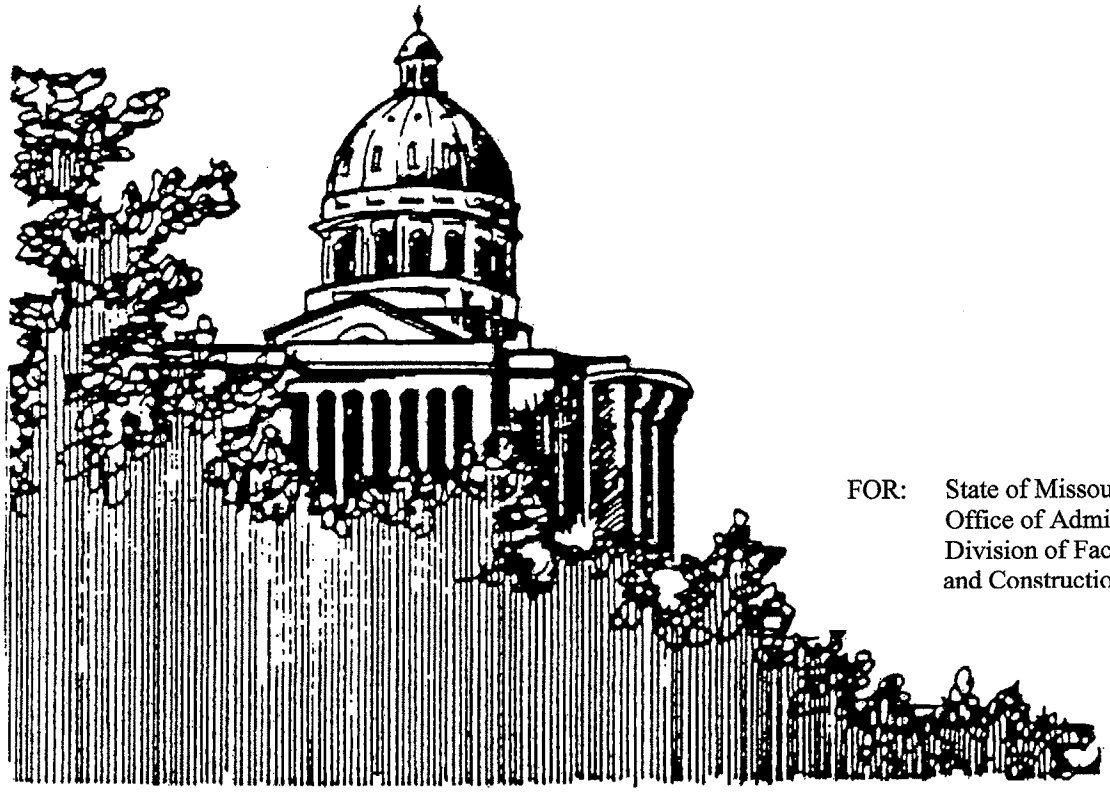
# PROJECT MANUAL

# {BidPackages.Notes}

DESIGNED BY: {Company.Name}
{Addresses.DisplayAddress}

DATE ISSUED: ({BidPackages.AcceptInviteDueDate} "Short Date")

PROJECT NO.: ({Projects.Number} "@@@@@-@@")



FOR: State of Missouri
Office of Administration
Division of Facilities Management, Design and Construction

# SECTION 00002 - PROFESSIONAL SEALS AND CERTIFICATIONS

**PROJECT NUMBER:** ({Projects.Number} "@@@@@-@@")

**THE FOLLOWING DESIGN PROFESSIONALS HAVE SIGNED AND SEALED THE ORIGINAL PLANS AND SPECIFICATIONS FOR THIS PROJECT, WHICH ARE ON FILE WITH THE DIVISION OF FACILITIES MANAGEMENT, DESIGN AND CONSTRUCTION:**

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# SECTION 00100 - INVITATION FOR BID

## 1.0 OWNER:

A. The State of Missouri
Office of Administration,
Division of Facilities Management, Design and Construction
Jefferson City, Missouri

## 2.0 PROJECT TITLE AND NUMBER:

A. {BidPackages.Notes}
**Project No.: ({Projects.Number} "@@@@@-@@")**

## 3.0 BIDS WILL BE RECEIVED:

A. FIRST SUBMITTAL: 1:30 PM, ({BidPackages.BidDueDate} "Long Date")

B. SECOND SUBMITTAL: 5:00 PM , ({BidPackages.BidLocation} "Long Date")

C. Place: Office of the Director, Division of Facilities Management, Design and Construction, Room 730, Truman State Office Building, 301 West High, PO Box 809, Jefferson City, Missouri 65102

## 4.0 DESCRIPTION:

A. Scope: The project includes {BidPackages.ScopeOfWork}

B. Estimate: ({BidPackages.BidLocationAddress1} "$###,###,###,##0") to ({BidPackages.BidLocationAddress2} "$###,###,###,##0")

C. MBE/WBE Goals: MBE ({BidPackages.PercentGoalMBE} "Percent") & WBE ({BidPackages.PercentGoalWBE} "Percent").
**NOTE: Only MBE/WBE firms certified by a State of Missouri public entity as of the date of bid opening can be used to satisfy the MBE/WBE participation goals for this project.**

Or

C. MBE/WBE Goals: There are no MBE/WBE goals for this project.

## 5.0 PRE-BID MEETING:

A. Place/Time: {BidPackages.PreBidMeetTime}; ({BidPackages.PreBidMeetDate} "Long Date"); {BidPackages.PreBidMeetLocation}.

B. Access to State of Missouri property requires presentation of a photo ID by all persons

## 6.0 HOW TO GET PLANS & SPECIFICATIONS:

A. Request: View Only Electronic bid sets are available at no cost or paper bid sets for a deposit of ({BidPackages.Udf_PlanDeposit} "$###,###,###,##0") from DOCUCOPY, LLC. MAKE CHECKS PAYABLE TO DOCUCOPY, LLC, 3334 Brown Station Road, Columbia, Missouri 65202. Phone 573-814-1700, Fax 573-814-1725.

**NOTE: Prime contractors will be allowed a maximum of two bid sets at the deposit rate shown above. Other requesters will be allowed only one bid set at this rate. Additional bid sets or parts thereof may be obtained by any bidder at the cost of printing and shipping by request to DOCUCOPY, LLC at the address shown above.**

B. Refunds: Return plans and specifications in unmarked condition within 15 working days of bid opening to DOCUCOPY, LLC, 3334 Brown Station Road, Columbia, Missouri 65202. Phone 573-814-1700, Fax 573-814-1725. Deposits for plans not returned within 15 working days shall be forfeited.

Information for upcoming bids is available on the Division's web site -- http://www.oa.mo.gov/fmdc/dc/list.htm Plans, specifications and bidders lists are available on-line for bidders reference.

## 7.0 POINT OF CONTACT:

A. Designer: {Company.Name}, {Contacts.DisplayName}, phone # {Contacts.Tel}, fax # {Contacts.Fax}

B. Project Manager: {Projects.Territory}, phone # {BidPackages.BidLocationTel}, fax # 573-751-7277

## 8.0 GENERAL INFORMATION:

A. The State reserves the right to reject any and all bids and to waive all informalities in bids. No bid may be withdrawn for a period of 20 working days subsequent to the specified bid opening time. The contractor shall pay not less than the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed, as determined by the Missouri Department of Labor and Industrial Relations and as set out in the detailed plans and specifications.

Bid results are available after 3:00 PM the day of the bid opening by calling: 573-751-5868

## SECTION 00200 – INSTRUCTIONS TO BIDDERS

### 1.0 - SPECIAL NOTICE TO BIDDERS

A. These specifications have bound hereto a complete set of bidding forms. They are for the bidders convenience only and are not to be detached from the specifications or filled out and executed. One set of unbound bid forms will be furnished to each bidder and may be executed and submitted in a sealed envelope provided by the Division of Facilities Management, Design and Construction.

B. Access to State of Missouri property requires presentation of a photo ID by all persons

### 2.0 - BID DOCUMENTS

A. The number of sets obtainable by any one (1) party may be limited in accordance with available supply.

- B. For the convenience of contractors, sub-contractors and suppliers, copies of construction documents are on file at the office of the Director, Division of Facilities Management, Design and Construction and on the Division's web site http://www.oa.mo.gov/fmdc/dc/list.htm.

### 3.0 - BIDDERS' OBLIGATIONS

A. Bidders must carefully examine the entire site of the work and shall make all reasonable and necessary investigations to inform themselves thoroughly as to the facilities available as well as to all the difficulties involved in the completion of all work in accordance with the specifications and the plans. Bidders are also required to examine all maps, plans and data mentioned in the specifications. No plea of ignorance concerning observable existing conditions or difficulties that may be encountered in the execution of the work under this contract will be accepted as an excuse for any failure or omission on the part of the contractor to fulfill in every detail all of the requirements of the contract, nor accepted as a basis for any claims for extra compensation.

B. Under no circumstances will contractors give their plans and specifications to another contractor. Any bid received from a contractor whose name does not appear on the list of plan holders will be subject to rejection.

C. **Excessive Unemployment:**
The Contractor is responsible for determining if this contract will be awarded during a period of excessive unemployment as defined in RSMo 290.560. This determination can be made by accessing the webpage www.dolir.missouri/gov/ls for the Department of Labor and Industrial Relations, Division of Labor Standards, Prevailing Wage Section or by calling 573-751-3403.

If the contract is to be awarded during a period of excessive unemployment as defined in RSMo 290.560, the Contractor will use only Missouri labor or labor from non-restrictive states in the conduct of the work under this contract. The determination of a workers home state is based on permanent address. Failure to use Missouri labor or labor from non-restrictive states during the conduct of the work hereunder will expose the Contractor to penalties assessed by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards. Non-restrictive states are: Arkansas, Colorado, Georgia, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Nebraska, New Hampshire, Maryland, Michigan, Minnesota, New Mexico, New Jersey, New York, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia and Wisconsin.

### 4.0 - INTERPRETATIONS

A. No bidder shall be entitled to rely on oral interpretations as to the meaning of the plans and specifications or the acceptability of alternate products, materials, form or type of construction. Every request for interpretation shall be made in writing and submitted with all supporting documents not less than five (5) working days before opening of bids. Every interpretation made to a bidder will be in the form of an addendum and will be sent as promptly as is practicable to all persons to whom plans and specifications have been issued. All such addenda shall become part of the contract documents.

B. Approval for an "acceptable substitution" issued in the form of an addendum as per Paragraph 4A above, and as per Article 3.1 of the General Conditions; ACCEPTABLE SUBSTITUTIONS shall constitute approval for use in the project of the product.

C. An "acceptable substitution" requested after the award of bid shall be approved if proven to the satisfaction of the Owner and the Designer as per Article 3.1, that the product is acceptable in design, strength, durability, usefulness, and convenience for the purpose intended. Approval of the substitution after award is at the sole discretion of the Owner.

D. A request for "Acceptable Substitutions" shall be made on the Section 00650 Substitution Request Form. The request shall be sent directly to the project Designer. A copy of said request should also be mailed to the Owner, Division of Facilities Management, Design and Construction, Post Office Box 809, Jefferson City Missouri 65102.

## 5.0 - BIDS AND BIDDING PROCEDURE

A. The bid procedure is a two-step submittal process.. Bidders shall submit all submission forms and accompanying documents in the provided bid envelope by the stated time or their bid will be rejected for being non-responsive. If the second submission is not received by the specified time, the entire bid will be rejected for being non-responsive. See the Invitation for Bid for when bid forms are to be submitted.

Depending on the specific project requirements, the following lists bid forms and times when they are due:

**First Submittal – due before stated date and time of bid opening (see IFB):**

| | |
|---|---|
| 00310 | Bid Form |
| 00311 | Contractor's Qualifications |
| 00312 | Contracting of Work |
| 00313 | Unit Prices |

**Second Submittal – due before the stated date and time for second submittal (see IFB) by the three (3) apparent low bidders on the base bid** (NOTE: Owner reserves the right to require second submittal documents from any and all bidders on request.):

| | |
|---|---|
| 00251 | M/WBE Compliance Evaluation Form |
| 00252 | M/WBE Eligibility Determination for Joint Ventures |
| 00253 | M/WBE Application for Waiver |

(NOTE: Check for specific project requirements. Not all bid forms may be required to be submitted.)
(NOTE: See Article 7.D below for submittal restrictions.)

B. All bids shall be submitted without modification or reservation on the bid forms with each space properly filled. Bids not on these forms will be rejected.

C. All bids shall be accompanied by a bid bond executed by the bidder and a duly authorized surety company, certified check, cashier's check or bank draft made payable to the Division of Facilities Management, Design and Construction, State of Missouri, in the amount indicated on the bid form, Section 00310.. Failure of the contractor to submit the full amount required shall be sufficient cause to reject his/her bid. The bidder agrees that the proceeds of the check, draft or bond shall become the property of the State of Missouri, if for any reason the bidder withdraws his/her bid after closing, or if on notification of award refuses or is unable to execute tendered contract, provide an acceptable performance and payment bond, provide evidence of required insurance coverage and/or provide required copies of affirmative action plans within twelve (12) working days after such tender.

D. The check or draft submitted by the successful bidder will be returned after the receipt of an acceptable performance and payment bond and execution of the formal contract. Checks or drafts of all other bidders will be returned within a reasonable time after it is determined that the bid represented by same will receive no further consideration by the State of Missouri. Bid bonds will only be returned upon request.

## 6.0 - SIGNING OF BIDS

A. Bids from an individual shall be signed as noted on the Bid Form.

B. Bids from a partnership or joint venture shall require only one signature of a partner, an officer of the joint venture authorized to bind the venture or an attorney-in-fact. If the bid is signed by an officer of a joint venture or an attorney-in-fact, a document evidencing the individual's authority to execute contracts should be included with the bid form.

C. Bids from a corporation shall have the correct corporate name thereon and the signature of an authorized officer of the corporation manually written. Title of office held by the person signing for the corporation shall appear, along with typed name of said individual. Corporate license number shall be provided and, if a corporation organized in a state other than Missouri, a Certificate of Authority to do business in the State of Missouri shall be attached. In addition, for Corporate proposals, the President or Vice-President should sign as the bidder. If the signator is other than the corporate president or vice president, the bidder must provide satisfactory evidence that the signator has the legal authority to bind the corporation.

## 7.0 - RECEIVING BID SUBMITTALS

A. Bid submittals are to be presented in sealed envelopes (provided by Owner) which shall be plainly marked with project title, bid date and bid time and delivered to the place specified in the Invitation for Bids. Bidders shall be responsible for actual delivery of bid submittals during business hours, and it shall not be sufficient to show that a submittal was dispatched in time to be received before scheduled closing time for receipt.

B. Bidders are cautioned to allow ample time for transmittal of submittals by mail or otherwise. If a submittal is mailed, bidder should secure correct information relative to the probable time of arrival and distribution of mail at the place where it is to be received, and make due allowance for possible delays.

C. Bidder's attention is directed to the fact that no submittal will be accepted or considered if delivered after the specified time for receipt.

D. No telephonic, telegraphic, electronic mail, facsimile (FAX), or similar transmissions will be accepted or allowed for FIRST SUBMITTALS. Mailing or delivery in the supplied envelope, facsimile (FAX) transmission or electronic submission of SECOND SUBMITTALS will be allowed. No telephonic, telegraphic, or similar transmissions will be accepted or allowed for SECOND SUBMITTALS. Second submittal faxes may only be sent to 573-526-9826. Electronic MWBE forms may be accessed at http://www.oa.mo.gov/fmdc/dc/htm. Electronic submission of second submittals may be made to the email address of the Contract Specialist of record as shown in Section 00800, Supplementary General Conditions. It is the bidder's sole responsibility to assure receipt by Owner of both submittals by the dates and times specified in the Invitation for Bid.

E. Submittals received prior to the time of opening will be securely kept, unopened. The division representative whose duty is to receive submittals will decide when the specified time for opening has arrived, and no submittal received thereafter will be considered. No responsibility will attach to any division representative for the early opening of a submittal not properly submitted.

F. Submittals will be received separately or in combination as shown in and required by the Bid Form. Submittals will be completed so as to include insertion of all amounts for alternate bids, unit prices and cost accounting data, etc. Failure to complete all required information may be cause for rejection of bid.

G. No Contractor shall stipulate in his/her bid any conditions not contained in the specifications or standard bid form contained in the contract documents. To do so may subject the Contractor's bid to rejection.

H. Bidders prices shall include all city, state and federal sales, excise and similar taxes which may be lawfully assessed in connection with his/her performance of work and purchase of materials to be incorporated in the work.

I. The completed forms shall be without interlineations, alterations or erasures. If contractor desires, he/she may request additional copies of forms.

J. The Owner reserves the right to waive informalities in bid submittals and to reject any or all bids.

## 8.0 - MODIFICATION AND WITHDRAWAL OF BIDS

A. Bidder may withdraw his/her bid at any time prior to scheduled closing time for receipt of bids, but no bidder may withdraw his/her bid for a period of twenty (20) working days after the scheduled closing time for receipt of bids.

B. Modifications or corrections of any bid information previously submitted may only be made by letter or telegram. Modifications or corrections must be clearly marked with bid date, project name and number and received by the Owner prior to the scheduled closing time for receipt of bids in accordance with the following provisions:

1. To maintain bid confidentiality and insure assignment to the proper bid, any such written request must be contained in a sealed envelope which is plainly marked "Modification of bid on (project title, project number and bid date)."

2. Telegrams must be received in written form prior to the bid opening time, and the modification or correction instructions should be written to protect the confidential nature of the bid. For example: "Decrease Base Bid amount by $5,250", not "Change Base Bid to $104,750". The telegram must identify the project name and number and the bidder.

3. No requests for modifications or correction of previously submitted bids will be accepted by telephone, facsimile (FAX) transmission or electronic mail.

## 9.0 - STATEMENT OF BIDDER'S QUALIFICATIONS

A. Each bidder must submit as part of the bid, a statement of bidder's qualifications which is a part of the bid submittal documents. The Owner shall have the right to take such steps as it deems necessary to determine the ability of the bidder to perform the work and the bidder shall furnish to the Owner such additional information and data for this purpose as is requested. The Owner reserves the right to reject any bid where an investigation or consideration of the information submitted by such bidder does not satisfy the Owner that the bidder is qualified to carry out properly the terms of the contract documents.

