

INVITATION TO BID

The St. Louis Development Corporation and the City of St. Louis Port Authority (collectively referred to as the "Authority") will receive sealed bids for implementation of the:

**2013 PORT SECURITY GRANT PROGRAM
FEDERAL PROJECT NO. EMW-2013-PU-00439
PORT DISTRICT VIDEO SURVEILLANCE SYSTEM EXPANSION**

**This project is funded by:
Department of Homeland Security / Federal Emergency Management Agency (FEMA)**

All bids are to be submitted pursuant to the terms and conditions in this Invitation and all other material contained in the Bid Documents.

The project, in general, consists of a qualified firm licensed by the City of St. Louis ("City") providing work as described herein to include furnishing all materials, equipment, tools, and labor and executing all work necessary for the 2013 Port Security Grant Program, in strict accordance with all requirements of these specifications and the drawings made a part thereof.

This project generally consists of the following:

1. Provision, installation and configuration of IP fixed position, pan/tilt/zoom and thermal imaging cameras on various poles along Leonor K. Sullivan Boulevard. The poles, fiber optic infrastructure, camera control enclosures, interior enclosure devices and power to the enclosures are by others. The poles shall be pre-configured for acceptance of cables interior to the poles to be routed to the enclosure. The enclosures will typically contain fiber optic terminations and a POE output hardened network switch, by others. Equipment located inside of the enclosure which is specific to cameras furnished and installed by the successful bidder for this project are the responsibility of this contractor. One example of such a device is a specialized power supply for the thermal imaging cameras.
2. Re-configuration of existing Firetide radios, generally in Laclede's Landing, to operate on the licensed 4.9 GHz public safety spectrum. Applications for licenses to operate on this spectrum are in process and should be assumed by the bidder to be approved.
3. Coordination with the City of St. Louis Streets Department as defined on the plans. Existing fiber shall be used which is routed as defined on the plans.
4. Configuration of Genetec servers and software for monitoring and control of the cameras. Existing servers are located in the St. Louis Metropolitan Police Headquarters (SLMPD HQ) at the Real Time Intelligence Center (RTIC) at 1915 Olive Blvd. The Owner will furnish new servers, Contractor shall disconnect and remove existing servers from the rack and shall install and

configure Owner furnished servers. Bidder shall include in their proposal expected time for coordination of signing in/out and required escort within the SLMPD HQ.

5. Configuration of two (2) existing and two (2) new monitoring workstations at the RTIC. Two existing workstations will be installed in final location by Owner, two new Owner furnished workstations shall be installed by contractor.

6. Installation of two (2) network switches and configuration of one (1) National Park Service (NPS) workstation for system monitoring. Fiber and fiber connectors will be installed and tested by others, routed from Traffic Dept. enclosure to NPS Dispatch Center in the Old Court House..

7. Installation and configuration of one (1) Owner furnished workstation at the Port Authority Offices at 1520 Market St., for system monitoring.

8. Removal of an existing pole and camera transmission equipment at 3rd and Washington.

9. Refer to the associated plans and specifications for device locations and information. A number of cameras and radios, defined on the plans, are by others. These consist generally of prior existing cameras which were removed for construction and are to be re-installed by others. These cameras are to be configured in the system by this contractor.

The Bidders are expected to familiarize themselves with the Project site prior to submission of bids.

Bids will be received by the Authority at the address below until 3:00 P.M. (St. Louis time) on Friday, July 24th at which time all bids shall be publicly opened:

St. Louis Development Corporation
Attention: Mr. Rob Orr
1520 Market Street Suite 2000
St. Louis, Missouri 63103

A pre-bid conference meeting will be held on Tuesday, July 14th starting at 2:00 PM in the St. Louis Development Corporation Board Room, 1520 Market Street, Suite 2000 (2nd floor).

Bidders must qualify in order to be eligible to bid by submitting complete and acceptable documentation and information as required in these Bid Documents.

A Certified Check or bank draft, payable to the Authority, or a satisfactory Bid Bond, executed by the Bidder and an acceptable Surety, in an amount equal to five (5) percent of the bid, shall be submitted with each bid. The bid security must be held for at least thirty (30) calendar days, or until the Contract is awarded to the successful Bidder. The bid security of any unsuccessful Bidder shall be returned to the Bidder within fifteen (15) calendar days after the Authority rejects the applicable bid.

Attention is called to the fact that no less than the minimum wages and salaries, as set forth in the Bid Documents. This includes State of Missouri Prevailing Wage Laws, Federal Labor Standards Act, Davis Bacon Act (Federal Prevailing Wages), and the St. Louis Living Wage ordinance.

The time for completing this project is 90 days from the date the Notice to Proceed is issued.

The Authority reserves the right to reject any and all bids, and the right to waive any informalities in the bidding. In particular, the Authority reserves the right to reject any bid, notwithstanding its price, for any reason considered by the Authority to be relevant to the Bidder's potential performance, including but not limited to past performance on other projects, claims history, financial capacity and stability of the Bidder, workforce and management capability of performing the work within the required Time for Completion and consistent with the other requirements of the Contract Documents, relevant experience and qualifications (or lack thereof), the Bidder's willingness to execute the required Contract and any other information requested by or furnished in response to this Invitation in the attached Instructions to Bidders.

City of St. Louis Port Authority
St. Louis Development Corporation

INDEX

Invitation to Bid	1
Index	4
Instructions to Bidders	5
Sample Contract Form	22
General Conditions	24
Special Conditions	48

Exhibits Posted Online (See 1a. on Page 5 “Instructions to Bidders”)

- A. Project Manual
- B. Project Engineering Plans
- C. Missouri Annual Wage Order No. 22
- D.

Required Submittal Forms Posed Online

- E. Form of Bid Proposal (Bid Form)
- F. Statement of Qualifications – Parts I, II, III, and IV (Part III should be completed for each subcontractor)
- G. Non-Collusive Affidavit
- H. MWBE Subcontractor List
- I. MWBE Utilization Statement
- J. Employment of Unauthorized Aliens Affidavit

INSTRUCTIONS TO BIDDERS

1. BID DOCUMENTS

- a. All documents related to this project will be posted on the SLDC website:

<https://www.stlouis-mo.gov/sldc/>

Click on "SLDC Documents" on left side menu. Click on "2013 Port Security Grant Program."

- b. A complete set of Bid Documents will be available for review Monday through Friday at the following locations from 9:00 a.m. until 5:00 p.m.

City of St. Louis Port Authority
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
314-657-3700
Contact: Rob Orr

MOKAN
4666 Natural Bridge
St. Louis, MO 63115
Phone: 314-454-9675
<http://www.mokanccac.org/>
E-mail: mokan@stlouis.missouri.org

Crossroads Repographics
1712 Macklind Ave.
St. Louis, MO 63110
314-678-0087
www.x-rhodes.com

2. INTERPRETATIONS

- a. No oral interpretation will be made to any Bidder as to the meaning of the Bid Documents or any part thereof.
- b. Every request for interpretation shall be made in writing by sending an e-mail to:

Mr. Rob Orr, Major Project Manager
E-mail: OrrR@stlouis-mo.gov

- c. Any inquiry received seven (7) or more calendar days prior to the date fixed for opening of bids will be given consideration.

- d. Every interpretation made to every Bidder will be in the form of an Addendum to the Bid Documents, and, when issued, will be on file in the office of the Authority and posted on the website at least three (3) calendar days before the date bids are opened.
- e. Addenda will be posted on the website listed above in section 1a. Efforts will be made to notify prospective bidders of any such Addenda, but it shall be solely the Bidder's responsibility to ascertain whether Addenda have been issued by checking the website.
- f. Authority reserves the right to not answer any or all questions as deemed appropriate by Authority.
- g. Bidders must identify any proprietary information in any question that should be removed prior to Authority providing their response.

3. SCHEDULE OF ACTIVITIES

<u>Activity</u>	<u>Completion Date</u>
Issue Invitation for Bid	6/30/2015
Pre-Bid Conference	7/14/2015
Bids Due	7/24/2015
Award Project By	7/31/2015
Issue Notice to Proceed	8/1/2015

4. PROPOSAL SUBMISSION

- a. Prior to the submission of a Bid(s), Bidder shall make and be deemed to have made a careful examination of the scope of the Bid Documents. Bidder should become informed as to the requirements detailed in the Bid Documents and will be required to comply with all applicable codes and regulations.
- b. The Authority shall interpret the Contractor's act of submitting a Bid to the Authority to mean that the Contractor has satisfied himself as to the quantities and has ascertained at the site by inspection, investigation, measurement, or otherwise, all circumstances affecting the cost of performing the work.
- c. Bidders have the sole responsibility for delivery of their Bid on or before the deadline. Proposals received after the time specified will be considered late and will be disqualified.
- d. The Authority may consider as irregular any bid on which there is an alteration of or departure from the Bid Form hereto attached, and, in its sole discretion, may reject any Bid or Bids, so altered or changed.
- e. Bidder's response to this Invitation to Bid becomes the property of the Authority. Regardless of the Bidder selected, Authority reserves the right to use any information presented in this proposal to Authority's benefit.

- f. Proprietary information submitted with any Bid must be identified by the Bidder.
- g. Authority reserves right to accept or reject any submittal/bid when, by their judgment, submittal is not complete or is inconsistent with the Bid Document requirements.
- h. In the event it becomes necessary to revise any part of the Bid Documents, a written addendum will be provided to all Bidders who notify the Authority of its intention to bid at least five business days prior to the proposal due date. Any written addendum required under the terms set forth in the Bid Documents shall be given and be deemed to have been duly served sent electronically via email to the designated representative of the Bidder.

