

BID PROPOSAL FOR: BODY ARMOR (AIRPORT)

BID OPENING AT 12:00 NOON ON: THURSDAY, SEPTEMBER 22, 2011

BUYER: SHARON COLEMAN E-MAIL: colemans@stlouiscity.com PHONE NUMBER: 314-622-4596

TO THE SUPPLY COMMISSIONER, CITY OF ST. LOUIS, MISSOURI:

We the undersigned, in answer to your advertisement of AUGUST 30, 2011 agree to furnish the City of St. Louis with the requirements of this bid proposal. The term of the contract will be FOUR (4) years

from DATE OF AWARD. The contract will be subject to all conditions\* listed, per the attached specifications, and at prices set forth on the pages of this bid proposal.

**\*ATTENTION: PLEASE NOTE ITEMS #7 & #12 ON THE ENCLOSED "INSTRUCTION TO BIDDERS". BIDS OR CONTRACTS WILL BE AWARDED BASED ON THE OFFICIAL SPECIFICATIONS PROVIDED BY THE SUPPLY DIVISION ONLY AND ANY RELATED ADDENDA. ALL INQUIRIES MUST BE IN WRITING (LETTER, E-MAIL OR FAX) ADDRESSED ONLY TO A SUPPLY DIVISION BUYER, THE DEPUTY SUPPLY COMMISSIONER OF SUPPLY COMMISSIONER.**

Firm Name: \_\_\_\_\_ Telephone Number: ( ) \_\_\_\_\_

Address: \_\_\_\_\_ Fax Number: ( ) \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Federal Identification Number: \_\_\_\_\_ Date Bid Submitted: \_\_\_\_\_

**DO NOT WRITE BELOW THIS LINE (FOR CITY OF ST. LOUIS USE ONLY)**

<b>BOARD OF STANDARDIZATION FOR CONTRACT USE ONLY</b>

Accepted:  
Date: \_\_\_\_\_

\_\_\_\_\_  
Supply Commissioner, City of St. Louis

Accepted:  
Date: \_\_\_\_\_

\_\_\_\_\_  
Comptroller, City of St. Louis

\_\_\_\_\_  
City Counselor, City of St. Louis

\_\_\_\_\_  
Register, City of St. Louis

COMPTROLLER'S OFFICE DOCUMENT # \_\_\_\_\_

**SECOND CHANCE SUMMIT SERIES SM01 TYPE II BODY ARMOR SPECIFICATIONS**

**SCOPE**

These specifications detail the style and quality of concealable soft body armor vests intended for use by male and female members of this agency. The vests shall be worn comfortably while being concealed under a shirt. All vests shall provide protection against labeled projectile penetration while reducing resultant blunt trauma and vest distortion to acceptable levels. The successful vendor shall be required to supply the individual vests with applicable options and colors as ordered for male and female personnel.

The concealable body armor shall be the Second Chance Summit Series for NIJ Standard 0101.06 for Bullet Resistant Body Armor Threat Level II. Bids based on body armor models made by manufacturers **other than Second Chance** must be clearly identified as such; those bidders must include male and female samples, full product descriptions, drawings and/or photographs, technical specifications, as well as a list of at least five (5) law enforcement agencies currently using that model armor for reference with their bid. **Bidders failing to submit this supporting documentation may be rejected from the bid.**

Where the apparent low bidder has proposed an alternate product, that bidder shall demonstrate product equivalency to the satisfaction of the department. Evidence of equivalency shall be presented for each requirement of this specification, and the burden of such equivalency is entirely on the vendor. Any bidder may be required, at any time during the procurement process, to provide documentation proving compliance with any or all the terms of this specification.

Only body armor models which have been tested by the National Institute of Justice (NIJ) National Law Enforcement Technology Center (NLECTC) utilizing the methodology found in the NIJ Standard 0101.06 for Bullet Resistant Body Armor and found to comply with NIJ Standard 0101.06, *Ballistic Resistance of Body Armor (2008)*, for Type II armor and listed on NLECTC's Compliant Product List for NIJ Standard 0101-06 shall be submitted under these specifications, no exceptions. Models certified under earlier standards and grandfathered into compliance with the NIJ Standard 0101.06 for Bullet Resistant Body Armor will be rejected.

Those bidders **other than Second Chance** must provide test results of any and all rounds that exceed NIJ Standard 0101.06 for Bullet Resistant Body Armor. Models offered as alternates shall comply with NIJ Standard 0101.06 for Bullet Resistant Body Armor, Threat Level II and shall be published on NIJ approved manufacturer's list of body armor. This NIJ abbreviated testing is commonly known as "Special Threat" testing; testing of such rounds must be conducted by an NIJ approved laboratory. Failure to provide such documentation at time of bid **will be cause for rejection.**

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### **SILENCE OF SPECIFICATIONS**

Commercially accepted practices shall apply to any detail not covered in this specification and to any omissions of this specification. Any omission(s) or questions of interpretation of the specification which affects the ballistic performance or integrity of the soft body armor being offered shall be addressed in writing and submitted with the bid.

### **PROTEST**

Any protest based on the selection and performance criteria of this specification will be disregarded.

### **APPLICABLE DOCUMENTS**

The following list of standards and specification in effect on the date of this solicitation shall form a part of this specification.

**National Institute of Justice, NIJ Standard 0101.06 for Ballistic Resistant Body Armor (2008)**

**MIL-STD-662F, Department of Defense Test Standard, V50 Ballistic Test for Armor (1997)**

**ASTM D6193 – 09, Standard Practice for Stitches and Seams**

**ISO 9001:2000 Quality Management Systems**

**BA 9000 National Institute of Justice Body Armor Quality Management**

### **PURCHASE REQUIREMENTS**

The successful bidder must be an authorized wholesaler/retailer, which maintains a convenient location for measurement, fitting and service during regular business hours Monday through Friday and must be in St. Louis County or City. Any manufacturers, which bid direct, must include a service proposal as to how measuring, re-works, and customer service will be maintained without local distribution. Direct bids from manufacturers which do not contain a detailed service proposal will be rejected.

The successful bidder must be able to provide on-site measuring and fitting service (when contacted) to include initial and adjustment sizing of Airport Police Department personnel at a designated Airport site during the officers' normal shift hours.

**SPECIFIC QUANTITY**

The City has the right to determine quantity, if not otherwise specified in this procurement document. Of the total quantity purchased, both male and female products will be represented. The City retains the right to adjust the total quantities, while maintaining the accepted bid price, without notification to vendor. The terms of the contract, including extensions, and/or escalation clauses, shall be stated in the bid document.

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**DESIGN REQUIREMENTS**

The intended use of the soft body armor detailed herein is to be standard issue armor, intended for routine daily wear as an undergarment.

The soft body armor shall be designed to provide:

- NIJ 0101.06 requirement for bullet resistant body armor certified armor in level II
- A high degree of concealment and comfort
- Minimum restriction of motion or mobility
- Optional carriers to allow for laundering and color changes
- Protection against the labeled projectiles in accordance with the NIJ 0101.06 Requirement for Bullet Resistant Body Armor Threat Level II

**GENERAL DESIGN**

The ballistic panels of soft body armor meeting this specification shall provide thin, flexible, lightweight comfort utilizing a matrix of two or more of the following: Twaron® Core Matrix Technology, Gold Shield® GN-2117. The soft body armor shall be designed for regular daily wear as an undergarment. Therefore, vests shall be designed and constructed to provide:

- NIJ 0101.06 requirement for bullet resistant body armor certified armor in level II
- Durability
- Ease of cleaning
- Minimum restriction of motion or mobility
- The greatest amount of ballistic coverage consistent with comfort and concealment

The general configuration shall be the slipover vest type that covers the majority of the torso, including side coverage. Availability of four (4) and six (6) elastic straps with hook and pile fasteners shall provide proper positioning and comfort. The entire vest perimeter shall be curved. No sharp corners or straight edges **shall be allowed.**

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The front ballistic panel shall cover the chest approximately up to the collar bond, have a swooped neck sufficient to maintain concealability when wearing an open shirt collar, extend downward to the waist but not far enough to "push up into the throat" when the wearer is seated and extend around the sides to provide side protection. The biceps/chest region shall be cut with sufficient space to minimize irritation and restriction of arm movement during common duties such as the operation of motor vehicles.

The rear ballistic panel shall cover the back torso from just above the shoulder blades down to a position above the waist belt. The sides of the torso shall be covered by having side coverage from both the front and rear panels, as the department has determined that such a configuration maximizes both coverage and comfort. Accordingly, armor which maintains side coverage from only the front or rear panels shall be rejected.

Panels and carriers shall be equipped with an internal suspension system, which prevents ballistic panels from sagging, ensuring full protection.

Each piece of soft body armor shall include the following:

- One (1) set of ballistic panels (1 front, 1 rear)
- One (1) complete APEX carrier
- One (1) additional complete APEX carrier
- One (1) Trauma reduction insert plate

**BALLISTIC PANEL MATERIAL**

All material shall be new, unused and without flaws that affect appearance, durability and function. The ballistic panels shall be constructed of a matrix of two or more of the following: Twaron® Core Matrix Technology; Gold Shield® GN-2117. As the department has selected these materials, any bids, which represent products manufactured from other materials, **may be rejected.**

**BALLISTIC PANELL CONSTRUCTION**

To procure the lightest weight, best performing personal armor available in relation to areal density, a vest section of 12" x 12" (one square foot [30.5cm x 30.5cm]), must not exceed the following.

THREAT LEVEL	MAXIMUM WEIGHT	MAXIMUM THICKNESS
2	.85 LBS./SQ. FT.	.305 INCHES

**COMPLY:**

Yes \_\_\_\_\_

No \_\_\_\_\_

**ARMOR SPECIFICATIONS**

NIJ 0101.06 REQUIREMENTS FOR BULLET RESISTANT BODY ARMOR LEVEL II

Test Standard	NIJ Standard: 0101.06
Model	NIJ: BA-2000S-SM01
Thread Type	II
Armor Material	Twaron® Core Matrix Technology: Gold Shield® GN-2117
Armor Panel Covering	2 ply, 70 Denier Textured Nylon Blockade with TPU lamination system
Areal Density [lbs/ft <sup>2</sup> ]	0.85
Thickness [inches] <i>ASTM Standard D1777-97</i>	0.305
New V50 – 9 mm RN 124gr [ft/s]	1695
Conditioned V50 – 9 mm RN 124gr [ft/s]	1690
New V50 – .357 Mag JSP 158gr [ft/s]	1614
Conditioned V50 – .357 Mag JSP 158gr [ft/s]	1517
New RPI – 9 mm [ft/s] <i>V50/Areal Density</i>	1994
Conditioned RPI – 9 mm [ft/s] <i>V50/Areal Density</i>	1988
New RPI – .357 Mag [ft/s] <i>V50/Areal Density</i>	1899
Conditioned RPI – .357 Mag [ft/s] <i>V50/Areal Density</i>	1785
Backface Average – 9mm [mm]	30.10
Backface Average - .357 Mag [mm]	34.29

**COMPLY:**

Yes \_\_\_\_\_

No \_\_\_\_\_

**OUTER CARRIER SPECIFICATIONS**

The outer machine washable carrier shall be removable from the ballistic panels for laundering by way of zippers integrated into the outside of the garment. Carrier shall come with removable waist and shoulder straps. Carrier shall come with two (2) different sets of straps. The first set will consist of two (2) long straps and two (2) 4" wide waist straps. The second set consists of two (2) short shoulder straps and four (4) 2" wide waist straps. Outer vest material shall be poly-cotton or micro mini-rip. The inner carrier material shall be Anti-Microbial and Anti-Odor, X-Static Silver Fiber Liner. Male carriers shall have both a 7 x 9 and a 5 x 8 pocket on the outer front of the carrier.