## 10.0 - AWARD OF CONTRACT

A. The Owner reserves the right to reject any and/or all bids and further to waive all informalities in bidding when deemed in the best interest of the State of Missouri.

B. The Owner reserves the right to let other contracts in connection with the work, including but not by way of limitation, contracts for the furnishing and installation of furniture, equipment, machines, appliances and other apparatus.

C. In awarding the contract the Owner may take into consideration the bidder's skill, facilities, capacity, experience, responsibility, previous work record, financial standing and the necessity of prompt and efficient completion of work herein described. Inability of any bidder to meet the requirements mentioned above may be cause for rejection of his/her bid. However, no contract will be awarded to any individual, partnership or corporation, who has had a contract with the State of Missouri declared in default within the preceding twelve months.

D. Award of alternates, if any, will be made in numerical order unless all bids received are such that the order of acceptance of alternates does not affect the determination of the low bidder.

E. No bid shall be considered binding upon the Owner until the written contract has been properly executed, a satisfactory bond has been furnished, evidence of required insurance coverage has been received and an affirmative action plan submitted. Failure to execute and return the contract and associated documents within the prescribed period of time shall be treated, at the option of the Owner, as a breach of bidder's obligation and the Owner shall be under no further obligation to bidder.

F. If the successful bidder is doing business in the State of Missouri under a fictitious name, he/she shall furnish to Owner, attached to the Bid Form, a properly certified copy of the certificate of Registration of Fictitious Name from the State of Missouri, and such certificate shall remain on file with the Owner.

G. Any successful bidder which is a corporation organized in a state other than Missouri shall furnish to the Owner, attached to the Bid Form, a properly certified copy of its current Certificate of Authority to do business in the State of Missouri, such certificate to remain on file with the Owner. No contract will be awarded by the Owner unless such certificate is furnished by the bidder.

H. Any successful bidder which is a corporation organized in the State of Missouri shall furnish at its own cost to the Owner, if requested, a Certificate of Good Standing issued by the Secretary of State, such certificate to remain on file with the Owner.

I. Section 285-230-234 RSMO 1994, transient employers (out-of-state employers who temporarily transact any business in the State of Missouri) may be required to file a bond with the Missouri Department of

Revenue. No contract will be awarded by the Owner unless the successful bidder certifies that he/she has complied with all applicable provisions of Section 285.230-234.

**11.0 - CONTRACT SECURITY.**

A. The successful bidder shall furnish a performance/payment bond as set forth in General Conditions Article 6.1 on a condition prior to the State executing the contract and issuing a notice to proceed.

**12.0 - LIST OF SUBCONTRACTORS**

A. Each bidder must submit as part of their bid , a list of subcontractors to be used in performing the work. The list must specify the name of the single designated subcontractor, for each category of work listed in Section 00312 Contracting of Work. If work within a category will be performed by more than one subcontractor, the bidder must provide the name of each subcontractor and specify the exact portion of the work to be done by each. If acceptance/nonacceptance of alternates will affect the designation of a subcontractor, the bidder must provide that information for each affected category. Failure to list the Bidder's firm, or a subcontractor for each category of work identified on the Bid Form or the listing of more than one subcontractor for any category without designating the portion of work to be performed by each shall be cause for rejection of the bid. If the bidder intends to perform any of the designated subcontract work with the use of his/her own employees, the bidder shall make that fact clear, by listing his/her own firm for the subject category. **If any category of work is left vacant, the bid shall be rejected.**

**13.0 - WORKING DAYS**

A. Contract duration time is stated in working days and will use the following definition in determining the actual calendar date for contract completion:.

1. Working days are defined as all calendar days except Saturdays, Sundays and the following State of Missouri observed holidays: New Year's Day, Martin Luther King, Jr. Day, Lincoln Day, Washington's Birthday, Truman Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

## SECTION 00250--MINORITY BUSINESS ENTERPRISE, WOMEN BUSINESS ENTERPRISE (MBE/WBE) PROJECT REQUIREMENTS

### 1.0 DEFINITIONS

1. **KANSAS CITY METROPOLITAN AREA"**: The City of Kansas City and the Missouri counties of Ray, Platte, Jackson, Cass and Clay.
2. **"MBE"**: Minority Business Enterprise.
3. **"MINORITY"**:
   a. "Black Americans," which includes persons having origins in any of the black racial groups of Africa;
   b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin regardless of race;
   c. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
   d. "Asian-Pacific Americans, "which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas; or
   e. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan or Bangladesh.
4. **"MINORITY BUSINESS ENTERPRISE"**: A business concern which is at least fifty-one percent (51%) owned by one (1) or more minority as defined in 3a above or in the case of any publicly-owned business, fifty-one percent (51%) of the stock of which is owned by one (1) or more minority as defined in A above AND whose management and daily business operations are controlled by one (1) or more minority as defined herein.
5. **ST. LOUIS METROPOLITAN AREA"**: The City of St. Louis and the Missouri counties of Franklin, St. Charles, St. Louis and Jefferson.
6. **"WBE"**: Women Business Enterprise.
7. **"WOMEN BUSINESS ENTERPRISE"**: A business concern which is at least fifty-one percent (51%) owned by one (1) or more women or in the case of any publicly-owned business at least fifty-one percent (51%) of the stock of which is owned by one (1) or more women AND whose management and daily business operations are controlled by one (1) or more women.

### 2.0 MBE/WBE PROGRAM REQUIREMENTS

A. For bids where MBE and/or WBE goals are greater than zero percent (0%) as noted in the Invitation for Bid, the following provisions shall apply

1. MBE/WBE Percentage Goals:
   a. The bidder shall have as a goal subcontracting not less than the percentages stated on the Bid Form for MBE and WBE firms. .
2. Computation of MBE/WBE Percent Goal Participation:
   a. The total dollar value of the work granted to the MBE or WBE by the successful bidder is counted towards the applicable goal of the entire contract.
   b. A bidder may count toward the MBE/WBE goals only expenditures to certified MBE/WBEs that perform a commercially useful function in the work of a contract. A MBE/WBE is considered to perform a commercially useful function when it is responsible for executing a distinct element of the work contract and carrying out its responsibilities by actually performing, managing and supervising the work or providing supplies or manufactured materials. A bidder who is a MBE or WBE may count 100% of the contract towards the MBE or WBE goal. ( NOTE: MBE firms who bid as general contractors are expected to obtain WBE participation and WBE firms who bid as general contractors are expected to obtain MBE participation to meet the project's separate goals.)

c. Bidder may count toward its MBE/WBE goals expenditures for materials and supplies obtained from certified MBE/WBE suppliers and manufacturers, provided that the MBE/WBE assumes the actual and contractual responsibility for the provision of the materials and supplies.

d. A bidder may count towards the MBE/WBE goals that portion of the total dollar value of the work granted to a second or subsequent tier subcontractor or a supplier to any subcontractor at any tier, provided that the MBE/WBE properly assumes responsibility for the work as outlined in 2.A.2.b and 2.A.2.c above.

e. A bidder may count towards the MBE/WBE goals that portion of the total dollar value granted to a certified joint venture equal to the percentage of the ownership and control of the MBE/WBE partner in the joint venture.

3. Certification by bidder of MBE/WBE Subcontractors:

a. The bidder shall submit with his/her bid the information requested in the MBE/WBE Compliance Evaluation Form for every MBE/WBE subcontractor the bidder intends to use on the contract work.

b. The bidder may determine the status of certification of a proposed M/WBE subcontractor or supplier by referring to the Minority/Women Business Enterprise Directory. Additional information, clarifications, etc., regarding the listings in the Directory may be obtained by calling the Division at (573) 751-3339 and asking to speak to the Contract Specialist of record as shown in Section 00800, Supplemental General Conditions.

c. If the proposed subcontractor is certified as a MBE/WBE firm by any other State of Missouri agency or any Missouri city or county government agency, the bidder shall so note and provide particulars. Other known State of Missouri entities providing certification are:

| | |
|---|---|
| SBA 8(a)/Kansas City, MO | 816-374-6752 |
| Kansas City Minority Supplier Council | 816-221-4200 |
| Human Relations Department, KCMO | 816-274-1432 |
| Lambert International Airport | 314-551-5000 |
| Metro (formerly Bi-State Development Agency) | 314-982-1457 |
| St. Louis Development Corporation | 314-622-3400 Ext. 362 |
| St. Louis Minority Business Council | 314-241-1073 |
| SBA 8(a)/St. Louis, MO | 314-539-3785 |
| Missouri Department of Transportation | 573-751-2859 |
| National Women Business Owners Corp. (Missouri firms only) | 561-848-5066 |

4. The following information is provided to assist bidders in obtaining certification of subcontractors as MBE/WBE(s),

a. The Commissioner shall use, but shall not be limited to the following standards in determining whether a firm is owned and controlled by one (1) or more minority/woman and is therefore eligible to be certified as a MBE/WBE.

1. Bona fide membership in a minority group shall be established on the basis of the individual's claim that he or she is a member of such a minority group and is so regarded by the particular minority community. However, the Commissioner is not required to accept this claim if the claim is determined to be invalid.

2. An eligible MBE/WBE under these regulations shall be an independent business. The ownership and control by the minority/woman shall be real, substantial, and continuing and shall go beyond the pro forma ownership of the firm as reflected in its ownership documents. The minority/woman shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with ownership interests, as demonstrated by examination of the substance rather than form of the arrangement. Recognition of the business as a separate entity for tax or corporate purposes is not necessarily sufficient for recognition as a

MBE/WBE. In determining whether a potential MBE/WBE is an independent business, the Commissioner shall consider all relevant factors, including the date the business was established, the adequacy of its resources for the work of the construction contract, and the degree to which financial, equipment leasing, and other relationships with non-minority firms vary from industry practices.

3. The MBE/WBE owners shall also possess the power to direct or cause the direction of the management and policies of the firm and to make the day-to-day as well as major decisions on matters of management, policy and operation. The firm shall not be subject to any formal or informal restrictions which limit the customary discretions of the minority/woman owner(s). There shall be no restriction through, for example, bylaw provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevent the minority/woman owner(s) from making a business decision of the firm without the cooperation or vote of any owner who is not a minority/woman.

4. If the owners of the firm who are not minorities/women are then disproportionately responsible for the operation of the firm, the firm is not controlled by minorities/women and shall not be considered MBE/WBE within the meaning of these regulations. Where the actual management of the firm is contracted out to individuals other than the owner, those persons who have the ultimate power to hire and fire the managers can, for the purposes of these regulations, be considered as controlling the business.

5. All securities which constitute ownership and/or control of a corporation for purposes of establishing it as a MBE/WBE under these regulations shall be held directly by minorities/women. No securities held in trust, or by any guardian for a minor, shall be considered as held by minority/women in determining the ownership or control of a corporation.

6. The contributions of capital or expertise by the minorities/women to acquire their interests in the firm shall be real and substantial. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not minorities/women, or the mere participation as an employee rather than as a manager.

7. In addition to the standards set out in this section, the Commissioner shall give special consideration to the following circumstances in determining eligibility:

   a. A joint venture is eligible under these regulations if the minority/woman partner of the joint venture meets the standards for eligible minorities/women set forth above and the minority/woman partner is responsible for a clearly defined portion of the work to be performed and shares in the ownership, control, management responsibilities, risks and profits of the joint venture.

   b. Once certified, a MBE/WBE shall update its submission bi-annually. Anytime there is a change in ownership or control of the firm, the MBE/WBE shall update the previously filed information

   c. Failure of a certified MBE/WBE to update or submit this information shall disqualify the firm or individual from further participation as a MBE/WBE until such time that the information is filed by the firm or individual and approved by the Commissioner.

   d. If an appeal has been made and the Commissioner has denied certification, that decision shall be final for that contract and other contracts being let by the Commissioner at the time of the denial of certification. MBE/WBE and joint venture denied certification may correct deficiencies in their ownership and control and apply for certification only for future contracts.

5. Waiver of MBE/WBE Participation:

   a. The bidder is required to make a good faith effort to locate and contract with MBE's and WBE's. If a bidder has made a good faith effort to secure the required MBE/WBE's. and has failed, he/she may submit with his/her bid the information requested in MBE/WBE Good Faith Effort (GFE) Determination. The Director will review the bidder's actions as set forth in the bidder's Application for Waiver, and any other factors deemed relevant by the Director, to determine if a good faith effort has been made to meet the applicable percentage goals. If the bidder is judged not to have made a good faith effort, the bid shall be rejected. Bidders who demonstrate that they have made a good

faith effort to include MBE/WBE participation will be awarded the contract regardless of the percent of MBE/WBE participation provided the bid is otherwise acceptable.

b. In reaching a determination of good faith, the Director may evaluate, but is not limited to, the following factors:

1. How subcontractors were contacted initially, the specific project information provided and the documentation to support that contact;
2. How project plans and specifications were provided to MBE/WBE subcontractors;
3. The names, addresses and phone numbers of at least three MBE/WBE firms contacted for specific categories of work;
4. The dates of contact for at least three subcontractors;
5. Attempts to follow-up with at least three subcontractors prior to bid to negotiate price, scope of work, or make other adjustments or clarifications;
6. Amount of bids received from any of these three subcontractors;
7. Bid accepted from one of these subcontractors or reasons for rejecting bids;
8. The MBE/WBE suppliers contacted, date of contact, material or equipment, amounts of quotes.

c. If MBE and/or WBE goals have been identified on Section 00310-BID FORM, the three (3) apparent low bidders for the base bid are required to submit all appropriate MBE/WBE documentation before the stated time and date set forth in the Invitation for Bid for the second submittal. Failure to provide this information by the specified date and time will be grounds for rejecting the bid.

No telephonic, telegraphic, electronic mail, facsimile (FAX), or similar transmissions will be accepted or allowed for FIRST SUBMITTALS. Mailing or delivery in the supplied envelope, facsimile (FAX) transmission or electronic submission of SECOND SUBMITTALS will be allowed. No telephonic, telegraphic, or similar transmissions will be accepted or allowed for SECOND SUBMITTALS. Second submittal faxes may only by sent to 573-526-9826. Electronic MWBE forms may be accessed at http://www.oa.mo.gov/fmdc/dc/htm. Electronic submission of second submittals may be made to the email address of the Contract Specialist of record as shown in Section 00800, Supplementary General Conditions. It is the bidder's sole responsibility to assure receipt by Owner of both submittals by the dates and times specified in the Invitation for Bid.

No supportive or clarifying information related to the second part of the bid submittal that is requested or submitted after the specified date and time will be considered or used for evaluation of the attainment of M/WBE goals or good faith effort

d. The Director reserves the right to provide bidders the opportunity to correct or amplify the documented information received concerning MBE/WBE goals. The additional information will be transmitted to Design and Construction within two (2) working days of a phone or facsimile request from the Director's representative.

## 3.0 CONTRACTOR REQUIREMENTS

For contracts where there are MBE/WBE participation goals as noted in the Invitation to Bid, the following provisions shall apply:

A. The Contractor is bound to subcontracting not less than the dollar amount indicated in the awarded contract to MBE/WBE(s) unless amount is revised in writing by the Owner's representative.

B. If the Contractor fails to meet or maintain stated percent, he/she must satisfactorily explain to the Chief Engineer why the requirement cannot be achieved and why meeting the requirement was beyond the Contractor's control.

C. If the Chief Engineer finds the Contractor's explanation unsatisfactory, the Chief Engineer may take any appropriate action including, but not limited to:

1. Declaring the Contractor ineligible to participate in any Facilities Management, Design and Construction contracts for a period not to exceed twelve (12) months; and

2. Directing that the Contractor be declared in breach of this contract.

D. If a MBE/WBE is replaced during the course of this contract, the Contractor shall make a good faith effort to replace it with another MBE/WBE. All substitutions shall be approved by the Owners representative.

E. The Contractor shall provide the Owner with regular reports on its progress in meeting its MBE/WBE obligations. As a minimum, the dollar-value of work completed by each MBE/WBE subcontractor during the preceding month and as a cumulative total shall be reported with each monthly application for payment. A final report shall include the total dollar-value of work completed by each minority and/or woman subcontractor during the total contract.

# SECTION 00251 - MBE/WBE COMPLIANCE EVALUATION FORM

Project Name: _____ Project No.: ({Projects.Number} "@@@@@-@@")

This form is to be completed by bidders and submitted to the State of Missouri, Division of Facilities Management, Design and Construction with the second bid submittal . Submit one form per MBE/WBE firm involved with the project. This includes any MBE/WBE general contractor, joint venture, subcontract or supplier, regardless of how many tier levels of sub-contracts.

A condition for remaining in competition for award is the satisfactory completion of this form for each minority/woman-owned firm that will perform a commercially useful function on the contract. The undersigned submits the following data with respect to the following firm's assurance to meet the Office of Administration's goal for MBE/WBE participation.

1. Name of General Contractor: _____

2. MBE/WBE Firm: _____
(Name)
_____
(Address) (City, State, Zip Code)
_____
(Phone Number) (Fax Number)

Type of Business: _____ Type of Firm: ☐ MBE ☐ WBE ☐ M/WBE

Officer Name & Title: _____

3. Describe the **subcontract work** to be performed (List BASE BID work and any ALTERNATE work separately):

**BASE BID**: _____

**ALTERNATE (S):** (identify separately)

_____
_____
_____

4. Indicate the **dollar amount** of contract to be subcontracted to the MBE/WBE Firm:

**BASE BID**: $ _____

**ALTERNATE (S):** (identify separately)
$ _____
$ _____
$ _____

5. Is the proposed subcontractor listed in the Minority/Women Business Enterprise Directory maintained by the Division of Facilities Management, Design and Construction? YES ☐ NO ☐

6. Is the proposed subcontractor certified as a MBE/WBE firm by another State of Missouri public entity? YES ☐ NO ☐
If yes, please provide the name and address of such entity below. Also provide a copy of the subcontractor's certificate or certification letter from such entity.

