

**STANDARD CITY CONTRACT**

**MASTER CONTRACT FOR PRODUCTS AND SERVICES - THE CITY OF KANSAS CITY, MISSOURI**

**CONTRACT NO.: EV2856**

**TITLE/DESCRIPTION: TERMINAL PUBLIC ADDRESS SYSTEM UPGRADE CONTRACT**

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THIS Contract is between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation ("CITY"), and Siemens Industry, Inc. ("CONTRACTOR").

**Sec. 1. The Contract.** The Contract between the CITY and CONTRACTOR consists of the following Contract Documents:

- (a) this Contract;
- (b) CONTRACTOR's Proposal dated April 6, 2021 that is incorporated by reference into this Contract;
- (c) any and all Attachments and Exhibits attached to the Contract. All documents listed in this Section 1 shall be collectively referred to as the "Contract Documents" and are incorporated into this Contract. CITY and CONTRACTOR agree that the terms "Agreement" and "Contract" and "Contract Documents" are used interchangeably in this Contract and the terms "Agreement" and "Contract" and "Contract Documents" each include all "Contract Documents."

Attachment A: Scope of Work  
Attachment B: Pricing  
Attachment C: Project Schedule  
Attachment D: MWBE Goals  
Attachment E: Bonds and Surety  
Attachment F: Prevailing Wage Order

**Sec. 2. Initial Term of Contract and Additional Periods.**

- (a) Initial Term. The initial term of this Contract shall begin on November xx, 2021 and shall end on November xx, 2022. The Manager of Procurement Services is authorized to enter into an amendment of this Contract with CONTRACTOR to extend the term of this Contract and time of performance for this Contract.
- (b) Renewal Terms. At any time prior to the expiration of the initial term or any subsequent term, the CITY, in its sole discretion, may renew this Contract for up to five (5) additional one (1) year terms.
- (c) Transition Term. Notwithstanding the expiration of the initial term or any subsequent term or all options to renew, CONTRACTOR and CITY shall continue performance under this Contract until the

CITY has a new contract in place with either CONTRACTOR or another provider or until the CITY terminates the Contract.

**Sec. 3. Compensation.**

- A. CITY shall pay CONTRACTOR on the following basis: Based on Attachment A: Scope of Work and Attachment B: Pricing.
- B. CONTRACTOR shall bill the City, in a form acceptable to the City, on the following basis: Attachment B: Pricing.
- C. CITY shall order all services to be provided by CONTRACTOR under this Contract by means of a Purchase Order issued by the CITY's Manager of Procurement Services for which funds have been certified and encumbered by the City's Director of Finance. CITY shall not have any financial obligations to CONTRACTOR under this Contract until the CITY issues a Purchase Order to CONTRACTOR. CONTRACTOR shall not provide any services in excess of the dollar amount contained in any Purchase Order and CONTRACTOR shall not be entitled to any payment in excess of the dollar amount of the Purchase Orders from CITY.

**Sec. 4. Effective Date of Contract.**

- (a) Notwithstanding Section 2 of this Contract, neither party has any obligation under this Contract until the Manager of Procurement Services issues a Purchase Order which shall be signed by the City's Director of Finance certifying there is a balance, otherwise unencumbered, to the credit of the appropriation to which the expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment will be made, each sufficient to meet the obligation incurred in the Purchase Order.
- (b) The date of the first Purchase Order issued by the CITY is the effective date of this Contract.
- (c) The date of the first Purchase Order issued by the CITY after the CITY renews this Contract shall be the effective date of the renewal term or transition term.

**Sec. 5. Invoices.**

- (a) CONTRACTOR shall submit to CITY a request for payment (hereinafter "Invoice") for services performed in sufficient detail for the CITY to determine that the amount CONTRACTOR is requesting is in fact due and payable.
- (b) CITY shall not pay any Invoice from CONTRACTOR unless CONTRACTOR is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Contract. If damages are sustained by CITY as a result of breach or default by CONTRACTOR, CITY may withhold payment(s) to CONTRACTOR for the purpose of set off until such time as the exact amount of damages due to CITY from CONTRACTOR may be determined.

- (c) CITY shall not process CONTRACTOR's Invoice unless CONTRACTOR's Invoice is in proper form, correctly computed, and is approved by CITY as payable under the terms of this Contract.
- (d) CITY is not liable for any obligation incurred by CONTRACTOR except as approved under the provisions of this Contract.
- (e) If CONTRACTOR is required to meet MBE/WBE goals for this Contract, CONTRACTOR shall not submit an Invoice to the City unless CONTRACTOR's Invoice is accompanied by a copy of the most recent 00485.01 M/WBE Monthly Utilization Report submitted by CONTRACTOR to the City's Human Relations Department. CONTRACTOR shall remain current on CONTRACTOR's filing of 00485.01 M/WBE Monthly Utilization Reports. CITY shall not pay CONTRACTOR's Invoice unless CONTRACTOR is current on CONTRACTOR's filing of 00485.01 M/WBE Monthly Utilization Reports.

**Sec. 6. Representations and Warranties of CONTRACTOR.** CONTRACTOR hereby represents and warrants to the CITY the following:

- (a) CONTRACTOR is in good standing under the laws of the state of Missouri and each state in which it does business, except any such state where the failure to be in good standing would not have a material adverse effect on CONTRACTOR's ability to perform this Contract in accordance with its terms.
- (b) The execution, delivery and performance by CONTRACTOR of this Contract have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of CONTRACTOR's board of directors; (ii) require any authorization, consent or approval by, or registration, declaration or filing with, or notice to, any governmental department, commission, board, bureau, agency or instrumentality, or any third party, except such authorization, consent, approval, registration, declaration, filing or notice as has been obtained prior to the date hereof; (iii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect having applicability to CONTRACTOR or its articles or by-laws; and (iv) result in a breach of or constitute a default under any material agreement, lease or instrument to which CONTRACTOR is a party or by which it or its properties may be bound or affected.
- (c) CONTRACTOR shall not enter into any contract for the services to CITY that purports to grant a security interest or right of repossession to any person or entity respecting the services, or any portions thereof or chattels placed thereon.
- (d) There is no litigation, proceeding or other investigation pending or, to the knowledge of CONTRACTOR, threatened against CONTRACTOR which would prevent consummation of the transaction contemplated by this Contract or would have a materially adverse effect on CONTRACTOR.

**Sec. 7. Survival of the Representations, and Covenants.** All representations, warranties and covenants expressed herein shall survive the execution of this Contract for the benefit of the parties hereto.