LEGACY BRAND	Second Chance
NAME OF CARRIER	Apex
OUTER SHELL MATERIAL	Liquid-repellant Microfiber
INNER LINING MATERIAL	Anti-Microbial and Anti-Odor, X-Static Silver Fiber Liner
ARMOR PANEL ACCESS	Exterior, Hidden Zipper (Front and Back)
ARMOR SUSPENSION SYSTEM	Internal Grip-Lok™ Hook and Loop
TYPE OF PLATE POCKET	Dual, External, Top Loading, 5x8, 7x9 (Front Only)
CLOSURE FASTENING SYSTEM	Removable, 4- and 6- Point universal strap system
POCKETS/POUCHES	Not Applicable
RETENTION TAILS	Front and Rear (Optional)
SIZES	Custom Sizing
COLOR	Navy

**COMPLY:** Yes \_\_\_\_\_ No \_\_\_\_\_

**QUALITY MANAGEMENT**

The organization's documented Quality Management System is designed to ensure the integrity and quality of raw materials and manufactured products. Raw materials and finished goods must conform to critical material specifications, construction details, relevant testing requirements, and sewing standards as developed and documented by the manufacturer. Raw materials are inspected as per documented incoming receiving inspection instructions and manufactured products shall be inspected per in-line and final inspections, also defined in the Quality Management System, to substantiate quality control and confirm product conformance. The manufacturer must maintain a quality program certified under the ISO 9001:2000 (or ISO9001:2008) certification program by an accredited registrar under the accreditation of the Registrar Accreditation Board. The scope of the certification must include the Design and Manufacturing of Body Armor and or Ballistic Apparel Manufacturing. In addition, the manufacturer must maintain the compliance requirements under the BA 9000:NIJ Body Armor Quality Management Requirements.

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The documented quality control system must be designed to insure the integrity and quality of the manufactured products. The manufacturer must have an in-house ballistic laboratory capable of performing ballistic testing of incoming raw materials and in-process samples. The manufacturer must have the capability of performing testing in accordance with MIL-sstd-662F and per NIJ Standard-0101.06. Procedures for lot testing of incoming raw materials, inspecting supplier test documentation and in-process samples must be incorporated into the quality management system. Every ballistic panel, accessory and panel cover shall be inspected for material defects and workmanship. In addition, each concealable body armor system shall receive a final inspection prior to shipment. This inspection shall include a confirmation of the product against the customer's order.

A copy of the ISO Certificate of Accreditation and the BA 9000 certification must be submitted with bid documents.

**SERIAL NUMBERS**

Each set of ballistic panels (front panel and back panel) of the concealable body armor delivered shall have a unique serial number. Each serialized concealable body armor panel shall be traceable to its original ballistic material lot number. Additionally the serial number shall be traceable to an incoming material lot test and ballistic panel lay-up. The manufacturer must have the ability to trace serial numbers.

**LOT TESTING**

The manufacturer must have an in-house ballistic laboratory capable of performing ballistic testing of incoming new materials. All incoming ballistic material shall undergo V50 ballistic lot test in accordance with MIL-STD-662F.

**CONTINUED USE-VEST TESTING**

The manufacturer will maintain a used-vest evaluation program (VestCheck™) for concealable body armor. The VestCheck™ program will include the physical inspection and ballistic testing of vests worn by officers during normal duty. The VestCheck™ program also includes an in-depth, on-going review of individual officer wear, storage and maintenance habits. If an officer's vest is chosen for the VestCheck™ program the manufacturer will send a free replacement vest to the participating officer prior to collecting the participating officer's vest.

**COMPLY:** Yes \_\_\_\_\_ No \_\_\_\_\_

**MEASUREMENT AND FITTING**

The successful bidder must be able to provide one (1) trained permanent representative available to travel to Lambert Airport for fitting body armor. This person must be able to coordinate fitting times that allow the measuring of body armor for the airport personnel during the officer's normal scheduled shift.

**COMPLY:** Yes \_\_\_\_\_ No \_\_\_\_\_

The selected bidder must have a manufacturer armor-sizing program (Size Right™) that utilizes certified factory representatives and distribution-trained personnel to properly size armor.

Unless otherwise stated, individual measurements will be taken of each officer. Each delivered vest shall fit in accordance with the following guidelines:

The side edges of the front and back ballistic panels shall meet or overlap

The bottom edge of the front ballistic panel shall be within one inch (1") of the highest waist belt (usually the duty belt) measurement when the wearer is in a relaxed seated position.

The bottom edge of the back panel shall be within one inch (1") of the highest waist belt (usually the duty belt) measurement when the wearer is in the standing position.

Female sizes are determined based on individual measurements including bust size and are confirmed through the use of sizing/fit samples in conjunction with a tape measure, and a certified Size Right™ Program. The Size Right™ Program shall consist of a structured course of study that includes classroom training and hands-on demonstration of product knowledge. Individuals participating in a Size Right™ Program will be tested on product knowledge with both a written and practical examination. Only students who demonstrate competency in sizing body armor shall be awarded "Certified Size Right™ Technician" status.

**Any bidders other than Second Chance must show proof of such a program at time of the bid. Those bidders without a certified sizing program will be rejected.**

**COMPLY:** Yes \_\_\_\_\_ No \_\_\_\_\_

**FIT AND ALTERATION POLICY**

The manufacturer shall perform all required alterations of more than one inch (1") within 30 days after original shipment of the product at no charge. Adjustments of an inch or less can be accomplished by utilizing the adjustable strap feature on the concealable body armor system.

**INSURANCE**

The manufacturer shall agree to provide a maximum of \$10,000,000 commercial general liability insurance coverage on delivered concealable body armor systems.

**WARRANTY**

Subject to the Qualifications and Limitations as detailed in the Express Limited Warranty for Custom-Fit Body Armor Systems, Second Chance warrants that:

The body armor sold in connection herewith shall meet the Ballistic Performance Specifications set forth in the Express Limited Warranty for Custom-Fit Body Armor Systems for a period of sixty (60) months after the date of issue;

The ballistic panel portion of the body armor sold in connection herewith shall be free from defects in material and workmanship for a period of twelve (12) months after the date of issue.

The outer shell carrier portion(s) of the body armor sold in connection herewith shall be free from defects in material and workmanship for a period of twelve (12) months after the date of issue.

**PACKAGING**

All soft body armor shall be packaged and shipped consistent with good commercial practices or by contract instructions.

Shipping Cartons: The soft body armor shall be packed in a suitable corrugated cardboard box. The box shall allow for normal shipping without damage to the concealable body armor.

**VENDOR REQUIREMENTS**

The successful bidder must be an authorized dealer of the manufacture they are bidding for a minimum of two years. This insures the dealer has the experience and familiarity with the manufacture they are representing in order to provide the best quality service and experience of measuring that manufacturer's specific vest they are bidding.

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\*The successful bidder must be an established business, with valid business license operating at least two years within a 15 mile radius of the St. Louis Lambert Airport.

The successful bidder must supply upon request a report to the Lambert St. Louis Airport Police. This report must be an Excel spreadsheet. The report must include the following: Header with the contract number. Columns to include: Officer's name and DSN, Model of Body Armor Sold, Order Date, Size of Vest, Color of Carrier, Color of Extra Carrier, Contractor's P.O. to manufacture, Contractor's Invoice Number, Manufacturer's Ship Date and Manufacturer's Invoice Numbers. This information must be kept on file by the contractor and be available upon request. This is vital for Airport Uniform Supply to track body armor on order and to track body armor issued to individual officers. Vendors unable to comply will not be considered for the award of the contract.

## **DOCUMENTATION**

The following documents, certifications, test-reports and samples must be included with the vendor's bid. Where one manufacturer is bidding through multiple vendors, the manufacturer may submit the appropriate paperwork on behalf of all vendors. Failure to submit the following shall be cause for rejection;

Models made by manufacturers other than Second Chance Body Armor must be clearly identified and shall include the following:

- Full product description
- Complete bid sample, male and female
- Drawings and/or photographs
- Technical specifications

Manufacturers bidding direct must include:

A service proposal as to how measuring, alterations and customer service will be maintained without local distribution.

Documentation stating used vest evaluation testing program.

Documentation of Certified Sizing Program

Product Liability Insurance providing a minimum coverage of \$10,000,000.

Documentation stating a 5-year ballistic package warranty.

Documentation stating a 12-month cover warranty.

Most Recent Certified financial statement.

ISO-9001:2000 Certificate

**PRICING SECTION**

BRAND	MODEL	ESTIMATED ANNUAL USAGE
		11- 12 units

**COMPLY**

One (1) set of Ballistic Panels (One front and One rear)	_____ Yes	_____ No
Two (2) Complete APEX Carriers	_____ Yes	_____ No
One (1) Trauma Reduction Insert Plate	_____ Yes	_____ No

DESCRIPTION	PRICE
Standard Size Male Vest	\$ _____
Standard Size Female Vest	\$ _____
Oversize Charges	\$ _____

Will on-site fitting be available? \_\_\_\_\_

Best guaranteed delivery: \_\_\_\_\_

Hours of Operation (M-F): \_\_\_\_\_

Hours of Operation (S-S): \_\_\_\_\_

Company Contact: \_\_\_\_\_

Telephone: \_\_\_\_\_ Cell: \_\_\_\_\_

Email Address: \_\_\_\_\_

Bid Submitted by: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



**CITY OF ST. LOUIS  
DEPARTMENT OF FINANCE  
OFFICE OF THE SUPPLY COMMISSIONER**

**FREDDIE L. DUNLAP**  
SUPPLY COMMISSIONER

**FRANCIS G. SLAY**  
MAYOR

CITY HALL  
1200 MARKET ST., ROOM 324  
ST. LOUIS, MO. 63103-2819

(T): (314) 622-4580  
(F): (314) 622-4141

**ATTENTION**

**Please carefully review all information requested in this bid package. Failure to submit required samples, literature, unit pricing, extended pricing, and any other requested information may result in disqualification of your bid or any portion of your bid.**

- Two or more bids submitted for one item (item rejected).
- Signature missing on bid or **any** required form.
- Buy American Form not completed or returned (may be rejected).
- M/WBE Form not completed or returned (may be rejected).
- Altered or erased unit prices (must be initialed).
- Faxed bid, unless specifically requested (will be rejected).
- Failure to submit required Bond (for Contracts only) by the date indicated.

The reasons indicated above may disqualify your bid. If you have any questions, call the buyer indicated on the RFQ.

This form must be returned with your bid. I certify that I have read and understand the information above.