Name & address of Missouri: certifying public entity:

_____
_____
_____

Name of General Contractor Signee (Print)_____

Signature: _____

Title: _____ Date: _____

## SECTION 00252 - MBE/WBE ELIGIBILITY DETERMINATION FORM FOR JOINT VENTURES

Project Name: _____ Project No.: ({Projects.Number} "@@@@@-@@")

*If bidder is a joint venture, this form shall be completed and submitted with the second bid submittal to the Missouri State Division of Facilities Management, Design and Construction.*

1. Joint Venture Firm: _____
(Name)
_____
(Address) (City, State, Zip Code)
_____
(Phone Number) (Fax Number)

2. In order to be counted toward project M/WBE goals, the M/WBE partner(s) must be currently certified by a State of Missouri public entity. Identify the firms which comprise the joint venture and include a copy of the certification of each M/WBE firm included in the joint venture.

_____
_____
_____
_____

(a) Describe the role of each MBE/WBE firm in the joint venture:

_____
_____
_____
_____
_____

(b) Briefly describe the experience and business qualifications of each non-MBE/WBE co-venturer:

_____
_____
_____
_____
_____

3. What is the claimed percentage of MBE/WBE ownership in the joint venture?

_____

4. Ownership of joint venture. Attach a copy of the joint venture agreement. (The following need not be filled in if described in the joint venture agreement)

(a) Description of profit and loss sharing:

_____
_____
_____
_____

(b) Description of capital contributions, including equipment:

(c) Description of other applicable ownership interests:

6. Control of, and participation in, this contract. Identify by name, race, sex, and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decision making including, but not limited to, those with prime responsibility for:

▫ Financial Decisions ▫ Management Decisions ▫ Estimating ▫ Marketing ▫ Sales
▫ Hiring (of management) ▫ Firing (of management) ▫ Purchase of major items or supplies

| Name | Race | Sex | Firm & Title | Responsibility | Management Decisions |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

**NOTE:** If after filing this information and before the completion of the joint venture's work on the contract covered by this regulation, there is any significant change in the information submitted, the joint venture must inform the Commissioner, either directly or if the joint venture is a subcontractor through the prime contractor.

AFFIDAVIT

"The undersigned swear that the foregoing statements are correct and include all material and information necessary to identify and explain the terms and operation of our joint venture and the intended participation by each joint venturer in the undertaking. Further, the undersigned covenant and agree to provide the Commissioner, Office of Administration, current, complete and accurate information regarding actual joint venture work and the payment therefore and any proposed changes in any of the joint venture arrangements and to permit the audit and examination of the books, records, and files of the joint venture, or those of each joint venturer relevant to the joint venture, by authorized representatives of the Commissioner, Office of Administration. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements."

Name of Firm: _____ Name of Firm: _____

Signature: _____ Signature: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

Date: _____

State of: _____

County of: _____

On this _____ day of _____, 20____, before me appeared (name) _____ to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____ to execute the affidavit and did so as his or her own free act and deed.

Notary Public: _____ (seal)

My commission expires: _____

Date: _____

State of: _____

County of: _____

On this _____ day of _____, 20____, before me appeared (name) _____ to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (name of firm) _____ to execute the affidavit and did so as his or her own free act and deed.

Notary Public: _____ (seal)

My commission expires: _____

# MBE/WBE GOOD FAITH EFFORT (GFE) DETERMINATION – FORM NO. 00253

☐ REQUEST FOR WBE GOAL WAIVER
☐ REQUEST FOR MBE GOAL WAIVER

**PROJECT NO.** _____ **PROJECT TITLE** _____ **SUBMITTED BY** _____ **Prime Bidder**

***Please complete the following information. Scores will be based on the comparison of effort made by the three lowest bidders on this project and the completeness of the information. Maximum points possible is indicated in parenthesis ( ) for each type of information requested. Bidders not attaining the project M/WBE goals must secure a total of 500 points through a combination of participation and/or effort in order to be granted a waiver of the project goals.***

***INSTRUCTIONS FOR PART A AND B –Prime Bidder has the option of completing all three lines (1-3) of Part A or all three lines (4-6) of Part B or a combination of A and B with a maximum of three lines total for A and B, such as (1, 2 & 4) or (1, 4 & 5) Credit values possible for each line are equal.***

***Part A. Developing Relationships***

Provide the information requested in this section for up to three MBE/WBE firms that the owner, partner or principle officer of the Prime Bidder has met with face to face within the last sixty days for the purpose of developing a working relationship.

| | a. Name of Firm MBE (5) or WBE (3) and Principle of Firm (3) That Prime Bidder Met With | MBE/WBE FIRM | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | b. Telephone Number (2) | c. Date of Meeting (2) | d. Years in Business (5) | e. Number of Employees (5) | f. Number of Licensed Tradesmen (3) | g Bonding Limit (5) | h. Limit of General Liability Insurance (3) | i. Typical Project Size (2) |
| 1. | ☐ MBE ☐WBE | | | | | | | | |
| 2. | ☐ MBE ☐WBE | | | | | | | | |
| 3. | ☐ MBE ☐ WBE | | | | | | | | |

***Part B Sustained Relationships***

Provide the names of up to three MBE/WBE firms that the Prime Bidder has contracted with in the past 12 months and list the projects and subcontract values.

| | a. Name of Firm MBE (5) WBE (3) | 1st Project | | 2nd Project | | 3rd Project | |
|---|---|---|---|---|---|---|---|
| | | b. Name of Project (5) | c. Subcontract Value (5) | d .Name of Project (5) | e. Subcontract Value (5) | f. Name of Project (5) | g. Subcontract Value (5) |
| 4. | ☐ MBE ☐ WBE | | | | | | |
| 5. | ☐ MBE ☐ WBE | | | | | | |
| 6. | ☐ MBE ☐ WBE | | | | | | |

Part C. How did prime Contractor provide access to full sets of plans and specifications and specific sections for this project to subcontractors and suppliers.
Check boxes for all methods that were used?

1. ☐ Directed to local plan room at _____ (1)
2. ☐ Made available at Prime Bidder's Office (2)
3. ☐ Directed to website at _____ (1)
4. ☐ Faxed specific sections to subcontractors and/or suppliers (attach copy) (3)
5. ☐ Mailed specific sections to subcontractors and/or suppliers (attach copy) (3)
6. ☐ Hand carried directly to subcontractors and/or suppliers (5)

**Part D. How were subcontractors and suppliers, specifically for this project, initially contacted and informed of Prime Bidder's interest in receiving a proposal from them?**
Explain and attach copies of telephone logs, fax transmittals and logs, scopes of work for specific categories of work. (20)

**INSTRUCTIONS FOR PARTS E, F, G, & H – Provide the Information Requested for up to Three MBE/WBE Firms for each of the "Categories of Work" and "Supplier" that you Solicited Participation.**

**Part E. Category of Work:** _____ **Specification Division:** _____ **Section(s):** _____

| | Name of Firm & Person Contacted | MBE (5)√ | WBE (3)√ | Telephone No. | a. Date of Initial Contact **(5)** | b. Verification and Follow-Up With Subcontractor Prior to Bid (Yes - Attach Documentation) **(10)** | c. Amount of Bid Received **(15)** | d. Bid Accepted **(5)** | e. If Applicable, Reason for Rejection of Bid **Failure to provide information (-5)** |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Yes | | Yes | |
| 1. | | | | | | | | | |
| 2. | | | | | | | | | |
| 3. | | | | | | | | | |

Name of Selected Subcontractor for This Category_____ Bid Accepted $ _____

**Part F. Category of Work:** _____ **Specification Division:** _____ **Section(s):** _____

| | Name of Firm & Person Contacted | MBE (5) √ | WBE (3) √ | Telephone No. | a. Date of Initial Contact (5) | b. Verification and Follow-Up With Subcontractor Prior to Bid (Yes - Attach Documentation) **(10)** | c. Amount of Bid Received **(15)** | d. Bid Accepted **(5)** | e. If Applicable, Reason for Rejection of Bid **Failure to provide information (-5)** |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Yes | | Yes | |
| 1. | | | | | | | | | |
| 2. | | | | | | | | | |
| 3. | | | | | | | | | |

Name of Selected Firm for This Category_____ Bid Accepted $ _____

Part G. Category of Work: _____ Specification Division: _____ Section(s): _____

| | Name of Firm & Person Contacted | MBE (5)√ | WBE (3)√ | Telephone No. | a. Date of Initial Contact (5) | b. Verification and Follow-Up With Subcontractor Prior to Bid (Yes - Attach Documentation) **(10)** | c. Amount of Bid Received **(15)** | d. Bid Accepted **(5)** | e. If Applicable, Reason for Rejection of Bid **Failure to provide information (-5)** |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Yes | | Yes | |
| 1. | | | | | | | | | |
| 2. | | | | | | | | | |
| 3. | | | | | | | | | |

Name of Selected Firm for This Category_____ Bid Accepted $ _____

***Part H. Suppliers:***

| | Name of Firm & Person Contacted | MBE (5) √ | WBE (3) √ | Telephone No. | a. Date of Initial Contact (5) | b. Material or Equipment Quoted **(5)** | c. Amount of Quote Received **(10)** | d. Quote Accepted **(5)** | e. If Applicable, Reason for Rejection of Bid **Failure to provide information (-5)** |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | Yes | |
| 1. | | | | | | | | | |
| 2. | | | | | | | | | |
| 3. | | | | | | | | | |

Name of Selected Firm for this Category _____ Bid Accepted _____

**NOTE: INFORMATION WILL BE VERIFIED AS NECESSARY. INVALID INFORMATION WILL RECEIVE NO SCORE.**

# INSTRUCTIONS FOR COMPLETING
# FORM NO. 00253 – MBE/WBE
# GOOD FAITH EFFORT (GFE) DETERMINATION

## General Information

1. This form is to be used by each of the three low bidders on the project, if they failed to meet either the MBE Goal or the WBE Goal or both.
2. This form is to be part of the Second Bid Submittal as explained in the Instructions To Bidders.
3. It is designed for submittal of information to indicate that the bidder made a Good Faith Effort to obtain the MBE/WBE Goals established for the project.
4. Good Faith Effort is evaluated based on actual MBE/WBE participation obtained by each of the three low bidders compared to each other and by the information provided on this form. The bidder with the highest level of participation, but not greater than the goal, can attain 250 points for MBE participation and 250 points for WBE participation. It is also possible to attain an additional 500 points by fully and successfully completing this form.
5. A waiver of the goals and determination that a GOOD FAITH EFFORT was made can be granted if 500 or more total points are attained by a bidder.
6. The form is intended to be completed by the Prime Bidder.

## Completing Form No. 00253

Step I Indicate by checking the box or boxes if the waiver is requested for the MBE Goal, WBE Goal or both.

Step 2 Provide the Project Number, Project Title and Company Name of Prime Bidder where indicated.

Step 3 Review the entire form well in advance of bid submittal to familiarize yourself with the information required and the point value of the information requested. Point value is indicated in parentheses ( ) next to requested information.

Step 4 Complete all of Part A, all of Part B, or a combination of Part A & Part B, such that a maximum of three lines are completed. Only 3 of lines 1 through 6 in Parts A & B will be scored. For lines 1 through 3, provide the name of the MBE or WBE firm, name of the principal owner of the firm met with, their phone number, the date of the face-to-face meeting and the other specific information requested related to that firm. Phone conversations are not acceptable substitutes for face-to-face meetings and meetings must have occurred within 60 days of this bid date. For lines 4 through 6, provide the name of MBE/WBE firm contracted with, the names of the projects they were used on, and the dollar values of their subcontracts.

Step 5 Complete Part C by checking the boxes for all methods that were used, being sure to provide for 1. the plan room address and 3. website address, and attach copies, as requested.

Step 6 Complete Part D. Explain in this section how MBE/WBE subcontractors were initially contacted and provide the contact name, date and time of contact, whether by phone or fax, and provide a copy of the scope of work they were asked to bid. It is only necessary to provide this information for three subcontractors in each category of work sought.

Step 7 Complete Parts E, F, and G. Indicate the category of work, specification division and section(s), for which MBE/WBE participation is sought. Provide the name of the MBE/WBE firm, person contacted, telephone number, date of initial contact, and attach documentation to verify that a follow-up contact was made, such as date of follow-up and an explanation of what was discussed. Indicate on the form the amount of their bid, whether or not it was accepted, reason for rejection (if applicable) and name of selected firm and their bid amount.

Step 8 Complete Part H. Indicate the firm names of the contacted suppliers and person contacted, phone number, date of contact, type of material or equipment quoted amount of quote received, whether or not it was accepted, reason for rejection (if applicable), name of selected firm and their quote amount.

Notes

1. To receive full credit, information must be placed on the form where requested and attached documentation must indicate the PART, line and column on the form that it relates to, such as, PART F, Line 2, Column B.
2. Information will verified by calling the firms listed, as necessary. Information that cannot be verified will receive no score.

# STATE OF MISSOURI

Bid Time: 1:30 PM

Bid Date: _____

## SECTION 00310 - BID FORM

**1.0 BID:**

A. From: _____

(Bidder's Name)

herein after called the **"Bidder".**

B. To: Director, Division of Facilities Management, Design and Construction
Room 730, Harry S Truman State Office Building
301 West High Street
Jefferson City, Missouri 65102

herein after called the **"Owner."**

C. For: {BidPackages.Notes}

D. Project Number: ({Projects.Number} "@@@@@-@@")

hereinafter called the **"Work."**

E. Documents: The undersigned, having examined and being familiar with the local conditions affecting the work and with the contract documents including the Drawings, The Invitation For Bid, Instructions To Bidders, Statement of Bidders Qualifications, General Conditions, Supplement to General Conditions, and the technical specifications, including: addenda number _____ through _____ hereby proposes to perform the Work for the following:

F. Bid Amount: _____

_____ Dollars ($_____)

G. Allowances: The Base Bid above must include an allowance of ({BidPackages.Udf_SoleSourceDollar} "$###,###,###,##0"). See Section 01020 for details.

H. Alternates: {BidAlternates.Description}

COPY THIS INFORMATION FROM SECTION 01030 AND PLACE HERE – REMOVE IF NOT USED
CONTRACTS MUST TYPE IN A LINE FOR THE CONTRACTOR TO FILL-IN THE DOLLAR PRICE FOR THE ALTERNATE Example: $ _____ Dollars ($ _____)

$ _____ Dollars ($_____).

**2.0 MBE/WBE PERCENTAGE OF PARTICIPATION PROJECT GOALS:**

This project's specific goals are: **MBE** ({BidPackages.PercentGoalMBE} "Percent") **WBE** ({BidPackages.PercentGoalWBE} "Percent"). NOTE: Only MBE/WBE firms certified by a State of Missouri public entity as of the date of bid opening can be used to satisfy the MBE/WBE participation goals for this project.

**3.0 BID BOND**

A. Accompanying the bid is: ___ 5% Bid Bond or ___ Cashier's Check/Bank Draft for 5% of base bid.

Payable without condition to the Division of Facilities Management, Design and Construction, State of Missouri, as per **Article 5** of "Instructions To Bidders".

**4.0 CONTRACT COMPLETION TIME AND LIQUIDATED DAMAGES**

A. The Bidder agrees to complete the work within {BidPackages.Udf_CalendarDays} working days from the date the Notice of Intent to Award is issued as modified by additional days added by the Owner's acceptance of alternates, if applicable. This includes 12 working days for document mailing and processing. The Bidder further agrees to pay to, or allow the State as liquidated damages the sum of ({BidPackages.Udf_LiqDamDailyRate} "$###,###,###,##0") for each working day thereafter that the entire work is not substantially complete.

**5.0 ATTACHMENTS TO BID:**

**NOTE: DELETE THOSE ITEMS NOT USED**

| | | | |
|---|---|---|---|
| A. | 00311 | Contractor's Qualifications | FIRST SUBMITTAL (SEE IFB for date & time) |
| B. | 00312 | Contracting of Work | FIRST SUBMITTAL (SEE IFB for date & time) |
| C. | 00313 | Unit Prices | FIRST SUBMITTAL (SEE IFB for date & time) |

**6.0 SUPPLEMENTAL BID DOCUMENTS**

**NOTE: DELETE THOSE ITEMS NOT USED**

| | | | |
|---|---|---|---|
| A. | 00314 | Supplement A - Cost Breakdown | SECOND SUBMITTAL (SEE IFB for date & time) |
| B. | 00315 | Supplement B - List of Equipment | SECOND SUBMITTAL (SEE IFB for date & time) |
| C. | 00251 | MBE/WBE Compliance Form | SECOND SUBMITTAL (SEE IFB for date & time) |
| D. | 00252 | MBE/WBE Joint Venture Form | SECOND SUBMITTAL (SEE IFB for date & time) |
| E. | 00253 | MBE/WBE Waiver Form | SECOND SUBMITTAL (SEE IFB for date & time) |

**7.0 BIDDER'S CERTIFICATIONS:**

A. The Bidder agrees to pay not less than the hourly rate of wages as determined by the Department of Labor and Industrial Relations, State of Missouri, in accordance with Section 290.210 to 290.340 as amended RsMO 1978.

B. The Bidder hereby certifies that this bid is genuine and is not made in the interest of or on behalf of any undisclosed person, firm, or corporation, and is not submitted in conformity with any agreement or rules of any group, association or corporation;

That he/she has not directly or indirectly induced or solicited any other bidder to put in a false or sham proposal;

That he/she has not solicited or induced any person, firm or corporation to refrain from submitting a bid;

That he/she has not sought by collusion or otherwise to obtain for himself any advantage over any other bidder or over the Owner.

That he/she will not discriminate against any employee or applicant for employment because of race, creed, color or national origin in the performance of the work.

That he/she has properly collected and remitted all taxes on sales made at retail by the bidder or any affiliate thereof as provided in Chapter 144, RSMo and shall at the request of Owner provide a letter of no tax due from the Missouri Department of Revenue.

Section 285.230

That he/she certifies compliance with the provisions of Section 285.230-234 RSMO 1994 regarding transient empolyers.

**8.0 DATE:**

A. Dated this: _____ day of _____, 2007.

**9.0 SIGNATURES:**

☐ Individual ☐ Partnership ☐ Joint Venture ☐ Corporation

Business Name: _____

Address: _____

_____

Telephone: _____ Fax Number: _____

Federal ID Number: _____ Social Security Number: _____

Incorporated under the laws of the State of: _____

(If a corporation organized in a state other than Missouri, attach Certificate of Authority to do business in the State of Missouri. Also for Corporate proposals, the President or vice-president should sign as the bidder. If the signator is other than the corporate president or vice president, the bidder must provide satisfactory evidence that the signator has the legal authority to bind the corporation.)