**Sec. 8. Governing Law.** This Contract shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of law provisions. The CITY and CONTRACTOR: (1) submit to the

jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) waive any and all objections to jurisdiction and venue; and (3) will not raise forum *non conveniens* as an objection to the location of any litigation.

**Sec. 9. Termination for Convenience.** CITY may, at any time upon fifteen (15) days written notice to CONTRACTOR specifying the effective date of termination, terminate this Contract, in whole or in part.

**Sec. 10. Default and Remedies.**

- (a) If CONTRACTOR shall be in default or breach of any provision of this Contract, CITY may terminate this Contract, suspend CITY's performance, withhold payment or invoke any other legal or equitable remedy after giving CONTRACTOR ten (10) days written notice and opportunity to cure such default or breach.
- (b) If CITY shall be in default or breach of any provision of this Contract, CONTRACTOR may terminate this contract or suspend CONTRACTOR's performance after giving CITY ten (10) days written notice and opportunity to cure such default or breach.

**Sec. 11. Waiver.** Waiver by CITY of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Contract can be waived except by written consent of CITY, and forbearance or indulgence by CITY in any regard whatsoever shall not constitute a waiver of same to be performed by CONTRACTOR to which the same may apply and, until complete performance by CONTRACTOR of the term, covenant or condition, CITY shall be entitled to invoke any remedy available to it under this Contract or by law despite any such forbearance or indulgence.

**Sec. 12. Acceptance.** No payment made under this Contract shall be proof of satisfactory performance of the Contract, either wholly or in part, and no payment shall be construed as acceptance of deficient or unsatisfactory services.

**Sec. 13. Records.**

- (a) For purposes of this Section:
  - 1. "CITY" shall mean the City Auditor, the City's Internal Auditor, the City's Director of Human Relations, the City Manager, the City department administering this Contract and their delegates and agents.
  - 2. "Record" shall mean any document, book, paper, photograph, map, sound recordings or other material, regardless of physical form or characteristics, made or received in connection with this Contract and all Contract amendments and renewals.
- (b) CONTRACTOR shall maintain and retain all Records for a term of five (5) years that shall begin after the expiration or termination of this Contract and all Contract amendments. CITY shall have a right to examine or audit all Records, and CONTRACTOR shall provide access to CITY of all Records upon ten (10) days written notice from the CITY.

- (c) The books, documents and records of CONTRACTOR in connection with this Contract shall be made available to the City Auditor, the City's Internal Auditor, the City's Director of Human Relations and the City department administering this Contract within ten (10) days after the written request is made.

**Sec. 14. Affirmative Action.** If this Contract exceeds \$300,000.00 and Contractor employs fifty (50) or more people, Contractor shall comply with City's Affirmative Action requirements in accordance with the provisions of Chapter 3 of City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, Contractor warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 3 of City's Code. Contractor shall:

- (a) Submit, in print or electronic format, a copy of Contractor's current certificate of compliance to the City's Human Relations Department (HRD) prior to receiving the first payment under the Contract, unless a copy has already been submitted to HRD at any point within the previous two (2) calendar years. If, and only if, Contractor does not possess a current certification of compliance, Contractor shall submit, in print or electronic format, a copy of its affirmative action program to HRD prior to receiving the first payment under the Contract, unless a copy has already been submitted to HRD at any point within the previous two (2) calendar years.
- (b) Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- (c) Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to HRD within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, Contractor shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to HRD within thirty (30) days from the date the subcontract is executed.

City has the right to take action as directed by City's Human Relations Department to enforce this provision. If Contractor fails, refuses or neglects to comply with the provisions of Chapter 3 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, canceled or suspended, in whole or in part, and Contractor may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

**Sec. 15. Tax Compliance.** If the CITY's payments to CONTRACTOR exceed \$160,000.00 for the period of May 1st through April 30th, CONTRACTOR shall provide proof of compliance with the CITY's tax ordinances administered by the CITY's Commissioner of Revenue as a precondition to the CITY making the first payment under this Contract. CONTRACTOR also shall submit to the CITY proof of compliance with the CITY's tax ordinances administered by the CITY's Commissioner of Revenue as a condition precedent to the CITY making final payment under the Contract.

**Sec. 16. Buy American Preference.** It is the policy of the CITY that any manufactured goods or commodities used or supplied in the performance of any CITY Contract or any subcontract thereto shall be manufactured or produced in the United States whenever possible.

**Sec. 17. Notices.** All notices to be given hereunder shall be in writing and may be given, served or made by depositing the same in the United States mail addressed to the party to be notified, postpaid and registered or certified with return receipt requested or by delivering the same in person to such person. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in such notice or in this Contract from and after the second day next following the date postmarked on the envelope containing such notice. Notice given in any other manner shall be effective only if and when received by the party to be notified. All notices shall be sent to the following addresses:

If to the CITY:                   City of Kansas City, Missouri  
Procurement Services Division  
414 East 12th Street, 1st Floor, Room 102 W  
Kansas City, Missouri 64106  
Attention: Cedric Rowan, C.P.M., Manager  
Telephone: (816) 513-0814  
Facsimile: (816) 513-1066

With copies to:                 Matthew J. Gigliotti, Esq.  
City Attorney  
Law Department of Kansas City, Missouri  
414 East 12th Street, 23rd Floor  
Kansas City, Missouri 64106  
Telephone: (816) 513-3153

If to the CONTRACTOR:       Siemens Industry, Inc.  
Attn: Chris Foster  
8066 Flint  
Lenexa, Kansas 66214  
(913) 915-7216  
chris.foster@siemens.com

**Sec. 18. General Indemnification.**

- (a) For purposes of this Section only, the following terms shall have the meanings listed:
  - 1. Claims means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by the CITY in the enforcement of this indemnity obligation.
  - 2. CONTRACTOR's Agents means CONTRACTOR's officers, employees, subcontractors, successors, assigns, invitees, and other agents.
  - 3. CITY means CITY, its Agencies, its agents, officials, officers and employees.
- (b) CONTRACTOR's obligations under this Section with respect to indemnification for acts or omissions, including negligence, of CITY, shall be limited to the coverage and limits of insurance that

CONTRACTOR is required to procure and maintain under this Contract. CONTRACTOR affirms that it has had the opportunity to recover all costs of the insurance requirements imposed by this Contract in its contract price.