5. PRE-BID CONFERENCE

A pre-bid conference will be held on Tuesday, July 14, 2015 at St. Louis Development Corporation's Board Room, 1520 Market Street, 2nd Floor. Send an e-mail to Rob Orr, OrrR@stlouis-mo.gov to receive notices about the pre-bid conference.

6. INSPECTION OF PROJECT SITE

- a. Each Bidder shall visit become acquainted with the existing conditions therein relating to construction and labor, and should fully inform itself as to the facilities involved and the difficulties and restrictions attending the performance of the Contract.
- b. The Bidder shall thoroughly examine and become familiar with all parts of the Bid Documents and Drawings.
- c. The successful Bidder, by the execution of the Contract, shall in no way be relieved of any obligation due to its failure to receive or to examine any form or legal instrument, or inability to visit the site and become fully acquainted with the conditions there existing; the Authority will be justified in rejecting any claim based on facts which the Bidder could have noted upon a thorough examination of all accessible aspects of the site as defined by the Engineer, Bid Documents, and Drawings.

7. ALTERNATIVE BIDS

Alternative bids will not be considered, unless specifically requested in the Form of Bid Proposal (Bid Form).

8. CORRECTIONS

Erasures or other changes in the Bid Forms must be explained or noted over the signature of the Bidder. Failure to comply with this may result in the disqualification of the Bid submitted.

9. TIME FOR RECEIVING BIDS

- a. Bids received prior to the advertised hour of opening will be kept sealed. The representative of the Authority whose duty it is to open them will decide when the specified time has arrived, and no Bid received thereafter will be considered.
- b. No responsibility will be attached to the Authority for the premature opening of a Bid not properly addressed and identified.
- c. Bidders are cautioned to allow ample time for transmittal of Bids by mail or otherwise. Bidders should secure correct information relative to the probable time of arrival and distribution of mail at the place where Bids are to be opened; and, so far as practicable, make due allowance for possible delays in order to avoid the necessity for investigations of claims that such delays in receipt of Bids were due solely to delay in the mail, as provided for in this section.
- d. Faxes will not be considered.

10. OPENING OF BIDS

At the time and place fixed for the opening of Bids, the Authority will cause to be opened and publicly read aloud, every Bid received within the time set for receiving Bids, irrespective of any irregularities therein.

11. WITHDRAWAL OF BIDS

Bids may be withdrawn by written request dispatched by the Bidder in time for delivery in the normal course of business prior to the time fixed for opening; provided that written confirmation is placed in the mail and postmarked prior to the time set for bid opening. The Bid Guaranty of any Bidder withdrawing his bid in accordance with the foregoing conditions will be promptly returned. Negligence on the part of the Bidder in preparing his bid confers no right of withdrawal or modification of his bid after such bid has been opened.

12. REJECTION OF BIDS

- a. The Authority reserves the right to reject the Bid of any Bidder who has previously failed to perform properly, or to complete on time, contracts of a similar nature; or who is not in a position to perform the Contract; or who has habitually and without just cause neglected the payment of bills or otherwise disregarded its obligations to subcontractors, material suppliers, or employees. In determining a lowest responsible, responsive Bidder, the following elements, in addition to those above mentioned, will be considered: whether the Bidder involved:
 - i. maintains a permanent place of business;

- ii. has adequate plant equipment available to do the work properly and expeditiously;
 - iii. has suitable financial resources to meet the obligations incidental to the work;
 - iv. has appropriate technical experience; and
 - v. meets the EEO and MWBE goals of the Contract.
- b. The Authority reserves the right to consider as unqualified to do the work specified any Bidder who does not habitually perform with his own forces the major portions of the work involved in the Bid Documents.
- c. Each Bidder is required to provide a Performance Bond and Payment Bond as set forth in the Contract. In assessing the qualifications, responsibility and responsiveness of a Bidder, the Authority may consider whether the entity submitting the bid is capable of providing the Performance and Payment Bond in its own name, or instead is providing bonding or insurance through an affiliation with another entity. The ability of the Bidder to obtain a Performance Bond shall not be regarded as the sole test of such Bidder's competency or responsibility.

13. UNIT PRICES

The unit price for each of the items in the proposal of each Bidder shall include its prorated share of overhead and profit so that the sum of the products obtained, by multiplying the quantities shown for each item by the unit price bid, represents the total Bid. Any Bid not conforming to this requirement may be rejected as informal. Unbalanced unit prices/lump sum amounts in the Bid are subject to unilateral adjustment by the Authority, before or after contract execution. Unilateral adjustment(s) will not affect the total Bid.

14. AWARD OF CONTRACT

- a. The Contract will be awarded to the responsible, responsive Bidder submitting the lowest Bid complying with all of the conditions and provisions of the Bid Documents, provided the Bid is reasonable and it is in the interest of the Authority to accept the Bid. A Bidder to whom an award is made will be notified at the earliest practicable date.
- b. The Authority, however, reserves the right at its sole discretion to reject any and all Bids and to waive any informality in the Bids received. This includes, but is not limited to, the failure of a Bidder to make reasonable good faith efforts to demonstrate the ability to meet the City's MWBE goals prior to Bid opening.

15. NATURE OF BIDDER

The Authority will assess each submitted bid by reviewing the specific persons and companies who will be performing the work. In this regard, if any Bidder is a joint venture, partnership or other affiliation of more than one company, the Bidder shall provide all information requested by the Authority to identify the precise nature of the partnership, joint venture or other

affiliation (including but not limited to a copy of the written agreement establishing the joint venture, partnership or other affiliation), and shall identify precisely the persons who will be supervising the work, and performing each principal portion of it, and identify which company will be the employer of such persons, identify the specific company that will be providing the Performance and Payment Bond and applicable insurance for the Project, and identify precisely which company will be providing the financial resources necessary for the performance of the work. In addition, any such Bidder shall provide complete and detailed financial information with respect to both companies so that the Authority may determine the financial capacity of each. In the event the selected Contractor is a joint venture, each member of the joint venture shall be jointly and separately liable to the Authority for the performance of the Contract and for any damages or other liabilities arising there under. In this regard, the Authority shall have the right, in its sole discretion, to enforce the Contract individually, severally and successively against any one of the participants in the joint venture without impairing or affecting the rights of the Authority against the other.

16. BIDDER'S QUALIFICATIONS

The Authority shall have the right to take such steps as it deems necessary to determine the ability of the Bidder to perform the work and the Bidder shall furnish the Authority all such information and data for this purpose, as the Authority may request. The Authority reserves the right, in its sole, unrestricted discretion to reject any Bid where an investigation of the evidence or information does not satisfy the Authority that the Bidder is qualified to carry out properly the terms of the Bid Documents.

17. BID GUARANTY

- a. The Bid must be accompanied by a Bid Guaranty which shall equal five (5) percent of the amount of the Bid, and at the option of the Bidder, may be a Certified Check, Bank Draft, or a Bid Bond. The Bond shall be secured by a guaranty or a surety company listed in the latest issue of U.S. Treasury Circular 570. The amount of such Bid Bond shall be within the maximum amount specified for such company in said Circular 570. The practice of multiple sureties joining together to issue satisfactory Bond, shall not be allowed. No Bid will be considered unless it is so guaranteed. Certified Check or Bank Drafts must be made payable to the order of the St. Louis Development Corporation. Cash deposits will not be accepted. The Bid Guaranty shall ensure the execution of the contract and the furnishing of Performance and Payment Bond by the successful Bidder, all as required by the Bid Documents. Bid Bonds must be submitted in triplicate.
- b. Revised Bids, whether forwarded by mail, fax or telegram, if representing an increase in excess of two (2) percent of the original Bid, must have the Bid Guaranty adjusted accordingly; otherwise the original Bid shall remain in force.
- c. In case the Bid Guaranty is in the form of a Certified Check or Bank Draft, the Authority may make such disposition of the same as will accomplish the purpose for which submitted.

18. NON-COLLUSIVE AFFIDAVIT

- a. Each person or corporation submitting a Bid for the work contemplated in the Bid Documents, shall execute an affidavit in the form herein provided, to the effect that it has not colluded with any other person, firm or corporation in regard to any Bid submitted. Such affidavit shall be attached to the Bid in triplicate.
- b. Before executing any subcontract, the successful Bidder shall submit the name of any proposed subcontractor to the Authority, with an attached executed Non-Collusive Affidavit of Subcontractor form provided in the Appendix.