_____
Bidder's Signature

_____
Corporate Secretary's Signature

_____
Typed or Printed Name

_____
Typed or Printed Name

(Seal)

_____
Partner/Joint Venture Signature

_____
Typed or Printed Name

# SECTION 00311 – CONTRACTOR QUALIFICATIONS

**FIRM NAME**

_____
(Company Name)

_____
(Address) (City, State, Zip Code)

_____
(Phone Number) (Fax Number) (E-Mail)

DATE: _____

**CONSTRUCTION CAPABILITIES** (check all that apply)

☐ General Contracting ☐ Electrical ☐ Plumbing ☐ HVAC ☐ Demolition

☐ Asbestos Abatement ☐ Earthmoving ☐ Other _____

**FOR CORPORATIONS ONLY** Federal I.D. Number _____

_____ _____
President's Name Vice-President's Name

_____ _____
Secretary's Name Treasurer's Name

Name of State(s) in which incorporated _____ Date(s) of incorporation _____

**If not incorporated in Missouri:**

1. Attach Certificate of Authority to do business in Missouri
2. Certificate No.: _____ Date: _____

**FOR PARTNERSHIPS ONLY** Date of Organization: _____

**Type of Partnership:** ☐ **General** ☐ **Limited** ☐ **Association**

Name and addresses of all partners: (use additional sheet if necessary)

1. _____
   Name Address City, State, Zip
2. _____
   Name Address City, State, Zip

**GENERAL INFORMATION** Federal I.D. Number _____ or SSN _____

% of work done by Contractor _____ # of permanent employees _____ # of years in business _____

Geographical limits of operation _____

If you have done business under a different name, please give name and location: _____

_____

Has firm ever failed to complete a project or defaulted on a contract? If so, state where and why: _____

_____

Has firm ever been engaged in litigation over any contract? If so, explain: _____

_____

**REFERENCE LIST** Attach additional sheets, if necessary

List projects currently under construction, including the following information:

- Project Title
- Cost of Project
- Name and Address of Project Contact
- Telephone Number of Project Contact

List completed projects within last five (5) years, including the following information:

- Project Title
- Cost of Project
- Name and Address of Project Contact
- Telephone Number of Project Contact

## SECTION 00312 - CONTRACTING OF WORK

Project Number ({Projects.Number} "@@@@@-@@")

### 1.0 CONTRACTOR/SUBCONTRACTOR/MATERIAL SUPPLIER LIST:

A. Identify the subcontractor(s) who will perform the categories of work listed below. If you plan to use your own employees to do the work, list yourself. Failure to list your firm, or a subcontractor for each category of work listed under "Description of Work" **shall** be cause for rejection of the bid. **If any category of work is left vacant, the bid shall be rejected.** If more than one firm performs work in one category, you must designate the portion of work to be performed by each contractor/subcontractor. If your choice(s) of subcontractor will change if certain alternates are accepted, indicate in the different columns which subcontractor you will use for the base bid and each accepted alternate. After bid opening, no substitutes of listed firms will be allowed except as indicated in SECTION 0700 - GENERAL CONDITIONS, Article 3.7 - SUBCONTRACTS.

B. The Bidder hereby certifies that the following Contractor, subcontractors, suppliers and /or manufacturers will be used in the performance of the work:

| DESCRIPTION OF WORK | SPECIFICATION DIVISION OR SECTION(S) | NAME OF FIRM FOR BASE BID WORK | NAME OF FIRM FOR ALTERNATE 1 | NAME OF FIRM FOR ALTERNATE 2 | NAME OF FIRM FOR ALTERNATE 3 | NAME OF FIRM FOR ALTERNATE 4 | NAME OF FIRM FOR ALTERNATE 5 |
|---|---|---|---|---|---|---|---|
| {BidSpecialPricing.Description} | {BidSpecialPricing.UOM} | | | | | | |

**1.0 Description**

A. For changing specified quantities of work from those indicated by the contract drawings and specifications, upon written instructions of Owner, the following unit prices shall prevail. The unit prices include all labor, overhead and profit, materials, equipment, appliances, bailing, shoring, shoring removal, etc., to cover the finished work of the several kinds of work called for. Only a single unit price shall be given and it shall apply for either MORE or LESS work than that shown on the drawings and called for in the specifications or included in the Base Bid. In the event of more or less units than so indicated or included during construction the total contract price shall be decreased as appropriate or increased by contract change in accordance with General Conditions Article 4.1.

**2.0 Unit Prices:**

COPY THE UNIT PRICE NUMBER, DESCRIPTION AND NUMBER OF UNITS FROM SECTION 01026

A. Unit Price:

INFORMATION TO BE COPIED FROM DIVISION ONE – SECTION 01026
CONTRACTS MUST TYPE IN A LINE FOR THE CONTRACTOR TO FILL-IN THE UNIT PRICE:

Example: $ _____ per square yard

B. Unit Price:

INFORMATION TO BE COPIED FROM DIVISION ONE – SECTION 01026
CONTRACTS MUST TYPE IN A LINE FOR THE CONTRACTOR TO FILL-IN THE UNIT PRICE:

Example: $ _____ per cubic yard

# SECTION 00314 - SUPPLEMENT A - COST BREAKDOWN

PROJECT NUMBER: ({Projects.Number} "@@@@@-@@")

**1.0 THE BIDDER HEREBY PROVIDES A COST BREAKDOWN FOR THE FOLLOWING:**

| | | |
|---|---|---|
| A. | Item 1: Description | $ _____ |
| B. | Item 2: Description | $ _____ |
| C. | Item 3: Balance of Work | $ _____ |
| **Base Bid Total:** | | **$ _____** |

# SECTION 00315 - SUPPLEMENT B - EQUIPMENT LIST

PROJECT NUMBER: ({Projects.Number} "@@@@@-@@")

**1.0 THE BIDDER HEREBY PROVIDES A LIST OF EQUIPMENT REQUIRED BY THIS PROPOSAL:**

A. Item 1: Description _____ _____
Manufacturer Model Number

B. Item 2: Description _____ _____
Manufacturer Model Number

C. Item 3: Description _____ _____
Manufacturer Model Number

# STATE OF MISSOURI
# DIVISION OF FACILITIES MANAGEMENT, DESIGN AND CONSTRUCTION
## *MBE/WBE DIRECTORY*

The MBE/WBE Directory for goods and services is maintained by the Office of Supplier and Workforce Development (OSWD). The current Directory can be accessed at the following web address:

**http://www.directory.oswd.oa.mo.gov**

Please note that you may search by MBE, WBE, or both as well as by region, location of the business by city or state, as well as by commodity or service.

MISSOURI DIPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS

# PREVAILING WAGE PROJECT NOTIFICATION

Mail, Fax or E-Mail to: Division of Labor Standards
PO Box 449
Jefferson City, MO 65102-0449

Phone: (573) 751-3403
Fax: (573) 751-3721
Internet Address:
laborstandards@dolir.state.mo.us
Homepage: www.dolir.missouri/gov/ls

The information below is being made as pursuant to Sections 290.210 through 290.340 and 290.550 through 290.580

| | |
|---|---|
| 1. Date of Notification | 2. Annual Wage Order No. Included in Bid Specifications<br>13 |
| 3. Popular or Descriptive Name of Project<br>**{BidPackages.Notes}** . ({Projects.Number} "@@@@@-@@") | |
| 4. Estimated project cost of completion (total construction contracts to be awarded) | **{BidPackages.BidLocationAddress1} to {BidPackages.BidLocationAddress2}** |
| County:<br>**{Projects.Udf_County}** | City: Township |
| 6. Official Name of Public Body Soliciting Bids<br>**Office of Administration, State of Missouri** | |
| 7. Name of Public Body or Agency Soliciting Bids<br>**Division of Facilities Management, Design and Construction** | |
| 8. Anticipated Date for Soliciting or advertising for Bids<br>**{BidPackages.TentativeWorkStartDate}** | 9. Anticipated Date for Contract Awarding |
| 10. Proposed Date for Start of Work on Project | 11. Estimated Date of Project Completion |
| 12. Will there be any Federal Funds used in the Contract?<br>☐ YES ☐ NO | |
| Your Name (Please Print)<br>**{Projects.Country}** | Signature |
| Title<br>**Contract Specialist** | Organization Phone No.<br>**Division of Facilities Management, Design and Construction**<br>**573/751-3339** |
| Street<br>**301 W. High St. PO Box 809 RM 730 HST** | City (Post Office) State Zip Code<br>**Jefferson City, MO 65102** |

# State of Missouri
# Construction Contract – Section 00430

**THIS AGREEMENT**, made *(Date)* by and between:

***Contractors Company Name***

***Address 1***

***Address 2***

hereinafter called the "Contractor,"

and the **State of Missouri**, hereinafter called the **"Owner"**, represented by the Office of Administration, Division of Facilities Management, Design and Construction on behalf of the *(Agency Name)*.

WITNESSETH, that the Contractor and the Owner, for the consideration stated herein agree as follows:

## ARTICLE 1. STATEMENT OF WORK

The Contractor shall furnish all labor and materials and perform all work required for furnishing and installing all labor, materials, equipment and transportation and everything necessarily inferred from the general nature and tendency of the plans and specifications for the proper execution of the work for:

| | |
|---|---|
| **Project Name:** | *(Project Title)* |
| **Facility Name:** | *(Project Location)* |
| **Project Number:** | *(Project No.)* |

in strict accordance with the Contract Documents as enumerated in Article 7, all of which are made a part hereof.

## ARTICLE 2. TIME OF COMPLETION

The contract performance time is ***(Number)*** working days from the transmittal date of this agreement. The contract completion date is *(Contract Completion Date)*. This time includes twelve (12) working days for the Contractor to receive, sign and return the contract form along with required bonding and insurance certificates. Failure of the Contractor to provide correct bonding and insurance within the twelve (12) working days shall not be grounds for a time extension. Receipt of proper bonding and insurance is a condition precedent to the formation of the contract and if not timely received, may result in forfeiture of the Contractor's bid security. Work may not commence until the Owner issues a written Notice to Proceed and must commence within seven (7) working days thereafter.

## ARTICLE 3. LIQUIDATED DAMAGES

Whenever time is mentioned in this contract, time shall be and is of the essence of this contract. The Owner would suffer a loss should the Contractor fail to have the work embraced in this contract fully completed on or before the time above specified. THEREFORE, the parties hereto realize in order to adjust satisfactorily the damages on account of such failure that it might be impossible to compute accurately or estimate the amount of such loss or damages which the Owner would sustain by reason of failure to complete fully said work within the time required by this contract. The Contractor hereby covenants and agrees to pay the Owner, as and for **liquidated damages, the sum of *(Daily Liquid Damages Amount)*** per day for each and every day, Sunday and legal holidays excepted, during which the work remains incomplete and unfinished. Any sum which may be due the Owner for such damages shall be deducted and retained by the Owner from any balance which may be due the Contractor when said work shall have been finished and accepted. But such provisions shall not release the Bond of the Contractor from liability according to its terms. In case of failure to complete, the Owner will be under no obligation to show or prove any actual or specific loss or damage.

## ARTICLE 4. CONTRACT SUM

The Owner shall pay the Contractor for the prompt, faithful and efficient performance of the conditions and undertakings of this contract, subject to additions, and deductions as provided herein, in current funds the sum of:

Base Bid: *(Type in BASE BID AMOUNT)$*

The Owner accepts the following Alternate Bids:

Alternate One: *(Type in ALTERNATE AMOUNT(s))$*

**TOTAL CONTRACT AMOUNT:** ***(Total Contract Amount)***

**UNIT PRICES:** The Owner accepts the following Unit Prices:

For changing specified quantities of work from those indicated by the contract drawings and specifications, upon written instructions of Owner, the following unit prices shall prevail. The unit prices include all labor, overhead and profit, materials, equipment, appliances, bailing, shoring, shoring removal, etc., to cover the finished work of the several kinds of work called for. Only a single unit price shall be given and it shall apply for either MORE or LESS work than that shown on the drawings and called for in the specifications or included in the Base Bid. In the event of more or less units than so indicated or included, change orders may be issued for the increased or decreased amount.

**PAYMENTS:** Payments shall be made monthly in an amount equal to the value of the work performed less retention in accordance with RSMo 8.260

## ARTICLE 5. PREVAILING WAGE RATE

It is understood and agreed by and between the parties that not less than the prevailing hourly rate of wages shall be paid for work of a similar character in the locality in which the work is performed, and not less than the prevailing hourly rate of wages for legal holiday and overtime work in the locality in which the work is performed, both as determined by the Department of Labor and Industrial Relations or as determined by the court on appeal, to all workmen employed by or on behalf of the Contractor or any subcontractor, exclusive of maintenance work. Only such workmen as are directly employed by the Contractor or his subcontractors, in actual construction work on the site shall be deemed to be employed.

When the hauling of materials or equipment includes some phase of the construction other than the mere transportation to the site of the construction, workmen engaged in this dual capacity shall be deemed to be employed directly on the project and entitled to the prevailing wage.

## ARTICLE 6. MINORITY/WOMEN BUSINESS ENTERPRISE PARTICIPATION

The Contractor has been granted a waiver of _____% MBE and ____% WBE participation goals. The Contractor agrees to secure the MBE/WBE participation amounts for this project as follows: (OR)

The Contractor has met the MBE and WBE participation goals and agrees to secure the MBE/WBE participation amounts for this project as follows:

__MBE__WBE Firm_____Subcontract Amt._____
__MBE__WBE Firm_____Subcontract Amt._____
__MBE__WBE Firm_____Subcontract Amt._____
__MBE__WBE Firm_____Subcontract Amt._____
__MBE__WBE Firm_____Subcontract Amt._____
Total $_____

MBE/WBE assignments identified above shall not be changed without a Contract Change signed by the Chief Engineer.

The Chief Engineer of the Division of Facilities Management, Design and Construction shall be the final authority to resolve disputes and disagreements between the Contractor and the MBE/WBE firms listed above when such disputes impact the subcontract amounts shown above.

**ARTICLE 7. CONTRACT DOCUMENTS**

Contract documents shall consist of the following component parts:

1. Division 0, with executed forms
2. Division 1
3. Executed Construction Contract Form
4. The Drawings
5. The Technical Specifications
6. Addenda
7. Contractor's Proposal as accepted by the Owner

By signature below, the parties hereby execute this contract document.

**APPROVED:**

| | |
|---|---|
| David L. Mosby, CFM, Director<br>Division of Facilities Management,<br>Design and Construction | (Principal's Name) (Principal's Title)<br>(Company Name) |

DELETE IF PRIVATE OR PARTNERSHIP

I, Corporate Secretary, certify that I am Secretary of the corporation named above and that *(Principal's Name),* who signed said contract on behalf of the corporation, was then *(Principal's Title)* of said corporation and that said contract was duly signed for and in behalf of the corporation by authority of its governing body, and is within the scope of its corporate powers.

Corporate Secretary

**SECTION 00610 - PERFORMANCE AND PAYMENT BOND FORM**

KNOW ALL MEN BY THESE PRESENTS, THAT we _____
as principal, and _____

_____as Surety, are held and firmly bound unto the

STATE OF MISSOURI. in the sum of _____ Dollars ($ )
for payment whereof the Principal and Surety bind themselves, their heirs, executors, administrators and successors, jointly
and severally, firmly by these presents.

WHEREAS, the Principal has, by means of a written agreement dated the _____
day of_____, 20_____, enter into a contract with

the State of Missouri for _____

_____

_____

(Insert Project Title and Number)

NOW, THEREFORE, if the Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the State of Missouri, with or without notice to the Surety and during the life of any guaranty required under the contract; and shall also faithfully perform and fulfill all undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said contract that may hereafter be made with or without notice to the Surety; and shall also promptly make payment for materials incorporated, consumed or used in connection with the work set forth in the contract referred to above, and all insurance premiums, both compensation and all other kinds of insurance, on said work, and for all labor performed on such work, whether by subcontractor or otherwise, at not less than the prevailing hourly rate of wages for work of a similar character (exclusive of maintenance work) in the locality in which the work is performed and not less than the prevailing hourly rate of wages for legal holiday and overtime work (exclusive of maintenance work) in the locality in which the work is performed both as determined by the Department of Labor and Industrial Relations or determined by the Court of Appeal, as provided for in said contract and in any and all duly authorized modifications of said contract that may be hereafter made, with or without notice to the Surety, then, this obligation shall be void and of no effect, but it is expressly understood that if the Principal should make default in or should fail to strictly, faithfully and efficiently do, perform and comply with any or more of the covenants, agreements, stipulations, conditions, requirements or undertakings, as specified in or by the terms of said contract, and with the time therein named, then this obligation shall be valid and binding upon each of the parties hereto and this bond shall remain in full force and effect; and the same may be sued on at the instance of any material man, laborer, mechanic, subcontractor, individual, or otherwise to whom such payment is due, in the name of the State of Missouri, to the use of any such person.

AND, IT IS FURTHER specifically provided that any modifications which may hereinafter be made in the terms of the contract or in the work to be done under it or the giving by the Owner of any extension of the time for the performance of the contract or any other forbearance on the part of either the Owner or the Principal to the other, shall not in any way release the Principal and the Surety, or either or any of them, their heirs, executors, administrators and successors, from their liability hereunder, notice to the Surety of any such extension, modifications or forbearance being hereby waived.

IN WITNESS WHEREOF, the above bounden parties have executed the within instrument this _____ day of _____, 20 ____.

**AS APPLICABLE:**

AN INDIVIDUAL

Name: _____

Signature: _____

A PARTNERSHIP

Name of Partner: _____

Signature of Partner: _____

Name of Partner: _____

Signature of Partner: _____

CORPORATION

Firm Name: _____

Signature of President: _____

SURETY

Surety Name: _____

Attorney-in-Fact: _____

Address of Attorney-in-Fact: _____

_____

Telephone Number of Attorney-in-Fact: _____

Signature Attorney-in-Fact: _____

**NOTE**: Surety shall attach Power of Attorney

## SECTION 00620 - AFFIDAVIT OF COMPLIANCE WITH PREVAILING WAGE LAW

Before me, the undersigned Notary Public, in and for the County of _____

State of _____, personally came and appeared _____
(Name)

_____, of the _____
(Position) (Name of the Company)

(a corporation) (a partnership) (a proprietorship) and after being duly sworn did depose and say that all provisions and requirements set out in Chapter 290, Sections 290.210 through and including 290.340, Missouri Revised Statutes, pertaining to the payment of wages to workmen employed on public works projects have been fully satisfied and there has been no exception to the full and complete compliance with said provisions and requirements and with Wage Determination No. _____ issued by the Department of Labor and Industrial Relations, State of Missouri on the _____ day of _____, _____ (year), in carrying out the contract and work in connection with _____
(Name of Project)

located at _____ in _____ County,
(Name of Institution)

Missouri, and completed on the _____ day of _____, _____ (year).

