractor of the County and shall indemnify the County for loss, damage or liability which the County incurs to the extent that such results proximately from the negligence or violation of Contractor or its employees, agents or subcontractors.

In regard to any goods which are included in the sale hereunder, Contractor makes to the County the warranties provided in Article Two of the Uniform Commercial Code of the State of Missouri to the extent that they apply by the terms thereof.

The County gives each of its employees an employee identification card having thereon a photograph of the employee. The County will not pay for any goods and/or services delivered by Contractor to any persons who did not present to Contractor at the time of delivery their County Identification Cards and who were not in fact authorized to receive delivery.

The County reserves the right to terminate this Contract for any reason upon at least 14 days written notice to Contractor.

The parties may annually extend this Contract annually beyond its original term for a time, not to exceed three twelve month options, from the last day of the original term provided that the County's consent to such an extension and the extension does not involve changes in the specifications, terms and conditions, or increase in prices unless such changes or increases are provided for in said specifications, terms or conditions in effect at the expiration of the original term has been approved by the County Legislature.

The County will pay to Contractor the applicable pricing quoted by Contractor in its offer for any goods and/or services whose purchase was ordered by the County's Purchasing Officer in consequence of the County's acceptance of Contractor's offer. The County will make good faith effort to make payment within thirty (30) days after the latest of: (1) the date of proper delivery to the County; (2) the date of acceptance by the County; (3) the date when the receiving department has received from the Contractor a correct and complete invoice showing the pertinent County Purchase Order Number(s). Payment may be withheld by the County to protect itself from actual or potential loss which has resulted or may result from the Contractor's non-performance of any of its duties required hereunder.

*
Coop

Contractor warrants that no officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of this contract.

If the County awarded this Contract, would the Contractor sell under the prices and terms of this Contract to any Municipal, County, Public Utility, Hospital, or Educational Institution having membership in the Mid-America Council of Public Purchasing and located within the greater Kansas City Metropolitan Trade Area? (All deliveries are to be F.O.B. Destination and there shall be no obligation on the part of any member of such Council to utilize this Contract).

(Check one) Yes No Initials _____ Minimum order, if applicable\$ _____

ALL PAGES OF THIS INVITATION TO BID ARE EXPRESSLY MADE A PART OF THIS CONTRACT. Signature of vendor as indicated below MUST BE COMPLETED before contract can be awarded.

CONTRACTOR'S NAME: KENTON BROTHERS INC SYSTEMS for security PHONE NO: 316 842 3700

ADDRESS: 1710 BALTIMORE AVE KCMO 64108 FAX NO: 816 471 1897

NAME OF AUTHORIZED AGENT (print or type): GINA STRUTKE DATE: 4/4/17

SIGNATURE OF AUTHORIZED AGENT: [Signature] TITLE: CEO

EMAIL ADDRESS OF AUTHORIZED AGENT: gina@kentonbrothers.com

FEDERAL ID NO: 44-0312770 and/or SOCIAL SECURITY NO: _____

SPECIES: MINORITY OWNED (MBE): _____ WOMAN OWNED (WBE): (Check if Applicable)

JACKSON COUNTY MISSOURI BY Q TROY THOMAS, DIRECTOR OF FINANCE AND PURCHASING

SIGNATURE OF Q. TROY THOMAS: [Signature] DATE: 3/16/17

5.0 QUOTATIONS

Number	Description	Price/Discount
01	Locks, Latches & Keys – provide the Manufactures Catalog with Pricing or Pricing Sheets and list discount from pricing (You may quote several manufacturers and discounts – use additional sheets if necessary)	See Attachment A 35 %
02	Rekeying Services In Shop	\$ 75.00 /per hour
03	Rekeying Services On-Site	\$ 85.00 /per hour
04	Door Closure Services	\$ 75.00 /per hour
05	Key Duplication – In Shop	
	Standard	\$ 3.00 /each
	Double Sided	\$ 4.00 /each
	Tubular	\$ 7.00 /each
	Steel Keys	\$ 10.00/each
06	Combination Changes	
	Per Key Change	\$ 65.00/each
	Per Hand Change	\$ 75.00/each
	Combination Change	\$ 15.00/lock
	Key Different and Master Key	\$ 17.00/each
	Extra Keys	\$ 3.00/each
	Master Keys	\$ 3.00/each
	Stamp Charge	\$.50 /each
07	Electronic Access, Monitoring Devices, Video Surveillance Systems, Miscellaneous Parts Provide the Manufacturers Catalog with Pricing or Price Sheets and list discount from pricing (you may quote several manufacturers and discounts – use additional sheets if necessary)	Please see Attachment A 15-25%%
08	Installation, Service and Repair of Electronic Access, Monitoring Devices, Surveillance Systems	\$ 85.00/per hour

6.0 REQUIRED SUBMITTALS

- 6.1 Brief description of Bidder's Qualifications, including years in business
- 6.2 Bidder's Shop Location and normal business hours
- 6.3 Brief description of Bidder's competent and thoroughly trained technicians that will perform work described herein.
- 6.4 Point of Contact for Bidder
- 6.5 If not located in the Greater Kansas City Metropolitan Area, documentation on how Bidder proposes to perform the work described herein.
- 6.6 Manufacturer's catalogs with pricing or pricing sheets on Items 01 and 07 in the Quotation Sheet. A website may be included in lieu of hard copy catalogs or price sheets. ✕
- 6.7 Failure to include the Required Submittals with your bid may result in the REJECTION of your bid.