19. PERFORMANCE AND PAYMENT BOND; EXECUTION OF CONTRACT

- a. Subsequent to the award and within seven (7) working days after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the Authority a contract.
- b. Having satisfied all conditions of award as set forth elsewhere in these documents, a successful Bidder shall, within the period specified in Paragraph "A" above, furnish a Performance and Payment Bond in a penal sum of at least 100% of the amount of the Contract as awarded, as security for the faithful performance of the Contract and for the payment of all persons, firms, or corporations to whom the successful Bidder may become legally indebted for labor, materials, tools, equipment, or services of any nature, including utility and transportation services, employed or used by him in performing the work. Such Bond shall be in substantially the same form included in the Bid Documents and shall bear the same date as, or a date subsequent to, the date of the Contract. This Bond shall be signed by a guaranty or Surety Company listed in the latest issue of U.S. Treasury Circular 570 and the penal sum shall be within the maximum specified for such company in said Circular 570.
- c. The practice of multiple sureties joining together to issue satisfactory Bond, shall not be allowed.
- d. On each Bond, the rate of premium shall be stated, together with the total amount of the premium charged. The current power of attorney for the person who signs for any surety company shall be attached to such Bond.
- e. The failure of the successful Bidder to execute such Contract and to supply the required Bond within seven (7) working days after the prescribed forms are presented for signature, or within such extended period as the Authority may grant based upon reasons determined adequate by the Authority, shall constitute a default, and the Authority may either award the Contract to the next lowest responsive Bidder or re-advertise for Bids, and may charge against the Bidder the difference between the amount of the Bid and amount for which a Contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the Bid

Guaranty. If a more favorable Bid is received by re-advertising, the defaulting Bidder shall have no claim against the Authority for a refund.

20. WAGES AND SALARIES

- a. This Contract is subject to State of Missouri Prevailing Wage Laws. Not less than the prevailing wage rate must be paid to all workers performing work under this Contract. The contractor will forfeit a penalty of \$100 per day (or portion thereof) if a worker is paid less than the prevailing wage rate for any work done under this Contract by the contractor or subcontractor.
- b. Missouri prevailing wages are provided in the Appendix. For more information, refer to Chapter 290 ("Wages, Hours and Dismissal Rights ") of the Missouri Revised Statutes at:

<http://www.moga.mo.gov/mostatutes/stathtml/29000002501.html>

or contact:

Missouri Dept. of Labor and Industrial Relations
Division of Labor Standards
Attn: Prevailing Wage Section
PO Box 449
Jefferson City, MO 65102-0449
573-751-3403
<http://labor.mo.gov/DLS/PrevailingWage>
E-mail: prevailingwage@labor.mo.gov

- c. This Contract is subject to Federal Labor Standards Provisions. See <http://www.dol.gov/whd/flsa/> for more information.
- d. This Contract is subject to the Davis Bacon Act which include minimum wage requirements. Federal minimum wage rates ("Wage Determination") are provided in the Appendix. See <http://www.dol.gov/whd/govcontracts/dbra.htm> for more information.
- e. Where the Federal and State rates differ for the same classification, the contractor is required to pay the higher rate.
- f. The rates of pay requirements set forth in the Bid Documents are the minimum rates to be paid during the life of the Contract. It is, therefore, the responsibility of Bidders to inform themselves as to the local labor conditions, such as the length of the work day and work week, overtime compensation, health and welfare contributions, labor supply and prospective changes or adjustments of rates.
- g. Any worker classification not included in the Missouri Prevailing Wage listing or the Federal Wage Determination shall be brought to the Authority's attention immediately by the Bidder.

- h. Notwithstanding “a-e” above, no person shall be paid less than that required by the City of St. Louis’ “Living Wage” as contained in Ordinance 65597. See the Appendix for the “Notice of St. Louis Living Wage Rates Effective April 1, 2015.”

21. EQUAL EMPLOYMENT OPPORTUNITY

- a. Contractor agrees that in performing under this Contract neither the Contractor nor anyone under Contractor’s control will permit discrimination against any employee, worker, or applicant for employment because of race, sex, marital status, color, age, religion, sexual orientation, gender identity, familial status, disability, national origin or ancestry. Such action shall include but not be limited to any action or to bar, employ, upgrade, or recruit; expel, discharge, demote, or transfer; layoff, terminate, or create intolerable conditions; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor
- b. Contractor will permit reasonable access by the Authority to such persons, reports, and records as are necessary for the purpose of ascertaining compliance with fair employment practices.
- c. In the event of the Contractor’s noncompliance with the nondiscrimination clauses of this Contract, or to furnish information or permit his books, records, and accounts to be inspected, within twenty-one (21) calendar days from date requested, this Contract may be cancelled, terminated, or suspended in whole or part and Contractor may be declared ineligible for further Authority Contracts for a period of one year, by the option of the Authority. In the event this Contract is cancelled, terminated, or suspended for failure to comply with fair employment practices, the Contractor shall have no claims against the Authority for damages as a result of such cancellation, termination or suspension.
- d. Contractor further agrees that these clauses (“a” through “D” on discrimination and equal opportunity practices in all matters of employment and training for employment will be incorporated by Contractor in all Contracts or agreements entered into with suppliers of materials or services, Contractors, and subcontractors and all labor organizations furnishing skilled, unskilled, and craft union skilled labor, or who may perform any such labor or services in connection with this Contract.
- e. Whenever the Contractor is sued or threatened with litigation by a subcontractor, vendor, individual, group or association, as a result of compliance with the clauses, “a” through “e”, of these provisions relating to fair employment practices, such Contractor shall notify the General Counsel of Authority in writing of such suit or threatened suit within ten (10) calendar days.

22. UTILIZATION OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES (MWBE)

- a. The City of St. Louis is committed to involving Minority and Women-owned Business Enterprises (MWBE) firms in meaningful roles. It is the policy of the Authority that MWBE

firms shall have an equal opportunity to participate in the performance of this contract. The Mayor's Executive Order 28 has established goals of 25% MBE and 5% WBE participation. A Bidder who, in accordance with the documentation requirements of this specification, has achieved the 25% MBE and 5% WBE goals shall be in compliance with this specification.

- b. Contractor will work with the City's Disadvantaged Business Enterprise (DBE) Program Office located at the St. Louis Airport to monitor MWBE participation. A current directory containing the names of firms that have been certified as eligible to participate as MWBEs on City contracts can be obtained from the DBE Program Office. The Authority will only count towards the MWBE goals firms who, at time of Bid Opening, are certified by the DBE Program Office. Bidders should contact the DBE Program Office at 314-551-5000 to verify the status of a firm's certification. The MWBE Directory is also accessible at www.mwdbbe.org.
- c. A Bidder who cannot achieve the 25% MBE and 5% WBE goals must provide documentation of the reasonable good faith efforts to meet the goal(s) and request a waiver from the goal(s), as prescribed in this specification. In such an instance the Bidder must be able to demonstrate that the required "good faith efforts" were initiated prior to submittal of the Bid. If the Bidder cannot demonstrate such "good faith efforts", to the satisfaction of the Authority, the Bid will be rejected as non-responsive.
- d. MWBE forms and additional information are provided in the Appendix.
- e. **Pre-Contract Award Obligations**
 - i. Each Bidder will be required to submit the MWBE Utilization Plan provided in the Appendix with its Bid. Failure to submit the MWBE Utilization Plan as required herein will result in the Bid being rejected as non-responsive.
 - ii. The apparent low Bidder and all other Bidders still desiring to be considered for contract award must submit the MWBE Utilization Plan, the Subcontractor List, the Good Faith Efforts Report and Statement, a copy of the bid solicitation to all subcontractors and, where appropriate, a request for waiver, by close of business two (2) working days after Bid Opening. Firms bidding as a joint venture must submit a fully executed copy of the joint venture Contract at this time. Failure to submit each of the aforementioned documents will render a Bid non-responsive.
 - iii. To establish a Bid as responsive, the Bidder must document on the MWBE Utilization Plan the proposed utilization of MWBE participants to achieve the stated goal or document on the Good Faith Efforts Report and Statement the good faith efforts expended by the Bidder prior to Bid Opening to utilize MWBE firms. The documentation requirements are further outlined in Appendix D. For the purpose of determining the degree of goal attainment, the Bidder should refer to Section Four, "Public Works Contracts" of Mayor's Executive Order #44.

d. **Requests for Waiver**

- i. If the MWBE Utilization Plan does not meet the project goals, the Bidder shall seek a partial or total waiver of the project goals. The application for waiver of all or part of the project goals shall include full documentary evidence of the Bidder's good faith efforts to meet the project goals and why the request for waiver should be granted.
- ii. The application shall be in writing and submitted within 48 hours after Bid Opening.
- iii. The application must include a narrative, affidavits or exhibits which verify the actions taken by the Bidder to meet the project goals.

e. **Post Contract Award Compliance**

- i. Within fifteen (15) calendar days after the Pre-Construction Conference, fully executed copies of each MWBE subcontract must be submitted to the Authority. If a Bidder fails to submit the required documentation within the specified time period, the Authority may withdraw the Notice of Award and the Bid Security of that Bidder may be forfeited to the Authority. In any event, the Authority will not issue a Notice to Proceed until the required documentation is submitted.
- ii. During construction the Contractor shall submit the Record of Payment to Subcontractors, Material Suppliers and Other Vendors form to the Authority each month. Changes to the approved MWBE Utilization Plan will be considered by the Authority only for one of the following reasons:
 1. The named MWBE firm is unable to meet the delivery requirements of the construction schedule.
 2. The named MWBE firm is dilatory in complying with the requirements of the Bid Documents.
 3. The named MWBE firm is prevented from performing due to bankruptcy, insolvency or otherwise.
- iii. The Contractor shall promptly report any and all proposed changes in the utilization of MWBE firms to the Authority, in writing, using the Subcontractor or Supplier Substitution Form included in Appendix D.
- iv. Reporting Requirements. The Contractor shall keep such records as are necessary for the City to determine compliance with the MWBE contract obligations. The Contractor shall submit monthly reports on MWBE involvement. At the conclusion of each billing period, the Contractor shall submit the Monthly DBE Utilization Report to the City to verify actual payments to the MWBE for the previous month's reporting period. These reports are required regardless of whether or not MWBE activity has occurred in the monthly reporting period. When requested, the Contractor shall submit all subcontracts and other financial transactions executed with the MWBE in such form, manner and content as prescribed by the City.