- (c) CONTRACTOR shall defend, indemnify and hold harmless CITY from and against all claims to the extent arising out of or resulting from all negligent acts or omissions in connection with this Contract caused in whole or in part by CONTRACTOR or CONTRACTOR's Agents,. CONTRACTOR is not obligated under this Section to indemnify CITY for the negligence of CITY.
- (d) In no event shall the language in this Section constitute or be construed as a waiver or limitation of the CITY's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

**Sec. 19. Indemnification for Professional Negligence.** If this contract is for professional services, CONTRACTOR shall indemnify, and hold harmless CITY and any of its agencies, officials, officers, or employees from and against all claims, damages, liability, losses, costs, and expenses, including reasonable attorneys' fees, to the extent arising out of any negligent acts or omissions in connection with this Contract, caused by CONTRACTOR, its employees, agents, subcontractors, or caused by others for whom CONTRACTOR is liable, in the performance of professional services under this Contract. CONTRACTOR is not obligated under this Section to indemnify CITY for the negligent acts of CITY or any of its agencies, officials, officers, or employees.

**Sec. 20. Insurance.**

- (a) CONTRACTOR shall procure and maintain in effect throughout the term of this Contract insurance policies with coverage not less than the types and amounts specified in this Section. CONTRACTOR must have:
  - 1. Commercial General Liability Insurance Policy: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:
    - a. Severability of Interests Coverage applying to Additional Insureds
    - b. Contractual Liability
    - c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$2,000,000.
    - d. No Contractual Liability Limitation Endorsement
    - e. Additional Insured Endorsement, ISO form CG20 10, current edition, or its equivalent.
  - 2. Workers' Compensation Insurance and Employers Liability Policies as required by Missouri law.
  - 3. Commercial Automobile Liability Insurance Policy: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. The Policy shall provide coverage on an "any auto" basis and on an "occurrence" basis. This insurance policy will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims

arising out of the operation of motor vehicles, as to acts done in connection with the Contract, by CONTRACTOR.

4. If this Contract is for professional services, CONTRACTOR shall obtain Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.
- (b) All insurance policies required in this Section shall provide that the policy will not be canceled until after the Insurer provides the CITY ten (10) days written notice of cancellation in the event that the cancellation is for CONTRACTOR's nonpayment of premiums and thirty (30) days written notice of cancellation to CITY for all other reasons of cancellation.
  - (c) The Commercial General and Automobile Liability Insurance Policies specified above shall provide that CITY and its agencies, agents, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Contract. CONTRACTOR shall provide to CITY at execution of this Contract a certificate of insurance showing all required endorsements and additional insureds.
  - (d) All insurance policies must be provided by Insurance Companies that have an A.M. Best's rating of "A-V" or better, and are licensed or approved by the State of Missouri to provide insurance in Missouri.
  - (e) Regardless of any approval by CITY, CONTRACTOR shall maintain the required insurance coverage in force at all times during the term of this Contract. CONTRACTOR's failure to maintain the required insurance coverage will not relieve CONTRACTOR of its contractual obligation to indemnify the CITY pursuant to this Section of this Contract. In the event CONTRACTOR fails to maintain the required insurance coverage in effect, CITY may declare CONTRACTOR in default.
  - (f) In no event shall the language in this Section constitute or be construed as a waiver or limitation of the CITY's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

#### **Sec. 21. Interpretation of the Contract.**

- (a) CITY selected CONTRACTOR through a negotiated procurement process rather than an Invitation for Bids (IFB) solicitation. Unlike the IFB, this process allows the CITY and CONTRACTOR to discuss and negotiate a contract at arms length prior to entering a final contract that is acceptable to both the CITY and the CONTRACTOR. After negotiation and discussion, CONTRACTOR and CITY have incorporated multiple documents into this Agreement and the meaning of some of the words used in the Agreement may be uncertain, incomplete or duplicative and the Agreement may promise something at one place and take that promise away at another. In sum, the Agreement may contain words and provisions that are susceptible of more than one meaning so that reasonable persons of average intelligence may fairly and honestly differ in their construction of the words and provisions. It is the intent of the CITY and the CONTRACTOR that the CITY's taxpayers receive the benefit or advantage in the construction and interpretation of this Agreement, regardless of the normal judicial rules of contract construction even if the construction and interpretation of the Agreement will cost the CONTRACTOR more money and time. CITY and CONTRACTOR agree that CITY's Manager of Procurement Services shall resolve all disagreements as to the meaning of this Agreement or any



ambiguity in this Agreement, in favor of the CITY and its taxpayers even if it will cost the CONTRACTOR more money and time. The decision of CITY's Manager of Procurement shall be final and conclusive if the Manager of Procurement Services acted in good faith.

- (b) CONTRACTOR acknowledges and agrees that the CITY has provided CONTRACTOR with an opportunity to have CONTRACTOR's attorney review and advise CONTRACTOR on the Agreement and any potential ambiguities or areas of disagreement and the potential adverse legal consequences of CONTRACTOR agreeing to this Section as well as the entire Agreement. CONTRACTOR certifies that CONTRACTOR has provided the CITY written notice of all ambiguities, conflicts, errors or discrepancies that it has discovered in the Agreement and the written resolution thereof by the CITY as embodied in this final Agreement is acceptable to CONTRACTOR.
- (c) CONTRACTOR certifies that CONTRACTOR has either (1) waived its right to have CONTRACTOR's attorney review this Section and Agreement; or (2) CONTRACTOR has consulted with an attorney on this Section and Agreement.
- (d) CONTRACTOR knowingly and voluntarily agrees to this Section and the entire Agreement. CONTRACTOR certifies that this contract was not procured by fraud, duress or undue influence.
- (e) Notwithstanding anything else in this Agreement that is incorporated, the City shall not be required to indemnify Contractor or carry insurance and City shall have no financial obligation to Contractor.

**Sec. 22. Contract Execution.** This Contract may be executed in one or more counterparts, each of which will be deemed an original copy of this Contract and all of which, when taken together, will be deemed to constitute one and the same Contract. This Contract shall be effective upon the execution of counterparts by both parties, notwithstanding that both parties may not sign the same counterpart. The parties' signatures transmitted by facsimile or by other electronic means shall be proof of the execution of this Contract and shall be acceptable in a court of law.

**Sec. 23. Guranteed Lowest Pricing.** CONTRACTOR certifies that this Contract contains CONTRACTOR's lowest and best pricing for substantially similar products and services supplied by CONTRACTOR, through its Regional Solutions and Services Americas Business Unit, in substantially similar transactions to public sector clients.