\_\_\_\_\_  
Manual Signature

\_\_\_\_\_  
Date

## INSTRUCTIONS TO BIDDERS (FOR CONTRACTS ONLY)

### **VENDORS SHOULD CAREFULLY READ THE FOLLOWING INSTRUCTIONS, TERMS AND CONDITIONS, BEFORE SUBMITTING QUOTATION.**

- #1 ALL BIDS WILL BE ACCEPTED ON "OFFICIAL BID FORM" ONLY. THE RIGHT TO REJECT ANY AND ALL BIDS IS RESERVED, AND THE SUPPLY COMMISSIONER RESERVES THE RIGHT TO MAKE AWARDS ON AN ITEM BASIS, OR ON A TOTAL AWARD BASIS, WHICHEVER, IN HIS OPINION, IS FOR THE BEST INTERESTS OF THE CITY OF ST. LOUIS.
- #2 BIDS MUST BE IN INK OR TYPEWRITTEN, AND MUST BE MANUALLY SIGNED BY A COMPANY OFFICIAL. PENCIL BIDS ARE NOT ACCEPTABLE.
- #3 ~~ALTERED OR ERASED PRICES WILL NOT BE ACCEPTED.~~
- #4 IN THE EVENT YOU MAKE AN ERROR ON BID PROPOSAL, YOU MAY OBTAIN ADDITIONAL COPIES FROM THE OFFICE OF THE SUPPLY COMMISSIONER, ROOM 324, CITY HALL, ST. LOUIS, MISSOURI 63103.
- #5 THE LAWS OF THE STATE OF MISSOURI PROVIDE THAT THE CITY OF ST. LOUIS PAY NO STATE SALES, USE TAXES OR FEDERAL EXCISE TAXES AND THESE TAXES SHOULD BE EXCLUDED FROM YOUR BID PRICE. FEDERAL EXCISE TAX EXEMPTION CERTIFICATES WILL BE FURNISHED TO SUCCESSFUL BIDDER.
- #6 UNLESS OTHERWISE STATED, BIDDER MUST QUOTE ON THE LATEST MAKE, MODEL, PRODUCT, GROWTH, CANNING OR FORMULATION OF THE MANUFACTURER OR PRODUCER.
- SUPPLIERS SHALL NOT OFFER MORE THAN ONE BID ON EACH ITEM. TWO OR MORE QUOTATIONS ON THE SAME ITEM MAY CAUSE A REJECTION OF THE BID. SUPPLIERS MUST DETERMINE WHICH ONE OF THEIR MANY STYLES OR TYPES FULLY MEET THE SPECIFICATION.
- WHEN BID IS BASED ON THE PRICES LISTED IN A CATALOGUE OR PRICE LIST, A COPY OF SUCH CATALOGUE OR PRICE LIST MUST BE SUBMITTED WITH BID PROPOSAL. CONTRACTOR SHALL FURNISH ADDITIONAL CATALOGUES OR LISTS AS REQUIRED.
- #7 UNLESS OTHERWISE STIPULATED, IT IS HEREBY AGREED THAT THE CITY OF ST. LOUIS WILL RECEIVE THE BENEFIT FOR ANY REDUCTION IN PRICES DURING THE LIFE OF THIS CONTRACT, BUT WILL ONLY PAY THE CONTRACT OR BID PRICES SHOULD ANY INCREASES OCCUR DURING THE SAME PERIOD.
- #8 THE SUCCESSFUL BIDDER MAY BE REQUIRED TO FURNISH PERFORMANCE BOND OR CASHIER'S CHECK, FOR A REASONABLE AMOUNT DETERMINED BY THE SUPPLY COMMISSIONER.
- #9 THE CITY OF ST. LOUIS, WITH THE PERMISSION OF THE SUCCESSFUL BIDDER HAS THE OPTION OF EXTENDING THIS CONTRACT FOR AN ADDITIONAL PERIOD (NOT TO EXCEED THE NUMBER OF MONTHS OF ORIGINAL CONTRACT).
- #10 BID PROPOSALS ARE TO BE RETURNED (SEALED) IN THE OFFICIAL BROWN "ADVERTISED" BID ENVELOPE FURNISHED BY THE SUPPLY DEPARTMENT. THE INFORMATION REQUESTED ON THE UPPER LEFT HAND CORNER OF THE ENVELOPE MUST BE FILLED IN.
- #11 BID PROPOSAL MUST THEN REACH THE SUPPLY DEPARTMENT BEFORE 12 O'CLOCK NOON ON THE DAY SPECIFIED ON PAGE ONE (1) AS THE BID OPENING DATE, OR BID WILL NOT BE CONSIDERED.
- #12 NO EXACT AMOUNTS OF USAGE IS GUARANTEED, ANY QUANTITIES LISTED ARE ONLY ESTIMATES.
- SUPPLIERS SHALL SAVE HARMLESS THE CITY OF ST. LOUIS FROM THE PAYMENT OF ANY AND ALL CLAIMS OR DEMANDS ARISING OUT OF ANY INFRINGEMENT, OR USE OF ANY PATENT OR PATENTED DEVICE, ARTICLE, SYSTEM, ARRANGEMENT, MATERIAL OR PROCESS USED BY HIM IN THE EXECUTION OF THIS CONTRACT.
- #13 BRAND NAMES AND NUMBER MUST BE FILLED IN ON EACH ITEM WHERE THERE IS A RULED LINE THE "STATE BRAND" COLUMN.
- UNLESS YOU SPECIFICALLY STATE OTHERWISE, THE CITY WILL ASSUME THAT YOU ARE QUOTING ON THE EXACT ITEMS REQUESTED AND WILL EXPECT YOU TO FURNISH THE EXACT ITEMS ASKED FOR IN THIS PROPOSAL.

## DELIVERIES

- #14 DELIVERIES ARE TO BE MADE TO THE VARIOUS DEPARTMENTS, FREE FROM ALL DELIVERY AND TRANSPORTATION CHARGES, IN SUCH QUANTITIES AND AT SUCH TIMES AS ORDERED BY THE VARIOUS DEPARTMENTS.
- #15 ALL DELIVERIES MUST BE ACCOMPANIED BY A PACKING SLIP OR INVOICE, LISTING THE DEPARTMENT, THE REQUISITION NUMBER, AND THE EXACT QUANTITIES OF EACH ITEM INCLUDED IN THE SHIPMENT.
- #16 IN THE EVENT THE SUCCESSFUL BIDDER FAILS TO MAKE DELIVERY OF ANY ITEM OR ITEMS THAT MEET THE CONDITIONS AND REQUIREMENTS AS OUTLINED IN THIS PROPOSAL WITHIN 15 DAYS OF RECEIPT OF ORDER, THE CITY RESERVES THE RIGHT TO PURCHASE SAID ITEM OR ITEMS ON THE "OPEN MARKET" AND CHARGE ANY COSTS ABOVE THE BID PRICE TO THE BIDDER. THIS PROCEDURE TO BE CONTINUED UNTIL SUCH TIME AS THE BIDDER CAN AGAIN GUARANTEE PROMPT DELIVERIES OF THE PROPER ITEM OR ITEMS.
- 
- #17 WHEN SAMPLES ARE REQUESTED, THE SUPPLIER MUST FURNISH SAMPLES TO MEET SPECIFICATIONS. ALTERNATE BIDS WILL BE CONSIDERED BUT BRAND NAME, NUMBER AND DETAILS OF ALTERNATE ITEM AS TO SIZES, PRICES, ETC., MUST BE STATED ON BID PROPOSAL. THE SUPPLIER, BY SUBMITTING SAMPLES, IS NOT RELIEVED FROM MEETING THE SPECIFICATIONS AS OUTLINED IN THIS PROPOSAL, UNLESS SPECIFICALLY NOTED ON THIS BID PROPOSAL THAT THE SAMPLES BEING QUOTED ON DO NOT MEET THE SPECIFICATION, AND ARE BID AS AN ALTERNATE.
- #18 EACH SAMPLE MUST BE PLAINLY TAGGED WITH THE FOLLOWING INFORMATION:
- 1) NAME OF BIDDER
  - 2) PAGE NUMBER OF THE BID PROPOSAL AND ITEM NUMBER
- #19 SAMPLES MUST BE SUBMITTED BEFORE THE ACTUAL TIME OF THE BID OPENING AS SPECIFIED ON PAGE ONE OF THIS PROPOSAL.
- UNLESS OTHERWISE NOTED, ALL SAMPLES ARE TO BE SUBMITTED TO ROOM 324, SUPPLY DEPARTMENT, CITY HALL, 1200 MARKET, ST. LOUIS, MISSOURI 63103.

### IMPORTANT INFORMATION TO PROSPECTIVE BIDDERS REGARDING

## TAXES AND BUSINESS LICENSES

- #20 NO CONTRACT WILL BE AWARDED AND NO PAYMENTS UNDER THIS CONTRACT WILL BE MADE UNLESS THE VENDOR IS CURRENT AND NOT DELINQUENT WITH TAXES DUE THE COLLECTOR OF REVENUE AND THE LICENSE COLLECTOR.
- YOU ARE HEREBY NOTIFIED THAT SHOULD YOUR FIRM BECOME THE SUCCESSFUL BIDDER, PAYMENT WILL BE WITHHELD PENDING TAX CLEARANCE FROM THE LICENSE COLLECTOR AND THE COLLECTOR OF REVENUE.
- IT IS IMPERATIVE THAT YOUR COMPANY MAINTAIN COMPLIANCE WITH BOTH AGENCIES THROUGHOUT THE TERM OF THIS CONTRACT!
- TO BE PLACED ON THE CURRENT TAX ROLLS OR FOR AN APPLICATION FOR A BUSINESS LICENSE CONTACT THE FOLLOWING OFFICES:
- |                               |                |                                |
|-------------------------------|----------------|--------------------------------|
| LICENSE COLLECTOR'S OFFICE    | (314) 622-4528 | (BUSINESS LICENSE APPLICATION) |
| COLLECTOR OF REVENUE'S OFFICE | (314) 622-4029 | (TO BE PLACED ON TAX ROLLS)    |

**AFFIRMATIVE ACTION PROGRAM TO INSURE  
NONDISCRIMINATION AND FAIR EMPLOYMENT PRACTICES**

1. Contractor agrees that in performing under this contract he nor anyone under his control will permit discrimination against any employee, worker or applicant for employment because of race, creed, color, religion, national origin or ancestry. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment without regard to their race, creed, color, religion, national origin or ancestry. Such action shall include but not be limited to, his action to bar, employ, upgrade, or recruit; expel, discharge, demote, or transfer; layoff, terminate, or create intolerable working conditions; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
2. Contractor, during his performance under this contract, will in all printed or circulated solicitations, or other advertisement or publication for employees placed by or on behalf of the contractor state that all qualified applicants will receive meaningful consideration for employment without regard to race, creed, color, religion, national origin, or ancestry. The contractor will not make any inquiry in connection with prospective employment which expresses directly or indirectly any limitation specification or discrimination because of race, creed, color, religion, national origin or ancestry.
3. Contractor agrees during his performance under this contract that should it be determined by the contractor or the City that he will be unable to conform to his approved positive employment program, submitted to determine eligibility under the fair employment practices provisions of the City Code, he will notify the Fair Employment Practices Division of the St. Louis Council on Human Relations, within ten days of such determination, as to the steps to be taken by the contractor to achieve the provisions of his program.
4. Contractor will permit reasonable access by the City to such persons, reports and records as are necessary for the purpose of ascertaining compliance with fair employment practices.
5. 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 days from date requested, this contract may be canceled, terminated or suspended in whole or in part and contractor may be declared ineligible for further City contracts, for the period of one year, by the option of the City of St. Louis provided further, in the event this contract is canceled, terminated or suspended for a failure to comply with fair employment practices the contractor shall have no claims for any damages against the City.
6. Contractor further agrees that these clauses (1 through 6) 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.
7. 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 #1 through #5 of these provisions relating to fair employment practices, such contractor shall notify the City Counselor in writing of such suit or threatened suit within ten days.

**THE AMERICANS WITH DISABILITIES ACT**

The City of St. Louis does not discriminate against persons with disabilities. The Americans with Disabilities Act (ADA) prohibits discrimination based on disability. Vendors doing business with the City of St. Louis must comply with the Americans with Disabilities Act and provide necessary documentation of their compliance efforts as required by the Commissioner on the Disabled, Office of the Disabled.

**CERTIFICATE OF INDEPENDENT PRICE DETERMINATION**

(A) By submission of this bid, the bidder certifies and in the case of a joint bid, each party thereto certifies as to its own organization, that in connection with procurement:

- (1) The prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competition;
- (2) Unless otherwise required by law, the prices which have been quoted I this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other bidder or to any competitor;
- (3) No attempt has been made or will be made by the bidder to induce any person or firm to submit or not to submit a bid for the purpose of restricting competition.

(B) Each person signing this bid certifies that:

- (1) He/she is the person in the bidder's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to A-1 through A-3 above;

**OR**

- (2) He/she is not the person in bidder's organization responsible within that organization for the decision as t the prices being offered herein but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated and will not participate, in any action contrary to A-1 through A-3 above, and as their agent does hereby so certify; and he/she has not participated, and will not participate in any action contrary to A-1 through A-3 above.

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SIGNATURE OF AUTHORIZED REPRESENTATIVE

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TITLE

DATE

**THE RIGHT OF THE SUPPLY COMMISSIONER, AND/OR THE BOARD OF STANDARDIZATION OF THE CITY OF ST. LOUIS, MISSOURI TO REJECT ANY OR ALL BIDS, AND/OR MAKE THE FINAL DECISION IS EXPRESSLY RESERVED.**

**ALSO PREVAILING, ARTICLE XXV, SECTION 9 OF THE CITY CHARTER.**

All contracts relating to city affairs shall be in writing signed and executed in the name of the city. In cases not otherwise provided by law or ordinance, they shall be made by the Comptroller and in no case by the Board of Aldermen or any committee thereof. Contracts not made by the Comptroller shall be countersigned by him/her, and all contracts shall be filed and registered by number, date and contents with the register.

Revised 12/28/09

## Right to Audit

The Contractor's "records" shall be open to inspection and subject to audit and/or reproduction during normal business working hours. A City representative may perform such audits or an outside representative engaged by the City. The City or its designee may conduct such audits or inspections throughout the term of this Contract and for a period of three years after final payment or longer if required by law.

The Contractor's "records" as referred to in this Contract shall include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers, and memoranda, and any and all other agreements, sources of information and matters that may in the City's judgment have any bearing on or pertain to any matters, rights, duties, or obligations under or covered by the Contract. Such records subject to audit shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs as they apply to cost associated with this contract. Such records shall include any and all records that may have a bearing on matters of interest to the City in connection with the Contractor's work for the City to extent necessary to adequately permit evaluation and verification of:

Contractor's compliance with Contract requirements, compliance with provisions for pricing change orders, invoices or claims submitted by the Contractor or any of its payees.