_____
(Signature)

Subscribed and sworn to me this _____ day of _____, _____.(year).

My commission expires _____,._____ (year).

_____
NOTARY PUBLIC

## SECTION 00630 - AFFIDAVIT FOR AFFIRMATIVE ACTION

State of Missouri )
) ss.
County of _____ )

_____ first being duly sworn on his/her oath states: that he/she is the )
(Name)
sole proprietorship, partner, or officer) of _____ a (sole proprietorship,
(Company)
partnership, or corporation), and as such (sole proprietorship, partnership, or corporation) is duly authorized to make this affidavit on behalf of said (sole proprietorship, partnership, or corporation); that under the contract known as: "_____" _____,
(Project Title)
(Project Number)
less than 50 persons in the aggregate will be employed and therefore, the applicable Affirmative Action requirements as set forth in Article 6 of SECTION 00700 GENERAL CONDITIONS of the State of Missouri have been met.

_____
SIGNATURE

Subscribed and sworn to me this _____ day of _____, 20__.
My commission expires _____, _____.

_____
NOTARY PUBLIC

**SECTION 00640 - PARTIAL RECEIPT OF PAYMENT AND RELEASE FORM**

**KNOW ALL MEN BY THESE PRESENTS THAT:**_____,

hereinafter called "Subcontractor," who entered into a subcontract with _____,

hereinafter called "Contractor", for the performance of work and/or the furnishing of material for the construction of a project entitled:

_____ _____

(Project Name) (Project Number)

at: _____

(Project Address)

for the State of Missouri (Owner) which said subcontract is by this reference incorporated herein, in consideration of such payment by Contractor,

DOES HEREBY:

1. ACKNOWLEDGE that he/she has been paid all sums due him to date for everything done by him, or done by his subcontractors, material vendors, equipment and fixture suppliers, agents and employees, or otherwise in the performance of the work called for by the aforesaid contract and all modifications or extras or additions approved to date, for the construction of said project or otherwise.
2. REPRESENT that all of his/her employees, subcontractors, material vendors, equipment and fixture suppliers and everyone else has been paid all sums due them to date, or any of them, in connection with performance of said work, or anything done or omitted by them or any of them in connection with the construction of said improvements, or otherwise.
3. RELEASES the Owner from any claim for nonpayment for any work performed or material supplied up through _____(date).

DATED this _____ day of _____, _____(year).

_____

(Name of Subcontractor)

_____

(Typed or Printed Name)

_____

(Signature)

_____

(Title)

**SECTION 00641 - FINAL RECEIPT OF PAYMENT AND RELEASE FORM**

**KNOW ALL MEN BY THESE PRESENTS**

**THAT:**_____, hereinafter called "Subcontractor" who heretofore entered into an agreement with _____, hereinafter called "Contractor", for the performance of work and/or the furnishing of material for the construction of a project entitled:

_____ _____

(Project Name) (Project Number)

at:

_____

(Project Address)

for the State of Missouri (Owner) which said subcontract is by this reference incorporated herein, in consideration of such final payment by Contractor,

DOES HEREBY:

4. ACKNOWLEDGE that he/she has been **PAID IN FULL** all sums due for work and materials contracted, or done by his/her subcontractors, material vendors, equipment and fixture suppliers, agents and employees, or otherwise in the performance of the work called for by the aforesaid contract and all modifications or extras or additions thereto, for the construction of said project or otherwise.
5. RELEASE and fully, finally and forever discharge the Owner from any and all suits, actions, claims and demands for payment for work performed or materials supplied by Subcontractor in accordance with the requirements of the above referenced contract.
6. REPRESENT that all of his/her employees, subcontractors, material vendors, equipment and fixture suppliers and everyone else has been paid in full all sums due them to date, or any of them, in connection with performance of said work, or anything done or omitted by them or any of them in connection with the construction of said improvements, or otherwise.

DATED this _____ day of _____, _____(year).

_____

(Name of Subcontractor)

_____

(Typed or Printed Name)

_____

(Signature)

_____

(Title)

STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF FACILITIES MANAGEMENT, DESIGN AND CONSTRUCTION

# SECTION 00642 – MBE/WBE PROGRESS REPORT

(SUBMIT WITH MONTHLY WORK & MATERIAL ESTIMATE

| PROJECT NUMBER | |
|---|---|
| ☐ FINAL | DATE |

| | |
|---|---|
| PROJECT TITLE | |
| LOCATION | |
| GENERAL CONTRACTOR | |
| TOTAL CONTRACT AMOUNT OF THIS PROJECT | |

**THE PERCENTAGE AND DOLLAR AMOUNT OF THIS PROJECT THAT ARE TO BE MBE/WBE AS INDICATED IN THE AWARDED CONTRACT: %, $**

| MBE WBE | ITEM OF WORK | TOTAL AMOUNT OF SUBCONTRACT | $ AMOUNT & % COMPLETE (PAID TO DATE) | SUB/SUPPLIER NAME, ADDRESS, CONTACT & PHONE NO |
|---|---|---|---|---|
| MBE | | $ | $ % | - - |
| MBE | | $ | $ % | - - |
| MBE | | $ | $ % | - - |
| MBE | | $ | $ % | - - |
| MBE | | $ | $ % | - - |

MO 300-1458N (05/05)

# SECTION 00650 – PRODUCT SUBSTITUTION REQUEST

CHECK APPROPRIATE BOX:

❑ SUBSTITUTION PRIOR TO BID OPENING
(Minimum of 5 days prior to receipt of bids as per Article 4 - Instructions to Bidders)

❑ SUBSTITUTION FOLLOWING AWARD
(Maximum of 20 days from Notice to Proceed as per Article 3 - General Conditions)

PROJECT TITLE: PROJECT NUMBER:

ARCHITECT/ENGINEER:

BIDDER/CONTRACTOR REQUESTING SUBSTITUTION:

Bidder/contractor hereby requests acceptance of the following product or systems as a substitution in accord with provisions of Division One of the bidding documents:

SPECIFIED PRODUCT OR SYSTEM:

SPECIFICATION SECTION NUMBER:

SUPPORTING DATA:

❑ Product data for proposed substitution is attached. (include description of product, standards, performance and test data)

❑ Sample ❑ Sample will be sent if requested.

***QUALITY COMPARISON***

| | SPECIFIED PRODUCT | SUBSTITUTION REQUEST |
|---|---|---|
| NAME BRAND: | | |
| CATALOG NUMBER: | | |
| MANUFACTURER: | | |
| VENDOR: | | |

***PREVIOUS INSTALLATIONS***

| | |
|---|---|
| PROJECT: | ARCHITECT/ENGINEER: |
| LOCATION: | DATE INSTALLED: |

***SIGNIFICANT VARIATIONS***

**REASON FOR SUBSTITUTION:**

_____

_____

_____

**DOES PROPOSED SUBSTITUTION AFFECTS OTHER PARTS OF WORK:**

❑ YES ❑ NO

IF YES, EXPLAIN_____

_____

_____

**SUBSTITUTION REQUIRES DIMENSIONAL REVISION OR REDESIGN OF STRUCTURE OR A&E WORK:**
❑ YES ❑ NO

_____

BIDDER'S/CONTRACTOR'S STATEMENT OF CONFORMANCE OF PROPOSED SUBSTITUTION TO CONTRACT REQUIREMENT:

I/we have investigated the proposed substitution. I/we believe that it is equal or superior in all respects to specified product, except as stated above; that It will provide the same warranty as specified product; that I/we have included complete implications of the substitution; that I/we will pay redesign and other costs caused by the substitution which subsequently become apparent; and that I/we will pay costs to modify other parts of the Work as may be needed, to make all parts of the Work complete and functioning resulting from the substitution.

_____

BIDDER/CONTRACTOR: | DATE:

_____

**REVIEW AND ACTION**

❑ Resubmit substitution request with the following additional information:

_____

❑ Substitution is accepted

❑ Substitute is accepted with the following comments:

_____

❑ Substitution is not accepted

_____

ARCHITECT/ENGINEER | DATE

# GENERAL CONDITIONS

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6.2. Insurance

**7.** Termination or Suspension of Contract

7.1. For Site Conditions

7.2. For Cause

7.3. For Convenience

# SECTION 00700 - GENERAL CONDITIONS

A. These General Conditions apply to each section of these specifications. The Contractor is subject to the provisions contained herein.

B. The General Conditions are intended to define the relationship of the Owner, the Designer and the Contractor thereby establishing certain rules and provisions governing the operation and performance of the work so that the work may be performed in a safe, orderly, expeditious and workmanlike manner.

## ARTICLE 1 – GENERAL PROVISIONS

### ARTICLE 1.1 - DEFINITIONS

A. As used in these contract documents, the following terms shall have the meanings and refer to the parties designated in these definitions.

1. **"CHIEF ENGINEER"**: Whenever the term "Chief Engineer" is used, it shall mean the Chief Engineer of the Division of Facilities Management, Design and Construction, or his designee, representing the Office of Administration, State of Missouri. The Chief Engineer is the agent of the Owner.

2. **"COMMISSIONER":** The Commissioner of the Office of Administration.

3. **"CONSTRUCTION DOCUMENTS":** The "Construction Documents" shall consist of the Project Manual, Drawings and Addenda.

4. **"CONSTRUCTION REPRESENTATIVE:"** Whenever the term "Construction Representative" is used, it shall mean the Owner's Representative at the work site.

5. **"CONTRACTOR"**: Party or parties who have entered into a contract with the Owner to furnish work under these specifications and drawings.

6. **"DESIGNER"**: When the term "Designer" is used herein, it shall refer to the Architect, Engineer, or Consultant of Record specified and defined in Paragraph 2.0 of the Supplemental Conditions, or his/her duly authorized representative. The Designer may be either a consultant or state employee.

7. **"DIVISION":** Shall mean the Division of Facilities Management, Design and Construction, State of Missouri.

8. **"INCIDENTAL JOB BURDENS":** Shall mean those expenses relating to the cost of work, incurred either in the home office or on the job-site, which are necessary in the course of doing business but are incidental to the job. Such costs include office supplies and equipment, postage, courier services, telephone expenses including long distance, water and ice and other similar expenses.

9. **"JOINT VENTURE"**: An association of two (2) or more businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills and knowledge.

14. **"OWNER"**: Whenever the term "Owner" is used, it shall mean the State of Missouri.

15. **"PROJECT"**: Wherever the term "Project" is used, it shall mean the work required to be completed by the construction contract.

16. **"PROJECT MANUAL"**: The "Project Manual" shall consist of Introductory Information, Invitation for Bid, Instructions to Bidders, Bid Documents, Additional Information, Standard Forms, General Conditions, Supplemental General Conditions, General Requirements and Technical Specifications.

17. **"SUBCONTRACTOR"**: Party or parties who contract under, or for the performance of part or this entire Contract between the Owner and Contractor. The subcontract may or may not be direct with the Contractor.

18. **"WORK"**: Labor, material, supplies, plant and equipment required to perform and complete the service agreed to by the Contractor in a safe, expeditious, orderly and workmanlike manner so that the project shall be complete and finished in the best manner known to each respective trade.

19. **"WORKING DAYS"**: are all calendar days except Saturdays, Sundays and the following holidays: New Year's Day, Martin Luther King, Jr. Day, Lincoln Day, Washington's Birthday (observed), Truman Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day (observed), Thanksgiving Day, Christmas Day.

### ARTICLE 1.2 DRAWINGS AND SPECIFICATIONS

A. In case of discrepancy between drawings and specifications, specifications shall govern.

Should discrepancies in architectural drawings, structural drawings and mechanical drawings occur, architectural drawings shall govern and, in case of conflict between structural and mechanical drawings, structural drawings shall govern.

B. Specifications are separated into titled divisions for convenience of reference only and to facilitate letting of contracts and subcontracts. The Contractor is responsible for establishing the scope of work for subcontractors, which may cross titled divisions. Neither the Owner nor Designer will establish limits and jurisdiction of subcontracts.

C. Figured dimensions take precedence over scaled measurements and details over smaller scale general drawings. In the event of conflict between any of the documents contained within the contract, the documents shall take precedence and be controlling in the following sequence: addenda, supplementary general conditions, general conditions, division 1 specifications, technical division specifications, drawings, bid form and instructions to bidders.

D. Anything shown on drawings and not mentioned in these specifications or vice versa, as well as any incidental work which is obviously necessary to complete the project within the limits established by the drawings and specifications, although not shown on or described therein, shall be performed by the Contractor at no additional cost as a part of his/her contract.

E. Upon encountering conditions differing materially from those indicated in the contract documents, the Contractor shall promptly notify the Designer and Construction Representative in writing before such conditions are disturbed. The Designer shall promptly investigate said conditions and report to the Owner, with a recommended course of action. If conditions do materially differ and cause an increase or decrease in contract cost or time required for completion of any portion of the work, a contract change will be initiated as outlined in Article 4 of these General Conditions.

E. Only work included in the contract documents is authorized, and the Contractor shall do no work other than that described therein or in accordance with appropriately authorized and approved contract changes.

**ARTICLE 1.3 - COMPLIANCE WITH LAWS, PERMITS, REGULATIONS AND INSPECTIONS**

A. Since the Owner is the State of Missouri, municipal or political subdivisions, zoning ordinances, construction codes (other than licensing of trades), and other like ordinances are not applicable to construction on Owner's property, and Contractor will not be required to submit drawings and specifications to any municipal or political subdivision, authority, obtain construction permits or any other licenses (other than licensing of trades) or permits from or submit to inspections by any municipality or political subdivision relating to the construction for this project. All permits or licenses required by municipality or political subdivision for operation on property not belonging to Owner shall be obtained by and paid for by Contractor. Each Contractor shall comply with all applicable laws, ordinances, rules and regulations that pertain to the work of this contract.

B. Contractors, subcontractors and their employees engaged in the businesses of electrical, mechanical, plumbing, carpentry, sprinkler system work, and other construction related trades shall be licensed to perform such work by the municipal or political subdivision where the project is located, if such licensure is required by local code. Local codes shall dictate the level (master, journeyman, and apprentice) and the number, type and ratio of licensed tradesmen required for this project within the jurisdiction of such municipal or political subdivision.

C. Equipment and controls manufacturers and their authorized service and installation technicians that do not maintain an office within the jurisdiction of the municipal or political subdivision but are a listed or specified contractor or subcontractor on this project are exempt from Paragraph 1.3 B above.

D. The Contractor shall post a copy of the wage determination issued for the project and included as a part of the contract documents, in a prominent and easily accessible loation at the site of construction for the duration of the project.

**ARTICLE 1.4 - NONDISCRIMINATION IN EMPLOYMENT**

A. The Contractor and his/her subcontractors will not discriminate against individuals based on race, color, religion, national origin, sex, disability, or age, but may use restrictions which relate to bona fide occupational qualifications. Specifically, the Contractor and his/her subcontractors shall not discriminate:

1. Against recipients of service on the basis of race, color, religion, national origin, sex, disability or age.

2. Against any employee or applicant, for employment on the basis of race, color, religion, national origin, sex or otherwise qualified disability status.

3. Against any applicant for employment or employee on the basis of age, where such applicant or employee is between ages 40 and 70 and where such Contractor employs at least 20 persons.

4. Against any applicant for employment or employee on the basis of that person's status as a disabled or Vietnam-era veteran.

The Contractor and his/her Subcontractors will take affirmative action to insure applicants for employment and employees are treated equally without regard to race, color, religion, national origin, sex, disability, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion and transfer; recruitment or recruitment advertising; and selection for training, including apprenticeship. The Contractor and his/her Subcontractors will give written notice of their commitments under this clause to any labor union with which they have bargaining or other agreements.

B. The Contractor and his/her subcontractors shall develop, implement, maintain and submit in writing to the Owner an affirmative action program if at least fifty (50) persons in the aggregate are employed under this contract. If less than fifty (50) persons in the aggregate are to be employed under this contract, the Contractor shall submit, in lieu of the written affirmative action program, a properly executed Affidavit for Affirmative Action in the form included in the contract specifications. For the purpose of this section, an "affirmative action program" means positive action to influence all employment practices (including, but not limited to, recruiting, hiring, promoting and training) in providing equal employment opportunity regardless of race, color, sex, national origin, religion, age (where the person affected is between age 40 and 70), disabled and Vietnam-era veteran status, and disability. Such "affirmative action program" shall include:

1. A written policy statement committing the total organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;

2. The identification of a person designated to handle affirmative action;

3. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to lay-off, recall, discharge, demotion and discipline;

4. The exclusion of discrimination from all collective bargaining agreements; and

5. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

In the enforcement of this non-discrimination clause, the Owner may use any reasonable procedures available, including, but not limited to: requests, reports, site visits and inspection of relevant documents of contractors and subcontractors.

C. In the event of the Contractor's or his/her subcontractor's noncompliance with any provisions of this Article of the Contract, the Owner may cancel this contract in whole or in part or require the Contractor to terminate his/her contract with the subcontractor.

**ARTICLE 1.5 - ANTI-KICKBACK**

A. No employee of the division, shall have or acquire any pecuniary interest, whether direct or indirect, in this contract or in any part hereof. No officer, employee, designer, attorney, or administrator of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall have or acquire any pecuniary interest, whether direct or indirect, in this contract, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

**ARTICLE 1.6 - PATENTS AND ROYALTIES**

A. The Contractor shall hold and save the Owner and its officers, agents, servants and employees harmless from liabilities of any nature or kind, including cost and expenses, for, or on account of, any patented or unpatented invention, process, article or appliance manufactured or used in the performance of this contract, including its use by the Owner, unless otherwise specifically stipulated in the contract documents.