**Sec. 24. Assignability and Subcontracting.**

- (a) Assignability. Contractor shall not assign or transfer any part or all of Contractor's obligation or interest in this Contract without prior written approval of City. If Contractor shall assign or transfer any of its obligations or interests under this Contract without the City's prior written approval, it shall constitute a material breach of this Contract. This provision shall not prohibit contractor from subcontracting as otherwise provided for herein.
- (b) Subcontracting. Contractor shall not subcontract any part or all of Contractor's obligations or interests in this Contract unless the subcontractor has been identified in a format required by City. If Contractor shall subcontract any part of Contractor's obligations or interests under this Contract without having identified the subcontractor, it shall constitute a material breach of this Contract. The utilization of subcontractors shall not relieve Contractor of any of its responsibilities under the Contract, and

Contractor shall remain responsible to City for the negligent acts, errors, omissions or neglect of any subcontractor and of such subcontractor's officers, agents and employees. City shall have the right to reject, at any point during the term of this Contract, any subcontractor identified by Contractor, and to require that any subcontractor cease working under this Contract. City's right shall be exercisable in its sole and subjective discretion. City shall not be obligated to pay or be liable for payment of any monies which may be due to any subcontractor. Contractor shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing Contractor's services hereunder.

**Sec. 25. Professional Services – Conflict of Interest Certification.** If this Contract is for professional services other than for medical doctors or appraisers, CONTRACTOR certifies that CONTRACTOR is not an expert witness for any party in litigation against the CITY at the time of the issuance of this Contract.

**Sec. 26. Intellectual Property Rights.** CONTRACTOR agrees, on its behalf and on behalf of its employees and agents, that it will promptly communicate and disclose to CITY all computer programs, documentation, software and other copyrightable works ("copyrightable works") specifically first developed by CONTRACTOR or its agents, whether solely or jointly with others, that are commissioned by, deliverable to, and paid for by the CITY during the term of this Contract resulting from or related to any work CONTRACTOR or its agents may do on behalf of CITY or at its request. All inventions and copyrightable works that CONTRACTOR is obligated to disclose shall be and remain entirely the property of CITY. It is agreed that all inventions and copyrightable works are works made for hire and shall be the exclusive property of CITY. CONTRACTOR hereby assigns to CITY any rights it may have in such copyrightable works. CONTRACTOR shall cooperate with CITY in obtaining any copyrights or patents. Notwithstanding the foregoing, Copyrightable Works shall not include CONTRACTOR's pre-existing intellectual property.

**Sec. 27. Minority and Women's Business Enterprises.** CITY is committed to ensuring that minority and women's business enterprises (M/WBE) participate to the maximum extent possible in the performance of CITY contracts. If M/WBE participation goals have been set for this Contract, CONTRACTOR agrees to comply with all requirements of City's Minority and Women's Business Enterprise Program as enacted in CITY'S Code CITY'S Code Chapter 3 Sections 3-421 through 3-469 and as hereinafter amended. CONTRACTOR shall make its good faith efforts in carrying out this policy by implementing its Contractor Utilization Plan, which is attached as **Attachment No. \_**. If CONTRACTOR fails to achieve the M/WBE goals stated in its Contractor Utilization Plan, as amended, the CITY will sustain damages, the exact extent of which would be difficult or impossible to ascertain or estimate at the time of execution of this contract. Therefore, in order to liquidate those damages, the monetary difference between the amount of the M/WBE goals set forth in this Contractor Utilization Plan, as amended, and the amount actually paid to qualified MBEs and WBEs for performing a commercially useful function will be deducted from the CONTRACTOR'S payments as liquidated damages. In determining the amount actually paid to qualified MBEs and WBEs, no credit will be given for the portion of participation that was not approved by the Director of City's Human Relations Division, unless the Director determines that the CONTRACTOR acted in good faith. No deduction for liquidated damages will be made when, for reasons beyond the control of the CONTRACTOR, the M/WBE participation stated in the Contractor Utilization Plan, as amended and approved by the Director, is not met.

**Sec. 28. Employee Eligibility Verification.** CONTRACTOR shall execute and submit an affidavit, in a form prescribed by the CITY, affirming that CONTRACTOR does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3). CONTRACTOR shall attach to the affidavit documentation sufficient to establish CONTRACTOR's enrollment and participation in an electronic verification of work program operated by the United

States Department of Homeland Security to verify information of newly hired employees, under the Immigration and Reform and Control Act of 1986. CONTRACTOR may obtain additional information about E-Verify and enroll at <https://e-verify.uscis.gov/enroll/StartPage.aspx?JS=YES>. For those CONTRACTORs enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that CONTRACTOR will obtain upon successfully enrolling in the program shall constitute sufficient documentation for purposes of complying with this section. CONTRACTOR shall submit the affidavit and attachments to the CITY prior to execution of the contract, or at any point during the term of the contract if requested by the CITY.

**Sec. 29. Emergencies.**

- (a) Disaster means any large scale event such as an act of terrorism, fire, wind, flood, earthquake or other natural or man-made calamity which results in, or has the potential to result in a significant loss of life or property.
- (b) During and after a disaster, CONTRACTOR shall provide special services to the CITY including CONTRACTOR shall open CONTRACTOR's facilities even on nights and weekends as necessary to meet the needs of the City during a disaster.
- (c) CONTRACTOR shall not charge CITY any fee for opening facilities during an emergency or for extending CONTRACTOR's hours of operation during a disaster. CITY shall pay CONTRACTOR the agreed upon contract prices for all purchases made by CITY during the disaster and CONTRACTOR shall not charge CITY any additional mark-up, fee or cost for any purchases made by CITY during a disaster.
- (d) CONTRACTOR shall quickly mobilize CONTRACTOR's internal and external resources to assist CITY when a disaster unfolds.
- (e) Extended hours and personnel. During disasters, CONTRACTOR's facilities shall stay open 24 hours if requested by the CITY. CONTRACTOR shall utilize additional CONTRACTOR personnel to take CITY orders if necessary. CONTRACTOR's Call Center shall accept phone orders 24 hours a day.
- (f) CONTRACTOR shall have contingency plans with CONTRACTOR's suppliers to provide additional supplies and equipment quickly to CITY as needed.
- (g) CONTRACTOR shall cooperate with CITY to properly document any and all expenses incurred by CITY with CONTRACTOR and CONTRACTOR shall assist CITY in meeting any and all documentation requirements of the Federal Emergency Management Agency (FEMA).

**Sec. 30. Trade-In.** If the solicitation requests a price or value for one or more pieces of equipment to be traded in as part of the purchase of new equipment, the CITY retains the option to purchase the new equipment at the full price or to reduce the price of the new equipment by the amount of the trade-in offered. The CITY is not obligated to accept the trade-in offer and may withdraw equipment offered for trade-in at any time up to award.