The Contractor shall require all payees (examples of payees include sub-contractors, insurance agents) to comply with provisions of this article by insertion of the requirements hereof in any contract between the Contractor and payees. Such requirements to include flow-down right of audit provisions in contracts with payees will also apply to Sub-Contractors and Sub-Contractors suppliers. Contractor will cooperate fully and will cause all Related Parties and all of Contractor's Sub-Contractors to cooperate fully in furnishing or in making available to City from time to time whenever requested in an expeditious manner any and all such information, materials, and data.

The City's authorized representative or designee shall have reasonable access to the Contractor's facilities, shall be allowed to interview all current and former employees to discuss matters pertinent to the performance of this contract, and shall be provided adequate and appropriate work space, in order to conduct such audits in compliance with this article.

If an audit inspection or examination in accordance with this article discloses overpricing or overcharges by the Contractor to the City, the Contractor shall pay such funds due to the City within 15 days after completion of the audit and written notice by the Supply Commissioner or designee. If disclosed overpricing or overcharges by the Contractor are in excess of one-half of one percentage (.5%) of the total contract billings, the reasonable actual costs of the City's audit shall be reimbursed to the City by the Contractor. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of City's findings to the Contractor.

# ST. LOUIS DOMESTIC PRODUCTS PROCUREMENT ACT

The City of St. Louis has enacted an ordinance relating to the purchase of domestic products by City government, with penalty provisions. The ordinance amends Section 5.58.010 Revised Code of the City of St. Louis, 1986, as amended by adding thereto new subsections dealing with the requirement that the Supply Commissioner or his designee give preference to goods or commodities manufactured in the United States of America, stating exceptions to said policy. Sections one through six are reprinted below.

**Section One.** Section 5.58.010 Revised Code of the City of St. Louis is hereby amended by adding the following language: Each solicitation to bid and the method of describing the items to be bid upon of any goods or commodities sought to be purchased by the Office of Supply Commissioner, and any contract entered into by and on behalf of the City of St. Louis and executed by the Mayor and/or the Comptroller of the City of St. Louis wherein the construction, alteration, repair or maintenance of any public works is the subject of the contract so executed, shall contain a provision that the goods or commodities furnished or used in the furtherance of said project by any contractor or subcontractor, manufacturer or supplier as the case may be, shall be manufactured, assembled or produced in the United States, and said requirement as defined above shall be stated in said bid.

**Section Two.** The provision of Section One of this Ordinance shall not apply in the following instances:

- (i) Where the item purchased as the contract entered into for repairs or renovation is less than One Thousand (\$1,000.00) Dollars.
- (ii) Where no line of a particular good or product is manufactured, assembled or produced in the United States.
- (iii) Where the acquisition of United States manufactured or produced goods would increase the cost by more than (10%) percent.

**Section Three.** The certificate required by this section shall specify the nature of the contract, the product being purchased or leased, the names and addresses of the United States manufacturers and producers contracted by the Commissioner or the project architect or engineer, and an indication that such manufacturers or producers could not supply sufficient quantities or that the price of the products would increase the cost of the contract by more than ten percent.

**Section Four.** No public agency may authorize, provide for, or make any payment to any vendor or contractor upon any contract in violation of section 2 of this act. Prior to the awarding of the bid and before any public agency authorizes, provides, or makes payment to any vendor or contractor upon any contract to which section 2 or 6 of this act applies, the vendor or contractor shall provide proof of compliance with section 2, and, if applicable, section 6 of this act. Any vendor or contractor who knowingly misrepresents any material fact to the public agency concerning the origin of any manufactured goods or commodities shall be guilty of a Class A misdemeanor.

**Section Five.** Sections 1 to 6 of this act shall apply only to contracts and subcontracts entered into after the effective date of this act, and shall not limit the use or supply of manufactured goods or commodities purchased or leased prior to the effective date of this act.

**Section Six.** Nothing in sections 1 or 6 of this act is intended to contravene any existing treaty, law, agreement, or regulation of the United States. All contracts under section 1 or 6 of this act shall be entered into in accordance with existing treaty, law, agreement, or regulation of the United States including all treaties entered into between foreign countries and the United States regarding export-import restrictions and international trade and shall not be in violation of sections 1 to 6 of this act to the extent of such accordance.

## Interpretations and Guidelines

**Section One:** "Shall be manufactured" is interpreted to mean to make or process a raw material into a finished product or to turn-out in a mechanical manner. "Assembled" is interpreted to mean to fit or to join together the parts, gather, or to congregate in a manufacturing environment. "Produced" is interpreted to mean to create by manual or physical effort, to make or yield to customary product or products.

**Section Two (i)** This is interpreted to mean less than one thousand dollars in aggregate (total purchases).

**(iii)** When applying this subsection, multiply the cost of the foreign product by ten percent and compare the cost to the American product. If the American product cost is less than the sum of the cost of the foreign product plus ten percent, the award will be made to the vendor bidding the American product. The price paid by the City of St. Louis will be the actual price bid by the winning bidder.

**Section Three:** "Could not supply sufficient quantities" is interpreted to mean in order to meet the using agency's delivery schedule and in quantity specified.

**Section Four:** The vendor's authorized representative must complete a self-certification form, as required by the existing procedures previously indicated. These certification forms will be used to determine whether the manufacturer or producers could, or could not supply sufficient quantities, or the cost of the products would increase the contract by more than ten percent.

Prior to the City awarding the bid, the vendor shall provide certification that the product being bid is manufactured, assembled or produced in the United States or there is an existing treaty, law or regulation whereby the product bid shall be treated the same as product manufactured, assembled or produced in the United States. The procuring agency shall accept the self certification in order to apply the percentage differential that is applicable under this law. Failure to provide certification shall cause the city to presume that such product is not American made and preference shall not be considered for that product.

## CERTIFICATION FORM ST. LOUIS DOMESTIC PRODUCTS PROCUREMENT ACT (BUY AMERICAN)

Bidders are advised of legislation enacted by the City of St. Louis which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured, assembled or produced in the United States, unless obtaining American made products would increase the cost of this contract by more than ten percent.

Section Four requires the vendor or contractor to certify his compliance with this legislation and if applicable, Section Six, if preference is claimed.

This legislation does not apply if the total bid is less than one thousand dollars (\$1,000.00).

Bids received will be evaluated on the basis of this legislation. Certificates of compliance must be completed and returned to be considered for preference. Failure to provide certification shall cause the City to presume that such product is not American-made.

**CERTIFICATION**

If **all** the specified goods or products are manufactured, assembled or produced in the United States, check box at left and complete certification at the bottom of this form.

**SECTION SIX CERTIFICATION**

If any or all of the specified goods or products are manufactured, assembled or produced in a country other than the "United States", and exemption is requested because such product is Fair Trade Product: (a) list the country, other than the United States, where each good or product you propose to furnish is manufactured, assembled or produced; (b) check box at left of this paragraph and list corresponding commodities and (c) complete Section Six Documentation portion below.

**Item Number(s)**

**Location Where Item Manufactured, Assembled or Produced**


**SECTION SIX DOCUMENTATION**

The specified goods or products are treated as manufactured, assembled or produced in the United States under an existing treaty, law, agreement or regulation of the United States regarding export-import restrictions and international trade. List item Number(s) and Treaties covering item below.

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**DEFINITIONS**

**MANUFACTURED** - to make or process a raw material into a finished product; create, or to produce or to turn-out in a mechanical manner.

**ASSEMBLED** - to fit or join together the parts in a manufacturing environment.

**PRODUCED** - create by manual or physical effort, to make or yield the customary product or products.

**MUST BE COMPLETED AND SIGNED**

I hereby certify that the above information is true and correct and further certify that this statement complies with all provisions of Section 5.58.010 Revised Code of the City of St. Louis, 1985, as amended.

**FIRM NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**BY:** \_\_\_\_\_

(SIGNATURE and TITLE)

**CITY OF ST. LOUIS/SUPPLY DIVISION  
MINORITY/WOMEN BUSINESS ENTERPRISES FORM  
(M/WBE FORM)**

**A. Mayor's Executive Order #28, Section Six - Supply Contracts**

1. The goal of the City of St. Louis is that 25% of the value of all contracts let and purchases made by the Supply Commissioner shall be let or made with Minority Business Enterprises (MBEs) and that 5% of the value of all contracts let and purchases made by the Supply Commissioner shall be let or made with Women's Business Enterprises (WBEs).
2. All contracts let by the Supply Division for the purchase or lease of materials, equipment, supplies, commodities or services, the estimated cost of which exceeds \$500, shall be subject to this goal.
3. ~~The methods by which the Supply Commissioner shall pursue this goal shall include but not be limited to the following:~~
  - a. The Supply Commissioner shall solicit bids from minority business enterprises and women's business enterprises certified to supply the required materials, equipment, supplies or services;
  - b. St. Louis Airport Authority (SLAA) shall provide the Supply Commissioner with a list of minority business enterprises and women's business enterprises qualified to provide each of those commodities that the Supply Commissioner indicates are required by the City;
  - c. The Supply Commissioner shall notify SLAA prior to solicitation of bids whenever no such qualified businesses are available;
  - d. SLAA shall attempt to identify such qualified businesses, and if successful, shall notify the Supply Commissioner of their availability; and
  - e. The Supply Commissioner shall provide such minority business enterprises and women's business enterprises every practical opportunity to submit bids.
4. Joint ventures or mentor-protégé relationships between prime contractors and subcontractors with local MBE and WBE firms are encouraged.
5. Participation of MBE and WBE firms located outside the St. Louis Metropolitan Statistical Area (SMSA) shall not count toward the goals established in this order.

**B. SUPPLY DIVISION POLICY**

It is the policy of the Supply Division that all bids/contracts awarded adhere to the Mayor's Executive Order #28. All vendors are encouraged to comply with this policy and all other provisions of Executive Order #28. A copy of Executive Order #28 is available upon request. Each Vendor/Contractor (bidder) must complete, sign and return this M/WBE Form. Failure to complete, sign and return the M/WBE Form will result in the bid being declared non responsive and your bid may be eliminated.

**C. OBLIGATION**

The bidder agrees to make a good faith effort to ensure that M/WBE businesses have an opportunity to participate in the performance of contracts or subcontracts financed in whole or in part with City funds. The bidder will take all necessary and reasonable steps to ensure that said businesses have an opportunity to compete for and perform under this bid/contract. The bidder shall not discriminate on the basis of race, color, national origin or sex in the award and performance of bids/contracts. The Directory of Disadvantaged, Minority and Women Owned Business Enterprises certified by the City of St. Louis, can be viewed at [www.mwdbe.org](http://www.mwdbe.org).

**CITY OF ST. LOUIS/SUPPLY DIVISION  
MINORITY/WOMEN BUSINESS ENTERPRISES FORM  
(M/WBE FORM)**

**D. BID/CONTRACT IDENTIFICATION**

Bid #: _____ or Contract Name: _____  Opening Date: _____ Your Bid Total: \$ _____  If your bid is \$500 or higher, please complete Section 'E'. We are NOT requesting information on how your company currently supports M/WBE suppliers. We want to know if there are opportunities you might consider to work with M/WBE suppliers for THIS SPECIFIC bid/contract.
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**E. ASSURANCE                      MBE/WBE Goal: 25% MBE and 5% WBE (Minimum Participation)**

I, acting in my capacity as an officer of the undersigned bidder(s) if a joint venture, hereby assure the City of St. Louis that on this bid/contract my company will: (CHECK ONLY ONE)

Meet or exceed the M/WBE goal with: \_\_\_\_\_% MBE and \_\_\_\_\_% WBE Participation

Proposed MBE Vendor Name: _____ Amount \$ _____  Item or materials to be supplied by MBE Vendor: _____  Proposed WBE Vendor Name: _____ Amount \$ _____  Item or materials to be supplied by WBE Vendor: _____
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Fail to meet the M/WBE goal, but made a good faith effort to meet the goals as follows:  
\_\_\_\_\_ % MBE and \_\_\_\_\_ % WBE Participation (Enter Proposed Vendor information above.)