- v. Upon completion of all MWBE participation and prior to final payment, the Contractor shall submit the MWBE Utilization Final Report to the City detailing all MWBE subcontract payments and a completed Certification of Actual MWBE Utilization for each MWBE sub-contractor utilized. When the actual amount paid to an MWBE is less than the award amount, a complete explanation of the differences is required. If the agreement is not met, documentation supporting good faith efforts shall be submitted. Failure to submit the required reports will result in the withholding of partial payments to the Contractor until the reports are submitted. All payments due sub-contractors which affect Agreement goal attainment, including retainage, shall be paid by the Contractor before the City releases the contract/retainage bond.
- vi. The City reserves the rights to audit, investigate, monitor and/or review actions, statements and documents submitted by any contractor, subcontractor or MWBE at any time.

23. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

Prior to contract execution and as a condition of final award, the selected Contractor shall by sworn Affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with this project. The Contractor shall sign an Affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with this project pursuant to the provisions of Sections 285.525 through 285.555 of the revised Statutes of Missouri, 2000, as amended. Notice and instructions regarding the requirements of this provision are included in the Appendix.

24. COMPLIANCE WITH FEDERAL CIVIL RIGHTS LAWS AND REGULATIONS

The grantee is required to comply with Federal civil rights laws and regulations. Grantees must comply with all regulations, guidelines, and standards adopted under the below statutes. The grantee is also required to submit information, as required, to the DHS Office for Civil Rights and Civil Liberties concerning its compliance with these laws and their implementing regulations. Specifically, the grantee is required to provide assurances as a condition for receipt of Federal funds that its programs and activities comply with the following:

- a. **Title VI of the Civil Rights Act of 1964, as amended, 42. U.S.C. 2000 et. Seq.:** No person on the grounds of race, color or national origin will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program or activity receiving Federal financial assistance.
- b. **Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794:** No qualified individual with a disability in the United States, shall, by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity receiving Federal financial assistance.

- c. **Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et. seq.:** Discrimination on the basis of sex is eliminated in any education program or activity receiving Federal financial assistance.
- d. **The Age Discrimination Act of 1975, as amended, 20 U.S.C. 6101 et. seq.:** No person in the United States shall be, on the basis of age, excluded from participation in, denied the benefits of or subjected to discrimination under any program or activity receiving Federal financial assistance.

25. INSURANCE

Contractor shall maintain the following insurance for personal injury, bodily injury, death, accident and property damage (collectively, the "Liability Insurance"): (a) public liability insurance, including commercial general liability insurance, (b) owned (if any), hired, and non-owned automobile liability insurance; and (c) umbrella liability insurance. Liability Insurance shall provide coverage of at least \$1 million per occurrence and \$2 million in the annual aggregate. Liability Insurance shall include coverage for liability arising from independent contractors, contractual liability (including liability assumed under contracts and leases), and products and completed operations. Contractor shall also maintain workers' compensation and disability insurance as Applicable Law requires.

26. PRE-BID REQUIREMENTS

The Bidder must fulfill and document each of the following requirements:

- a. Firms that intend to submit a bid must notify both construction clearinghouses listed below of its intention to bid by regular mail, fax, or e-mail no later than **5:00 P.M. (St. Louis, Missouri time) on Tuesday, July 14, 2015**. The notice shall contain the following at a minimum:
 - i. Name, street address, mailing address (if different from the street address), phone number, and e-mail address of its contact person
 - ii. Identify the specific items of work that may be subcontracted, and expressly encourage MWBE's to quote those items

Clearinghouses to notify of intention to bid:

MOKAN
5261 Delmar (at Union), Suite B
St. Louis, MO 63108
Phone: 314-454-9675
Fax: 314-361-9806
<http://mokanccac.org>
E-mail: mokan@stlouis.missouri.org

- b. Register with appropriate agencies of the City. This also applies to partnerships and joint ventures.
- c. Be licensed to conduct business in the City. The Bidder may check with the following:

License Collector
City Hall, Room 102-104
1200 Market Street
St. Louis, MO 63103
314-622-4528

- d. Have paid all appropriate taxes before the Contract can be approved. The Bidder may contact the following:

Gregory F.X. Daly, Collector of Revenue
City Hall, Room 110
1200 Market Street
St. Louis, MO 63103
314 622-4111
E-mail: showerst@stlouis-mo.gov

- e. Participants in partnerships and joint ventures additionally shall individually have complied with the above requirements.

27. PRE-AWARD REQUIREMENTS

Within 48 hours following Bid Opening the apparent low Bidder and all other Bidders still desiring to be considered for contract award must submit the documents listed below. A Bidder who fails to submit fully executed copies of these documents may be deemed non-responsive.

- a. MWBE Forms (Appendix D)
 - 1. Utilization Plan
 - 2. Notice of Intent to Perform as a Subcontractor and/or Material Supplier
 - 3. Contractor's Good Faith Efforts Report and Statement
 - 4. Request for Waiver of MBE and/or WBE goals, if applicable
- b. Copy of Bid Solicitation to Subcontractors
- c. Executed Joint Venture Contract, if applicable

28. PRE-AWARD CONFERENCE

At the pre-award conference to be scheduled within one week of the bid opening, the apparent low Bidder shall submit, in triplicate (3 copies), the documents listed below. A Bidder who fails to submit fully executed copies of the above documents may be deemed non-responsive.

- a. Certification of Agreed MWBE Utilization
- b. Subcontractor Participation Form for each proposed Subcontractor:
- c. Detailed Project Schedule

29. AWARD REQUIREMENTS

Successful Bidder ("Contractor") shall submit the following:

- a. Executed Contract
- b. Executed Acknowledgement
- c. Performance and Payment Bond with Power of Attorney
- d. Required Insurance Certificates

30. PRE-NOTICE TO PROCEED CONFERENCE

Contractor shall submit the following:

- a. Copies of all required permits
- b. Subcontractor approval package(s), which include the following:
- c. Subcontractor to execute Non-Collusive Affidavit (executed by each Subcontractor)
- d. Required Subcontractor Insurance Certificates

31. NOTICE TO PROCEED

The Authority will not issue a Notice to Proceed until all documents have been provided as listed and all fully executed copies of MWBE Subcontracts are received.

32. PARTIAL PAYMENT REQUESTS

For every partial payment request, including the initial request, the following reports must be submitted to the Authority:

- a. Periodic Estimate for Partial Payment, on an acceptable form
- b. Record of Payments to Subcontractors, Material Suppliers and other vendors
- c. Weekly payroll documentation for Prime Contractor and all Subcontractors.
- d. Monthly Manpower Utilization Report.
- e. All documentation and reports needed to fully comply with the Executive Orders of the Mayor of the City of St. Louis
- f. Partial lien waivers for the Contractor and all Subcontractors and Suppliers, for the previous pay period

33. FINAL PAYMENT REQUESTS

Along with a final payment request, the following reports must be submitted to the Authority:

- a. Required reports for partial payment request (see above paragraph)
- b. Executed Certificate and Release, in triplicate
- c. MWBE Final Record of Payments Report
- d. Final lien waivers from Contractor and all Subcontractors and Suppliers

- e. Submit MWBE Substitution Form if any Subcontractor/Supplier is being replaced on the project

SAMPLE CONTRACT FORM

THIS CONTRACT, MADE THE _____ day of _____, 2015, by between _____ hereinafter called the "Contractor", and the **City of St. Louis Port Authority**, hereinafter called the "Authority".

WITNESSETH: That the Contractor and the Authority, for the consideration stated herein, mutually agree as follows:

ARTICLE 1: The Contractor shall furnish all supervision, technical personnel, labor, material, machinery, tools, equipment and services, including utility and transportation services, and perform and complete all work required for **2013 PORT SECURITY GRANT PROGRAM, Federal Project No. EMW-2013-PU-00439, PORT DISTRICT VIDEO SURVEILLANCE SYSTEM EXPANSION.**

ARTICLE 2: The Contract Price. The Authority will pay the Contractor for performance of this Contract in current funds subject to additions and deductions as provided for in the "Changes in Work" Section, GENERAL CONDITIONS, the sum of _____ (\$ _____)

ARTICLE 3: The executed Bid Documents will consist of the following:

- a) This Contract
- b) Invitation for Bid
- c) Instructions to Bidders
- d) Project Manual
- e) Signed Form of Bid Proposal
- f) Bid Bond
- g) Non-Collusive Affidavit
- h) Non-Collusive Affidavit-Subcontractor
- i) Performance and Payment Bond

THIS CONTRACT, together with the other documents enumerated in Article 3 herein, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, form the Contract between the parties hereto. In the event that any provision of any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this Article 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed in _____ original copies on the day and year first above written.