**Sec. 31. Time of Delivery.** Delivery is required to be made in accordance with the schedule shown in the solicitation and purchase order.

**Sec. 32. F.O.B. Destination.** Unless otherwise directed in the solicitation and purchase order, all deliveries shall be F.O.B. Destination and all freight charges shall be included in the total price. Supplies shall be delivered to the

destination consignee's warehouse unloading platform, or receiving dock, at the expense of the CONTRACTOR. The CITY shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved prior to the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the CITY acting in its contractual capacity. If rail carrier is used, supplies will be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggy-back") is used, supplies will be delivered to truck tailgate at the unloading platform of the consignee. If the CONTRACTOR uses rail carrier or freight forwarder for less than carload shipments, he shall assure that the carrier will furnish tailgate delivery if transfer to truck is required to complete delivery to consignee. One of the following statements usually will appear on the purchase order, although others may be used. If no statement appears, paragraph 22(a) is applicable.

- (a) F.O.B. Destination, Freight Prepaid by Seller. The seller pays and bears all freight charges.
- (b) F.O.B. Destination, Freight Prepaid and Charged Back on Invoice. The seller pays the freight and charges the CITY by adding it to the invoice.
- (c) F.O.B. Destination, Freight Collect. The CITY pays and bears the freight charges.
- (d) F.O.B. Destination, Freight Collect and Allowed on Invoice. The CITY pays the freight charges and deducts the amount from the seller's invoice.

**Sec. 33. Quality.** Unless otherwise required by terms of the solicitation, all goods, supplies, and materials furnished shall be new, in current production, and the best of their kind. When applicable, parts and maintenance shall be reasonably available. New equipment that is obsolete or technically outdated is not acceptable. Remanufactured or reconditioned items are not considered new. Items shall be properly packaged, packed, labeled, and identified in accordance with commercial standards acceptable to the trade and as required by ICC and other federal and state regulations. Packing slips will accompany the shipment.

**Sec. 34. Price.** Prices quoted are to be firm and final. All prices quoted shall be net and shall reflect any available discount except for discounts for timely payment. All prices are to be F.O.B. designated delivery point. All shipping, packing, and drayage charges are the responsibility of the supplier. C.O.D. shipments will not be accepted unless otherwise agreed to by the City.

**Sec. 35. Brand Name or Equal.** Whenever the name of the manufacturer or the supplier is mentioned on the face hereof and the words "or equal" do not follow, it shall be deemed that the words "or equal" shall follow such designations unless the face hereof specifies "no substitutions". The CITY may assume that items submitted are equal or it may request samples and proof thereof and unless approved before shipment, reserves right to return at the CONTRACTOR'S expense all items that are not acceptable as equals, said items to be replaced by the CONTRACTOR with satisfactory items at the original submitted price.

**Sec. 36. Commercial Warranty.** The CONTRACTOR agrees that the supplies or services furnished under this contract shall be covered by the most favorable commercial warranties the CONTRACTOR gives to any customer for such supplies or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the CITY by any other clause of this contract.

**Sec. 37. RESERVED.**

**Sec. 38. Sellers Invoice.** Invoices shall be prepared and submitted in duplicate to address shown on the purchase order. Separate invoices are required for each purchase order. Invoices shall contain the following information: purchase order number, item number, description of supplies or services, sizes, unit of measure, quantity, unit price, and extended totals.

**Sec. 39. Inspection and Acceptance.** Inspection and acceptance will be at destination unless specified otherwise, and will be made by the CITY department shown in the shipping address or other duly authorized representative of the CITY. Until delivery and acceptance, and after any rejection, risk of loss will be on the CONTRACTOR unless loss results from negligence of the CITY. CONTRACTOR will be notified of rejected shipments. Unless agreed otherwise, items will be returned freight collect.

**Sec. 40. Loss and Damaged Shipments.** Risk of loss or damage to items prior to the time of their receipt and acceptance by the CITY is upon the CONTRACTOR. The CITY has no obligation to accept damaged shipments and reserves the right to return at CONTRACTOR's expense damaged merchandise even though the damage was not apparent or discovered until after receipt of the items.

**Sec. 41. Late Shipments.** Supplier or CONTRACTOR is responsible to notify the CITY department receiving the items and the Senior Buyer of any late or delayed shipments. The CITY reserves the right to cancel all or any part of an order if the shipment is not made as promised.

**Sec. 42. Tax Exemption - Federal and State.**

- A. The CITY is exempt from Federal Excise and Transportation taxes on purchases under Chapter 32, Internal Revenue Code. The federal tax registration number issued by the St. Louis District Director on November 11, 1974 is No. 43740340K.
- B. The CITY is exempt from payment of Missouri Sales and Use Tax in Accordance with Section 39(10) Article 3, of the Missouri Constitution and Sections 144.040 and 144.615 RSMo 1969 and supplement thereto. A copy of the exemption from Missouri Sales and Use Tax is available upon request.

**Sec. 43. Annual Appropriation of Funds.**

- A. Multi-year term supply and service contracts and leases and the exercise of options to renew term contracts are subject to annual appropriation of funds by the City Council. Payments made under term contracts and leases are considered items of current expense. Purchase orders are funded when issued, therefore are current expense items and are not subject to any subsequent appropriation of funds.
- B. In the event sufficient funds are not appropriated for the payment of lease payments or anticipated term contract payments required to be paid in the next occurring lease or contract term and if no funds are legally available from other sources, the lease or contract may be terminated at the end of the original term or renewal term and the CITY shall not be obligated to make further payments beyond the then current original or renewal term. The CITY will provide notice of its inability to continue the lease or contract at such time as the Manager of Procurement Services is aware of the nonappropriation of funds; however, failure to notify does not renew the term of lease or contract. If a lease is cancelled, the events of default will occur as described in the lease and/or the section

titled TERMINATION FOR DEFAULT. The CITY has no monetary obligations in event of termination or reduction of a term contract since such contracts represent estimated quantities and are not funded as a contract, but only to the extent of purchase orders issued.

**Sec. 44. Quality Services Assurance Act.** If this Contract exceeds \$160,000.00, CONTRACTOR certifies CONTRACTOR will pay all employees who will work on this Contract in the city limits of Kansas City, Missouri at least \$12.50 per hour in compliance with the CITY's Quality Services Assurance Act, Section 3-66, Code of Ordinances or CITY has granted CONTRACTOR an exemption.