4/4/17

Attachment A

Locks, Latches and Keys

Web Catalog

Manufacturer	Web Catalog	Discount off of list
Assa Abloy Products	http://www.assalock.com/en/site/assalock/	35%
Yale	http://www.yalecommercial.com/en/yale/valecommercialcom/	35%
Sargent	http://www.sargentlock.com/products/	35%
Medeco	http://www.medeco.com/en/site/medeco/products/	35%
ARROW	http://www.arrowlock.com/en/site/arrowlock/Additional-Resources/catalog/	35%
Corbin Russwin	http://www.corbinrusswin.com/en/site/corbin-russwin/product-information/	35%
Marks USA	http://www.markusa.com/catalogs.html	35%
Allegion Products	http://us.allegion.com/communities/architects/Pages/catalogs.aspx	35%
Schlage	http://us.allegion.com/brands/schlage/pages/default.aspx	35%
Von Duprin	http://us.allegion.com/brands/von_duprin/Pages/default.aspx	35%
LCN	http://us.allegion.com/brands/lcn/Pages/default.aspx	35%
Falcon	http://us.allegion.com/brands/falcon/Pages/default.aspx	35%
Ives	http://us.allegion.com/brands/ives/Pages/default.aspx	35%
Southern Folger	http://southernfolger.com/products(original)	30%
Master	http://www.masterlock.com/personal-use/product-search/all-products	35%
Wilson-Bohannon	http://padlocks.com/padlock-products.html	35%
Hudson Lock	http://www.hudsonlock.com/	35%
American Locks	http://www.americanlock.com/door_hardware_and_compatible_padlocks/	35%
CompX National	http://compX.com/products.html	35%
Masterlock	http://www.masterlock.com/personal-use/product-search/all-products	35%
Hafele	https://www.hafele.com/us/en/products/shop-products/hac_catalog	35%
Ilco	http://www.ilco.us/293282/products.html	35%
Esp Corp Div of Hudson	http://www.hudsonlock.com/	35%
Brinks	http://www.brinks.com/en/public/brinks/service	30%

many brands fall under their umbrella/parent company website.

NOTE:

Electronic Access, Monitoring Devices, Video Surveillance Systems and Miscellaneous Parts

Manufacturer	Web Catalog	Discount off of list
Arecont Ip Video	https://www.arecontvision.com/productselector.php	25%
Axis IP Video	https://www.axis.com/files/brochure/pg_video_en_60161_1410_lo.pdf	15%
Milestone Video	https://www.milestonesys.com/solutions/platform/	20%
ONSSI Video	http://onssi.com/solutions-overview/	25%
Honeywell Security	https://www.honeywell.com/industries/buildings/security-and-fire	25%
S2 Access Control	http://s2sys.com/products/	25%
Gallagher Access Control	https://security.gallagher.com/products	25%
Securitron	http://www.securitron.com/en/site/securitron/products/	25%
Paxton Access Control	https://www.paxton-access.com/	25%
Commend Intercom	https://www.commendusa.com/	25%
2N intercom	https://www.2n.cz/en_GB/products/intercoms	25%
Pelco Ip Cameras	https://www.pelco.com/products	25%
Sony Ip Cameras	https://www.pro.sony.eu/pro/lang/en/eu/products/video-security-ip-cameras	25%
HID Readers	https://www.hidglobal.com/products/readers	25%
Command Electronic Hardware	http://www.commandaccess.com/	25%
March Networks NVR	https://www.marchnetworks.com/	25%
Exacq Vision NVR	https://exacq.com/products/	25%
FLIR Cameras	http://www.flir.com/home/	25%
Ubiquiti Wireless	https://www.ubnt.com/products/	25%
Alertus Mass Notification	https://www.alertus.com/product-overview/	10%
Code Blue Alerting	http://codeblue.com/products/	25%
Talkphone Alerting	http://talkphone.com/product/	25%
3M Security Films	http://www.3m.com/3M/en_US/building-window-solutions-us/solutions/security	15%
Bosch IP Cameras	https://us.boschsecurity.com/en/products/productcatalogue	25%

INSURANCE REQUIREMENTS
GOVERNING RESPONSES AND SUBSEQUENT CONTRACTS

CERTIFICATE OF INSURANCE: The Contractor shall secure and maintain, throughout the duration of this contract, insurance of such types and in at least the amounts that are required herein. Contractor shall provide certificate(s) of insurance confirming the required protection on an ACORD 25 (or equivalent form). The City shall be notified by receipt of written notice from the insurer at least thirty (30) days prior to material modification or cancellation of any policy listed on the certificate(s). The City reserves the right to require formal copies of any Additional Insured endorsement, as well as the right to require completed copies of all insuring policies applicable to the project. The cost of such insurance shall be included in the Contractor's bid.

NOTICE OF CLAIM: The Contractor shall upon receipt of notice of any claim in connection with this contract promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability. The Contractor shall also promptly notify the City of any reduction in limits of protection afforded under any policy listed in the certificate(s) of insurance in excess of \$10,000.00, whether or not such impairment came about as a result of this contract. If the City shall subsequently determine that the Contractor's aggregate limits of protection shall have been impaired or reduced to such extent that they are inadequate for the balance of the project, the Contractor shall, upon notice from the City, promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

INDUSTRY RATING: The City will only accept coverage from an insurance carrier who offers proof that it:

- Is licensed to do business in the State of Missouri;
 - Carries a Best's policyholder rating of "A" or better;
 - Carries at least a Class VII financial rating.
- OR
- Is a company mutually agreed upon by the City and the Contractor.

SUB-CONTRACTOR'S INSURANCE: If any part of the contract is to be sublet, the Contractor shall either:

- Cover all sub-contractors in the Contractor's liability insurance policy or,

Require each sub-contractor not so covered to secure insurance in the minimum amounts required of the Contractor and submit such certificates to the City as outlined herein.

SELF-INSURED RETENTIONS/DEDUCTIBLES: Any Contractor that maintains a Self-Insured Retention or Deductible (in excess of \$50,000) must be declared on the Certificates provided the City, such amounts shall be the sole responsibility of the Contractor. The City reserves the right to approve such self-insured retentions/deductibles and may require guarantees from the Contractor for such assumed limits.