B. If the Contractor uses any design, device or materials covered by letters, patent or copyright, the Contractor shall provide for such use by suitable agreement with the Owner of such patented or copyrighted design, device or material. It is mutually agreed and understood, without exception, that the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way

involved in the work. The Contractor and/or his/her sureties shall indemnify and save harmless the Owner of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this contract and shall indemnify the Owner for any cost, expense or damage it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

**ARTICLE 1.7 - PREFERENCE FOR AMERICAN AND MISSOURI PRODUCTS AND SERVICES**

A. By virtue of statutory authority a preference will be given to Missouri labor and to products of mines, forests and quarries of the state of Missouri when they are found in marketable quantities in the state, and all such materials shall be of the best quality and suitable character that can be obtained at reasonable market prices, all as provided for in Section 8.280, Missouri Revised Statutes 2000 and Cumulative Supplements.

B. Furthermore, pursuant to Section 34.076 Missouri Revised Statutes 2000 and Cumulative Supplements, a preference shall be given to those persons doing business as Missouri firms, corporations, or individuals, or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less. In addition, in order for a non-domiciliary bidder to be successful, his/her bid must be that same percentage lower than a domiciliary Missouri bidder's bid, as would be required for a Missouri bidder to successfully bid in the non-domiciliary's state.

C In accordance with the Missouri Domestic Products Procurement Act Section 34.350 RsMO 2000 and Cumulative Supplements any manufactured goods or commodities used or supplied in the performance of this contract or any subcontract thereto shall be manufactured, assembled or produced in the United States, unless the specified products are not manufactured, assembled or produced in the United States in sufficient quantities to meet the agency's requirements or cannot be manufactured, assembled or produced in the United States within the necessary time in sufficient quantities to meet the contract requirements, or if obtaining the specified products manufactured, assembled or produced in the United States would increase the cost of this contract for purchase of the product by more than ten percent.

**ARTICLE 1.8 - COMMUNICATIONS**

A. All notices, requests, instructions, approvals and claims must be in writing and shall be delivered to the Designer and copied to the Construction Representative for the project except as required by Article 1.12 Disputes and Disagreements, or as otherwise specified by the Owner in writing as stated in Section 01250. Any such notice shall be deemed to have been given as of the time of actual receipt.

B. The Contractor shall attend on-site progress and coordination meetings, as scheduled by the Construction Representative, no less than once a month.

C. The Contractor shall ensure that major subcontractors and suppliers shall attend monthly progress meetings as necessary to coordinate the work, and as specifically requested by the Construction Representative.

**ARTICLE 1.9 - SEPARATE CONTRACTS AND COOPERATION**

A. The Owner reserves the right to let other contracts in connection with this work. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his/her work with theirs.

B. The Contractor shall consult the drawings for all other contractors in connection with this work. Any work conflicting with the above shall be brought to the attention of the Owner's Representative before the work is performed. If the Contractor fails to do this, and constructs any work which interferes with the work of another contractor, the Contractor shall remove any part so conflicting and rebuild same, as directed by the Owner's Representative at no additional cost to the Owner.

C. Each contractor shall be required to coordinate his/her work with other contractors so as to afford others reasonable opportunity for execution of their work. No contractor shall delay any other contractor by neglecting to perform contract work at the proper time. If any contractor causes delay to another, they shall be liable directly to that contractor for such delay in addition to any liquidated damages which might be due the Owner.

D. Should the Contractor or project associated subcontractors refuse to cooperate with the instructions and reasonable requests of other

Contractors or other subcontractors in the overall coordinating of the work, the Owner may take such appropriate action and issue directions, as required, to avoid unnecessary and unwarranted delays.

E. Each Contractor shall be responsible for damage done to Owner's or other Contractor's property by him/her or workers in his/her employ through their fault or negligence.

F. Should a Contractor sustain any damage through any act or omission of any other Contractor having a contract with the Owner, the Contractor so damaged shall have no claim or cause of action against the Owner for such damage, but shall have a claim or cause of action against the other Contractor to recover any and all damages sustained by reason of the acts or omissions of such Contractor. The phrase "acts or omissions" as used in this section shall be defined to include, but not be limited to, any unreasonable delay on the part of any such contractors.

**ARTICLE 1.10 - ASSIGNMENT OF CONTRACT**

A. No assignment by Contractor of any amount or any part of this contract or of the funds to be received there under will be recognized unless such assignment has had the written approval of the Chief Engineer and the surety has been given due notice of such assignment and has furnished written consent thereto. In addition to the usual recitals in assignment contracts, the following language must be set forth: "It is agreed that the funds to be paid to the assignee under this assignment are subject to performance by the Contractor of this contract and to claims or liens for services rendered or materials supplied for the performance of the work called for in said contract in favor of all persons, firms or corporations rendering such services or supplying such materials."

**ARTICLE 1.11 - INDEMNIFICATION**

A. Contractor agrees to indemnify and save harmless Owner and its respective commissioners, officers, officials, agents, consultants and employees and Designer, their agents, servants and employees, from and against any and all liability for damage arising from injuries to persons or damage to property occasioned by any acts or omissions of Contractor, any subcontractors, agents, servants or employees, including any and all expense, legal or otherwise, which may be incurred by Owner or Designer, its agents, servants or employees, in defense of any claim, action or suit.

B. The obligations of the Contractor under this paragraph shall not extend to the liability of the Designer, his/her agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, contract changes, design or specifications, or (2) giving of or the failure to give directions or instructions by the Designer, his/her agents or employees as required by this contract documents provided such giving or failure to give is the primary cause of the injury or damage.

**ARTICLE 1.12 - DISPUTES AND DISAGREEMENTS**

A. It is hereby expressly agreed and understood that in case any controversy or difference of opinion arises during construction, best efforts will be given to resolution at the field level. Should those efforts be unsuccessful, the Contractor has the right to appeal in writing, the decision of the Chief Engineer's representative to the Chief Engineer at Room 730 Truman Building, P.O. Box 809, Jefferson City, Missouri 65102. The decision of the Chief Engineer shall be final and binding on all parties.

## ARTICLE 2 -- OWNER/DESIGNER RESPONSIBILITIES

A. The Owner shall give all orders and directions contemplated under this contract relative to the execution of the work. During progress of work the Owner will be represented at the project site by the Construction Representative and/or Designer, whose responsibilities are to see that this contract is properly fulfilled.

B. The Owner shall at all times have access to the work whenever it is in preparation or progress. The Contractors shall provide proper facilities for such access and for inspection and supervision.

C. All materials and workmanship used in the work shall be subject to the inspection of the Designer and Construction Representative, and any work which is deemed defective shall be removed, rebuilt or made good immediately upon notice. The cost of such correction shall be borne by the Contractor. Contractor shall not be entitled to an extension of the contract completion date in order to remedy defective work. All rejected materials shall be immediately removed from the site of the work.

D. If the Contractor fails to proceed at once with the correction of rejected defective materials or workmanship, the Owner may, by separate contract or otherwise, have the defects remedied or rejected. Materials removed from the site and charge the cost of the same against any monies

which may be due the Contractor, without prejudice to any other rights or remedies of the Owner.

E. Failure or neglect on the part of Owner to observe faulty work, or work done which is not in accordance with the drawings and specifications shall not relieve the Contractor from responsibility for correcting such work without additional compensation.

F. The Owner shall have the right to direct the Contractor to uncover any completed work.

1. If the Contractor fails to adequately notify the Construction Representative and/or Designer of an inspection as required by the Contract Documents, the Contractor shall, upon written request, uncover the work. The Contractor shall bear all costs associated with uncovering and again covering the work exposed.

2. If the Contractor is directed to uncover work, which was not otherwise required by the Contract Documents to be inspected, and the work is found to be defective in any respect, no compensation shall be allowed for this work. If, however, such work is found to meet the requirements of this contract, the actual cost of labor and material necessarily involved in the examination and replacement plus 10% shall be allowed the Contractor.

G. The Designer shall give all orders and directions contemplated under this contract relative to the scope of the work and shall give the initial interpretation of the contract documents.

H. The Owner may file a written notice to the Contractor to dismiss immediately any subcontractors, project managers, superintendents, foremen, workers, watchmen or other employees whom the Owner may deem incompetent, careless or a hindrance to proper or timely execution of the work. The Contractor shall comply with such notice as promptly as practicable without detriment to the work or its progress.

I. If in the Owner's judgment it becomes necessary at any time to accelerate work, when ordered by the Owner in writing, the Contractor shall redirect resources to such work items and execute such portions of the work as may be required to complete the work within the current approved contract schedule.

## ARTICLE 3 -- CONTRACTOR RESPONSIBILITIES

### ARTICLE 3.1 -- ACCEPTABLE SUBSTITUTIONS

A. The Contractor may request use of any article, device, product, material, fixture, form or type of construction which in the judgment of the Owner and Designer is equal in all respects to that named. Standard products of manufacturers other than those specified will be accepted when, prior to the ordering or use thereof, it is proven to the satisfaction of the Owner and Designer that they are equal in design, strength, durability, usefulness and convenience for the purpose intended.

B. Any changes required in the details and dimensions indicated on the drawings for the substitution of products other than those specified shall be properly made at the expense of the Contractor requesting the substitution or change.

C. The Contractor shall submit a request for such substitutions in writing to the Owner and Designer within twenty (20) working days after the date of the "Notice to Proceed." Thereafter no consideration will be given to alternate forms of accomplishing the work. This Article does not preclude the Owner from exercising the provisions of Article 4 hereof.

D. Any request for substitution by the Contractor shall be submitted in accordance with SECTION 00200 - INSTRUCTIONS TO BIDDERS.

E. When a material has been approved, no change in brand or make will be permitted unless:

1. Written verification is received from the manufacturer stating they cannot make delivery on the date previously agreed, or

2. Material delivered fails to comply with contract requirements.

### ARTICLE 3.2 -- SUBMITTALS

A. The Contractor's submittals must be submitted with such promptness as to allow for review and approval so as not to cause delay in the work. The Contractor shall coordinate preparation and processing of submittals with performance of construction activities.

1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.

2. Submit four (4) copies to the Designer and additional copies as required for the subcontractors and material suppliers. Also provide copies to meet the requirements for maintenance manuals.

B. All subcontractors' shop drawings and schedules shall be submitted by the Contractor and shall bear evidence that Contractor has received, reviewed, and approved them. Any shop drawings and schedules submitted without this evidence will be returned to the Contractor for resubmission.

C. The Contractor shall include with the shop drawing, a letter indicating any and all deviations from the drawings and/or specifications. Failure to notify the Designer of such deviations will be grounds for subsequent rejection of the related work or materials. If, in the opinion of the Designer, the deviations are not acceptable, the Contractor will be required to furnish the item as specified and indicated on the drawings.

D. The Designer shall check shop drawings and schedules with reasonable promptness and approve them only if they conform to the design concept of the project and comply with the information given in the contract documents. The approval shall not relieve the Contractor from the responsibility to comply with the drawings and specifications, unless the Contractor has called the Designer's attention to the deviation, in writing, at the time of submission and the Designer has knowingly approved thereof. An approval of any such modification will be given only under the following conditions:

   1. It is in the best interest of the Owner
   2. It does not increase the contract sum and/or completion time
   3. It does not deviate from the design intent
   4. It is without prejudice to any and all rights under the surety bond.

E. No extension of time will be granted because of the Contractor's failure to submit shop drawings and schedules in ample time to allow for review, possible resubmission, and approval. Fabrication of work shall not commence until the Contractor has received approval. The Contractor shall furnish prints of approved shop drawings and schedules to all subcontractors whose work is in any way related to the work under this contract. Only prints bearing this approval will be allowed on the site of construction

F. The Contractor shall maintain a complete file on-site of approved shop drawings available for use by the Construction Representative.

**ARTICLE 3.3 – AS-BUILT DRAWINGS**

A. The Contractor shall update a complete set of the construction drawings, shop drawings and schedules of all work monthly by marking changes, and at the completion of their work (prior to submission of request for final payment) note all changes and turn the set over to the Construction Representative. The updates shall show all addenda, all field changes that were made to adapt to field conditions, changes resulting from contract changes or supplemental instructions, and all locations of structures, buried installations of piping, conduit, and utility services. All buried and concealed items both inside and outside shall be accurately located as to depth and referenced to permanent features such as interior or exterior wall faces and dimensions shall be given in a neat and legible manner in a contrasting colored pencil or ink. If approved by the Designer, an electronic file format may be provided.

**ARTICLE 3.4 – GUARANTY AND WARRANTIES**

A. General Guaranty

   1. Neither the final certificate of payment nor any provision in the contract documents nor partial use or occupancy of the premises by the Owner shall constitute an acceptance of work not done in accordance with contract requirements.
   2. The Contractor or surety shall remedy any defects in the work and pay for any damage to property resulting there from which shall appear within a period of one (1) year from the date of substantial completion unless a longer period is otherwise specified or a differing guaranty period has been established in the substantial completion certificate. The Owner will give notice of observed defects with reasonable promptness.
   3. In case of default on the part of the Contractor in fulfilling this part of this contract, the Owner may correct the work or repair the damage and the cost and expense incurred in such event shall be paid by or recoverable from the Contractor or surety.
   4. The work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's guaranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If

required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment

B. Extended Warranty

Manufacturer's certificates of warranty shall be obtained for all major equipment. Warranty shall be obtained for at least one year. Where a longer period is offered at no additional cost or called for in the specific equipment specifications, the longer period shall govern.

**ARTICLE 3.5 -- OPERATION AND MAINTENANCE MANUALS**

A. Immediately after equipment submittals are approved and no later than ten (10) working days prior to the substantial completion inspection, the Contractor shall provide to the Designer three (3) copies of operating instructions and service manuals, containing the following:

1. Start-up and Shut-down Procedures: Provide a step-by-step write up of all major equipment. When manufacturer's printed start-up, trouble shooting and shut-down procedures are available; they may be incorporated into the operating manual for reference.

2. Operating Instructions: Written operating instructions shall be included for the efficient and safe operation of all equipment.

3. Equipment List: List of all major equipment as installed shall be prepared to include model number, capacities, flow rate, name place data, shop drawings and air and water balance reports.

4. Service Instructions: Provide the following information for all pieces of equipment.

   a. Recommended spare parts including catalog number and name of local supplier or factory representative.

   b. Belt sizes, types, and lengths.

   c. Wiring diagrams.

5. Manufacturer's Certificate of Warranty as described in Article 3.4.

6. Prior to the final payment, furnish to the Designer three (3) copies of parts catalogs for each piece of equipment furnished by him/her on the project with the components identified by number for replacement ordering.

B. Submission of operating instructions shall be done in the following manner.

1. Manuals shall be in triplicate, and all materials shall be bound into volumes of standard 8½" x 11" hard binders. Large drawings too bulky to be folded into 8½" x 11" shall be separately bound or folded and in envelopes, cross referenced and indexed with the manuals.

2. The manuals shall identify project name, project number, and include the name and address of the Contractor, subcontractors and manufacturers who were involved with the activity described in that particular manual.

3. Internally subdivide the binder contents with permanent page dividers, logically organized with tab titles clearly printed under reinforced laminated plastic tabs.

4. Contents: Prepare a Table of Contents for each volume, with each product or system description identified.

**ARTICLE 3.6 – OTHER CONTRACTOR RESPONSIBILITIES**

A. The Contractor shall keep on site, during progress of the work, a competent superintendent satisfactory to the Construction Representative. The superintendent shall represent the Contractor and all agreements made by the superintendent shall be binding. The superintendent shall carefully study and compare all drawings, specifications and other instructions and shall promptly notify the Construction Representative and Designer, in writing, any error, inconsistency or omission which may be discovered. The superintendent shall coordinate all work on the project. Any change of the superintendent shall be approved by the Construction Representative.

B. Contractor shall, at all times, enforce strict discipline and good order among his/her employees, and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him/her.

C. The Contractor shall supply sufficient labor, material, plant and equipment and pay when due any laborer, subcontractor or supplier for supplies furnished and otherwise prosecute the work with diligence to prevent work stoppage and insure completion thereof within the time specified.

D. The Contractor and each of his/her subcontractors shall submit to the Construction Representative, through the Designer such schedules of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Owner may request

concerning work performed or to be performed under this contract.

E. The Contractor, subcontractors, and material suppliers shall upon written request, give the Owner access to all time cards, material invoices, payrolls, estimates, profit and loss statements, and all other direct or indirect costs related to this work.

F. The Contractor shall be responsible for laying out all contract work such as layout of architectural, structural, mechanical and electrical work, which shall be coordinated with layouts of subcontractors for general construction work. The Contractor is also responsible for unloading, uncrating and handling of all materials and equipment to be erected or placed by him/her, whether furnished by Contractor or others. No extra charges or compensation will be allowed as a result of failure to verify dimensions before ordering materials or fabricating items.

G. The Contractor must notify the Construction Representative at least one working day before placing concrete or burying underground utilities, pipelines, etc.

H. Contractors shall prearrange time with the Construction Representative for the interruption of any facility operation. Unless otherwise specified in these documents, all connections, alterations or relocations as well as all other portions of the work will be performed during normal working hours.

I. The Contractor shall coordinate all work so there will not be prolonged interruptions of existing equipment operation. Any existing plumbing, heating, ventilating, air conditioning or electrical disconnections necessary for the project, which affect portions of this construction or building or any other building must be scheduled with the Construction Representative to minimize or avoid any disruption of facility operations. In no case, unless previously approved in writing by the Construction Representative, shall utilities be left disconnected at the end of a work day or over a weekend. Any interruption of utilities either intentionally or accidentally shall not relieve the Contractor responsible for the interruption from the responsibility to repair and restore the utility to normal service. Repairs and restoration shall be made before the workers responsible for the repair and restoration leave the job.

J. Contractors shall limit operations and storage of materials to the area within the project, except as necessary to connect to existing utilities, and shall not encroach on neighboring property. The Contractor shall be responsible for repair of their damage to property on or off the project site occurring during construction of project. All such repairs shall be made to the satisfaction of the property owner.

K. Unless otherwise permitted, all materials shall be new and both workmanship and materials shall be of the best quality.

L. Unless otherwise provided and stipulated within these specifications, the Contractor shall furnish, construct, and/or install and pay for materials, devices, mechanisms, equipment, all necessary personnel, utilities including, but not limited to water, heat, light and electric power, transportation services, applicable taxes of every nature, and all other facilities necessary for the proper execution and completion of the work.