**Sec. 45. Anti-Discrimination Against Israel.** If this Contract exceeds \$100,000.00 and CONTRACTOR employs at least ten employees, pursuant to Section 34.600, RSMo., by executing this Contract, CONTRACTOR certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

Sec. 46. Consequential Damages. NOTWITHSTANDING ANYTHING IN THIS CONTRACT TO THE CONTRARY, NEITHER CITY NOR CONTRACTOR SHALL BE LIABLE, WHETHER BASED IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR ANY TYPE OF INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE.

Sec. 47. Limitation of Liability. CONTRACTOR'S MAXIMUM LIABILITY UNDER THIS AGREEMENT UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, INDEMNITY OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF INSURANCE FOR THIS CONTRACT.

**CONTRACTOR**

I hereby certify that I have the authority to execute  
this document on behalf of CONTRACTOR.

Contractor: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

**APPROVED AS TO FORM**

\_\_\_\_\_  
Assistant City Attorney (Date)

**KANSAS CITY, MISSOURI**

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

## Attachment A: Scope of Work

This scope is entered into in partnership with Electronic Design Company (EDC) and IED for the upgrade of the Public Address System in Terminal C and the continued platinum maintenance plan for Terminal B at the KCI Airport.

This plan provides the most comprehensive method available to insure the public address systems are provided with operational continuity through the closure of the existing terminals B & C in 2023 and includes an extension of the Manufacturer's Platinum Assurance Plan for Terminal B.

The sections below outline the design assumptions, scope of work, responsibilities of both EDC and the facility and project costs.

**Scope of Work - Terminal C:** The replacement of the public address system will consist of the following:

- 2 - AtlasIED Globalcom IP 108 Dante
- 2 - AtlasIED Globalcom Software
- 4 - AtlasIED Globalcom Software Licenses
- 1 - Software Configurations
- 1 - LCD Rack Mount Console with Keyboard
- 1 - Rack Mount Power Supply System
- 1 - Redundant Rack Mount Power Supply
- 1 - RACKMOUNT TOUCHSCREEN MICROPHONE WITH SPEAKER
- 35 - HD Software End Points
- 70 - HD End Points Licenses
- 1 - IED DANTE ANALOG AUDIO INPUT
- 2 - Network Audio Connection Devices from B to C Terminals
- 27 - AtlasIED IP Based Touch Screen Mic Station
- 4 - AtlasIED IP Amplifier Frames
- 28 - AtlasIED Amplifier Cards two channel 300 watts per channel
- 2 Year - Platinum Assurance plan for Terminals B & C (see IED Conditions below)
- 2 year - Remote support from EDC including site visits as required

### **KCI WILL SUPPLY AND INSTALL THE FOLLOWING NEEDED FOR IMPLEMENTATION OF THE PAGING SYSTEM AT TERMINAL C:**

- Network Connectivity for 35 Network Devices including one at Terminal B
- Network Connectivity is needed for new MIC station locations, Qty 27
- Network Connectivity at Terminal C requires all devices to be on the same switched layer two network
- Rack Space - 37 Rack Units in the terminal room that the existing paging system amplifiers are located in. This number could be reduced by using the rack location of the existing amplifiers and IED Control Equipment System, downtime would need to be coordinated
- AC Power



All Items listed above in **Bold** will require Kansas City Airport Network Connectivity (provided by KCI personnel).

**INCLUSIONS:**

- Technical Support, Specialist Programming.
- Project Coordination/Management
- Installation labor at Prevailing Wage as required by the Contract
- Freight
- All work for this project to be performed during normal CONTRACTOR Industry business hours, 7:00 a.m. to 3:30 p.m., M-F, excluding Holidays.
- Cutover of the paging systems to be done during off hours (night)
- Pricing assumes using the existing flight announcement server and software for automated flight announcements.
- Siemens/EDC/IED anticipate completion in 90 days from CONTRACTOR receipt of signed contract. This assumes that the installation provided by the owner is completed in a timely manner.
- Performance Bond and Payment Bond
- Permits
- Siemens will invoice at the completion of the upgrade.
- Net 30

**EXCLUSIONS / SCOPE OF WORK BY OTHERS:**

- 120vac power
- (if a permit is required, it needs to be included)
- Painting and patching
- Shift and overtime work unless stated above.
- Facilities and associated costs for storage of materials other than Siemens Industry warehouse facility.
- Job site property insurance including Builders Risk Coverage.
- Overtime required due to schedule revisions, work stoppages, delays caused by others, or circumstances beyond Siemens Industry control.
- Coverage in addition to Siemens supplied insurance COI meeting city contract requirements

**ATLAS IED PLATINUM ASSURANCE PLAN CONDITIONS:**

- The completion of the upgrade of the current system will be no later than March 2023 (new terminal)
- Commencement of this plan will be upon receipt of an MCI/KCMO PO
- The IED OEM Limited Warranty covering any IED 500ACS components that serve MCI has long since expired and has the previous IED Platinum Assurance Plan (expired 06/01/20). Sustaining support for the 500ACS components cannot be guaranteed and is solely dependent upon parts availability to repair the components now serving MCI/KCMO, per our "best efforts" to provide support.

- Assuming that all MCI/KCMO spare parts are usable, this inventory will serve as the safety stock for KCI/KCMO, and used as the only source of replacement components, and/or parts for repair
- A VPN, and/or other access to IED servers/processors is required to facilitate the 24/7/365, one (1) hour response
- The owner and/or manager of the network on which the referenced AtlasIED system resides, is responsible for that network and for any/all changes/modifications made thereto. Changes/modifications could create PAS abnormalities. If that happens, the network owner/manager is responsible for any/all diagnostics necessary to bring about stability of the PAS. AtlasIED will assist with these diagnostics as prescribed by either/or the prevailing IED OEM Limited Warranty if in effect, and/or the proposed IED Platinum Assurance Plan (see attached, "STATEMENT OF ENDUSER NETWORK RESPONSIBILITY")
- Outstanding "punch list" service/repair issues ARE NOT COVERED by this plan but need to be resolved prior to the commencement of this plan
- IED will attempt to repair any IED current non-functional IED component (2), subject to parts availability

\*"Best efforts" as defined as:

Certain parts by IED have been discontinued and/or are no longer serviceable or available. In the event that a discounted part fails and KCI/KCMO has a spare, that spare shall be used, and the failed part repaired (using the "Annotated End-User Flat rate of Repairs" schedule), if possible, so that the repaired part can be placed back in inventory for future use. If no spare is available, the part is shipped to IED for possible repair. In the interim, the system may be inoperable indefinitely. If the part is not repairable, IED will attempt to recommend temporary corrective resolution. A separate quote from IED will be submitted, detailing equipment for said corrective action.