COMMERCIAL GENERAL LIABILITY POLICY:

Limits:

Each occurrence	\$1,000,000
Personal & Advertising Injury	\$1,000,000
Products/Completed Operations Aggregate	\$1,000,000
General Aggregate	\$1,000,000

Policy must include the following conditions:

- Bodily Injury and Property Damage
- Insured Contract's Contractual Liability
- Explosion, Collapse & Underground (if risk is present)
- Additional Insured: City of Lee's Summit, Missouri

AUTOMOBILE LIABILITY: Policy shall protect the Contractor against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle and must include protection for either:

- Any Auto
- OR
- All Owned Autos; Hired Autos; and Non-Owned Autos

GENERAL TERMS AND CONDITIONS
GENERAL INSTRUCTIONS CONCERNING IFB's/BID's

1. **AWARD.** The right is reserved, as the interest of the City may require to reject any or all bids and to waive any minor informality or irregularity in bids received. The City may accept any item or group of items of any bid unless qualified by specific limitation of the bidder. Unless otherwise provided in the schedule, bids may be submitted for any quantities less than those specified; and the City reserves the right to make an award on any item for a quantity less than the quantity bid upon at the unit price offered unless the bidder specified otherwise in his bid. The Contract shall be awarded to that responsible and responsive bidder whose bid, conforming to the Invitation for Bids, will be most advantageous (lowest price and best value) to the City, price and other factors considered. An award mailed (or otherwise furnished) to the successful bidder within the time for acceptance specified in the bid, results in a binding contract without further action by either party.
2. **PREPARATION OF BIDS.**
 - A Bidders are expected to examine the drawing, specifications, schedule and all instructions. Failure to do so will be at the bidder's risk.
 - B Each bidder shall furnish the information required by the invitation. The bidder shall sign the invitation. Erasures or other changes must be initialed by the person signing the offer. Bids signed by an agent are to be accompanied by evidence of his authority unless such evidence has been previously furnished to the City.
 - C Unit price for each unit bid shall be shown and such price shall include packing unless otherwise specified. Freight or shipping shall be included in the Unit Price unless requested as a single line item. A total shall be entered in the total column for each item bid. In case of discrepancy between a unit price and extended price, the unit price will be presumed to be correct.
 - D Alternate bids for supplies or services other than those specified will not be considered unless authorized by the invitation.
 - E Bidder must state a definite time for delivery of supplies or services unless otherwise specified in the invitation.
 - F Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.
 - G If the item has a trade name, brand and/or catalog number, such must be stated in the bid.
 - H Prices quoted are to be firm, final and shall include shipping F.O.B. destination unless requested as a single line item.
 - I In submitting bids, Vendor agrees that the City of Lee's Summit shall have 120 days in which to accept or reject any of the bids submitted unless otherwise specified on the bid page.
 - J Specification sheets **MUST** be uploaded with bids.
3. **EXPLANATION TO BIDDERS.** Any explanation desired by a bidder regarding the meaning or interpretation of the invitation, drawing, specifications, etc., must be requested in writing and with sufficient time allowed for a reply to reach bidders before the submission of their bids. Oral explanation or instruction given before the award of the contract will not be binding. Any information given to a prospective bidder concerning an invitation will be furnished to all prospective bidders as an addendum to the invitation, if such information is necessary to bidders in submitting bids per the invitation or if the lack of such information would be prejudicial to uninformed bidders.
4. **ACKNOWLEDGMENT OF ADDENDUM TO INVITATIONS.** Receipt of an addendum to an invitation by a bidder must be acknowledged by signing and uploading the addendum into the City's e-bidding system or as otherwise stipulated in the bid document. Such acknowledgment must be received prior to the hour and date specified for receipt of bids, or returned with the bid and received prior to opening time and date.
5. **SUBMISSION OF BIDS.**
 - A Bids, addendum(s) and modification(s) thereof shall be uploaded into the City's e-bidding system, unless otherwise stated in the Invitation for Bid, before the open date and time.
 - B Emailed or faxed bids will not be considered unless authorized by the invitation.
 - C Samples of items, when required, must be submitted within the time specified and unless otherwise specified by the City, at no expense to the City. If not consumed by testing, samples will be returned at bidders request and expense, unless otherwise specified by the invitation.
 - D Bids will be publicly opened and read aloud as stipulated in the "Invitation for Bid".
 - E Submission of a bid constitutes an assignment by you of any and all anti-trust claims that you may have under the Federal and/or State laws resulting from this Contract.
6. **FAILURE TO SUBMIT BID.** If a "no bid" is submitted, do not return the invitation unless otherwise specified. A letter, postcard or email notification should be sent to the issuing office advising whether future invitations for the type of supplies or services covered by this invitation are desired. Failure of the recipient to bid or to notify the issuing office that future invitations are desired may result in removal of the name of such recipient from the mailing list for the type of supplies or services covered by the invitation.
7. **MODIFICATION OR WITHDRAWAL OF BIDS/SOLICITATIONS.** A bid/solicitation may only be withdrawn by one of the following methods prior to the official opening/closing date and time specified: 1. A bid/solicitation may be withdrawn by signed, written notice. 2. A bid/solicitation may also be withdrawn in person by the bidder or its authorized representative who provides proper identification. 3. A bid/solicitation may be withdrawn via email by the bidder or its authorized representative. A bid/solicitation may only be modified by one of the following methods prior to the official opening/closing date and time specified: 1. A bid/solicitation modification may be modified by signed, written notice provided in a sealed envelope with the bid/solicitation number, description and the word "modification" identified on the envelope. 2. A bid/solicitation modification may also be submitted in person by the bidder or its authorized representative who provides proper identification and provides written notice in a sealed envelope with the bid/solicitation number, description and the word "modification" identified on the envelope. All modifications shall not be opened until the official opening date and time to preserve the integrity of the bid/solicitation process. Telephone, telegraphic or electronic requests to modify a bid/solicitation shall not be honored. No modification or withdrawal of any response will be permitted after the bid/ solicitation official opening date and time specified.
8. **LATE BIDS AND MODIFICATIONS.** It is the responsibility of the bidder to upload or submit a hard copy if stipulated in the Invitation for Bid (IFB), his bid, bid addendum(s) or bid modification(s) on or before the date and time of the bid opening date and time. Bids will NOT be accepted after the date and time of opening under any circumstances.
9. **BONDS.** Bonds shall be executed with the proper sureties, through a company licensed to operate in the State of Missouri, and hold a current Certificate of Authority as an acceptable surety under 31 CFR Part 223 (and be listed on the current U.S. Department of the Treasury Circular 570 and have at least a A Best's rating and a FPR9 or better financial performance rating per the current A.M. Best Company ratings.)
 - A **BID DEPOSITS (BONDS).**

Bid Deposit Not Required .