SEAL:

City of St. Louis Port Authority

ATTEST:

BY:

Otis Williams

TITLE:

Executive Director

APPROVED FOR LEGAL FORM AND ADEQUACY:

JACQUELINE HARRIS Assistant City Counselor

SEAL:

(Contractor)

ATTEST:

BY: _____

TITLE:

GENERAL CONDITIONS

1. DEFINITIONS

Wherever used in any of the Bid Documents, the following meanings shall be given to the terms herein defined:

- a. The term "Contract" means the Contract executed by the Authority and the Contractor, of which the General Conditions form a part.
- b. The term "Authority", "Local Authority", or "Local Public Agency" means the St. Louis Development Corporation and the City of St. Louis Port Authority, which is authorized to undertake this Contract.
- c. The term "Contractor" means the person, firm or corporation, partnership or joint venture, entering into the contract with the Authority to perform the work to be done under this Contract.
- d. The term "Contracting Officer" means the person within the Authority's organization duly authorized by the governing body thereof to administer contracts for and in the name of the Authority. It does not necessarily mean the person executing this Contract. The Authority will advise the Contractor of the name of the person or official who is designated as the Contracting Officer.
- e. The term "Engineer" means the Engineer in charge serving the Authority, its successor or any other person or persons designated or employed by the Authority for the purposes of directing or having charge of the work embraced in this Contract and/or having provided technical documents. The Authority will advise the Contractor of the name of the person or official who is designated as the Engineer.
- f. The term "Bid Documents" means and shall include the following: Invitation to Bid, Instructions to Bidders, Form of Bid Proposal, Appendices and Addenda, if any, General Conditions, Special Conditions, Project Manual, and Drawings.
- g. The term "Drawings" means the drawings obtained by the Contractor.
- h. The term "Technical Specifications" means that part of the Bid Documents which describes, outlines and stipulates the quality of any materials to be furnished: the quality of workmanship required; and the manner and methods to be employed in the work to be done under this Contract. The related CSI divisions are 27 and 28.
- i. The term "Addendum" or "Addenda" means any changes, revisions or clarifications of the Bid Documents which have been duly issued by the Authority to prospective Bidders prior

to the time of receiving bids.

- j. The term "Work Day" shall refer to an eight (8) hour period, Monday through Friday, excluding federal holidays, beginning no earlier than 6:00 AM and ending no later than 5:00 PM.

2. COMMUNICATIONS

- a. All notices, demands, requests, instructions, approvals, proposals, and claims must be made in writing.
- b. Any notice to or demand upon the contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the form of Bid Proposal (or at such other office as the Contractor may, from time to time, designate in writing to the Authority), or if deposited in the United States Mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph or delivery company for transmission, in each case addressed to such office.
- c. All papers required to be delivered to the Authority shall, unless otherwise specified in writing to the Contractor, be delivered to the office of the St. Louis Development Corporation, 1520 Market Street, Suite 2000, St. Louis, Missouri 63103 (Attention: and any notice to or demand upon the Authority shall be sufficiently given if so delivered or if deposited in the United States Mail in a sealed, postage prepaid envelope, or delivered with charges prepaid to any telegraph or delivery company for transmission to said Authority at such address, or to such representatives of the Authority or to such other address as the Authority may, from time to time, subsequently specify in writing to the contractor for such purpose.

3. SUPERINTENDENCE BY CONTRACTOR

- a. Except where the Contractor is an individual and gives his personal superintendence to the work, the Contractor shall provide a competent superintendent, (or more than one superintendent if double shifts are performed) satisfactory to the Authority and the Engineer, on the work at all times during working hours with full authority to act for it. The Contractor shall also provide an adequate staff for the proper coordination and expediting of work.
- b. The Contractor shall lay out its own work and it shall be responsible for all work executed by it under the Contract. It shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from its failure to do so.

4. SUBCONTRACTS

- a. The Contractor shall not execute a Contract with any subcontractor or permit any subcontractor to perform any work included in this Contract until it has submitted a non-collusive affidavit from the subcontractor in substantially the form provided, has submitted the subcontractor's insurance certificate, and has received written approval of such subcontractor from the Authority. Said approval shall in no way make the Authority liable for any act or deed, or result of the use of, the Contractor's subcontractor.
- b. No proposed subcontractor shall be disapproved by the Authority except for cause.
- c. The Contractor shall be fully responsible to the Authority for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.
- d. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with all provisions of the Contract and Bid Documents.
- e. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the Authority.

5. CONTRACTS

The Authority or other entities may award, or may have awarded, other contracts for additional work at or near the project area, and the Contractor shall cooperate fully with such other Contractors, by scheduling his own work with that to be performed under other Contracts as may be directed by the Authority. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor as scheduled.

The laws of the State of Missouri shall govern the interpretation and enforcement of this Contract.

This Contract constitutes the entire Contract between the parties with respect to the subject hereof and neither has been induced to make or enter into this Contract by reason of any oral or written Contract or representation other than as contained herein.

The failure of the Authority in any instance to insist upon strict performance of any of the terms hereunder or to exercise any rights conferred herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or rights on any future occasion.

Financial records, supporting documentation, statistical records and all other records pertinent to any activity under this contract shall be retained by the Contractor for a period of three (3) years from the date of final payment under this contract.

6. SCHEDULING AND COORDINATION OF THE WORK

- a. The Contractor shall be responsible for the proper scheduling of all work and for the coordination of the operations of all trades, subcontractors, or material persons engaged upon this Contract. It shall be prepared to guarantee to each of its subcontractors, the locations and measurements which they may require for the fitting of their work to all surrounding work.
- b. The Contractor shall coordinate all of the work under this Contract with work to be done by others.
- c. The Contractor shall conduct its work so as not to interfere with functioning of existing sewers. Extreme care shall be observed to prevent debris from entering existing sewers as a result of his work. This section "c" shall not apply to sewers which are currently unused, are not to be used in the future, and are to be demolished as part of this contract.
- d. The Contractor shall make allowance for and pay for all incidental and overhead expense of coordinating its work and work by others.
- e. The work must be scheduled and accomplished in stages as approved by the Engineer.

7. RESPONSIBILITIES OF CONTRACTOR

Except as otherwise specifically stated in the Bid Documents and Technical Specification, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, heat, power, transportation, superintendence, temporary construction of every nature, charges, levies, fees, permits, or other expenses and all other services and facilities of every respect and within the specified time.

If, through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor shall settle with such other Contractor or subcontractor by Contract or arbitration, if such other Contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against the Authority on account of any damage alleged to have been so sustained, the Authority will notify this Contractor, who shall defend at this own expense any suit based upon such claim, and, if any judgment or claims against the Authority shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith.

Contractor acknowledges that the work is to be performed in strict conformance with all means, methods and procedures specified in the Contract Documents (including but not limited to any disposal procedures, wrecking or abatement methodologies or dust mitigation and control requirements set forth therein). Contractor agrees that alternative methods and procedures to those that are specified in the Contract Drawings will not be allowed, even if they are otherwise permitted by applicable law, regulation or industry practice. The Contract Price will not be increased, and the Time for Completion will not be extended, based on any claim by the Contractor that it expected or assumed it could employ different or alternative means, methods or procedures from those required by the Contract Documents, regardless of whether such different or alternative means, methods or procedures are or have been permitted on other projects (whether by the Authority or any other entity) or are or have been allowed by any applicable law or regulation or any industry custom, standard or practice.

In addition, Contractor acknowledges, that except for those means, methods or procedures that are specified in the Contract Documents, Contractor is solely responsible to develop, determine and implement such means, methods and procedures as are required to perform the work in a full, timely, complete and proper fashion, in accordance with all requirements of the Contract Documents and applicable law. In this regard, Contractor represents that it has visited the Project site, has examined carefully all of the Contract Documents, has reviewed all reports and other information relating to the conditions at the Project site that have been identified to the Contractor in connection with the solicitation or submission of the Contractor's bid and the negotiation of this Contract, and has made a reasonably thorough inspection of the Project site (during which inspection the Contractor has correlated its personal observations with the requirements of the Contract Documents and has acquainted itself with all physical and observable conditions under which the work will be performed). Based on the foregoing, the Contractor assumes responsibility for (and shall not be entitled to any increase in the Contract Price or extension of the Time for Completion or to any other damages or additional compensation based on) any conditions at the site that the Contractor reasonably should have anticipated or detected, based on the information made available to the Contractor prior to the execution of the Contract (including a reasonably thorough inspection of the Project site). Specifically in this regard, Contractor acknowledges and agrees that the Contract Price will not be increased, and the Time for Completion will not be extended, based on any expectation or assumption by Contractor that any particular means, methods, procedures or sequences could be employed in connection with the work (other than those specified in the Contract Documents) if the reason such means, methods, procedures or sequences cannot be employed, is a condition that was observable by, or disclosed to, the Contractor prior to the execution of this Contract.

8. BID DOCUMENTS AND DRAWINGS

The Authority, if requested by the Contractor, will furnish the Contractor, without charge, one (1) copy of the Bid Documents, including Technical Specifications and Drawings. Additional

copies requested by the Contractor will be furnished at cost.