**MCI, VIA EDC, WILL RECEIVE:**

- Hardware repair: If the parts to repair said component are available (either via IED or MCI/KCMO inventory), IED will attempt to repair the component
- Hardware replacement: Assuming that all the spare parts contained in the "Copy of IED Inventory 11-03-2020", usable, this inventory will serve as the sole source of available replacement components for KCI/KCMO. This inventory may also be used for parts for repair as well
- 24/7/365 access to IED remote technical service with one (1) hour response
- Access to PRDP message library and updates

**Attachment B: Pricing**

A. Fixed Cost for this contract (service and products) is Six Hundred Forty One Thousand and Eighty Four dollars (\$641,084.00). This cost includes all fees such as insurance, bonds and additional expenses. No additional fees will be billed or accepted. Any changes to the project cost or scope will require a contract amendment prior to work being started.

|                                    |                     |
|------------------------------------|---------------------|
| <b>Equipment</b>                   | <b>\$482,556.00</b> |
| <b>Labor</b>                       | <b>\$88,109.00</b>  |
| <b>Warranty</b>                    | <b>\$18,111.00</b>  |
| <b>IED Platinum Assurance Plan</b> | <b>\$52,308.00</b>  |
| <b>Total Quote Price</b>           | <b>\$641,084.00</b> |

**Attachment C: Project Schedule**

**Attachment D: MWBE Goals**

## Attachment E: Bonds and Surety

**Sec. 1. Bonds and Surety.** Contractor shall furnish a Performance Bond and Payment Bond, to City on City furnished forms, executed by a Surety, in the amount of this Contract guaranteeing Contractor's faithful performance of each and every term of this Contract and all authorized changes thereto, including those terms under which Contractor agrees to pay legally required wage rates including the prevailing hourly rate of wages in the locality, as determined by the Department of Labor and Industrial Relations or by final judicial determination, for each craft or type of worker required to perform under this Contract; guaranteeing the payment of all obligations as provided in Section 107.170 RSMo.; and guaranteeing the services and work against faulty workmanship and faulty materials.

- A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by Contractor shall be obtained from surety or insurance companies that are duly licensed in the State of Missouri and in the jurisdiction in which the Project is located, if not in Missouri, to issue Bonds or insurance policies for the limits and coverages so required. All surety and insurance companies shall hold an A.M. Best rating of A-, V, or better.
- B. If the surety on any Bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state where any part of the Project is located, Contractor shall within twenty (20) days thereafter substitute another Bond and surety, both of which must be acceptable to City.

## Attachment G: Prevailing Wage

### Sec. 1 Prevailing Wage.

- A. Prevailing Wage.
  1. Contractor shall comply and require its Subcontractors to comply with;
    - a. Sections 290.210 to 290.340, RSMo the State of Missouri Prevailing Wage Law (the "Law"); and
    - b. 8 CSR 30-3.010 to 8 CSR 30-3.060, the Prevailing Wage Law Rules (the "Rules"); and
    - c. the Annual Wage Order (Wage Order) issued by the State of Missouri's Department of Labor and Industrial Relations; and
    - d. any applicable Annual Incremental Wage Increase (Wage Increase) to the Annual Wage Order.
  2. The Law, Rules, Wage Order and any Wage Increase are incorporated into and made part hereof this Contract and shall be collectively referred to in this Section as the "Prevailing Wage Requirements." In the event this Contract is renewed for an additional term, the Wage Order in effect as of the commencement date of the additional term, as amended by any applicable Wage Increase, shall be deemed incorporated herein and shall apply to and remain in effect for the duration of the additional term. The new Wage Order and any applicable Wage Increase shall govern notwithstanding the fact that the Wage Order being replaced might be physically attached to this Contract.
  3. Contractor shall pay and require its Subcontractors to pay to all workers performing work under this Contract not less than the prevailing hourly rate of wages for the class or type of work performed by the worker in accordance with the Law, Rules, Wage Order and any applicable

Wage Increase. Contractor shall take whatever steps are necessary to insure that the prevailing hourly wage rates are paid and that all workers for Contractor and each of its Subcontractors are paid for the class or type of work performed by the worker in accordance with the Prevailing Wage Requirements.

4. Prior to each of its Subcontractors beginning Work on the Site, Contractor shall require each Subcontractor to complete City's Form 00490 entitled "Pre-contract Certification" that sets forth the Subcontractor's prevailing wage and tax compliance history for the two (2) years prior to the bid. Contractor shall retain one (1) year and make the Pre-contract Certifications available to City within five (5) days after written request.

5. Contractor shall keep and require each of its Subcontractors engaged in the construction of public works in performance of the Contract to keep full and accurate records on City's:

a. Keep and require each of its Subcontractors engaged in the construction of public works in performance of the Contract to keep full and accurate records on City's "Daily Labor Force Report" Form indicating the worker's name, occupational title or classification group and skill and the workers' hours. City shall furnish blank copies of the Daily Labor Force Report Form to Contractor for its use and for distribution to Subcontractors. Contractor shall submit its and its Subcontractors Daily Labor Force Reports to City each day; and

b. Submit, and require each of its Subcontractors engaged in the construction of public works in performance of the Contract to submit, electronically, in a format prescribed by the City, Certified Payroll Report Information indicating the worker's name, address, social security number, occupation(s), craft(s) of every worker employed in connection with the public work together with the number of hours worked by each worker and the actual wages paid in connection with the Project and other pertinent information as requested by the City; and

c. Submit, and require each of its Subcontractors engaged in the construction of public works in performance of the Contract to submit, electronically, in format prescribed by the City, a Payroll Certification. The Payroll Certification must be signed by the employee or agent who pays or supervises the payment of the workers employed under the Contract for the Contractor and each Subcontractor.

d. The Daily Labor Force Report, documents used to compile information for the Certified Payroll Report, and Payroll Certification are collectively referred to in this Section as the "Records."

6. Contractor shall make all of Contractor's and Subcontractors' Records open to inspection by any authorized representatives of City and the Missouri Department of Labor and Industrial Relations at any reasonable time and as often as they may be necessary and such Records shall not be destroyed or removed from the State of Missouri for a period of one (1) year following the completion of the public work in connection with which the Records are made. Contractor shall have its and its Subcontractors Certified Payroll Reports and Payroll Certifications available at the Contractor's office and shall provide the Records to the City electronically at City's sole discretion. In addition, all Records shall be considered a public record and Contractor shall provide the Records to the City in the format required by the City within three (3) working days of any request by City at the Contractor's cost. City, in its sole discretion,

may require Contractor to send any of the Records directly to the person who requested the Record at Contractor's expense.