Not meet the M/WBE goal for the following reasons(s): (Check All That Apply)

	Our Company is an MBE certified by the State of: _____
	Our Company is a WBE certified by the State of: _____
	We have contacted suppliers listed in the SLAA Directory but have received no reply
	There are no subcontracting opportunities for this bid/contract
	We are a Dealer and the order will be drop-shipped from the manufacturer to the user
	We are the manufacturer and the order will be drop-shipped from the factory to the user
	A letter of explanation is attached
	Other reason: _____ _____

FIRM NAME: _____	FEDERAL ID NUMBER: _____
SIGNATURE: _____	FAX NUMBER: _____
PRINTED NAME: _____	DATE: _____
TITLE: _____	E-MAIL: _____



CITY OF ST. LOUIS  
DEPARTMENT OF FINANCE  
OFFICE OF THE SUPPLY COMMISSIONER

FREDDIE L. DUNLAP  
SUPPLY COMMISSIONER

FRANCIS G. SLAY  
MAYOR

ROOM 324, CITY HALL  
TUCKER & MARKET STREETS  
ST. LOUIS, MO. 63103  
(314) 622-4580  
FAX: 622-4141

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## ST. LOUIS LIVING WAGE ORDINANCE

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**Living Wage Requirements:** Bidders are hereby advised that the St. Louis Living Wage Ordinance #65597 and associated Regulations apply to the service for which bids are being sought herein. This Ordinance requires that, unless specific exemptions apply, all individuals who perform work pursuant to a contract executed between the successful bidder and the City of St. Louis must be paid a minimum of the applicable Living Wage rates set forth in the attached **Living Wage Bulletin**, and if the rates are adjusted during the term of the contract pursuant to the Ordinance, applicable rates after such adjustment is made. Each bidder must submit the attached "Living Wage Acknowledgement and Acceptance Declaration" with the bid. Failure to submit this Declaration with the bid will result in rejection of the bid. A successful bidder's failure to comply with contract provisions related to the Living Wage Ordinance may result in termination of the contract and the imposition of additional penalties as set forth in the Ordinance and Regulations.

Copies of the Ordinance and Regulations are available upon request from LaQueta Russell-Taylor, City Compliance Office at 314-426-8185. A copy of the Living Wage Bulletin now in effect is attached.

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**ST. LOUIS LIVING WAGE ORDINANCE**

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**LIVING WAGE ADJUSTMENT BULLETIN**

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**NOTICE OF ST. LOUIS LIVING WAGE RATES  
EFFECTIVE APRIL 1, 2011**

In accordance with Ordinance No. 65597, the St. Louis Living Wage Ordinance ("Ordinance") and the Regulations associated therewith, the City Compliance Official for the City of St. Louis has determined that the following living wage rates are now in effect for employees of covered contracts:

- 1) Where health benefits as defined in the Ordinance are provided to the employee, the living wage rate is **\$11.58** per hour (130% of the federal poverty level income guideline for a family of three); and
- 2) Where health benefits as defined in the Ordinance are **not** provided to the employee, the living wage rate is **\$15.08** per hour (130% of the federal poverty level income guideline for a family of three, plus fringe benefit rates as defined in the Ordinance).
- 3) Wages required under Chapter 6.20 of the Revised Code of the City of St. Louis: **\$3.50** per hour.

These rates are based upon federal poverty level income guidelines as defined in the Ordinance and these rates are effective as of **April 1, 2011**. These rates will be further adjusted periodically when the federal poverty level income guideline is adjusted by the U.S. Department of Health and Human Services or pursuant to Chapter 6.20 of the Revised Code of the City of St. Louis.

The Ordinance applies to employers who are covered by the Ordinance as defined in the Ordinance, where the contract or grant is entered into or renewed after the effective date of the Ordinance, which is November 3, 2002. A copy of the Ordinance may be viewed online at <http://www.mwdbe.org/livingwage> or obtained from:

City Compliance Official  
Lambert-St. Louis International Airport  
Certification and Compliance Office  
P.O. Box 10212  
St. Louis, Mo 63145  
(314) 426-8111

Dated: January 31, 2011

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# ST. LOUIS LIVING WAGE ORDINANCE

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## REQUIRED CONTRACT LANGUAGE: COVERED SERVICE CONTRACTS

**LIVING WAGE COMPLIANCE PROVISIONS:** This contract is subject to the St. Louis Living Wage Ordinance #65597 and the Regulations associated therewith, copies of which are attached hereto and incorporated herein by this reference. The Ordinance and Regulations require the following compliance measures, and Contractor hereby agrees to comply with these measures:

1. **Minimum Compensation:** Contractor hereby agrees to pay an initial hourly wage to each employee performing services related to this contract in an amount no less than the amount stated on the attached Living Wage Bulletin. The initial rates shall be adjusted each year no later than April 1, and Contractor hereby agrees to adjust the initial hourly rate to the adjusted rate specified in the Bulletin at the time the Bulletin is issued.
2. **Notification:** Contractor shall provide the Living Wage Bulletin to all employees, together with a "Notice of Coverage", in English, Spanish, and other languages spoken by a significant number of the Contractor's employees within thirty (30) days of contract execution for existing employees and within thirty (30) days of employment for new employees.
3. **Posting:** Contractor shall post the Living Wage Bulletin, together with a "Notice of Coverage", in English, Spanish, and other languages spoken by a significant number of the Contractor's employees, in a prominent place in a communal area of each worksite covered by the Contract.
4. **Subcontractors:** Contractor hereby agrees to require Subcontractors, as defined in the Regulations, to comply with the requirements of the Living Wage Regulations, and hereby agrees to be responsible for the compliance of such Subcontractors. Contractor shall include these Living Wage Compliance Provisions in any contract with such Subcontractors.
5. **Term of Compliance:** Contractor hereby agrees to comply with these Living Wage Compliance Provisions and with the Regulations for as long as work related to this contract is being performed by Contractor's employees, and to submit the reports required by the Regulations for each calendar year or portion thereof during which such work is performed.
6. **Reporting:** Contractor shall provide the Annual Reports and attachments required by the Ordinance and Regulations.
7. **Penalties:** Contractor acknowledges and agrees that failure to comply with any provision of the Ordinance and/or Regulations and/or providing false information may result in the imposition of penalties specified in the Ordinance and/or Regulations, which penalties may include, without limitation, per order of the City Compliance Official, the following:
  - Suspension and/or termination of the contract or subcontract by the City.
  - Barring the Contractor from eligibility for future City contracts until all ordered relief has been made or paid in full.
  - Liquidated damages payable to the City of St. Louis in the amount of \$500 for each week, or part thereof, that an employee has not been provided wages and benefits in accordance with the Living Wage Ordinance. Each weekly violation shall constitute a separate violation of the Ordinance and must be demonstrated separately.

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**ST. LOUIS LIVING WAGE ORDINANCE**

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LIVING WAGE ACKNOWLEDGMENT AND ACCEPTANCE  
DECLARATION

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**CONTRACTING AGENCY:** \_\_\_\_\_

**AGENCY CONTRACT NUMBER:** \_\_\_\_\_

**BIDDER'S/PROPONENT'S NAME:** \_\_\_\_\_

**DATE PREPARED:** \_\_\_\_\_ **PREPARED BY:** \_\_\_\_\_

**PREPARER'S TELEPHONE NUMBER:** \_\_\_\_\_

**PREPARER'S E-MAIL ADDRESS:** \_\_\_\_\_

**PREPARER'S CELL PHONE NUMBER:** \_\_\_\_\_

**PREPARER'S ADDRESS AND ZIP CODE:** \_\_\_\_\_

As the authorized representative of the above-referenced bidder or proponent, I hereby acknowledge that the bidder/proponent understands that the contract or agreement that will be executed with a successful bidder/proponent pursuant to this solicitation is subject to the St. Louis Living Wage #65597 and the Regulations associated therewith. The bidder/proponent hereby agrees to comply with the Ordinance and the associated Regulations if awarded a contract pursuant to this solicitation. I am authorized to make the above representations on behalf of the bidder or proponent.

**AUTHORIZED REPRESENTATIVE CERTIFICATION:**

**SIGNATURE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

## Illegal Immigrant Employees

Any "business entity", as defined by Section 285.525 of the Revised Statutes of Missouri 2008, as amended, shall, pursuant to the provisions of Sections 285.530 through 285.555 of the Revised Statutes of Missouri 2008, as amended, by **sworn affidavit** (attached hereto as Exhibit \_\_) **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 Agreement. The "business entity" shall also sign an affidavit (attached hereto as Exhibit \_\_) affirming that it does not ~~knowingly employ any person who is an unauthorized alien in connection with this~~ Agreement pursuant to the above-stated Statutes. The term "business entity" shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors.

**EXHIBIT \_\_\_\_\_.**

STATE OF \_\_\_\_\_ )  
 )SS.  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT**

Before me, the undersigned Notary Public, personally appeared

\_\_\_\_\_ (**Name**) who, by me being duly sworn, deposed as follows:

My name is \_\_\_\_\_ (**Name**), I am of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein stated:

I am the \_\_\_\_\_ (**Position/Title**) of \_\_\_\_\_. (**Business Entity**)

I have the legal authority to make the following assertions:

1. \_\_\_\_\_ (**Business Entity**) is currently enrolled in and actively participates in a federal work authorization program with respect to the employees working in connection with this Agreement, as required pursuant to Sections 285.525 through 285.555 of the Revised Statutes of Missouri 2000, as amended.
2. Pursuant to Sections 285.525 through 285.555 of the Revised Statutes of Missouri 2000, as amended, \_\_\_\_\_ (**Business Entity**) does not knowingly employ any person who is an unauthorized alien in connection with this Agreement.

\_\_\_\_\_  
Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**PERFORMANCE BOND**

**FORMAL EXECUTION OF THE CONTRACT AND BOND MAY BE A REQUIREMENT FOR ALL CONTRACTS OVER \$5,000. THE ORIGINAL BOND, (IF REQUIRED), MUST BE RECEIVED WITHIN TWENTY-ONE (21) CALENDAR DAYS AFTER NOTICE OF AWARD IS GIVEN TO THE SUCCESSFUL BIDDER. BOND MUST BE EXECUTED BY ATTORNEY-IN-FACT FOR SURETY COMPANY BEFORE A LICENSED NOTARY PUBLIC. NO WAIVERS WILL BE GIVEN AND NO ORDERS WILL BE PLACED UNTIL THE REQUIRED BOND IS EXECUTED! NO INVOICES WILL BE PAID UNTIL THE BOND IS EXECUTED. YOUR SIGNATURE BELOW INDICATES YOU ARE AWARE OF THE PERFORMANCE BOND TERMS.**

**BIDDERS ARE TO INCLUDE, AS PART OF BID PROPOSAL, THE NAME AND ADDRESS OF SOME SURETY AUTHORIZED TO DO BUSINESS IN THE STATE OF MISSOURI FOR FIFTY PERCENT (50%) OF THE CONTRACT (BID PROPOSAL) PRICE, CONDITIONED ON THE FAITHFUL PERFORMANCE OF THE TERMS OF THE CONTRACT SPECIFIED.**

**NAME OF SURETY COMPANY** \_\_\_\_\_

**ADDRESS** \_\_\_\_\_

**SUBLETTING:** Subletting or assigning of any bid under these specifications, or any contract to a successful bidder under these specifications, cannot be made without approval of the SUPPLY COMMISSIONER for the City of St. Louis

**DELIVERY:** Please state delivery details, i.e., time involved from receipt of purchase order, delivery, minimum order, and charge for orders under the minimum.

Days A.R.O.: \_\_\_\_\_ Minimum Order Quantities: \_\_\_\_\_ Other: \_\_\_\_\_

**NOTE:** Payments hereunder are subject to annual appropriation. Our Budget Year begins July 1st.

**PRICE ESCALATION:** Prices quoted must be firm for one (1) year from date of award. The vendor must provide notification of any proposed price increase forty-five (45) days prior to the proposed effective date. The amount of the increase shall not exceed actual documented increase in Vendor's Direct Cost and shall not ever total more than five percent (5%) in any one year. To request a price increase, the Vendor must submit a letter setting the amount of the increase, along with an itemized list of any increased prices, showing the Vendor's current price, revised price, the actual dollar difference and the percentage of the price increase by line item. Documentation from the Vendor's supplier(s) showing the actual dollar increase/decrease to the Vendor must accompany this request. Such documentation from the Vendor's supplier must clearly show the dollar increase incurred by the Vendor on the applicable Contract per item bid. The letter and documentation shall be sent to the following address: Supply Commissioner, City of St. Louis, 1200 Market Street, Room 324, St. Louis, MO 63103. If the Supply Commissioner approves the price increase, the Vendor will be notified in writing; no price increase will be effective until the Vendor receives this notice.