Bid Deposit Required as stipulated in the "Invitation for Bid".

Note the following: Bid Deposit. The Bidder will furnish a bid deposit in the form of a bond, certified check, or money order in the amount of 5% of base bid made payable to the City of Lee's Summit, Jackson County, Missouri, for the measure of liquidated damages which the City will sustain and the proceeds thereof will become the property of the City if for any reason the bidder (Personal or company checks will not be accepted):

 - (1) Withdraws his bid after the opening of the bids and prior to the time a formal written agreement evidencing the contract has been signed and delivered to the City whether or not the bidder at the time of such withdrawal has been designated as the successful bidder, or
 - (2) Upon written notification of the award of contract to him, he fails to properly sign and deliver to the City within 10 days Labor and Materials and Performance Bonds, if required; Certificate of Insurance, and the written Contract, formally evidencing the terms of the Invitation for Bid and his bid as submitted.
 - (3) The bidder further agrees the City will have the right to retain the bid deposit for a period of one hundred twenty (120) days from the date of opening of the bids. At the expiration of said time, or earlier at the option of the City, said bid deposit will be returned to the bidder unless said bid deposit has become the property of the City as liquidated damages for one of the reasons stipulated.
 - B **PERFORMANCE AND LABOR AND MATERIAL PAYMENT BONDS.**

Performance and Labor and Material Payment Bonds Not Required .

Performance and Labor and Material Payment Bonds Bond Required as stipulated in the "Invitation to Bid".

Note the following:

- (1) Coincident with the execution of the Contract, Contractor shall furnish to City a contract Performance Bond and a Labor and Material Payment Bond drawn upon the forms included in these Contract Documents.
 - (2) Date of bonds shall be the same as the date of City's execution of the contract.
 - (3) The Performance Bond and Labor and Material Payment Bond shall be in an amount equal to the full contract price, guaranteeing the payment of all bills and obligations arising from the performance of the contract, and otherwise conditioned as required by law.
 - (4) The bonds shall be automatically increased in amount and extended in time without formal and separate amendments to cover full and faithful performance of the contract in the event of Change Orders regardless of the amount of time or money involved. It shall be Contractors' responsibility to notify his surety of any changes affecting the general scope of the work or change in the Contract Price.
 - (5) At any time during the continuance of the Contract that the surety on any bond becomes unacceptable to City, City shall have the right to require additional and sufficient sureties which Contractor shall furnish to the satisfaction of City within ten (10) days after notice to do so.
10. **DISCOUNTS AND BID EVALUATION.** Discounts offered for prompt payment may be considered in bid evaluation.
11. **MATERIAL AVAILABILITY.** Bidders must accept responsibility for verification of material availability, production schedules and other pertinent data prior to submission of bid and delivery time. It is the responsibility of the bidder to notify the City of Lee's Summit immediately if materials specified are discontinued, replaced, or not available for an extended period of time.
12. **ALTERNATE BIDS.** Bidders must submit complete specifications on all alternate bids. Alternate bids without complete specifications may be rejected. Alternate bids and exceptions may be rejected. Alternate bids and exceptions to bid clauses must be clearly noted on the bid form. Unless otherwise indicated, it will be assumed that the article proposed is exactly as specified.
13. **AWARD OF CONTRACT.**
- A **BASIS OF AWARD.**
 - (1) Only firm bids will be considered.
 - (2) Bidders may be requested to submit financial statements subsequent to the bid opening. Such statements shall be submitted to City within three (3) days after being so requested.
 - (3) The award of the Contract, if it is awarded, will be to the lowest responsible and responsive bidder whose qualifications indicate the award will be in the best interest of the Owner and whose bid complies with all prescribed requirements.
 - (4) City reserves the right to reject any and all bids, and waive any and all informalities, and the right to disregard all non-conforming or conditional bids or counter-proposals.
 - B **EVALUATION OF BIDS.**
 - (1) The evaluation of bids will include consideration of prior experience, financial statements, if requested, sub-contractors, suppliers, and manufacturers to be used in the work and manufacturers' data on the materials and equipment to be incorporated. Time of completion or delivery will also be a factor in the award.
 - (2) "Or Approved Equal" Clause. Whenever a material, article, or piece of equipment is identified on the plans or in the specifications by reference to manufacturer's or vendor's names, trade names, catalog numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is, in the opinion of the City, of equal substance and function. Substitute items may be rejected at the discretion of the City of Lee's Summit.