M. Contractor shall carefully examine the plans and drawings and shall be responsible for the proper fitting of his/her material, equipment and apparatus into the building.

N. The Contractor or subcontractors shall not overload, or permit others to overload, any part of any structure during the performance of this contract.

O. All temporary shoring, bracing, etc., required for the removal of existing work and/or for the installation of new work shall be included in this contract. The Contractor shall make good, at no cost to the Owner, any damage caused by improper support or failure of shoring in any respect. Each Contractor shall be responsible for shoring required to protect his/her work or adjacent property and improvements of Owner and shall be responsible for shoring or for giving written notice to adjacent property owners. Shoring shall be removed only after completion of permanent supports.

P. The Contractor shall provide at the proper time such material as is required for support of the work. If openings are required, whether shown on drawings or not, the Contractor shall see that they are properly constructed.

Q. During the performance of work the Contractor shall be responsible for providing and maintaining warning signs, lights, signal devices, barricades, guard rails, fences and other devices appropriately located on site which will give proper and understandable warning to all persons of danger of entry onto land, structure or equipment.

R. The Contractor shall be responsible for protection, including weather protection, and

proper maintenance of all equipment and materials.

S. The Contractor shall be responsible for care of the finished work and shall protect same from damage or defacement until substantial completion by the Owner. If the work is damaged by any cause, the Contractor shall immediately begin to make repairs in accordance with the drawings and specifications. Contractor shall be liable for all damage or loss unless attributable to the acts or omissions of the Owner or Designer. Any claim for reimbursement shall be submitted in accordance with Article 4. After substantial completion the Contractor will only be responsible for damage resulting from acts or omissions of the Contractor or subcontractors through final warranty.

T. In the event the Contractor encounters an unforeseen hazardous material, the Contractor shall immediately stop work in the area affected and report the condition to the Owner and Designer in writing. The Contractor shall not be required, pursuant to Article 4, to perform, any work relating to hazardous materials.

U. In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 4.

V. Before commencing work, Contractors shall confer with the Construction Representative and facility representative and review any facility rules and regulations which may affect the conduct of the work.

W. Project signs will only be erected on major projects and only as described in the specifications. If no sign is specified, none shall be erected.

### ARTICLE 3.7 -- SUBCONTRACTS

A. Subcontractor assignments as identified in the bid form shall not be changed without written approval of the Owner. The Owner will not approve changes of a listed subcontractor unless the Contractor documents, to the satisfaction of the Owner that the subcontractor cannot or will not perform the work as specified.

B. The Contractor is fully responsible to the Owner for the acts and omissions of all subcontractors and of persons either directly or indirectly employed by them.

C. Every subcontractor shall be bound by the applicable terms and provisions of these contract documents, but no contractual relationship shall exist between any subcontractor and the Owner unless the right of the Contractor to proceed with the work is suspended or this contract is terminated as herein provided, and the Owner in writing elects to assume the subcontract.

D. The Contractor shall upon receipt of "Notice to Proceed" and prior to submission of the first payment request, notify the Designer and Construction Representative in writing of the names of any subcontractors to be used in addition to those identified in the bid form and all major material suppliers proposed for all parts of the work.

## ARTICLE 4 -- CHANGES IN THE WORK

### 4.1 CHANGES IN THE WORK

A. The Construction Representative, without giving notice to the surety and without invalidating this contract, may order extra work or make changes by altering, adding to or deducting from the work, this contract sum being adjusted accordingly. All such work shall be executed under the conditions of the original contract. A claim for extension of time caused by any change must be adjusted at the time of ordering such change. No future request for time will be considered.

B. Each Contract Change shall include all costs required to perform the work including all labor, material, equipment, overheads and profit, delay, disruptions, or other miscellaneous expenses. No subsequent requests for additional compensation including claims for delay, disruption, or reduced efficiency as a result of each change will be considered. Values from the Schedule of Values will not be binding as a basis for additions to or deductions from the contract price.

C. The amount of any adjustment in this contract price for authorized changes shall be agreed upon before such changes become effective and shall be determined, through submission of a request for proposal, as follows:

1. By an acceptable fixed price proposal from the Contractor. Breakdowns shall include all takeoff sheets of each Contractor and subcontractor. Breakdown shall include a listing of each item of material with unit prices and number of hours of labor for each task. Labor costs per hour shall be included with labor burden identified, which shall be not less than the prevailing wage rate, etc. Overhead and profit shall be shown

separately for each subcontractor and the Contractor.

2. By a cost-plus-fixed-fee (time and material) basis with maximum price, total cost not to exceed said maximum. Breakdown shall include a listing of each item of material with unit prices and number of hours of labor for each task. Labor costs per hour shall be included with labor burden identified, which shall be not less than the prevailing wage rate, etc. Overhead and profit shall be shown separately for each subcontractor and the Contractor.

3. By unit prices contained in Contractor's original bid form and incorporated in the construction contract.

D. Overhead and Profit on Contract Changes shall be applied as follows:

1. The overhead and profit charge by the Contractor and all subcontractors shall be considered to include, but is not limited to: incidental job burdens, small truck (under 1 ton) expense, mileage, small hand tools, warranty costs, company benefits and general office overhead. Project supervision including field supervision and job site office expense shall be considered a part of overhead and profit unless a compensable time extension is granted.

2. The percentages for overhead and profit charged on Contract Changes shall be negotiated, and may vary according to the nature, extent, and complexity of the work involved. However, the overhead and profit for the Contractor or subcontractor actually performing the work shall not exceed 15%. When one or more tiers of subcontractors are used, in no event shall any Contractor or subcontractor receive as overhead and profit more than 7% of the cost of the work performed by any of his/her subcontractors. In no case shall the total overhead and profit paid by the Owner on any Contract Changes exceed twenty five percent (25%) of the cost of materials, labor and equipment necessary to put the contract change work in place.

3. The Contractor will be allowed to add the cost of bonding and insurance to their cost of work. This bonding and insurance cost shall not exceed 2% and shall be allowed on the total cost of the added work, including overhead and profit.

4. On proposals covering both increases and decreases in the amount of this contract, the application of overhead and profit shall be on the net change in the cost of the work.

5. The percentage for overhead and profit to be credited to the Owner on Contract Changes that are solely decreases in the quantity of work or materials shall be negotiated, and may vary according to the nature, extent and complexity of the work involved, but in no case shall be less than ten percent (10%). If the percentage for overhead and profit charged for work added by Contract Changes for this contract has been negotiated to less than 10%, the negotiated rate shall then apply to credits as well.

E. No claim for an addition to this contract sum shall be valid unless authorized as aforesaid in writing by the Owner. In the event that none of the foregoing methods are agreed upon, the Owner may order the Contractor to perform work on a time and material basis. The cost of such work shall be determined by the Contractor's actual labor and material cost to perform the work plus overhead and profit as outlined herein. The Designer and Construction Representative shall approve the Contractor's daily time and material invoices for the work involved.

F. If the Contractor claims that any instructions involve extra cost under this contract, the Contractor shall give the Owner's Representative written notice thereof within a reasonable time after the receipt of such instructions, and in any event before proceeding to execute the work. No such claim shall be valid unless so made and authorized by the Owner, in writing.

G. In an emergency affecting the safety of life or of the structure or of adjoining property, the Contractor, without special instruction or authorization from the Construction Representative, is hereby permitted to act at their discretion to prevent such threatened loss or injury. The Contractor shall submit a claim for compensation for such emergency work in writing to the Owner's Representative.

**ARTICLE 4.2 – CHANGES IN COMPLETION TIME**

A. Extension of the number of work days stipulated in the Contract for completion of the work with compensation may be made when:

1. The contractor documents that proposed Changes in the work, as provided in Article 4.1, extends construction activities critical to contract completion date, OR

2. The Owner suspends all work for convenience of the Owner as provided in Article 7.3, OR

3. An Owner caused delay extends construction activities critical to contract completion (except as provided elsewhere in these General Conditions). The Contractor is to review the work activities yet to begin and evaluate the possibility of rescheduling the work to minimize the overall project delay.

B. Extension of the number of work days stipulated in the Contract for completion of the work without compensation may be made when:

1. Weather-related delays occur, subject to provisions for the inclusion of a specified number of "bad weather" days when provided for in Section 01020-Allowances, OR

2. Labor strikes or acts of God occur, OR

3. The work of the Contractor is delayed on account of conditions which were beyond the control of the Contractor, subcontractors or suppliers, and were not the result of their fault or negligence.

C. No time extension or compensation will be provided for delays caused by or within the control of the Contractor, subcontractors or suppliers and for concurrent delays caused by the Owner.

D. The Contractor shall notify the Owner promptly of any occurrence or conditions which in the Contractor's opinion results in a need for an extension of time. The notice shall be in writing and shall include all necessary supporting materials with details of any resultant costs and be submitted in time to permit full investigation and evaluation of the Contractor's claim. The Owner shall promptly acknowledge the Contractor's notice and, after recommendation from the Owner's Representative and/or Designer, shall provide a decision to the Contractor. Failure on the part of the Contractor to provide such notice and to detail the costs shall constitute a waiver by the Contractor of any claim. Requests for extensions of time shall be for working days only.

# 5. CONSTRUCTION AND COMPLETION

## ARTICLE 5.1 -- CONSTRUCTION COMMENCEMENT

A. Upon receipt of the "Intent to Award" letter, the Contractor must submit the following properly executed instruments to the Owner:

1. Contract;

2. Performance/payment bond as described in Article 6.1;

3. Certificates of Insurance, or the actual policies themselves, showing that the Contractor has obtained the insurance coverage required by Article 6.2. If provided, the certificates of insurance shall comply with the requirements of Article 6.2.

4. Written Affirmative Action Plans as required in Article 1.4.

Above referenced items must be received by the Owner within twelve (12) working days after the effective date of the contract. If not received, the Owner may treat the failure to timely submit them as a refusal by the Contractor to accept a contract for this work and may retain as liquidated damages the Contractor's bid bond, cashier's check or certified check as provided in the Instructions to Bidders. Upon receipt the Owner will issue a "Notice to Proceed" with the work to the Contractor.

B. Within the time frame noted in Section 01320 - Schedules, following receipt of the "Notice to Proceed", the Contractor shall submit to the Owner a progress schedule and schedule of values, showing activities through the end of the contract period. Should the Contractor not receive written notification from the Owner of the disapproval of the schedule of values within fifteen (15) working days, the Contractor may consider it approved for purpose of determining when the first monthly Application and Certification for Payment may be submitted.

C. The Contractor may commence work upon receipt of the Division of Facilities Management, Design and Construction's "Notice to Proceed" letter. Contractor shall prosecute the work with faithfulness and energy, and shall complete the entire work on or before the completion time stated in the contract documents or pay to the Owner the damages resulting from the failure to timely complete the work as set out within Article 5.4.

## ARTICLE 5.2 -- PROJECT CONSTRUCTION

A. Each Contractor shall submit for the Owner's approval, in reproducible form, a progress schedule showing the rate of progress and the order of the work proposed to carry on various phases of the project. The schedule shall be in conformance with the requirements outlined in Section 01320-Construction Progress Documentation.

B. Contractor shall employ and supply a sufficient force of workers, material, and equipment and shall pay when due, any worker, subcontractor or

supplier and otherwise prosecute the work with such diligence so as to maintain the rate of progress indicated on the progress schedule, prevent work stoppage, and insure completion of the project within the time specified.

**ARTICLE 5.3 -- PROJECT COMPLETION**

A. Substantial Completion. A Project is substantially complete when construction is essentially complete and work items remaining to be completed can be done without interfering with the Owner's ability to use the Project for its intended purpose.

1. Once the Contractor has reached what they believe is Substantial Completion, the Contractor shall notify the Designer and the Construction Representative of the following:

   a. That work is essentially complete with the exception of certain listed work items. The list shall be referred to as the "Contractor's Punch."

   b. That all Operation and Maintenance Manuals have been assembled and submitted in accordance with Article 3.5A.

   c. That the Work is ready for inspection by the Designer and Construction Representative. The Owner shall be entitled to a minimum of ten working days notice before the inspection shall be performed.

2. If the work is acceptable, the Owner shall issue a Certificate of Substantial Completion, which shall set forth the responsibilities of the Owner and the Contractor for utilities, security, maintenance, damage to the work and risk of loss. The Certificate shall also identify those remaining items of work to be performed by the Contractor. All such work items shall be complete within 30 working days of the date of the Certificate, unless the Certificate specifies a different time. If the Contractor shall be required to perform tests that must be delayed due to climatic conditions, it is understood that such tests and affected equipment will be identified on the Certificate and shall be accomplished by the Contractor at the earliest possible date. Performance of the tests may not be required before Substantial Completion can be issued. The date of the issuance of the Certificate of Substantial Completion shall determine whether or not the work was completed within the contract time and whether or not Liquidated Damages are due.

3. If the work is not acceptable, and the Owner does not issue a Certificate of Substantial Completion, the Owner shall be entitled to charge the Contractor with the Designer's and Owner's costs of re-inspection, including time and travel.

B. Partial Occupancy. Contractor agrees that the Owner shall be permitted to occupy and use any completed or partially completed portions of the Project, when such occupancy and use is in the Owner's best interest. Owner shall notify Contractor of its desire and intention to take Partial Occupancy as soon as possible but at least ten (10) working days before the Owner intends to occupy. If the Contractor believes that the portion of the work the Owner intends to occupy is not ready for occupancy, the Contractor shall notify the Owner immediately. The Designer shall inspect the work in accordance with the procedures above. If the Contractor claims increased cost of the project or delay in completion as a result of the occupancy, he shall notify the Owner immediately but in all cases before occupancy occurs.

C. Final Completion. The Project is finally complete when the Certificate of Substantial Completion has been issued and all work items identified therein as incomplete have been completed, and when all administrative items required by the contract have been completed. Final Completion entitles the Contract to payment of the outstanding balance of the contract amount including all change orders and retainage. Within five (5) working days of the date of the Certificate of Substantial Completion, the Contractor shall identify the cost to complete any outstanding items of work. The Designer shall review the Contractor's estimate and either approve it or provide an independent estimate for all such items. If the Contractor fails to complete the remaining items within the time specified in the Certificate, the Owner may terminate the contract and go to the surety for project completion in accordance with Article 7.2 or release the contract balance to the Contractor less 200% of the approved estimate to complete the outstanding items. Upon completion of the outstanding items, when a final cost has been established, any monies remaining shall be paid to the Contractor. Failure to complete items of work does not relieve the Contractor from the obligation to complete the administrative requirements of the contract, such as the provisions of Article 3.4. FAILURE TO COMPLETE ALL ITEMS OF WORK UNDER THE CONTRACT SHALL BE

CONSIDERED A DEFAULT AND BE GROUNDS FOR CONTRACT TERMINATION AND DEBARRMENT.

D. Liquidated Damages. Contractor agrees that the Owner may deduct from the contract price and retain as liquidated damages, and not as penalty or forfeiture, the sum stipulated in this contract for each work day after the Contract Completion Day on which work is not Substantially Complete. Assessment of Liquidated Damages shall not relieve the Contractor or the surety of any responsibility or obligation under the Contract. In addition, the Owner may, without prejudice to any other rights, claims, or remedies the Owner may have including the right to Liquidated Damages, charge the Contractor for all additional expenses incurred by the Owner and/or Designer as the result of the extended contract period through Final Completion. Additional Expenses shall include but not be limited to the costs of additional inspections.

E. Early Completion. The Contractor has the right to finish the work before the contract completion date; however, the Owner assumes no liability for any hindrances to the Contractor unless Owner caused delays result in a time extension to the contract completion date. The Contractor shall not be entitled to any claims for lost efficiencies or for delay if a Certificate of Substantial Completion is given on or before the Contract Completion Date.

**ARTICLE 5.4 -- PAYMENT TO CONTRACTOR**

A. Payments on account of this contract will be made monthly in proportion to the work which has been completed. Request for payment must be submitted on the Owner's forms. No other pay request will be processed. Supporting breakdowns must be in the same format as Owner's forms and must provide the same level of detail. The Designer will, within 5 working days from receipt of the contractor's request for payment either issue a Certificate for Payment to the Owner, for such amount as the Designer determines is properly due, or notify the Contractor in writing of reasons for withholding a Certificate. The Owner shall make payment within 30 calendar days after the "Application and Certification for Payment" has been received and certified by the Designer. The following items are to be attached to the contractor's pay request:

1. Updated construction schedule
2. Certified payrolls consisting of name, occupation and craft, number of hours worked and actual wages paid for each individual employee, of the Contractor and all subcontractors working on the project

B. The Owner shall retain 5 percent of the amount of each such payment application, except as allowed by Article 5.4, until final completion and acceptance of all work covered by this contract.

C. Each payment made to Contractor shall be on account of the total amount payable to Contractor and all material and work covered by paid partial payment shall thereupon become the sole property of Owner. This provision shall not be construed as relieving Contractor from sole responsibility for care and protection of materials and work upon which payments have been made or restoration of any damaged work or as a waiver of the right of Owner to require fulfillment of all terms of this contract.

D. Materials delivered to the work site and not incorporated in the work will be allowed in the Application and Certification for Payment on the basis of one hundred (100%) percent of value, subject to the 5% retainage providing that they are suitably stored on the site or in an approved warehouse in accordance with the following requirements:

1. Material has previously been approved through submittal and acceptance of shop drawings conforming to requirements of Article 3.2 of General Conditions.
2. Delivery is made in accordance with the time frame on the approved schedule.
3. Materials, equipment, etc., are properly stored and protected from damage and deterioration and remain so - if not, previously approved amounts will be deleted from subsequent pay applications.
4. The payment request is accompanied by a breakdown identifying the material equipment, etc. in sufficient detail to establish quantity and value.

E. The Contractor shall be allowed to include in the Application and Certification for Payment, one hundred (100%) of the value, subject to retainage, of major equipment and material stored off the site if all of the following conditions are met:

1. The request for consideration of payment for materials stored off site is made at least 15 working days prior to submittal of the Application for Payment including such material. Only materials inspected will be considered for inclusion on Application for Payment requests.

2. Materials stored in one location off site are valued in excess of $25,000.

3. That a Certificate of Insurance is provided indicating adequate protection from loss, theft conversion or damage for materials stored off site. This Certificate shall show the State of Missouri as an additional insured for this loss.