7. Contractor shall post and keep posted a clearly legible statement of all prevailing hourly wage rates to be paid to all workers employed by Contractor and each of its Subcontractors in the performance of this Contract in a prominent and easily accessible place at the Site of the Work by all workers.

8. If the Contract Price exceeds \$250,000.00, Contractor shall and shall require each Subcontractor engaged in any construction of public works to have its name, acceptable abbreviation or recognizable logo and the name of the city and state of the mailing address of the principal office of the company, on each motor vehicle and motorized self-propelled piece of equipment which is used in connection with the Project during the time the Contractor or Subcontractor is engaged on the project. The sign shall be legible from a distance of twenty (20') feet, but the size of the lettering need not be larger than two (2") inches. In cases where equipment is leased or where affixing a legible sign to the equipment is impractical, the Contractor may place a temporary stationary sign, with the information required pursuant to this section, at the main entrance of the Project in place of affixing the required information on the equipment so long as such sign is not in violation of any state or federal statute, rule or regulation. Motor vehicles which are required to have similar information affixed thereto pursuant to requirements of a regulatory agency of the state or federal government are exempt from the provisions of this subsection.

9. Contractor must correct any errors in Contractor's or any Subcontractors' Records, or Contractor's or any Subcontractors' violations of the Law, Rules, Annual Wage Order and any Wage Increase within fourteen (14) calendar days after notice from City.

10. Contractor shall and shall require its Subcontractors to cooperate with the City and the Department of Labor and Industrial Relations in the enforcement of this Section, the Law, Rules, Annual Wage Order and any Wage Increase. Contractor shall and shall require its Subcontractors to permit City and the Department of Labor and Industrial Relations to interview any and all workers during working hours on the Project at Contractor's sole cost and expense.

11. Contractor shall file with City, upon completion of the Project and prior to final payment therefore, affidavits from Contractor and each of its Subcontractors, stating that each has fully complied with the provisions and requirements of the Missouri Prevailing Wage Law. City shall not make final payment until the affidavits, in proper form and order, from Contractor and each of its Subcontractors, are filed by Contractor.

12. Contractor shall forfeit as a statutory penalty to the City one hundred dollars (\$100.00) for each worker employed, for each calendar day, or portion thereof, such worker is paid less than the prevailing hourly rates for any work done under this Contract, by Contractor or by any of Contractor's Subcontractors. If Contractor or any of its Subcontractors have violated any section(s) of 290.210 to 290.340, RSMo, in the course of the execution of the Contract, City shall when making payments to the Contractor becoming due under this Contract, withhold and retain therefrom all sums and amounts due and owing as a result of any violation of sections 290.210 to 290.340, RSMo.



B. Prevailing Wage Damages. Contractor acknowledges and agrees that, based on the experience of City, violations of the Missouri Prevailing Wage Act, whether by Contractor or its Subcontractors, commonly result in additional costs to City. Contractor agrees that additional costs to City for any particular violation are difficult to establish and include but are not limited to: costs of construction delays, additional work for City, additional interest expenses, investigations, and the cost of establishing and maintaining a special division working under the City Manager to monitor prevailing wage compliance.

1. In the event of the failure by Contractor or any of its Subcontractors to pay wages as provided in the Missouri Prevailing Wage Act, City shall be entitled to deduct from the Contract Price, and shall retain as liquidated damages, one hundred dollars (\$100.00) per day, per worker who is paid less than the prevailing hourly rate of wages, to approximate the additional costs. The sum shall be deducted, paid or owed whether or not the Contract Times have expired.

2. City shall give written notice to Contractor setting forth the workers who have been underpaid, the amount of the statutory penalty and the amount of the liquidated damages as provided for in this Subparagraph. Contractor shall have fourteen (14) calendar days to respond, which time may be extended by City upon written request. If Contractor fails to respond within the specified time, the City's original notice shall be deemed final. If Contractor responds to City's notice, City will furnish Contractor a final decision in writing within five (5) days of completing any investigation.

C. Excessive Unemployment.

1. Resident Laborers" means laborers who have been residents of the State of Missouri for at least thirty days and who intend to remain Missouri residents, and residents of Nonrestrictive States.

2. "Nonrestrictive States" means states identified by the Missouri Department of Labor and Industrial Relations Division of Labor Standards that have not enacted state laws restricting Missouri laborers from working on public works projects. A list of Nonrestrictive States can be found on the Division web site at <http://www.dolir.mo.gov/ls/index.htm>.

3. A period of Excessive Unemployment is declared when the Missouri Department of Labor and Industrial Relations Division of Labor Standards provides notice of such declaration. When in effect, notice will be provided on the Division web site at <http://www.dolir.mo.gov/ls/index.htm>. It is Contractor's obligation to determine whether a period of Excessive Unemployment is in effect when this Contract is let.

4. Contractor agrees to follow the provisions of Section 290.560 - 290.575 RSMo and agrees that if a period of Excessive Unemployment has been declared at any point during the term of this Contract, it will employ and require all Subcontractors of whatever tier to employ only Resident Laborers for the Work to be performed under this Contract. Provided, however, Contractor may use laborers who are not Resident Laborers when Resident Laborers are not available or are incapable of performing the particular type of work involved if Contractor so certifies in writing to City and City issues a written approval. This provision does not apply to regularly employed nonresident executive, supervisory or technical employees.

**Sec. 2 Attachments.** The following documents are attachments to this contract and are attached hereto and incorporated herein by this reference:

**Attachment A – Scope of Services**

**Attachment B – Schedule of Performance**

**Attachment C – Non-Construction Subcontractor Listing**

**Attachment D – Prevailing Wage Requirements**

Annual Wage Order No. 28

County      Platte

Work Type:

State – Building

Federal – Building

Division of Labor Standards Rules & Regulations

01290.03 Certified Payroll Instructions

01290.04 Certified Payroll Example

01290.05-06 Certified Payroll Report

01290.07 Payroll Certification

01290.08 Wage Rate Verification Questionnaire

01290.11 Daily Labor Force Report

01290.14 Contractor Affidavit for Final Payment

**Attachment E – 00560 Missouri Project Exemption Certificate**

00560.01 Kansas City Missouri Tax Exempt Certificate

**Attachment F – 00620 Insurance Certificate**

**ATTACHMENT F- PREVAILING WAGE ORDER**