 - (3) Whenever the name of a manufacturer is mentioned on the face hereof and the words "or equal" do not follow, it shall be deemed that the words "or equal" shall follow such designations unless the face hereof specifies "no substitutes". The City may assume that items bid are equal or it may request samples and proof thereof unless approved before shipment. City reserves the right to return at bidder's expense all items that are not acceptable as equals, said items to be replaced by bidder with satisfactory items at the original price.
 - (4) By virtue of statutory authority, the City shall give preference to all commodities manufactured, mined, produced, or grown within the State of Missouri, and to all firms, corporations or individuals, when quality is equal or better and the delivered price is the same or less. Similar preference will be given to Lee's Summit products and supplies.
 - C **NOTICE OF AWARD.** After considering the basis of award and evaluation of bids, City will within one hundred twenty (120) days after the date of opening bids, notify the successful bidder of acceptance of his bid.
14. **QUALIFICATIONS OF BIDDERS.** The City may make such investigations as are deemed necessary to determine the ability of the bidder to perform the work and the bidder shall furnish all such information and date for this purpose as the City may request. The City reserves the right to reject any bid if the evidence submitted by, or investigation of such bidder fails to satisfy the City that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein.
15. **ANTI-TRUST.** Submission of a bid constitutes an assignment by bidder of any and all anti-trust claims that the bidder may have under the Federal and/or State laws resulting from this contract.
16. **GUARANTEE.** All customary guarantees for workmanship, quality and performance specific by the Manufacturer for any or all items shall apply to the items offered under this bid.
17. **EXPERIENCE STATEMENT** (if required). Only those bids will be considered which are submitted by bidders who submit with their bid an Experience Statement listing projects and showing satisfactory completion of work of type and size comparable to the work required by these contract documents. A list of comparable projects, including pertinent information and identification of the owners, shall be submitted with the bid. Similar Experience Statements shall be included for any subcontractors named in the bid.
18. **REFUND OF DEPOSIT ON BID DOCUMENTS** (if required). Deposits on bid documents and contract drawings will be refunded to all prospective bidders, sub-contractors, suppliers and manufacturers who return the documents in good condition to Owner before the date set for opening bids or within ten days thereafter (unless otherwise stated in the invitation to bid).
- CONTRACTUAL REQUIREMENTS.**
- GENERAL CONTRACTUAL REQUIREMENTS.**
1. **DEFINITIONS.**
 - A "City" shall refer to: City of Lee's Summit, Jackson County, Missouri who are the owners of the property, and their authorized representatives.
 - B "Contractor" shall refer to the corporation, company, partnership, firm, or individual, named and designated in the contract agreement and who has entered into this contract for the performance of the work and/or to furnish goods, services, or construction covered thereby at an agreed upon price, and its, his or their duly authorized agents or other legal representatives.
 - C The "specifications" includes Instruction to Bidders, the Terms and Conditions of Purchase, the Definitions and the technical specifications of the work.
 - D A "sub-contractor" is a person, firm or corporation supplying labor or materials, or only labor for work at the site of the project for, and under separate contract or agreement with the Contractor.
 - E The term "sample" as used herein includes natural materials, fabricated items, equipment, devices, appliances or parts thereof as called for in the specifications and any other samples as may be required by the City to determine whether the kind, quality, construction, workmanship, finish, color and other characteristics of the materials, etc., proposed by the Contractor conform to the requirements of the contract documents. Samples approved by the City shall establish the kind, quality, and other required characteristics, and all work shall be in accordance with the approved samples. Samples, when requested, shall be supplied at no cost to the City.
 - F The term "estimated" represents quantities estimated for the period of time stated. Purchase orders shall be placed for actual requirements as needed.
 - G The term "minimum" means the City will order this quantity of supplies during the period of this contract at the price bid.
 - H The term "maximum" means the City may order this quantity of supplies during the period of this contract and the bidder should be prepared to supply same at the price bid.
 2. **PURCHASE ORDERS.** The City will not be responsible for articles or services furnished without a purchase order unless otherwise set forth in the Bid Documents.
 3. **CONTRACT TERMS.** The performance of this contract shall be governed solely by the terms and conditions as set forth in this contract and any specifications or bid documents notwithstanding any language contained on any invoice, shipping order, bill of lading or other document furnished by the Contractor at any time and the acceptance by the City of any terms