**TERMINATION:** The City of St. Louis, Missouri reserves the right to cancel this contract by giving thirty (30) days written notice at the Vendor's regular mailing address.

**SALES/SERVICE CALLS:** Does a Salesperson ever make sales/service calls in St. Louis City?

[ ] Yes [ ] No

**COOPERATIVE PROCUREMENT:** Will your Company allow cooperative procurement to other political subdivisions within the State of Missouri?

[ ] Yes [ ] No

**PAYMENT TERMS:** \_\_\_\_\_

**QUARTERLY REPORTS:** Vendor shall provide reports by January, April, July and October 15th of each year to the Supply Buyer. Reports should detail contract items purchased including price (unit and total), quantity and ordering department. The City of St. Louis will not pay for these reports.

**FIRM NAME:** \_\_\_\_\_

**DIVISION OF:** \_\_\_\_\_

**SIGNED BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**CONTACT PERSON:** \_\_\_\_\_

**PHONE NO:** \_\_\_\_\_

**FREDDIE L. DUNLAP  
SUPPLY COMMISSIONER**

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**1. PREPARATION OF BIDS.**

- Bidders are expected to examine the complete bid and all attachments including drawings, specifications and instructions. Failure to do so is at the bidder's risk.
- Bidders shall furnish information required by the solicitation in the form requested. The Buyer reserves the right to reject any or all with incomplete information or which are presented in a different form. The original Invitation for Bid in its entirety will be considered as fully applicable to the bid response regardless of the form used unless specifically excepted by the bidder. In the latter case, the bid may be considered non-responsive to the Invitation for Bid.
- Bids shall indicate the unit price extended to indicate the total price for each item bid. Any difference between the unit price correctly extended and the total price shown for all items bid shall be resolved in favor of the unit price, except when the bidder clearly indicates that the total price for all items bid is based on consideration of being awarded the entire lot and that an adjustment of the total price is being made in consideration of receiving the entire bid.
- If the item has a trade name, brand and/or a catalog number, such shall be stated in the bid. If the supplier proposed to furnish an item of a different manufacturer or supplier other than that mentioned on the face hereof, bidder must specify maker, brand, quality, catalog number, or other trade designation. Unless such is noted on the bid form, it will be deemed that the article furnished is that designated, even though the bid may state "or equal."
- Time of proposed delivery shall be stated in definite terms; if stated in a number of days, it shall include Saturdays, Sundays and holidays.
- Samples, when required, shall be furnished prior to the closing date or within time specified in bid. Buyer reserves the right to reject bids submitted without required samples.

**2. ALTERNATE BIDS.** Alternate bids may be submitted and, if deemed advantageous to the City, they may be evaluated and considered. The City is under no obligation to consider or accept an alternate bid and reserves the right to reject any and all such bids.

**3. SIGNATURE.** Bidder shall sign the **INVITATION TO BID** or the **REQUEST FOR QUOTATION**, hereafter referred to as bid or solicitation, on first page and on all continuation pages in the proper section

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and shall enter their title and the date where requested. Erasures or other changes must be initialed by person signing the bid. Signature shall be an original and that of an agent authorized to sign on behalf other company.

4. **SUBMISSION OF BID.** Bids and modification thereof shall be returned in a sealed envelope addressed to office specified in bid. The bid number and bid closing date and hour shall be shown on the face of the envelope. Facsimile telegraph and telephone bids will not be considered unless authorized by the bid or the Buyer and must be confirmed in writing. Telephone modification will not be considered unless authorized by the bid or Buyer and subsequently confirmed in writing.
5. **OCCUPATIONAL LICENSE.** All suppliers located in St. Louis, Missouri, must have a valid City of St. Louis business license for sale of goods or services. Suppliers located outside St. Louis, Missouri, must have a City of St. Louis business license if services are performed in St. Louis, Missouri city limits. A valid license is required as a condition of all contracts. Contracts will not be considered fully executed until the license is obtained. Failure to obtain the necessary license and to maintain it on a current basis will be grounds to disqualify bids and to cancel existing contracts.
6. **EARNINGS AND OTHER TAXES.**
  - All suppliers located in St. Louis, Missouri, are required to have a valid earnings tax file number and to pay earnings taxes on wages. Suppliers located outside St. Louis, Missouri, must have a valid earnings tax file number and pay earnings taxes if services are performed in St. Louis, Missouri. Obtaining a file number and payment of taxes are required as a condition of all contracts. Failure to obtain a file number and to pay earnings taxes on a current basis will be grounds to disqualify bids and to cancel existing contracts.
  - All suppliers located in St. Louis, Missouri, must have all required licenses and permits and pay all fees and taxes that are required by the City. Suppliers located outside St. Louis, Missouri, must, when applicable, have all required licenses and permits and pay all fees and taxes required by the City from nonresident suppliers. Failure to comply with the foregoing will be grounds to disqualify bids and to cancel existing contracts.
7. **EXPIRATION OF BID.** All bids shall be considered as firm for a period of forty-five (45) calendar days, commencing the day

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following the date of the bid closing and expiring at midnight of the last day, unless otherwise stated in the body of the bid by the Supply Commissioner. The bidder may state a date his/her bid expires, provided the date is specific and is entered on the first page of the bid.

**8. MODIFICATION OR WITHDRAWAL OF BIDS.**

- Bids may be modified or withdrawn by written or telegraphic notice received prior to the exact hour and date specified for receipt of bid. A bid may also be withdrawn in person or by a bidder of his/her authorized representative, prior to the exact hour and date set for receipt of bids. Telephone withdrawals are not permitted (however see paragraph 10).
- If this solicitation is negotiated, bids may be modified (subject to paragraph 10 when applicable) or withdrawn by written or telegraphic notice received at any time prior to award. Bids may be withdrawn in person by a bidder or his/her authorized representative, provided their identity is made known and they signs a receipt for the bid prior to award.

**9. LATE BIDS AND MODIFICATIONS OR WITHDRAWALS.**

- Bids and modification of bids (or withdrawals thereof, if this solicitation is advertised) received at the office designated in the solicitation after the exact hour and date specified for receipt will not be considered unless: (1) they are received before award is made; and either (2) they are sent by registered mail, or by certified mail for which an official dated post office stamp (postmark) on the original Receipt for Certified Mail has been obtained and it is determined by the City that the late receipt was due to delay in the mail for which the bidder was not responsible; or (3) if submitted by mail (or telegram facsimile if authorized) it is determined by the City that the late receipt was due solely to mishandling by the City after receipt; provided that the timely receipt is established upon examination of an appropriate date or time stamp (if any) or of other documentary evidence of receipt (if readily available) within the control of the City or of the Post Office serving it. However, a modification of a successful bid which makes the terms of the bid more favorable to the City will be considered at any time it is received and may thereafter be accepted.
- The time of mailing of late bid submitted by registered or certified mail shall be deemed to be the last minute of the date shown in the postmark on the registered mail receipt of registered mail wrapper or on the Receipt for Certified Mail

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unless the bidder furnishes evidence from the post office station of mailing which establishes an earlier time.

10. **MISTAKE IN BID.**

- If the bidder discovers a mistake in bid prior to the hours and date specified for receipt of bid, he/she may correct the mistake by modifying or withdrawing the bid in accordance with paragraph 8 and 9 above.
- If the apparent low and best bidder discovers a mistake in bid of a serious and significant nature which if unfavorable to him/her prior to the issuance of a purchase order or a contract, he/she may request consideration be given to modifying the bid if he/she remains the lowest bidder or to withdrawal of the bid if the result of the correction of the mistake makes another bidder lowest and best bidder. The mistake must be evident and provable. The right is reserved by the City to reject any and all requests for correction of mistakes in bids received after the hour and date of the bid opening. The decision of the Buyer is final as regards acceptance or rejection of request for correction of bids.
- **A MISTAKE IN BID CANNOT BE CONSIDERED ONCE A PURCHASE ORDER OR CONTRACT IS ISSUED.**

11. **NO BIDS AND FUTURE SOLICITATIONS.** It is required that if a supplier does not desire to bid, the bid should be marked "NO BID" and returned in order to maintain the bidders name in supplier file for future solicitations. If a bidder fails to respond to four (4) successive bids without returning a "NO BID," the Buyer reserves the right to delete the bidder, or certain products listed as sold by the supplier, from the supplier file for future solicitations.

12. **BID BOND REQUIREMENT.** Bid bonds shall be provided, by the bidder, when specified by the terms of the **INVITATION FOR BID** or the **REQUEST FOR QUOTATION**. The amount shall be that determined by the Supply Commissioner, City of St. Louis, Missouri, to be reasonable and necessary to protect the best interest of the City. When required, the bid bond must accompany the bid. Failure to provide the bond prior to the bid opening will be cause for disqualification of the bid. The bond may be in the form of a surety bond, cashier's check, money order, or certified check drawn on a solvent bank. Such bond or deposit shall be forfeited to the City in case the bidder shall fail or refuse to execute the contract.

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13. **TRADE-IN.** If the solicitation requests a price or value for one or more pieces of equipment to be traded in as part of the purchase of new equipment, the City retains the option to purchase the new equipment at the full price or to reduce the price of the new equipment by the amount of the trade-in offered. The City is not obligated to accept the trade-in offer and may withdraw equipment offered for trade-in at any time up to award.
14. **EVALUATION OF BIDS FOR MULTIPLE AWARDS.** In addition to other factors, bids will be evaluated on the basis of advantages or disadvantages to the City that might result from making more than one award (multiple awards) to include total cost of ownership and administrative cost to the City of issuing and administering each contract and associated purchase orders awarded under this invitation. Administrative costs will be in a range for the class of procurement as established by the Supply Commissioner. Individual awards will be for the items and/or services and combinations of items and/or services which result in the lowest aggregate price to the city, including such administration costs.
15. **AWARD OF CONTRACT.**
- **BIDS WILL BE ANALYZED AND THE AWARD MADE TO THE LOWEST AND BEST RESPONSIVE AND RESPONSIBLE BIDDER** whose bid conforms to the solicitation and whose bid is considered to be most advantageous or best value to the City, price and other factors considered. The right to determine the foregoing is reserved to the Supply Commissioner and is not subject to appeal. In the event equal bids are received, paragraph 18. **MISSOURI AND OTHER PREFERENCE**, will apply. If the preference does not break the tie, then the award will be made by public drawing of lots by the Buyer and one witness.
  - The City reserves the right to reject any and all bids and all or part of a bid; to waive informalities, technical defects, and minor irregularities in bids received; and to select the bid(s) deemed most advantageous or best value to the City. The City shall consider bids submitted to an "all or nothing" basis if the bid is clearly designated as such.
  - The City may accept any item or group of items of any bid, unless the bidder qualifies his bid by specific limitations. **UNLESS OTHERWISE PROVIDED IN THE SOLICITATION, BIDS MAY BE SUBMITTED FOR ANY QUANTITIES LESS THAN THOSE SPECIFIED AND THE CITY RESERVES THE RIGHT TO MAKE AN AWARD ON ANY ITEM FOR A QUANTITY LESS THAN THE QUANTITY BID AT THE UNIT PRICES BID UNLESS THE BIDDER SPECIFIES OTHERWISE IN THEIR BID.**

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- **UPON ACCEPTANCE BY THE CITY, THE SOLICITATION FOR BID AND A PURCHASE ORDER ISSUED TO THE SUCCESSFUL BIDDER WITHIN THE TIME SPECIFIED, SHALL BE DEEMED TO RESULT IN A BINDING CONTRACT WITHOUT FURTHER ACTION BY EITHER PARTY. ITEMS ARE TO BE FURNISHED AS DESCRIBED IN THE BID AND IN STRICT CONFORMITY WITH ALL INSTRUCTIONS, CONDITIONS, SPECIFICATIONS, AND DRAWINGS CONTAINED IN THE COMPLETE CONTRACT.**
16. **PURCHASE ORDERS.** All goods and services will be ordered by means of a purchase order for which funds have been certified and encumbered by the Comptroller. Goods and services will not be provided in excess of the amount of the purchase order. The City has no obligation to pay invoices in excess of the purchase order amount. Under emergency conditions, the Supply Commissioner may order goods or services and provide a purchase order number by telephone.
17. **PERFORMANCE BOND REQUIREMENT.** A performance bond shall be provided by the bidder receiving the award when specified by the terms of the bid. The amount shall be that determined by the Supply Commissioner to be reasonable and necessary to protect the best interest of the City. **"THE BOND MAY BE IN THE FORM OF A SURETY BOND OR CASHIERS CHECK"**. Such bond or deposit shall be forfeited to the City in case the bidder receiving the contract shall fail or refuse to fulfill the requirements and all terms and conditions of the contract. The contract is not considered to be complete until the performance bond is submitted. Purchase orders may not be issued or invoices paid unless the required performance bond is on file. Unless specified otherwise in the bid, the bond must be furnished within twenty-one (21) calendar days after receipt of notification of intent to award the contract or receipt of a request for performance bond. The City has the right to disqualify an otherwise successful bid if the performance bond is not received within the time requested.
18. **MISSOURI AND OTHER PREFERENCE.**
- By virtue of statutory authority, the Buyer shall give preference to all commodities manufactured, produced, assembled or grown within the State of Missouri and to all firms, corporations, or individuals doing business as Missouri firms, corporations, or individuals, when quality is equal or better and delivered price is the same or less. Within the State of Missouri, the same type of preference is given to firms located in the City, as versus other firms located in Missouri but outside the city limits.