9. CHANGES IN THE WORK

- a. The Authority may make unilateral changes in the scope of the work required to be performed by the Contractor under the Contract, by making additions thereto, or by omitting work therefrom, without invalidating the Contract, and without relieving or releasing the Contractor from any of its obligations under the Contract or any guarantee given by it pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise.
- b. Except for the purpose of affording protection against any emergency endangering life or property, the Contractor shall make no change in the materials used, or in the specified manner of work, or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the Authority authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract Price, will be valid unless so ordered by the Authority in writing.
- c. If applicable unit prices are contained in the Contract (established as a result of either a unit price bid or a Supplemental Schedule of Unit Prices) the Authority may order the Contractor to proceed with desired changes in work, the value of such changes to be determined by the measured quantities involved and the applicable unit prices specified in the Contract; provided that, the net value of all changes does not increase or decrease the original total amount shown in the Contract by more than ten percent (10%) in accordance with the section entitled Correct references?
- d. If applicable unit prices are not contained in the Contract, or if the total net change increases or decreases the total Contract Price more than ten percent (10%), the Authority shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from it covering the work involved in the change after which the procedure shall be as follows:
 - (1) If the proposal is acceptable the Authority will prepare the change order in accordance therewith for acceptance by the Contractor; and
 - (2) If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the Authority may order the Contractor to proceed with the work on a cost-plus-limited basis. A cost-plus-limited basis is defined as the net cost of the labor, materials, and equipment plus fifteen percent (15%) of said net cost to cover all overhead and profit, the total cost not to exceed a specified limit.

- i. The net cost of the Contractor's labor is defined as: the basic hourly rate plus fringe benefits payments. The property damage, liability and workmen's compensation insurance premiums, unemployment insurance contributions, and social security taxes on this cost-plus-limited basis work will be included in the payment for overhead.
- ii. The net cost of the materials used is defined as the actual cost of such materials delivered to the job site and incorporated in the work.
- iii. The net cost of the equipment used is defined as the hourly operating cost of said equipment, times the actual time required to move equipment to and from the site of extra work (if necessary) plus the actual operating time spent on the extra work.

The hourly operating cost shall apply only to equipment that is already on the job. Equipment required to be brought to the job solely for this extra work will be paid for a minimum of one day operating time plus delivery charges.

- iv. No additional allowance will be made for general superintendence, the use of small tools, or other costs for which no specific allowance is herein provided.
- e. Each change order shall include in its final form:
- (1) A detailed description of the change in work.
 - (2) The Contractor's proposal (if any) or a conformed copy thereof.
 - (3) A definite statement as to the resulting change in the contract price and/or time.
 - (4) The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order.

10. CLAIMS FOR EXTRA COST

- a. If the Contractor claims that any instructions by Drawing or otherwise involve extra cost or extension of time, it shall, within ten calendar days after the receipt of such instructions, and in any event before proceeding to execute the work, submit its protest thereto in writing to the Authority stating clearly and in detail the basis of its objections. No such claim will be considered unless so made.

- b. Any discrepancies which may be discovered between actual conditions and those represented by the Drawings and maps shall at once be reported to the Authority and work shall not proceed except at the Contractor's risk, until written instructions have been received by it from the Authority.
- c. If, on the basis of the available evidence, the Authority determines that an adjustment of the Contract Price and/or Time is justifiable and equitable, the procedure shall then be as provided in Section 11, CHANGES IN THE WORK of the GENERAL CONDITIONS.

11. TERMINATION, LIQUIDATED DAMAGES, DELAYS, AND SUSPENSIONS

a. **Termination of Contract.**

(i) Cause: If the Contractor refuses or fails to prosecute the work with such diligence as will ensure its completion within the time specified in these Bid Documents, or as modified as provided in these Bid Documents, the Authority by written notice to the Contractor, may terminate the Contractor's right to proceed with the work. Upon such termination, the Authority may take over the work and prosecute the same to completion, by contract or otherwise, and the Contractor and his sureties shall be liable to the Authority for any additional cost incurred by the Authority in its completion of the work, and they shall also be liable to the Authority for liquidated damages for any delay in the completion of the work, as provided below. If the Contractor's right to proceed is so terminated, the Authority may take possession of and utilized in completing the work such materials, tool, equipment, and plant as may be on the site of the work and necessary therefore. Contractor shall not be relieved of liability for damages sustained by the Authority as a result of breach of this Contract by Contractor, and the Authority may withhold payment to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Authority from the Contractor is determined.

(ii) Convenience: The Authority may additionally terminate this Contract at any time for any reason by notice in writing from the Authority to the Contractor. Said termination shall be effective immediately upon Contractor receipt of such notice. In the event of termination of this Contract by the Authority, Contractor shall be entitled to receive compensation for any satisfactory work completed by Contractor through the effective date of termination. In no event shall Contractor have a claim for loss or profit damages in the event of termination hereunder. Rights to terminate hereunder shall be in addition to and without prejudice to any other right or remedy.

b. **Suspension of Contract:**

(1) The Authority may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for a period of time that the Authority determines appropriate for the convenience of the Authority.

(2) If the performance of all or any part of the work is, for an unreasonable period of time suspended, delayed or interrupted (i) by an act of the Authority in the administration of this contract or (ii) by the Authority's failure to act within the time specified in this contract (or within a reasonable time if not specified) an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(3) A claim under this clause shall not be allowed unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of the final payment under the contract;

12. ASSIGNMENT OR NOVATION

The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the Authority; provided, however, that assignments to banks, trust companies, or other financial institutions may be made without the consent of the Authority. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this Contract in favor of all persons, firms, or corporations rendering such labor or services or supplying such materials, tools, or equipment.

13. DISPUTES

- a. All disputes arising under this Contract or its interpretation, whether involving law or fact or both, or extra work, and all claims for alleged breach of contract shall within ten (10) calendar days of commencement of the dispute, be presented by the Contractor to the Authority for decision. All papers pertaining to claims shall state the facts surrounding the claim in sufficient detail to identify the claim together with its character and scope.

In the meantime the Contractor shall proceed with the work as directed. Any claim not presented within the time limit specified within this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim

is not given within ten calendar days of its commencement, the claim will be considered only for a period commencing ten (10) calendar days prior to the receipt by the Authority of notice thereof.

- b. The Contractor shall submit in detail its claim and its proof thereof. Each decision by the Authority will be in writing and will be mailed to the Contractor by registered or certified mail, return receipt requested.
- c. If the Contractor does not agree with any decision of the Authority, it shall in no case allow the dispute to delay the work but shall notify the Authority promptly in writing that it is proceeding with the work under protest, and it may then except the matter in question from the final release.

14. TECHNICAL SPECIFICATIONS AND DRAWINGS

Anything mentioned in the Technical Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Technical Specifications shall be of like effect as if shown on or mentioned in both. In case of difference between Drawings and Technical Specifications, the matter shall be immediately submitted to the Engineer and the Authority, without whose decision, said discrepancy shall not be adjusted by the Contractor, save only at its own risk and expense.

15. REQUESTS FOR INFORMATION

It shall be the responsibility of the Contractor to make timely requests of the Authority for any additional information not already in the Contractor's possession which should be furnished by the Authority under the terms of this Contract, and which the Contractor will require in the planning and execution of the work. Such requests must be submitted from time to time immediately as the Contractor becomes aware of the need for supplementary information and each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the Engineer may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in its work or to others arising from its failure to comply fully with provisions of this Section.

16. MATERIAL AND WORKMANSHIP

- a. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for that purpose. Where equipment, materials,

articles or workmanship are referred to in the Technical Specifications as “equal to” any particular standard, the Engineer shall decide the question of quality and equality.

- b. The Contractor shall furnish at the earliest possible time to the Authority and the Engineer for approval the manufacturer’s detailed specifications for all machinery, mechanical and other special equipment, which it contemplates installing together with full information as to type, performance characteristics, and all other pertinent information concerning all other materials or articles which the Contractor proposes to incorporate in the work. (See Section – SAMPLES, CERTIFICATES AND TESTS, GENERAL CONDITIONS).
- c. Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.
- d. Materials specified by reference to the number or symbol of a specific standard, such as an ASTM standard, a Federal Specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the bid opening, except as limited to type, class or grade, or modified in such reference. The standards referred to, except as modified in the Technical Specification, shall have full force and effect as though printed therein.
- e. The Authority may require the Contractor to dismiss from the work any such company or employee or employees as the Authority or the Engineer may deem incompetent, or careless, or insubordinate, or otherwise detrimental to the satisfactory completion of the project. In no event shall any entity or individual have a claim for loss or profit damages in the event of termination hereunder.

17. SAMPLES, CERTIFICATES AND TESTS

- a. The Contractor shall submit to the Engineer all material or equipment samples, certificates, affidavits, etc., as called for in the Bid Documents or required by the Engineer, promptly after award of the Contract and acceptance of the Contractor’s bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor’s own risk, until the required samples or certificates have been approved in writing by the Engineer. Any delay in the work caused by later or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the contract time.
- b. Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with contract requirements, shall give the name and brand of the product, its place of origin, the name and address of the producer, and all specifications or other detailed information which will assist the Engineer in passing upon the acceptability of he

sample promptly. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements. Certifications and tests to prove conformance with the Technical Specifications shall be furnished and paid for by the Contractor, as requested by the Authority.

- c. Approval by the Engineer (in conjunction with the Authority and its design team) of any materials shall be general only and shall not constitute a waiver of the Authority's right to demand full compliance with Contract requirements. After actual deliveries, the Engineer will have such check tests made as it deems necessary in each instance and may reject materials, equipment and accessories for cause, even though such materials and articles have been given prior general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the Engineer will have the right to cause their removal and replacement with proper materials or to demand and secure such reparation by the Contractor as is equitable.
- d. Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:
 - (1) The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, or as directed by the Engineer to be taken except those samples taken on the project by the Engineer;
 - (2) The Contractor shall assume all cost of re-testing materials which fail to meet contract requirements;
 - (3) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient; and
 - (4) The Authority will pay all other expenses.