or conditions contained in such document which is inconsistent with the terms and conditions set forth in the contract. Any different or additional terms other than those herein contained in Contractor's acceptance are hereby objected to.

4. **TRANSPORTATION CHARGES.** Freight/shipping shall be F.O.B. Destination whereby all transportation charges shall be paid by Contractor.
5. **PACKAGING.** The City will not be liable for any charges for drayage, packing, cartage, boxing, crating or storage in excess of the purchase price of this order unless stated otherwise herein.
6. **INSPECTION AND ACCEPTANCE.** No material received by the City pursuant to the purchase order issued under the terms and conditions of this bid document shall be deemed accepted until the City has had reasonable opportunity to inspect said material. All material which is discovered to be defective or which does not conform to any warranty of the Contractor herein, upon initial inspection, or at any later time if the defects contained in the material were not reasonably ascertainable upon the initial inspection, may be returned at the Contractor's expense for full credit or replacement. No goods returned as defective shall be replaced without Buyer's written authorization. Such return shall in no way affect City's discount privileges. Such right to return, offered to the City arising from the City's receipt of defective goods, shall not exclude any other legal, equitable or contractual remedies the City may have therefore.
7. **GENERAL GUARANTY AND WARRANTY.** The Contractor warrants that all materials, fixtures, and equipment furnished by the Contractor and his sub-contractors shall be new, of good quality, and of good title, and that the work will be done in a neat and workmanlike manner. The Contractor also guarantees the workmanship and materials for a period of one year from the date of final acceptance of all the work required by the Contract. Furthermore, he shall furnish the City with all manufacturers' and suppliers' written guarantees and warranties covering materials and equipment furnished under the Contract.
8. **PATENTS.** Contractor warrants that the articles described herein and the sale or use of them will not infringe upon any U.S. or foreign patent and Contractor covenants that he will at his own expense, defend every suit which may be brought against the City, or those selling or using City's product (provided Contractor is promptly notified of such suit and all papers therein are delivered to Contractor) for any alleged infringement of any patent by reason of the sale or use of such articles and Contractor agrees that he will pay all cost, damages and profits recoverable in any such suit.
9. **QUANTITIES.** City assumes no obligation for articles or materials shipped in excess of the quantity ordered hereunder. Any unauthorized quantity is subject to City's rejection and return at Contractor's expense.
10. **ACTS OF GOD.** Neither party shall be liable for delays, or defaults in the performance of this contract due to Acts of God or the public enemy, riots, strikes, fires, explosions, accidents, Governmental action of any kind or any other causes of a similar character beyond its control and without its fault or negligence.
11. **BANKRUPTCY OR INSOLVENCY.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Contractor, or in the event of breach of any of the terms hereof including the warranties of the Contractor, City may cancel this contract or affirm the contract and hold Contractor responsible in damages.
12. **COMPLIANCE WITH APPLICABLE LAWS.** Contractor shall comply with all federal, state or local laws, ordinances, rules, regulations and administrative orders, including but not limited to Wage, Labor, Unauthorized Aliens, EEO and OSHA-type requirements which are applicable to Contractor's performance under this contract. Contractor shall indemnify and hold the City harmless on account of any violations thereof relating to Contractor's performance under this contract, including imposition of fines and penalties which result from the violation of such laws.
13. **LAW GOVERNING.** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Missouri. Any dispute regarding this contractual agreement will be decided by a Missouri Court.
14. **TIME OF DELIVERY.** The City requires that all materials ordered will be delivered when specified. Time is therefore of the essence. If deliveries are not made at the time agreed upon, City reserves the right to cancel or to purchase elsewhere and hold Contractor accountable for any damages sustained as a result thereof.
15. **INTERPRETATION OF CONTRACT AND ASSIGNMENTS.** This contract shall be construed according to the laws of the State of Missouri. This contract, or any rights, obligations, or duties hereunder may not be assigned by Contractor without City's written consent and any attempted assignment without such consent shall be void.
16. **CONTRACTOR'S INVOICES.** Invoices shall be prepared and submitted in triplicate unless otherwise specified. Invoices shall contain the following information: Contract Number (if any), Purchase Order number, Item Number; contract description of supplies or services, sizes, quantities, unit prices and extended totals. Invoices for and inquiries regarding payment should be addressed to the City Accounts Payable Division. Any delay in receiving invoices, or errors and omissions, on statement or invoices will be considered just cause for withholding settlement without losing discount privileges.
17. **NOTICE AND SERVICE THEREOF.** Any notice to any Contractor from the City relative to any part of this contract will be in writing and considered delivered and the service thereof completed when said notice is posted, by certified or regular mail or email, to the said Contractor at his last given address or delivered in person to said Contractor or his authorized representative on the work.
18. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this contract will be deemed to be inserted herein and the contract will be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract will forthwith be physically amended to make such insertion or correction.
19. **TERMINATION OF CONTRACT.** This contract may be terminated by either party upon sixty (60) days prior notice in writing to the other party. The City may terminate this contract immediately, under breach of contract, if the Contractor fails to perform in accordance with the terms and conditions. In the event of any termination of contract by the Contractor, the City may purchase such supplies and/or services similar to those so terminated, and for the duration of the contract period the Contractor will be liable for all costs in excess of the established contract pricing.
20. **INDEMNITY AND HOLD HARMLESS.** Contractor agrees to indemnify, release, defend, and forever hold harmless the City, its officers, agents, employees, and elected officials, each in their official and individual capacities, from and against all claims, demands, damages, loss or liabilities, including costs, expenses, and attorneys fees incurred in the defense of such claims, demands, damages, losses or liabilities, or incurred in the establishment of the right to indemnity hereunder, caused in whole or in part by Contractor, his sub-contractors, employees or agents, and arising out of services performed by Contractor, his sub-contractors, employees or agents under this contract to the extent permitted by the Constitution and the Laws of the State of Missouri.
21. **SUB-CONTRACTS.**
 - A The Contractor shall not execute an agreement with any sub-contractor to perform any work until he has written the City of Lee's Summit to determine any disapproval of the use of such sub-contractor.
 - B The Contractor shall be fully responsible to the City for the acts and omissions of his sub-contractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
 - C The Contractor shall cause appropriate provisions to be inserted in all sub-contracts relative to the work to require compliance by each sub-contractor with the applicable provisions of the contract.
 - D Nothing contained in the Conditions shall create any contractual relationship between any sub-contractor and the City.
22. **UNIFORM COMMERCIAL CODE.** This contract is subject to the Uniform Commercial Code and shall be deemed to contain all the provisions required by said Code that apply to said Contract.
23. **CHANGES.** The City may at any time, by written order, without notice to any surety, make changes or additions, within the general scope of this contract in or to drawings, designs, specifications, instructions for work, methods of shipment or packing or place of delivery. If any such change causes an increase or decrease in the cost of or in the time required for

performance of this contract or purchase order, the Contractor shall notify the City in writing immediately and an appropriate equitable adjustment will be made in the price or time of performance, or both, by written modification of the contract. Any claim by the Contractor for such adjustment must be asserted within 30 days or such other period as may be agreed upon in writing by the parties after the Contractor's receipt of notice of the change. Nothing herein contained shall excuse the Contractor from proceeding with the contract as changed.