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- The City has implemented the Missouri Domestic Procurement Act (Buy American), Sections 34.350 to 34.359 RSMO Supp. 1987, by adopting the following policy on the purchase of American goods. Preference will be given to the purchase or lease of products manufactured, assembled, or produced in the United States if the quality and price are comparable with other goods. Suppliers providing services and/or products under Term Supply and Services Contracts and leases will give preference to providing products manufactured, assembled, or produced in the United States if the quality and price are comparable with other goods.

19. **TIME OF DELIVERY.** Delivery is **REQUIRED** to be made in accordance with the schedule shown in the solicitation and purchase order. Bids offering delivery of each quantity within the applicable delivery period specified above will be evaluated equally as regards time of delivery. Bids offering delivery of a quantity under such terms or conditions that delivery will not clearly fall within the applicable delivery period may, as determined by the Buyer, be considered non-responsive and may be rejected. When a bidder offers an earlier delivery schedule than that called for in the bid, the City reserves the right to award either in accordance with the **REQUIRED** schedule or in accordance with the schedule offered by the bidder. If the bidder offers no other delivery schedule, the delivery schedule stated above shall apply.
20. **F.O.B. DESTINATION.** Unless otherwise directed in the solicitation and purchase order, all deliveries shall be F.O.B. Destination and all freight charges shall be included in the total price. Supplies shall be delivered to the destination consignee's warehouse unloading platform, or receiving dock, at the expense of the Contractor. The City shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved prior to the actual delivery (Or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the City acting in its contractual capacity. If rail carrier is used, supplies will be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggy-back") is used, supplies will be delivered to truck tailgate at the unloading platform of the consignee. If the Contractor uses rail carrier or freight forwarder for less than carload shipments, he/she shall assure that the carrier will furnish tailgate delivery if transfer to truck is required to complete delivery to consignee. One of the following statements

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usually will appear on the purchase order, although others may be used. If no statement appears, paragraph 20 is applicable.

- **FOB DESTINATION, FREIGHT PREPAID BY SELLER.** The seller pays and bears all freight charges.
- **FOB DESTINATION, FREIGHT PREPAID AND CHARGED BACK ON INVOICE.** The seller pays the freight and charges the City by adding it to the invoice.
- **FOB DESTINATION, FREIGHT COLLECT.** The City pays and bears the freight charges.
- ~~**FOB DESTINATION, FREIGHT COLLECT AND ALLOWED ON INVOICE.**~~ The City pays the freight charges and deducts the amount from the seller's invoice.

21. **QUALITY.** Unless otherwise required by terms of the solicitation all goods furnished shall be new, in current production, and the best of their kind. When applicable, parts and maintenance service shall be reasonably available. New equipment that is obsolete or technically outdated is not acceptable. Remanufactured or reconditioned items are not considered new. Items shall be properly packaged, packed, labeled, and identified in accordance with commercial standards acceptable to the trade and as required by ICC and other federal and state regulations. Packing slips will accompany the shipment.
22. **PRICE.** Prices quoted are to be firm and final. All prices quoted shall be net and shall reflect any available discount except for discounts for timely payment. All prices are to be F.O.B. designated delivery point. All shipping, packing and drayage charges are the responsibility of the supplier. C.O.D. shipments will not be accepted unless otherwise agreed to by the City.
23. **BRAND NAME OR EQUAL. WHENEVER THE NAME OF THE MANUFACTURER OR THE SUPPLIER IS MENTIONED ON THE FACE HEREOF AND THE "OR EQUAL" DO NOT FOLLOW, IT SHALL BE DEEMED THAT THE WORDS "OR EQUAL" SHALL FOLLOW SUCH DESIGNATIONS UNLESS THE FACE HEREOF SPECIFIES"NO SUBSTITUTIONS. THE CITY MAY ASSUME THAT ITEMS BID ARE EQUAL OR IT MAY REQUEST SAMPLES AND PROOF THEREOF AND UNLESS APPROVED BEFORE SHIPMENT, CITY RESERVES THE RIGHT TO RETURN AT THE BIDDER'S EXPENSE ALL ITEMS THAT ARE NOT ACCEPTABLE AS EQUALS, SAID ITEMS TO BE REPLACED BY THE BIDDER WITH SAFISFACTORY ITEMS AT THE ORIGINAL BID PRICE.**
24. **COMMERCIAL WARRANTY.** The Contractor agrees that the supplies or services furnished under this contract shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such supplies or services and that the rights

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and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other clause of this contract.

25. **FREIGHT CHARGES ON DIRECT SHIPMENTS TO THE CITY.** The price or prices mentioned in the bid and carried into this contract are made with reference to lawful freight charges in existence at the time of submission of bids, and said contract prices shall be increased or decreased, as the case may be, by any change in freight rates, provided that any claim for any additional freight must be presented to the City, within thirty (30) days after such advance in freight rates becomes effective. Reductions in freight will be deducted from the contract price. The clause applies to freight on shipments made directly and separately by the manufacturer to the City.
26. **VARIATION IN QUANTITY.** No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.
27. **DISCOUNTS.**
- Prompt payment discounts offered for payment within less than twenty (20) calendar days will not be considered in evaluating bids for award, unless otherwise specified in the solicitation. However, offered discounts of less than 20 days will be taken if payment is made within the discount period, even though not considered in the evaluation of bids.
  - In connection with any discount offered, time will be computed from date of delivery of the supplies to the carrier when acceptance is at the point of origin, or from date of delivery at destination when delivery and acceptance is at destination, or from the date the correct invoice or voucher is received in the office specified by the City, if the latter is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the City check.
  - Any discount offered other than for prompt payment should be included in the net price quoted and not included in separate terms. In the event this is not done, the City reserves the right to accept the discount offered and adjust prices accordingly on the purchase order.
28. **SELLER'S INVOICE.** Invoices shall be prepared and submitted in duplicate to delivery address shown on the purchase order.

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Separate invoices are required for each purchase order. Invoices shall contain the following information: purchase order number, item number, description of supplies or services, sizes, unit of measure, quantity, unit price and extended totals.

29. **INSPECTION AND ACCEPTANCE.** Inspection and acceptance will be at destination unless specified otherwise, and will be made by the City department shown in the shipping to address or other duly authorized representative of the City. Until delivery and acceptance, and after any rejection, risk of loss will be on the Contractor unless loss results from negligence of the City. Supplier will be notified of rejected shipments. Unless agreed otherwise, items will be returned freight collect.
30. **LOSS AND DAMAGED SHIPMENTS.** Risk of loss or damage to items prior to the time of their receipt and acceptance by the City is upon the supplier. The City has no obligation to accept damaged shipments and reserves the right to return at the supplier's expense damaged merchandise even though the damage was not apparent or discovered until after receipt of the items.
31. **LATE SHIPMENTS.** Supplier is responsible to notify the City department receiving the items and the Buyer of any late or delayed shipments. The City reserves the right to cancel all or any part of an order if the shipment is not made as promised.
32. **TAX EXEMPTION-FEDERAL AND STATE.**
- The City is exempt from Federal Excise and Transportation taxes on purchases under Chapter 32, Internal Revenue Code. The federal tax registration number issued by the Internal Revenue Service is No. 43-6003231.
  - The City is exempt from payment of Missouri Sales and Use Tax in Accordance with Section 39 (10) Article 3, of the Missouri Constitution and sections 144.040 and 144.615 RSMo 1969 and supplement thereto. A copy of the exemption from Missouri Sales and Use Tax is available upon request.
33. **CITY FURNISHED PROPERTY.**
- The City shall deliver to the Contractor for use only in connection with this contract, the property described in the schedule or specifications (hereinafter referred to as "City-furnished property"), at the times and locations stated herein. If the City-furnished property, suitable for its intended use, is

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not so delivered to the Contractor, the Supply Commissioner shall, upon timely written request made by the Contractor, and if the facts warrant such action, equitably adjust any affected provision of this contract pursuant paragraph 35,  
**AMENDMENTS AND MODIFICATIONS.**

- Title to City-furnished property shall remain in the City. The Contractor shall maintain adequate property control records of City-furnished property in accordance with sound industrial practice.
  - ~~Unless otherwise provided in this contract the Contractor, upon delivery to him/her of any City-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this contract.~~
  - The Contractor shall, upon completion of this contract, prepare for shipment, deliver f.o.b. origin, or dispose of all City-furnished property not consumed in the performance of this contract or not theretofore delivered to the City, as may be directed or authorized by the Supply Commissioner. The net proceeds of any such disposal shall be credited to the contract price or paid in such other manner as the Supply Commissioner may direct.
34. **LABORATORY AND OTHER TESTS.** The City reserves the right to test all articles, commodities, supplies, materials and equipment, referred to hereafter as articles, delivered during the life of the proposed contract, at an independent laboratory, to be designated by the Supply Commissioner. The laboratory test shall include each item of the specification to determine whether the articles delivered are in conformity therewith. Tests shall be made on articles selected at random from deliveries made under the proposed contract or contracts. Where the result of such test shows that the articles delivered are not equal or do not conform to the specification, then the expense of making such test shall be paid by the Contractor (the bidder in the proposal). If the result of any additional test shall show that the articles delivered and tested conform to the specifications, then in such case the expense of making such test shall be paid by the City. The City further has the right to conduct tests using its own facilities and test methods when adequate facilities and procedure are available.
35. **AMENDMENTS AND MODIFICATIONS.** The Supply Commissioner may at any time, by a written order, and without

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notice to the sureties, make a **MODIFICATION** to the contract or an amendment to the purchase order, within the general scope of this contract, in (1) drawings, designs, or specifications, where the supplies to be furnished are to specially manufactured for the City in accordance therewith; (2) method of shipment or packing; and (3) place of delivery. If such change causes an increase or decrease in the cost of, or the time required for performance of this contract whether changed or not changed by any such order, an equitable adjustment shall be made by written modification of the contract or amendment to the purchase order. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification; provided that the Supply Commissioner, if he decides that the facts justify such action, may receive and act upon any such claim if asserted prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes"; however, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed. Any other modifications and amendments made within the general scope of the contract will be by written mutual agreement.

**36. DISPUTES.**

- Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Supply Commissioner, who shall reduce this decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Supply Commissioner shall be final and conclusive unless within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Supply Commissioner a written appeal addressed to the Board of Standardization. The decision of Board of Standardization shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, in connection with any appeal proceeding under this clause the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Supply Commissioner's decision.

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- This **DISPUTES** clause does not preclude consideration of law questions in connection with decisions provided for in paragraph A above; provided, that nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

**37. TERMINATION FOR DEFAULT.**

- The City may, subject to the provisions of paragraph below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances;
  - i. if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or
  - ii. if the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days after receipt of notice from the Buyer specifying such failure.
- In the event the City terminates this contract in whole or in part as provided in paragraph A of this clause, the City may procure, upon such terms and such manner as the Buyer may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.
- The Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the City in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

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- If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of shall be the same as if notice of termination for convenience had been issued pursuant to such clause.
38. **TERMINATION FOR CONVENIENCE.** The Supply Commissioner, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the City. If this contract is for supplies and is so terminated, the Contractor shall be compensated in accordance with his auditable costs to point of notification of termination. To the extent, that this contract is for services and is so terminated, the City shall be liable only for payment in accordance with the payment provisions of this contract for services rendered to the effective date of termination.
39. **EXAMINATION OF RECORDS.**
- If this contract exceeds \$5,000, the Contractor agrees that the City Auditor of the City or any of his duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor, involving transactions related to this contract.
  - The Contractor agrees to include the clause above in all his subcontracts hereunder, except purchase orders not exceeding \$5,000.
40. **OFFICIALS NOT TO BENEFIT.** No regular employee or elected or appointed member of the City government shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.
41. **CONFLICT OF INTEREST.** No employee or member of the employee's immediate family, or elected or appointed member of City government may participate directly or indirectly in the procurement process if they:
- Have a financial interest or other personal interest which is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their

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independence, judgment, or action in the performance of their official duties.