4. The materials are stored in a facility approved and inspected, by the Construction Representative.

5. Contractor shall be responsible for, Owner costs to inspect out of state facilities, and any delays in the completion of the work caused by damage to the material or for any other failure of the Contractor to have access to this material for the execution of the work.

F. The Owner shall determine the amount, quality and acceptability of the work and materials which are to be paid for under this contract. In the event any questions shall arise between the parties, relative to this contract or specifications, determination or decision of the Owner or the Construction Representative and the Designer shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this contract affected in any manner or to any extent by such question.

G. Payments Withheld: The Owner may withhold or nullify in whole or part any certificate to such extent as may be necessary to protect the Owner from loss on account of:

1. Defective work not remedied. When a notice of noncompliance is issued on an item or items, corrective action shall be undertaken immediately. Until corrective action is completed, no monies will be paid and no additional time will be allowed for the item or items. The cost of corrective action(s) shall be borne by the Contractor.

2. A reasonable doubt that this contract can be completed for the unpaid balance.

3. Failure of the Contractor to update as-built drawings monthly for review by the Construction Representative.

4. Failure of the Contractor to update the construction schedule.

When the Construction Representative is satisfied the Contractor has remedied above deficiencies, payment shall be released.

H. Final Payment: Upon receipt of written notice from the Contractor to the Designer and Project Representative that the work is ready for final inspection and acceptance, the Designer and Project Representative, with the Contractor, shall promptly make such inspection. If the work is acceptable and the contract fully performed, the Construction Representative shall complete a final acceptance report and the Contractor will be directed to submit a final Application and Certification for Payment. If the Owner approves the same, the entire balance shall be due and payable, with the exception of deductions as provided for under Article 5.4.

1. Where the specifications provide for the performance by the Contractor of certain tests for the purpose of balancing and checking the air conditioning and heating equipment and the Contractor shall have furnished and installed all such equipment in accordance with the specifications, but said test cannot then be made because of climatic conditions, such test shall may be considered as required under the provisions of the specifications, Section 01300 , and this contract may be substantial Full payment will not be made until the tests have been made and the equipment and system is finally accepted. If the tests are not completed when scheduled, the Owner may deduct 200% of the value of the tests from the final payment.

2. The final payment shall not become due until the Contractor delivers to the Construction Representative:

a) A complete file of releases, on the standard form included in the contract documents as "Final Receipt of Payment and Release Form", from subcontractors and material suppliers evidencing payment in full for services, equipment and materials, as the case may require, if the Owner approves, or a consent from the Surety to final payment accepting liability for any unpaid amounts.

b) An Affidavit of Compliance with Prevailing Wage Law, in the form as included in this contract specifications, properly executed by each subcontractor, and the Contractor

c) Certified copies of all payrolls

d) As-built drawings

3. If any claim remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging

such a claim including all costs and a reasonable attorney's fee.

4. Missouri statute requires prompt payment from the Owner to the Contractor within thirty calendar days and from the Contractor to his/her subcontractors within fifteen calendar days. Failure to make payments within the required time frame entitles the receiving party to charge interest at the rate of one and one half percent per month calculated from the expiration of the statutory time period until paid.

5. The value of all unused unit price allowances and/or 200% of the value of the outstanding work items, and/or liquidated damages may be deducted from the final pay request without executing a Contract Change. Any unit price items which exceed the number of units in the contract may be added by Contract Change.

## ARTICLE 6 -- INSURANCE AND BONDS

### ARTICLE 6.1 -- BOND

A. Contractor shall furnish a performance/payment bond in an amount equal to 100% of the contract price to guarantee faithful performance of the contract and 100% of the contract price to guarantee the payment of all persons performing labor on the project and furnishing materials in connection therewith under this contract as set forth in the standard form of performance and payment bond included in the contract documents. The surety on such bond shall be issued by a surety company authorized by the Missouri Department of Insurance to do business in the state of Missouri.

B. All Performance/Payment Bonds furnished in response to this provision shall be provided by a bonding company with a rating of B+ or higher as established by A.M. Best Company, Inc. in their most recent publication.

### ARTICLE 6.2 – INSURANCE

A. The successful Contractor shall procure and maintain for the duration of the contract issued a policy or policies of insurance for the protection of both the Contractor and the Owner and their respective officers, officials, agents, consultants and employees. The Owner requires certification of insurance coverage from the Contractor prior to commencing work.

B. Minimum Scope and Extent of Coverage

1. General Liability

   Commercial General Liability, ISO coverage form number or equivalent CG 00 01 ("occurrence" basis), or I-SO coverage form number CG 00 02, or ISO equivalent.

   If ISO equivalent or manuscript general liability coverage forms are used, minimum coverage will be as follows: Premises/Operations; Independent Contractors; Products/Completed Operations; personal Injury; Broad Form Property Damage including Completed Operations; Broad Form Contractual Liability Coverage to include Contractor's obligations under Article 1.11 Indemnification and any other Special Hazards required by the work of the contract.

2. Automobile Liability

   Business Automobile Liability Insurance, ISO Coverage form number or equivalent CA 00 01 covering automobile liability, code 1 "ANY AUTO".

3. Workers' Compensation and Employer's Liability

   Statutory Workers' Compensation Insurance for Missouri and standard Employer's Liability Insurance, or the authorization to self-insure for such liability from the Missouri Division of Workers' Compensation.

4. Builder's Risk or Installation Floater Insurance

   Insurance upon the work and all materials, equipment, supplies, temporary structures and similar items which may be incident to the performance of the work and located at or adjacent to the site, against loss or damage from fire and such other casualties as are included in extended coverage in broad "All Risk" form, including coverage for Flood and Earthquake, in an amount not less than the replacement cost of the work or this contact price, whichever is greater, with loss payable to Contractor and Owner as their respective interests may appear.

   Contractor shall maintain sufficient insurance to cover the full value of the work and materials as the work progresses, and shall furnish Owner copies of all endorsements. If Builder's Risk Reporting-Form of Endorsement is used, Contractor shall make all reports as required therein so

as to keep in force an amount of insurance which will equal the replacement cost of the work, materials, equipment, supplies, temporary structures, and other property covered thereby; and if, as a result of Contractor's failure to make any such report, the amount of insurance so recoverable shall be less than such replacement cost, Contractor's interest in the proceeds of such insurance, if any, shall be subordinated to Owner's interest to the end that Owner may receive full reimbursement for its loss.

C. Minimum Limits of Insurance

1. General Liability

Contractor

| | |
|---|---|
| $2,000,000 | combined single limit per occurrence for bodily injury, personal injury, and property damage |
| $2,000,000 | annual aggregate |

2. Automobile Liability

| | |
|---|---|
| $2,000,000 | combined single limit per occurrence for bodily injury and property damage |

3. Workers' Compensation and Employers Liability

Workers' Compensation limits as required by applicable State Statutes (generally unlimited) and minimum of $1,000,000 limit per accident for Employer's Liability.

General Liability and Automobile Liability insurance may be arranged under individual policies for the full limits required or by a combination of underlying policies with the balance provided by a form-following Excess or Umbrella Liability policy.

D. Deductibles and Self-Insured Retentions

All deductibles, co-payment clauses, and self-insured retentions must be declared to and approved by the Owner. The Owner reserves the right to request the reduction or elimination of unacceptable deductibles or self-insured retentions, as they would apply to the Owner, and their respective officers, officials, agents, consultants and employees. Alternatively, the Owner may request Contractor to procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

E. Other Insurance Provisions and Requirements

The respective insurance policies and coverage, as specified below, must contain, or be endorsed to contain the following conditions or provisions:

1. General Liability

The Owner, and its respective commissioners, officers, officials, agents, consultants and employees shall be endorsed as additional insureds by ISO form CG 20 26 Additional Insured - Designated Person or Organization. As additional insureds, they shall be covered as to work performed by or on behalf of the Contractor or as to liability which arises out of Contractor's activities or resulting from the performance of services or the delivery of goods called for by the Contract.

Contractor's insurance coverage shall be primary with respect to all additional insureds. Insurance of self-insurance programs maintained by the designated additional -insureds shall be excess of the Contractor's insurance and shall not contribute with it.

Additionally, the Contractor and Contractor's general liability insurer shall agree to waive all rights of subrogation against the Owner and any of their respective officers, officials, agents, consultants or employees for claims, losses, or expenses which arise out of Contractor's activities or result from the performance of services or the delivery of goods called for by the Contract.

Contractor's failure to comply with the terms and conditions of these insurance policies shall not affect or abridge coverage for the Owner, or for any of their officers, officials, agents, consultants or employees.

2. Automobile Insurance

The Owner, and their respective officers, officials, agents, consultants and employees shall be endorsed as additional insureds by ISO form CG 20 26 - Additional Insured Designated Person or Organization. As additional insureds, they shall be covered as to work performed by or on behalf of the Contractor or as to liability which arises out of Contractor's activities or resulting from the performance of services or the delivery of goods called for by the Contract.

Contractor's insurance coverage shall be primary with respect to all additional insureds. Insurance or self-insurance programs maintained by the designated additional insureds shall be in excess of the

Contractor's insurance and shall not contribute with it.

Additionally, the Contractor and Contractor's automobile insurer shall agree to waive all rights of subrogation against the Owner and any of their respective officers, officials, agents, consultants or employees for claims, losses, or expenses which arise out of Contractor's activities or result from the performance of services or the delivery of goods called for by the Contract.

Contractor's failure to comply with the terms and conditions of these insurance policies shall not affect or abridge coverage for the Owner or for any of its officers, officials, agents, consultants or employees.

3. Workers' Compensation/Employer's Liability

   Contractor's workers' compensation insurance shall be endorsed with NCCI form WC 00 03 01 A - Alternative Employer Endorsement. The Alternative Employer Endorsement shall designate the Owner as "alternate employers."

4. All Coverages

   Each insurance policy required by this section of the Contract shall contain a stipulation, endorsed if necessary, that the Owner will receive a sixty (60) calendar day advance notice of any policy cancellation, unless a lesser period of notice is permitted under Missouri law. Ten (10) calendar days advance notice is required for policy cancellation due to non-payment of premium.

F. Insurer Qualifications and Acceptability

Insurance required hereunder shall be issued by an A.M. Best, "B+" rated, Class IX insurance company approved to conduct insurance business in the state of Missouri.

G. Verification of Insurance Coverage

Prior to Owner issuing a Notice to Proceed, the Contractor-shall furnish the Owner with Certificate(s) of Insurance and with any applicable original endorsements evidencing the required insurance coverage. The insurance certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements received by the Owner are subject to review and approval by the Owner. The Owner reserves the right to require certified copies of all required policies at any time. If the scope of this contract will exceed one (1) year - or, if any of Contractor's applicable insurance coverage expires prior to completion of the work or services required under this contract - the Contractor will provide a renewal or replacement certificate before continuing work or services hereunder. If the Contractor fails to provide documentation of required insurance coverage, the Owner may issue a stop work order and no additional contract completion time and/or compensation shall be granted as a result thereof.

## ARTICLE 7 – SUSPENSION OR TERMINATION OF CONTRACT

### ARTICLE 7.1 - FOR SITE CONDITIONS

A. When conditions at the site of the proposed work are considered by the Owner to be unsatisfactory for prosecution of the work, the Contractor may be ordered in writing to suspend the work or any part thereof until reasonable conditions exist. When such suspension is not due to fault or negligence of the Contractor, time allowed for completion of such suspended work will be extended by a period of time equal to that lost due to delay occasioned by ordered suspension. This will be a no cost time extension.

### ARTICLE 7.2 - FOR CAUSE

A. Termination or Suspension for Cause:

1. If the Contractor shall file for bankruptcy, or should make a general assignment for the benefit of the creditors, or if a receiver should be appointed on account of insolvency, or if the contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials, or if the contractor should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or the instructions of the Owner, or otherwise be guilty of a substantial violation of any provision of this contract, then the Owner may serve notice on the Contractor and the surety setting forth the violations and demanding compliance with this contract. Unless within ten (10) consecutive calendar days after serving such notice, such violations shall cease and satisfactory arrangements for correction be made, the Owner may suspend the Contractor's right to proceed with the work or terminate this contract.

2. In the event the Owner suspends Contractor's right to proceed with the work or terminates the contract, the Owner may demand that the Contractor's surety take over and complete the work on this contract, after the surety

submits a written proposal to the Owner and receives written approval and upon the surety's failure or refusal to do so within ten (10) consecutive calendar days after demand therefore, the Owner may take over the work and prosecute the same to completion by bid or negotiated contract, or the Owner may elect to take possession of and utilize in completing the work such materials, supplies, appliances and plant as may be on the site of the work, and all subcontractors, if the Owner elects, shall be bound to perform their contracts.

B. The Contractor and its surety shall be and remain liable to the Owner for any excess cost or damages occasioned to the Owner as a result of the actions above set forth.

C. The Contractor in the event of such suspension or termination shall not be entitled to receive any further payments under this contract until the work is wholly finished. Then if the unpaid balance under this contract shall exceed all expenses of the Owner as certified by the Chief Engineer, such excess shall be paid to the Contractor; but, if such expenses shall exceed the unpaid balance as certified by the Chief Engineer, the Contractor and their surety shall be liable for and shall pay the difference and any damages to the Owner.

D. In exercising Owner's right to secure completion of the work under any of the provisions hereof, the Chief Engineer shall have the right to exercise Owner's sole discretion as to the manner, methods and reasonableness of costs of completing the work.

E. The rights of the Owner to suspend or terminate as herein provided shall be cumulative and not exclusive and shall be in addition to any other remedy provided by law.

F. The Contractor in the event of such suspension or termination may be declared ineligible for Owner contracts for a minimal period of twelve (12) months. Further, no contract will be awarded to any Contractor who lists in their bid form any subcontractor whose prior performance has contributed, as determined by the Owner, to a breach of a contract. In order to be considered for state-awarded contracts after this period, the Contractor/subcontractor will be required to forward acceptance reports to the Owner regarding successful completion of non-state projects during the intervening twelve (12) months from the date of default. No contracts will be awarded to a subcontractor/Contractor until the ability to perform responsibly in the private sector has been proven to the Owner.

**ARTICLE 7.3 -- FOR CONVENIENCE**

A. The Owner may terminate or suspend the Contract or any portion of the Work without cause at any time, and at the Owner's convenience. Notification of a termination or suspension shall be in writing and shall be given to the Contractor and their surety. If the Contract is suspended, the notice will contain the anticipated duration of the suspension or the conditions under which work will be permitted to resume. If appropriate, the Contractor will be requested to demobilize and re-mobilize and will be reimbursed time and costs associated with the suspension.

B. Upon receipt of notification, the Contractor shall:

1. Cease operations when directed.

2. Take actions to protect the work and any stored materials.

3. Place no further subcontracts or orders for material, supplies, services or facilities except as may be necessary to complete the portion of the Contract that has not been terminated. No claim for payment of materials or supplies ordered after the termination date shall be considered.

4. Terminate all existing subcontracts, rentals, material, and equipment orders.

5. Settle all outstanding liabilities arising from termination with subcontractors and suppliers.

6. Transfer title and deliver to the Owner, work in progress, completed work, supplies and other material produced or acquire for the work terminated, and completed or partially completed plans, drawings information and other property that, if the Contract had been completed, would be required to be furnished to the Owner.

C. For termination without cause and at the Owner's convenience, in addition to payment for work completed prior to date of termination, the Contractor may be entitled to payment of other documented costs directly associated with the early termination of the contract. Payment for anticipated profit and unapplied overhead will not be allowed.

# SECTION 00800 - SUPPLEMENTARY GENERAL CONDITIONS

## 1.0 GENERAL:

A. These Supplementary General Conditions clarify, add, delete, or otherwise modify standard terms and conditions of DIVISION 0, BIDDING AND CONTRACTING REQUIREMENTS.

## 2.0 DEFINITION:

| | |
|---|---|
| Designer: | {Contacts.DisplayName}<br>{Company.Name}<br>{Addresses.DisplayAddress}<br>Telephone: {Contacts.Tel}<br>Fax: {Contacts.Fax} |
| Construction Representative: | {Projects.Region}<br>Division of Facilities Management, Design and Construction<br>{BidPackages.Udf_ConstrAdminAddr}<br>Telephone: {BidPackages.Udf_CAPhoneNum}<br>Fax: {BidPackages.Udf_CAFaxNum} |
| Project Manager: | {Projects.Territory}<br>Division of Facilities Management, Design and Construction<br>301 West High Street, Room 730<br>PO Box 809<br>Jefferson City, Missouri 65102<br>Telephone: {BidPackages.BidLocationTel}<br>Fax: 573-751-7277 |
| Contract Specialist: | {Projects.Country}<br>Division of Facilities Management, Design and Construction<br>Telephone: 573-522-6035 OR 573-526-3421<br>Fax: 573-751-7277<br>Email: Marlene.Blackburn@oa.mo.gov<br>OR<br>Susan.DeVore@oa.mo.gov |

## 3.0 FURNISHING CONSTRUCTION DOCUMENTS:

A. The Owner will furnish the Contractor with approximately {BidPackages.Udf_NumDrawings} complete sets of drawings and specifications at no charge.

B. The Owner will furnish the Contractor with approximately {BidPackages.Udf_NumDrawings} sets of explanatory or change drawings at no charge.

C. The Contractor may make copies of the documents as needed with no additional cost to the Owner.

## 4.0 INSURANCE REQUIREMENTS:

**USE ONLY FOR PROJECTS WHICH DO NOT REQUIRE INSTALLATION OF CONSTRUCTION MATERIALS; OTHERWISE, DELETE ITEM 4.0.**

From SECTION 00700 - GENERAL CONDITIONS, Article 6.2, delete "Builders Risk or Installation Floater" insurance requirement.

**FOR LAND RECLAMATION PROJECTS:**

From SECTION 00700 - GENERAL CONDITIONS, Article 6.2, the property owner shall also be named as additionally insured. They are: (NAME PROVIDED BY PROJECT MANAGER)

## 5.0 ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT

The Contractor understands and agrees that by signing a contract for this project, they certify the following:

A. The Contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.

B. If the Contractor is found to be in violation of this requirement or the applicable laws of the state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the Contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state.

C. The Contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.

## 6.0 LICENSING OF TRADESMEN

See Article 1.3.B and 1.3.C of the General Conditions, Section 00700 for provisions regarding the licensure of tradesmen required by local codes.