24. **RESPONSIBILITY FOR SUPPLIES.** The Contractor shall be responsible for supplies until they are delivered and accepted at the designated delivery point; and the Contractor shall bear all risks for rejected supplies after notice of rejection. This needs rewriting to coincide with the Freight clause.
25. **EXECUTION OF CONTRACT.** Depending on the type of service provided, one or more of the following four (4) methods will be employed. The methods applicable to this contract will be checked below:
- A The Contract shall consist of a **PURCHASE ORDER** and a copy of the suppliers signed bid attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents, and that the parties are bound thereby and the compensation to be paid the Supplier is as set forth in the Suppliers' Bid. Items not awarded, if any, have been deleted.
- B The contract shall consist of a **YEARLY CONTRACT** and a copy of the suppliers signed bid attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto. That both parties thereby accept and agree to the terms and conditions of said bid documents, and that the parties are bound thereby and the compensation to be paid the Supplier is as set forth in the Suppliers' Bid. Items not awarded, if any, have been deleted.
- C The contract shall consist of a **ONE-TIME CONTRACT** and a copy of the suppliers signed bid attached and that the same, in all particulars, becomes the agreement and contract between the parties hereto. That both parties thereby accept and agree to the terms and conditions of said bid documents, and that the parties are bound thereby and the compensation to be paid the Supplier is as set forth in the Suppliers' Bid. Items not awarded, if any, have been deleted.
- D Five copies of the Contract.
- (1) City will furnish 5 copies of the Bid Documents to the successful Bidder who shall prepare 5 counterpart copies, each containing an exact copy of the Bid Form as submitted, required insurance as evidenced by a Certificate of Insurance, surety bonds properly executed, and Contract signed with the date of his signature.
- (2) The prepared counterpart copies shall be delivered to Owner within ten days after the date of Notice of Award.
- (3) City will sign the Contract, insert the date of his signature at the beginning of the Contract, and return one copy to Contractor after receiving the counterpart copies.
26. **FINAL PAYMENT.** Final payment shall be in a lump sum after Contractor has performed, to the City's satisfaction, all duties imposed upon him/her by the contract documents. Contractor shall allow thirty (30) days minimum for payment sum (unless otherwise specified in the bid documents). Additional payment provisions for construction projects are detailed in number 41 below.
27. **NON-DISCRIMINATION IN EMPLOYMENT.** In connection with the furnishing of supplies or performance of work under this contract, the Contractor agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable Federal and State Laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder.
28. **DOMESTIC PRODUCTS.** The City of Lee's Summit has adopted a formal written policy to encourage the purchase of products manufactured or produced in the United States (City of Lee's Summit Resolution No. 87-18, MO. State Statute No. 34.353, Section 3, (5)).
29. **TAX EXEMPT.** Do not bill tax. The City of Lee's Summit is exempt from payment of the Missouri Sales Tax in accordance with Section 39 (10), Article 3, of the Missouri Constitution and is exempt from payment of Federal Excise Taxes in accordance with Title 26, United States Code annotated.
30. **REGULATIONS PURSUANT TO SO-CALLED "ANTI-KICKBACK ACT".** The Contractor shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the so-called "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 862; Title 18 U.S.C., Section 874 and Title 40 U.S.C.; Section 276c). and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in sub-contracts to insure compliance therewith by all sub-contractors subject thereto, and shall be responsible for the submission of statements required of sub-contractors thereunder, except as said Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances, and exemptions from the requirements thereof.
31. **INTEREST OF CERTAIN FEDERAL AND OTHER OFFICIALS.** No member of, or delegate to the Congress of the United States and no Resident Council Member shall be admitted to any share or part of this Contract or to any benefit to arise from the same; provided, that the foregoing provision of the Section shall not be construed to extend to this Contract if made with a corporation for its general benefit.
32. **FUND ALLOCATION.** Continuance of any resulting Agreement, Contract, or issuance of Purchase Orders is contingent upon the available funding and allocation of City funds. The Contractor understands that the obligation of the City to pay for goods and/or services under the contract is limited to payment from available revenues and shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the City nor shall anything contained in the contract constitute a pledge of the general tax revenues, funds or moneys of the City, and all provisions of the contract shall be construed so as to give effect to such intent.
33. **ASSIGNMENTS.** Neither City nor Contractor shall, without the prior written consent of the other, assign in whole or in part his interest under any of the Contract Documents and, specifically the Contractor shall not assign any moneys due or to become due without the prior written consent of the City.
34. **DEBARMENT.** By submission of its response, the Contractor certifies that neither it nor its principals is presently debarred or suspended by any Federal or State Department or agency, including listing in the U.S. General Services Administration's List of Parties Excluded from Federal Procurement or Non-Procurement programs; or if the amount of this response is equal to or in excess of \$100,000, that neither it nor its principals nor its subcontractors receiving sub-awards equal to or in excess of \$100,000 is presently disbarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by a Federal department, agency or provision of law. If the Contractor is unable to certify any of the statements in this certification, the responder must attach an explanation to its response.

NOTE TO BIDDERS: THE FOLLOWING CONTRACTUAL REQUIREMENTS PERTAIN TO CONSTRUCTION PROJECTS AND OTHER PROJECTS WHICH REQUIRE ITS CONTRACTOR TO PERFORM WORK FOR THE CITY. THESE MAY NOT APPLY TO ALL MATERIAL PURCHASES OR SUPPLY CONTRACTS UNLESS SO STIPULATED.

35. **WORK HOUR AND SAFETY STANDARD ACT.** All bidders awarded contracts in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor Regulations (29CFR, Part 5). Under Section 103 of the Act, each Contractor shall be required to compute wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard work day or work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies, or materials, or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
36. **LABOR-RELATED REGULATIONS.** The bidder's attention is specifically directed to the special rules, regulations, and stipulations pertaining to labor listed below which may be a part of the bid as stipulated in the "Invitation to Bid"
- A **Wage Rate Stipulation** - State of Missouri. If required by the "Invitation to Bid"
- B **Wage Rate Determination** - Federal. If required by the "Invitation to Bid"
- The bid, contract and bonds shall be conditioned upon compliance with all provisions of the Contract Documents including these rules, regulations and stipulations.
37. **BUILDING REGULATION, PERMITS AND LAW.**
- A The "General Conditions for the Construction of Buildings" AIA Form A201 forms part of this contract as if herein bound Arbitration shall not apply to any contract resulting from this IFB.