18. PERMITS AND CODES

- a. The Contractor shall give all notices required by and comply with all applicable laws, ordinances, and codes of federal, state, and local governments. All environmental abatement, remediation, demolition and construction work and/or utility installations shall comply with all applicable ordinances and codes, including all written waivers. Before installing any work, the Contractor shall examine the Drawings and Technical Specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the Authority. Where the requirements of the Drawings and Technical Specifications fail to comply with such applicable ordinances or codes, the Authority will adjust the Contract by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or department) and make appropriate adjustment in the Contract Price

or stipulated unit prices.

Should the Contractor fail to observe the foregoing provisions and proceed with the demolition, construction, and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the Drawings and Technical Specifications), the Contractor shall remove such work without cost to the Authority, but a Change Order will be issued to cover only any excess cost the Contractor would have been entitled to receive if the change had been made before the Contractor commenced work on the items involved.

- b. The Contractor shall at its own expense, secure and pay to the appropriate department of the local government the fees or charges for all permits, including permits for street pavements, sidewalks, sheds, removal of abandoned water taps, sealing of house connections, drains, pavement cuts, building, electrical, plumbing, water, gas, demolition, abatement, and sewer permits, and other permits as required by the local regulatory body or any of its agencies, including street and sidewalk easements and closings.
- c. The Contractor shall comply with applicable federal, state, and local laws and ordinances governing the disposal of surplus excavation, materials, debris, and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the work embraced in this Contract.
- d. The Contractor shall pay for securing all permits, inspection deposits, and charges, required by the City of St. Louis and the Metropolitan St. Louis Sewer District, and notify all parties concerned before proceeding with the required work.

19. CARE OF WORK

- a. The Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of the work, and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the Authority.
- b. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorization from the Authority, is authorized to act at the Contractor's discretion to prevent such threatened loss or injury, and the Contractor shall so act. The Contractor shall likewise act if instructed to do so by the Authority. Any compensation claimed by the Contractor on account of such emergency work will be determined by the Authority as provided in the Section – CHANGES IN THE WORK under GENERAL CONDITIONS.

- c. The Contractor shall avoid damage as a result of its operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and it shall at its own expense completely repair any damage caused by its operations.
- d. The Contractor shall shore up, brace, underpin, secure, and protect as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the work embraced in this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the Authority from any damages on account of settlements or the loss of lateral support of adjoining property, and from all loss or expense and all damages for which the Authority may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

20. 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 its prosecution of the work. The safety provisions of applicable laws and building and construction codes shall be observed, and the Contractor shall take, or cause to be taken, such additional safety and health measures as the Contractor may determine to be reasonably necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable laws. The Contractor shall comply with all pertinent provisions of the Contract Work Hours and Safety Standards Act as amended, commonly known as the Construction Safety Act, as pertains to health and safety standards, and all OSHA regulations and requirements.
- 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 Authority with reports concerning these matters upon written request by the Authority.
- c. The Contractor shall indemnify and save harmless the Authority from any claims for damages resulting from personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conducted under this Contract.

21. SANITARY FACILITIES

The Contractor shall, as needed, furnish, install, and maintain ample sanitary facilities for all workers. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the sanitary codes of the State and local government. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

22. USE OF PREMISIES

- a. The Contractor shall confine its equipment, storage or materials, and construction operations to the areas described in the Technical Specifications and/or as shown on the Drawings and as prescribed by ordinances or permits, or as may be directed by the Authority, and shall not unreasonably encumber the site or public rights-of-way with its materials and construction equipment.
- b. The Contractor shall comply with all reasonable instructions of the Authority and the ordinances and codes of the local government, regarding signs, advertising, traffic, fires, explosives, danger signals, and barricades.

23. REMOVAL OF DEBRIS, CLEANING, ETC.

- a. The Contractor shall, periodically or as directed by the Engineer during the progress of the work, remove and legally dispose of all surplus material and debris, and keep the Project Area and public rights-of-way reasonably clear. Upon completion of the work, he shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the project area and public rights-of-way in a neat and clean condition. Trash burning on the site will not be allowed.
- b. Upon completion of the work, or as directed by the Authority during the work, the Contractor shall remove all temporary offices, structures and facilities from the site, except for the fencing, the same to become his property, and leave the site of work clean and in the condition required by the Contract.

24. INSPECTION

- a. All materials and workmanship shall be subject to inspection, examination, or test by the Authority and the Engineer at any and all times during the work and at any and all places where such work is carried on. The Authority shall have the right to reject defective

material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected by the Contractor.

If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the Authority may contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the costs of the same against any monies which may be due the Contractor, without prejudice to any other rights or remedies of the Authority.

- b. The Contractor shall promptly furnish all materials reasonably necessary for any test which may be required. (See Section – SAMPLES, CERTIFICATES AND TESTS, under the GENERAL CONDITIONS, PART I.) All tests by the Authority will be performed in such manner as not to delay the work unnecessarily and shall be made as described in the Technical Specifications.
- c. Neither inspection, testing, approval nor acceptance of the work in whole or in part, by the Authority or its agents shall relieve the Contractor or his sureties of full responsibility for materials furnished or work performed not in strict accordance with the Contract.

25. REVIEW BY THE AUTHORITY

The Authority, its authorized representatives and agents, and representatives of any appropriately authorized government agencies shall, at all times have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this Contract, provided, however, that all instructions and approval with respect to the work will be given to the Contractor only by the Authority through its authorized representatives or agents.

26. DEDUCTION FOR UNCORRECTED WORK

If the Authority deems it not expedient to require the Contractor to correct work not done in accordance with the Bid Documents, an equitable deduction from the Contract Price will be made by the Authority and subject to settlement, in case of dispute, as herein provided.

27. INSURANCE

- a. The Contractor shall submit to the Authority for review and approval, evidence of its Workers Compensation, Commercial General Liability, Builder's Risk, and Auto Liability policies and shall similarly submit evidence of its Subcontractor's policies before each commences work. The policies shall be scheduled on an approved form and shall be kept in force until the Contractor's work is accepted and taken over by the Authority. Contracts of insurance (covering operations under this Contract) which expire before the

Contractor's work is accepted and taken over by the Authority, shall be renewed and submitted to the Authority for its approval. All insurance policies carried during the life of this Contract must be true "occurrence" policies, and shall contain no sunset provision.

- b. The Contractor shall purchase and maintain and require his Subcontractors to purchase and maintain, in a Company or companies acceptable to the Authority, and name the Authority and others as additional insured on such, insurance as will protect from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether the operations are performed by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.
 - 1. Claims under Workers' Compensation and other similar laws which are applicable to the work to be performed.
 - 2. Claims for damages because of bodily injury, occupational disease or sickness, or death of the Contractor's employees.
 - 3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees.
 - 4. Claims for damages which are sustained by any person as a result of the following offenses: false arrest, libel, slander, invasion of privacy, discrimination, and other personal injuries.
 - 5. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;
 - 6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle;
 - 7. Claims for damages because of employee dishonesty by any of the Contractor's employees.
 - 8. Claims involving contractual liability insurance.
- c. The insurance required shall be written for not less than the following, or greater if required by law:
 - 1. Commercial General Liability – combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence, \$2,000,000 annual aggregate. If the annual aggregate is exhausted, the contractor will be required to reinstate the limits.

Such insurance shall include:

- a) Premises/Operations;
- b) Independent Contractor's;
- c) Products/Completed Operations to be maintained for two years after final payment;
- d) Contractual Liability, including both written and oral contracts;
- e) Personal Injury Liability;
- f) Explosion, Collapse, and Underground Hazards;
- g) Sudden and Accidental Pollution;
- h) Delete Care Custody & Control Exclusion.

2. Comprehensive Automobile Liability:

Liability - \$1,000,000
Personal Injury Protection – Statutory
Uninsured Motorists – Statutory

3. Workers' Compensation – Statutory

Employer's Liability - \$1,000,000

4. Builders Risk

A "complete value" Form, issued for the full contract value as executed and amended from time to time, with a "waiver-of-occupancy" endorsement.

- d. Certificates of Insurance acceptable to the Authority shall be filed with the Authority within five (5) working days of the date of Notice of Award. These Certificates shall contain a provision that coverage afforded under these policies will not be cancelled, non-renewed, or materially changed until at least thirty (30) days prior written notice has been given to the Authority. The Certificates should include a positive statement evidencing that these coverage amounts are included.
- e. The minimum amount of coverage required or actual coverage carried shall not be construed to limit the liability of the contractor or subcontractor.
- f. All insurance policies shall be carried with financially responsible insurance companies which are licensed admitted carriers in the state of Missouri, covered under the guarantee fund, and approved by the Authority. All insurance companies must have the following minimum qualifications as rated in the most recent edition of the Best's Key Rating Guide:
 - 1. A rating classification of "A-" or better, and
 - 2. A financial size category of "Class XIII" or larger.

All such companies shall have representatives in the metropolitan St. Louis area.