- Are negotiating or have an arrangement concerning prospective employment. The bidder warrants to the best of their knowledge that no such conflict of interest exists. In the event such a conflict occurs, the bidder is required to report it immediately to the Supply Commissioner. For breach or violation of this warranty, the City shall have the right to annul this contract without liability or at its discretion.

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42. **CONVENANT AGAINST CONTINGENT FEES.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right to annul this contract without liability or at its discretion, to deduct from contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee. This section shall not prevent an attorney from representing a client in any dispute respecting a contract nor shall it prevent an attorney or an accountant from entering into contract negotiation with the City on behalf of a client.
43. **GRATUITIES ILLEGAL TO ANY EMPLOYEE AND FORMER EMPLOYEES.** It is unlawful for any person or business to offer, give or agree to give, to any employee of the City or former employee, to solicit, demand, accept or agree to accept from another person or business, a gratuity, offer of employment or anything of a pecuniary value in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a contract requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any contract of subcontract, or to any solicitation or proposal therefore.
44. **KICKBACKS ILLEGAL IN SUBCONTRACTING.** It is unlawful for any payment, gratuity, or benefit to be made by or on behalf of or solicited from a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated

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therewith as an inducement for the award of a subcontract to a contract of the City. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

45. **CONTEMPORANEOUS EMPLOYMENT PROHIBITED.** The Contractor warrants and agrees that no employee or elected or appointed member of City government who is participating directly or indirectly in the procurement process is or will become as a result of this contract an employee of the Contractor. For breach or violation of the warranty, the City shall have the right to annul this contract without liability or at its discretion.
46. **RECOVERY OF VALUE.** The value of anything transferred or received in breach of ethical standards contained in paragraphs 41, 42, 43, 44, 45 and 47 of these **INSTRUCTIONS AND CONDITIONS** by a bidder, contractor, City employee, elected and appointed City officials, or a non-employee may be recovered from parties involved.
47. **CONFIDENTIAL INFORMATION.** Any information deemed confidential or proprietary must be clearly marked by the bidder or contractor as such. It will be protected and treated with confidentiality to the extent permitted by state statutes concerning public information. Any data to be returned must be so marked and will be returned if not essential to the bid or contract record. It is unlawful for an employee, former employee or elected or appointed City official to use confidential information for actual or anticipated personal gain or the anticipated personal gain of another person.
48. **DEBARMENT OR SUSPENSION.** After reasonable notice to the person or business involved and reasonable opportunity for that person or business to be heard, the Supply Commissioner, after consulting with the City Counselor, is authorized to debar the person or business or cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the City Attorney, the Supply

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Commissioner is authorized to suspend a person or business from consideration for award of contracts if there is probable cause to believe that the person or business has engaged in any activity which might lead to debarment. The suspension shall for a period not to exceed three months. The causes for debarment include:

- Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City Contractor;
- Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- Violation of contract provisions, as set forth below, of a character which is regarded by the Supply Commissioner to be so serious as to justify debarment action:
  - i. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - ii. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- Any other cause the Supply Commissioner determines to be as serious and compelling as to affect responsibility as a City contractor, including debarment by another governmental entity.

**49. ASSISTANCE FOR MINORITY AND WOMEN-OWNED BUSINESSES.**

- It is the policy of the City to encourage and foster participation of minority and women-owned businesses in purchasing and contracting and to assure that such businesses have an equal opportunity to compete.
- The Supply Division is available to assist minority and women-owned businesses; in completing supplier applications; in becoming acquainted with the City purchasing system, departments and Buyers; by providing advice and

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information on previous bids and bid prices; and assisting in resolving problems on such matters as specifications, bid terms, and bonding requirements.

50. **ASSIGNMENT OF CONTRACT AND CLAIMS.** A contract or purchase order or the proceeds thereof may not be assigned without the written permission of the Supply Commissioner.
51. **ASSIGNMENT OF ANTITRUST RIGHTS AND INTEREST.** Submission of this bid constitutes an assignment by the bidder to the City of all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or the State of Missouri, which causes of action have accrued or will accrue as a result of or in relation to the particular goods or services purchased or procured by it in fulfillment of any contract with the City arising from this bid.
52. **COMPENSATION INSURANCE.** The Contractor shall furnish adequate compensation insurance to cover all employees furnishing materials and/or services referred to in attached contract to the City and under the control of the Contractor, and shall relieve and hold the City harmless from any costs due to accidents or other liabilities mentioned in the Worker's Compensation Act. If requested, Contractor shall also furnish at the time of delivery of this contract and such other times as may be requested, a copy of such insurance policies herein referred to.
53. **CLAIMS.** Supplier agrees to defend, protect and save the City harmless from any claims and actions arising out of patent infringements and product liability.
54. **LABOR PRACTICES.** The supplier agrees to comply with all Federal and State Laws, and City Ordinances where applicable, relating to fair labor practices and discrimination in the employment of persons.
55. **LAIBILITY AND INSURANCE.**
- The Contractor shall be:
    - i. liable to the City for loss of or damage to property, real and personal, owned by the City or for which the City is liable;
    - ii. responsible for, and hold the City harmless from, loss of or damage to property not included in (1) above; and

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iii. responsible for, and hold the City harmless from, bodily injury and death of persons, occasioned either in whole or in part by the negligence or fault of the Contractor, his officers, agents, or employees in the performance of work under this contract. For the purpose of this clause, all cargo loaded or unloaded under this contract is agreed to be property owned by the City or property for which the City is liable. The amount of the loss or damage as determined by the Buyer will be withheld from payments otherwise due the Contractor. Determination of liability and responsibility by the Buyer will constitute questions of fact within the meaning of the paragraph 36, **DISPUTES**. The general liability and responsibility of the Contractor under this clause are subject only to the following specific limitations.

- The Contractor shall not be responsible to the City for and does not agree to hold the City harmless from loss or damage to property or bodily injury to or death of persons if the damage, injury or death resulted solely from an act or omission of the City or employees of the Contractor acting within specific directions of the Buyer.
- The Contractor shall at his own cost and expense, defend any suits, demands, claims, or actions, in which the City might be named as a codefendant of the Contractor, arising out of or as a result of the Contractor's performance of work under this contract, whether or not such suit, demand, claim, or action arose out of or was the result of the Contractor's negligence. This shall not prejudice the right of the City to appear in such suit, participate in defense and take such actions as may be necessary to protect the interest of the City.
- The Contractor shall agree to meet all lawful rules and regulations and to meet all lawful requirements which are now or hereafter may be issued or promulgated under any of the said respective laws by and duly authorized Federal, State, or local official; and agree to indemnify and save harmless the City from such contributions or taxes or liability therefore.
- Place of Suit. This contract is executed in the City of St. Louis, Missouri. Any action at law, suit in equity, or judicial proceeding for the enforcement of this contract or any provision thereof shall be instituted and prosecuted only in courts located in the city of St. Louis, Missouri. Each party to this contract has waived the right to change of venue.

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- Law Governing. This contract shall be governed by the laws of the State of Missouri, both as to interpretation and performance.
- When specifically requested by the Buyer in the solicitation and purchase order, the contractor shall, at his own expense, procure and maintain the following insurance with a company acceptable to the Supply Commissioner or his designated representative. Further, the City shall be named as an additional insured on insurance coverages (ii) and (iii) below.
  - i. Standard Worker's Compensation and Employer's Liability Insurance and Longshoremen's and Harbor Worker's Compensation Insurance, or such of these as may be proper under applicable state or Federal statutes. The Contractor may however, be self-insurer against the risk if he/she has obtained the prior approval of the Buyer. This approval will be given upon receipt of satisfactory evidence that the Contractor has qualified as such self-insurer under applicable provision of law.
  - ii. Bodily injury liability insurance in the amount stated in the solicitation for any one occurrence and for an aggregate amount per occurrence.
  - iii. Personal injury liability insurance when applicable in the amount stated in the solicitation for any one occurrence and for an aggregate amount.
- All policies of insurance required under the terms of this contract shall, by appropriate endorsement or otherwise, provide that no cancellation thereof shall be effective for such period as may be prescribed by the laws of the State in which this contract is to be performed and in no event less than thirty (30) days after written notice thereof has been given to the Buyer.
- Satisfactory evidence of the required insurance endorsed to show the City named as an additional beneficiary and requiring a mandatory thirty (30) day cancellation notice shall be filed with the Buyer prior to performance of any work under this contract. No contract will be considered fully executed until proof of insurance is received. The City has the right to disqualify an otherwise successful bid or cancel a term contract if proof of insurance is not provided within the time requested. Insurance coverage will be considered acceptable when provided in one of the following methods:

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- i. By issuance of an original policy designating the Contractor and the City, by name, as the insured parties under the provisions of the policy.
  - ii. By endorsement to an original policy, which endorsement shall extend to the City, by name, the same coverage and protections stipulated in the above paragraph.
  - iii. By separate contingent policy providing the required insurance coverage for the protection of the City, by name.
  - iv. By issuance of standard Certificate of Insurance modified to show the City as an additional named insured and requiring a thirty (30) day mandatory cancellation notice. The Buyer shall provide a blank modified certificate form to the Contractor.
- It is expressly agreed that the provisions contained above of this clause shall not in any manner limit the liability or extent of liability of the Contractor as provided in this clause.
  - In the event that the Contractor is indemnified, reimbursed, or relieved for any loss or damage to City property, he/she shall equitably reimburse the City. The Contractor shall do nothing to prevent the City's right to recover against third parties for any such loss, or damage and, upon the request of the Buyer, shall at the City's expense, furnish to the City all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the City) in obtaining recovery.

**56. CLAUSES APPLICABLE TO TERM SUPPLY AND SERVICE CONTRACTS.**

- Term Supply or Service Contract Defined. A formal contract made by the City with a supplier to purchase repetitive and estimated requirements of products or service from a supplier to be ordered and supplied as needed for a bid price over a period of time stated in the contract. The contract may be exclusive with one contractor or open to further competition.
- Approximate Quantities. This proposal is based on estimated quantities and it is understood that the estimates are prepared by City officials for the purpose of comparison of bids, and that the estimated quantities are not guaranteed but are approximate only, and the City reserves the right to increase or diminish same, or to omit any one or more items, as may be deemed desirable.

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- No financial obligation shall accrue against the City until a purchase order is issued encumbering funds.
- Multiyear term contracts and options to extend term contracts are subject to paragraph 57 **ANNUAL APPROPRIATION OF FUNDS.**
- Modifications to term contracts may be made by mutual written agreement; however they must be within the scope and intent of the original contract.

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57. **ANNUAL APPROPRIATION OF FUNDS.**

- Multi-year term supply and service contracts and leases and the exercise of options to renew term contracts are subject to annual appropriation of funds by the Board of Aldermen. Payments made under term contracts and leases are considered items of current expense. Purchase orders are funded when issued, and therefore are current expense item and are not subject to any subsequent appropriation of funds.
- In the event sufficient funds are not appropriated for the payment of lease payments or anticipated term contract payments required to be paid in the next occurring lease or contract term and if no funds are legally available from other sources, the lease or contract may be terminated at the end of the original term or renewal term and the City shall not be obligated to make further payments beyond the then current original or renewal term. The City will provide notice of its inability to continue the lease or contract at such time as the Supply Commissioner is aware of the non-appropriation of funds, however failure to notify does not renew the term of lease or contract. If a lease is cancelled, the events of default will occur as described in the lease and/or paragraph 37, **TERMINATION FOR DEFAULT, of these INSTRUCTIONS AND CONDITIONS.** The City, has no monetary obligations in the event of termination or reduction of a term contract since such contracts represent estimated quantities and are not funded as a contract, but only to the extent of purchase orders issued.

Revised 4/2/2010