- B Satisfy all current and applicable local codes, ordinances and licensing requirements.
38. **COORDINATION OF THE WORK.** The Contractor shall be responsible for the proper execution of all work and for the coordination of the operations of all trades, subcontractors, and supplies engaged under the Contract. He shall be prepared to provide each of his subcontractors the locations, measurements, and information they may require for the performance of their work.
39. **CHANGES IN THE WORK.**
- A The Contractor shall not make changes in the work required to be performed by omitting work, by adding work or by changing materials, fixtures or services from those specified without the prior written consent of the City and using Departments of the City of Lee's Summit, Missouri. Any authorized changes will not relieve or release the Contractor from any of these obligations under the contract. All work shall be executed under the terms of the original Contract unless it is expressly provided otherwise. Except for the purpose of affording protection against any emergency endangering life and/or property, the Contractor shall not make any changes in the Contract.
- B Each change order shall include in its final form, a detailed description of the change in the work, the Contractor's proposal for the change in price and/or time, and the statement that all work involved in the change shall be performed in accordance with Contract requirements except as modified by the change order.
40. **TIMING.**
- A **Time to Commence Work:** Upon receipt of Contract Documents fully executed by City and a Notice to Proceed, Contractor shall immediately proceed with the work. However, he shall not move onto the site until all required copies of insurance policies and certificates have been accepted by City.
- B **Time Starts to Run:** The Contract Time shall start to run on the date stated in the Notice to Proceed.
- C **Time of Contract:** Time is of the essence of the Contract. The work shall be prosecuted diligently at such rate of progress as will insure full completion thereof within the Contract Time. If Contractor shall neglect, refuse or fail to complete the work within the time set forth above, or any proper extension thereof granted by City, Contractor shall pay (see bid document) to City for each and every day he is in default. Because of the difficulty in determining the actual damages to be sustained by City in the event of such breach of the Contract, all amounts paid as provided herein shall be considered as and for City's liquidated damages and not as a penalty, and City shall have the right to deduct the amount of such liquidated damages from payments otherwise due to Contractor or to sue for and recover same.
- D **Excusable Delays:** The Contractor shall not be charged damages for any delays in the completion of the work that the Contractor is required to perform under the terms and conditions of this Contract for the following reasons:
- (1) To any acts of the Governments, including controls or restrictions upon or requisitioning of materials, equipment, tools or labor by reason of war, National Defense, or any other national emergency.
 - (2) To any acts of the City.
 - (3) To causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of god or of the public enemy, acts of another Contractor in the performance of some other Contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, weather of unusual severity, such as hurricanes, tornadoes, cyclones, and other extreme weather conditions.
 - (4) To any delay of any sub-contractor occasioned by any of the causes specified in sub-paragraphs 1, 2, and 3 above; provided however, that the Contractor promptly (within 10 days) notifies the City, in writing, of the cause of the delay. If the facts show the delay to be properly excusable under the terms of this Contract, the City shall extend the contract time by a period commensurate with the period of excusable delay to the completion of the work as a whole.
41. **PAYMENTS.**
- A Lump Sum Payments: After the final inspection and acceptance of all work under the Contract, by the City, including clean-up, the Contractor shall prepare his statement for final payment and submit it to the Owner for approval. When the required warranties and the release of liens have been executed by the Contractor, the final payment will be made which will include any amounts remaining due under the Contract. (Allow a full thirty (30) days). The Contractor will be paid the Contract price in one lump sum amount after the work is satisfactorily completed unless progress payments are approved prior to Contract award. Pay estimates are by the City Engineer as follows:
- B Engineer's Pay Estimates:
- (1) The Engineer's pay estimate, in consequence of any Contractor's application for payment will constitute a representation by him to City, based on Engineer's observations of the work in progress and on his review of the application for payment and supporting data, that the work has progressed to the point indicated that, to the best of his knowledge, information and belief, the quality of the work is in accordance with the Contract Documents (subject to an evaluation of the work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the Contract Documents and any qualifications stated in his Pay Estimate); and the Contractor is entitled to payment of the amount shown in the Engineer's Pay Estimate.
 - (2) Engineer shall not be deemed by his rendering of any Pay Estimate to have represented that he made exhaustive or continuous inspections to check the quality or the quantity of the work, or that he has reviewed the means, methods, techniques, sequences and procedures of construction or that he has made any examination to ascertain how or for what purpose Contractor has used the moneys paid or to be paid to him on account of the Contract price.
 - (3) Engineer may refuse to render an Engineer's pay Estimate for the whole or any part of any payment if, in his opinion, he is unable to make the above representations to City. He may also refuse to render any Engineer's Pay Estimate, or because of subsequently discover evidence or the results of subsequent inspections or tests, nullify any such previous Engineer's Pay Estimate to such extent as may be necessary in his opinion to protect City from loss because of any reason set forth in General Conditions.
42. **CONTRACTOR'S CERTIFICATE AND RELEASE** (for Construction Purposes). Prior to final payment and as a condition there to, the Contractor shall execute a certificate and release. This certificate and release will set forth the undisputed balance due the Contractor under the Contract, a listing for amounts of outstanding and unsettled items which the Contractor claims are due and owing by the City to the Contractor; a certification that the work under the Contract and Change Orders has been performed in accordance with the terms, thereof, and that there are no unpaid claims for materials, supplies or equipment and no claims of laborers or mechanics for unpaid wages arising out of the performance of the Contract, a statement that, except for the amounts enumerated, the Contractor releases the City from any and all claims arising under or by virtue of the Contract. A duplicate of the certificate shall be issued to the City.
43. **SURPLUS MATERIALS.** The job site shall be kept clean and free of surplus materials, rubbish and debris at all times. All surplus materials delivered to the job site and all materials, fixtures, and equipment removed and not reused shall remain or become the property of the Contractor and its sub-contractors, and shall be removed from the job site promptly after completion, as well as all rubbish and debris resulting from their respective operations at the Contractor's expense.
44. **ACCIDENT PREVENTION.**
- A The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures as the City may determine to be reasonably necessary. All materials, parts, supplies and services rendered under the technical specifications must comply with standards of the Williams Steiger Occupational Safety and Health Act. In consideration of the price paid herein Contractor agrees to indemnify City for any penalties imposed by the Act arising out of misfeasance or malfunction of items or services purchased.
- B The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the City with reports concerning these matters.
45. **CONFLICTS.** No salaried officer or employee of the City and no member of the City Council or Park Board shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Federal conflict of interest regulations and applicable provisions of Sections 105.450 – 105.496 shall not be violated. 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.
46. **DAVIS BACON ACT:** The wages for any work utilizing this contract in which federal funding is utilized shall comply with any and all applicable federal laws and/or requirements to include but not limited to the Davis Bacon Act.