- g. Due to the nature of and location of the work it is required that liability insurance policies name the City of St. Louis, City of St. Louis Port Authority, and the St. Louis Development Corporation, as Additionally Insured. All policies shall contain a Waiver of Subrogation in favor of these entities.
- h. The insurance required to be carried for this project shall be job specific, and the required coverage levels, including any annual aggregate, shall apply separately to this project. Certificates of Insurance shall specifically denote compliance with this requirement.
- i. The Contractor shall carry sufficient comprehensive insurance on its equipment at the site of work on route to and from site to fully protect the Contractor; the Contractor shall require the same coverage of its Subcontractors. It is expressly understood and agreed that the Authority and Engineer shall have no liability for damage to equipment.
- j. The Contractor shall remain fully liable and responsible for all obligations under the Bid Documents, whether or not the insurance provided by the Contractor is approved by the Authority, and whether or not it is sufficient in amount, quality, or coverage to protect the Contractor against such liability, and shall pay and make good all such obligations to the full extent such insurance does not cover them.
- k. Any insurance carried by the Authority and the St. Louis Development Corporation, and their officers, agents, employees, successors and assigns which may be applicable, shall be deemed to be excess insurance, and the Contractor's and Subcontractor's insurance shall be deemed primary for all purposes despite any conflicting provision in the Contractor's and Subcontractors' policies to the contrary. The Contractor and Subcontractors must provide an endorsement to their insurance policies stating that their policies are primary.
- l. All insurance policies carried by the Contractor and/or all Subcontractors under this contract shall be presented in entirety to the Authority for review upon written or faxed notice from the Authority within a maximum of five (5) working days from the date of said notice.
- m. The liability policies of the Contractor and Subcontractor shall not contain any provisions which would exclude coverage for damage to that portion of any area where work is not occurring.
- n. The term Subcontractor shall mean any Subcontractor or Sub-subcontractor of any tier. All subcontractors must comply with all the provisions of Section 132. Insurance.
- o. To the fullest extent permitted by law, the Contractor and Subcontractors shall indemnify and hold harmless the entities in Paragraph "g.", and all agents and employees of any of

them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the work including violation of any applicable environmental law, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, Subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph.

In claims against any person or entity indemnified under this paragraph by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this paragraph shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under Workers' or Workmens' Compensation Acts, Disability Benefit Acts or other employee benefit acts.

- p. The Contractor shall identify upon written request by the Authority what loss control service its insurance carrier is providing.
- q. The Contractor and all Subcontractors will furnish a list of all claims on a quarterly basis which are related to work performed by them for the Authority and will arrange for meetings with the carriers to discuss specific claims if requested by the Authority. The Contractor and Subcontractors shall advise the Authority if an entity other than the carrier will handle claims.

28. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor and Subcontractors shall indemnify and hold harmless all the entities enumerated under General Conditions in Section 29, Paragraph "g.", and all agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the work including violation of any applicable environmental law, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, Subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or

person described in this paragraph.

In claims against any person or entity indemnified under this paragraph by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this paragraph shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under Worker's or Workmen's Compensation Acts, Disability Benefit Acts or other employee benefit acts.

29. WARRANTY OF TITLE

No material, supplies, or equipment for the work shall be purchased subject to any charted mortgage or under a conditional sale or other Contract by which an interest therein or in any part thereof is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work, and, upon completion of all work, shall deliver the same together with all improvements and appurtenances constructed or placed thereon by it to the Authority free from any claims, liens, or charges. No Contractor or any person, firm or corporation furnishing any material or labor for any work covered by this Contract shall have any right to impose a lien upon any structure, improvement or appurtenance thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the Contractor for their protection, or any rights under any law permitting such persons to look to funds due the Contractor in the hands of the Authority. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for work when no formal contract is entered into for such materials.

30. GENERAL WARRANTY

Neither the final certificate of payment nor any provisions in the Contract nor partial or entire use of the clearance, improvements or products of the work embraced under this Contract by the Authority or the public or other recipient thereof shall constitute an acceptance of work not done in accordance with the Contract, or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of one (1) year from the date of final acceptance of the work. The Authority will give notice of defective materials and work with reasonable promptness.

31. SIGNS

Subject to prior approval of the Authority as to the size, design, type and location, and to local regulations, the Contractor or subcontractor may erect temporary signs for purposes of identification and controlling traffic. The Contractor shall furnish, erect and maintain the signs and signage as may be required by Safety Regulations and necessary to safeguard life and property. The Contractor shall furnish a bulletin board in prominent location in full view of its employees. The Contractor shall install standard steel "No Trespassing" signs every 100' on the construction fence, facing the exterior. Lettering on signage shall be not less than 9" in height.

32. LABOR / MANAGEMENT RELATIONS

The Contractor shall cooperate in connection with the coordination of working relationships between management and labor in the work included under this Contract, with appropriate labor organizations whose members may be or may become involved in such construction, subject to normal business consideration and all applicable Federal, State, and local laws, relating to labor/management relations, including the right of a majority of employees to designate a bargaining representative.

33. A.D.A. COMPLIANCE

The Authority does not discriminate against persons with disabilities. The Americans with Disabilities Act (A.D.A) prohibits discrimination based on disability. Contractors with the Authority must comply with the Act. The Authority may verify such compliance as it deems appropriate. Failure to comply with the A.D.A may result in the revocation of the contract.

34. NOTICE TO PROPERTY OWNERS

The Contractor shall give due notice in writing at a reasonable length of time in advance of the work to all owners and occupants, and also to all persons who as agents, or otherwise, may be in charge of any building, or other property, streets, gas, or water pipes, conduits, tracks, or other utilities that may or might be affected by his operations and the Contractor shall allow all such persons or companies, ample time to take all such measurements as may be deemed necessary for the proper protection, or adjustment, of their property and shall not cause any hindrance to, or interference's with, any such persons, companies, or the employees thereof, engaged in carrying out such protection , or adjustment work.

35. SATURDAY / SUNDAY WORK

No work or labor shall be performed under this contract on Saturday or Sunday except in an

emergency, or matter of urgent necessity arising in connection therewith, and the Authority, in its sole discretion, shall determine whether such emergency or necessity exists. Contractor shall submit, in writing, any request for work or labor to be performed under this contract on Saturday or Sunday to the Authority. The Contractor shall be responsible for any and all costs associated with the performance of any work or labor on Saturday or Sunday.

SPECIAL CONDITIONS

1. TIME FOR COMPLETION

- a. The work which the Contractor shall be required to perform under this Contract shall be completed no later than 90 calendar days from the issuance of the Notice to Proceed. Any claims for extra days shall be made in writing to the Authority within ten (10) calendar days of Contractor's knowledge of the need for extra days, but in no case shall claims be made less than 10 calendar days prior to the completion date as established in the Notice to Proceed. It is anticipated that Notice-to-Proceed will be issued within 10 days after written approval from the Authority.

- b. **Commencement, Prosecution and Completion:** Work under this contract shall be started within a period of one week after date of written notice to proceed, and shall be completed within the required working time after such notice as set forth in the "Special Conditions, Time for Completion."

When applicable, contract time based on CALENDAR DAYS shall be the number of consecutive calendar days stated in the contract starting on the date indicated in the official "Notice to Proceed" letter including weekdays, Saturdays, Sundays and Holidays.

No work or labor shall be performed under this contract on Sunday, except in matters of emergency, and the Authority shall determine whether such an emergency or necessity exists. Saturday work will be permitted when reasonable effort has been made to perform work during the regular workweek and when, in the opinion of the Engineer, it is necessary. The Contractor shall notify the Engineer 48 hours in advance of his desire to perform work on Saturday so arrangements may be made for inspection of said work. The decision of the Engineer shall be considered as final.

In the event of failure on the part of the Contractor to complete the work within the time specified above, the Contractor shall pay the Authority, as liquidated damages the amount set forth in the Information for Bidders, for each day (Saturdays, Sundays and Legal Holidays excepted, unless otherwise specified in the contract) of delay until the work is completed and accepted.

In general, the Authority will suspend count of contract time for the following reasons:

1. STRIKES. Whether such strikes are now in existence or occur subsequent to the date of the contract.
2. Delays caused by delivery of equipment. Failure on the part of the Contractor to make timely submittals or to place orders in a timely manner will not be considered.
3. Act of God, fire, or other cause over which the Contractor has no control

- and could not reasonably anticipate.
4. If the contract work is weather sensitive, lost days due to weather will only be considered if such conditions are encountered that exceed or the 10-year National Weather Service average for said conditions and those conditions affect the current major operation of the project. Weather information will be documented on Bi-Weekly Progress Reports, which are prepared by the Project Engineer.

In case the final value of all work performed exceeds the original contract amount, an extension in the calendar days will be granted to the Contractor. The extension will be made by increasing the contract time in the same ratio as the total final cost of all work performed under the contract bears to the total amount of the original contract. For a combination of projects awarded as a single contract, the extension will be made in a similar manner and on the basis of the total final cost of the combination in relation to the total amount of the original contract. If it can be definitely established that the extra work was of such character that it required more time than is indicated by the money value, the actual number of calendar days required may be allowed.

2. WORK SAFE PLAN

The Contractor will be required to prepare and follow a formal written safety program for each major activity of work, which represents the preventative efforts that will be instituted by the Contractor to protect workers and others from accidents. This plan shall parallel the project schedule activity flow, and predetermine the hazards inherent with each activity, along with preventative measures that will be taken by the Contractor. The Contractor shall require all subcontractors to maintain a formal safety program, or follow the Contractor's program.

Contractor agrees to comply with all applicable federal, state and city laws, ordinances, rules and regulations for the safety of persons or property in the performance of the Work including, but not limited to, the requirements of the Occupational Safety and Health Act of 1970, and amendments and regulations promulgated and issued pursuant thereafter.

Contractor shall provide sufficient, safe, and proper facilities, labor and material needed for the access and inspection of Contractor's Work by the Authority and other subcontractors or consultants.