

**CITY OF MISSION, KANSAS**  
**COMMUNITY DEVELOPMENT COMMITTEE**

**WEDNESDAY, MAY 3, 2017**

**6:30 p.m.**

**Mission City Hall**

**PUBLIC COMMENTS**

**PUBLIC PRESENTATIONS / INFORMATIONAL ONLY**

**ACTION ITEMS**

1. Interlocal Agreement with Unified Government of Wyandotte County/Kansas City, Kansas Regarding 6650 W. 47th Terrace, KCKS (BestDrive tire store) - Danielle Sitzman ([page 4](#))

The former Schatz Distributing Company property (north of I-35) is located within the city limits of both Mission and the Unified Government of Wyandotte County/Kansas City, Kansas (UG). The existing building is bisected by the city limits line. Recently, a proposal for the reuse of the building for a commercial truck tire business was considered, and approved, by the UG. In order to clarify the roles and responsibilities of the two jurisdictions regarding zoning, building code, and property maintenance code enforcement, an interlocal agreement has been prepared for consideration

2. Foxridge Drive Phase I - Award of Construction Contract - John Belger ([page 30](#))

The first phase of the Foxridge Drive project (51st to 56th Street) was identified in the City's Capital Improvement program for construction in 2017. Proposed improvements include a 2-inch mill and overlay treatment, new curb, and replacement of stormwater infrastructure. The existing drive lanes will be reduced to 12 feet, with the space gained used to construct sidewalks and accommodate upgraded street light infrastructure. The project was competitively bid, and six (6) bids were received late Friday afternoon. All bids appear to be well within the Engineer's Estimate, and following a detailed review, the packet will be updated on Monday with a recommendation. The project will receive funding through the Johnson County CARS program in an amount not to exceed \$725,000.

3. Foxridge Drive Phase I - Inspection Services Contract - John Belger ([page 112](#))

The Foxridge Drive project (51st to 56th Street) includes a number of improvements including pavement, curb, sidewalk, street lighting, and stormwater infrastructure. To ensure these items are built to plan specifications, it is critical to have a Certified Inspector on site at all times while the work is being done. The packet will be updated on Monday with a recommendation for construction inspection. Fifty percent (50%) of construction inspection costs are eligible for reimbursement from the Johnson County CARS program.

4. Foxridge Drive Phase I - CARS Interlocal Agreement - John Belger ([page 121](#))

Construction of the Phase I Foxridge Drive project was funded for 2017 through the Johnson County CARS Program. Up to fifty-percent (50%) of the project's construction and construction inspection costs are eligible to be reimbursed by the CARS Program. The Interlocal Agreement specifies the County's participation in the project for a total cost not to exceed \$725,000, and formally commits the City's funds to the project.

5. Stormwater Repair Solutions - 49th Street - John Belger ([page 130](#))

The property located at 6341 W. 49th Street has been experiencing flooding issues during moderate to heavy rain events. The task order from GBA will provide multiple alternatives to address this issue. Once developed, the options will be brought back to Council for consideration.

## DISCUSSION ITEMS

6. Zoning Code Text Amendments - Danielle Sitzman ([page 136](#))

Several pending developments in the next year are expected to make use of zoning deviations from the Planned Zoning District section of the zoning code. In reviewing the relevant code sections, several changes were recommended to clarify the City's expectations of the approval process. Upon the advice of the City's land use attorney, staff prepared changes to the zoning code. The Planning Commission held a public hearing and recommended approval of the code changes at their April 24, 2017 meeting.

7. Plan Review and Inspection Services - Status Update - Brian Scott ([page 142](#))

Last fall, Johnson County terminated an interlocal agreement under which building plan review and inspections services had been performed since 2009. Since January 2017, the City has

been using IBTS for these services. The relationship with IBTS was expected to be short-term (90 - 120 days) while staff researched other options. Staff will provide an update on the options considered for a more permanent solution.

## **OTHER**

### 8. Department Updates - Laura Smith

**Arcie Rothrock, Chairperson**  
**Suzie Gibbs, Vice-Chairperson**  
***Mission City Hall, 6090 Woodson***  
***913-676-8350***

<b>City of Mission</b>	Item Number:	1.
<b>ACTION ITEM SUMMARY</b>	Date:	April 25, 2017
<b>Community Development</b>	From:	Danielle Sitzman

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Interlocal Agreement with the Unified Government of Wyandotte County/Kansas City, Kansas for zoning, building, and property maintenance regulations on the property located at 6650 W. 47th Terrace.

**RECOMMENDATION:** Approve the proposed interlocal agreement to provide clear regulations, avoid duplication of services, and conserve staff time and resources.

**DETAILS:** Mission's city limits extend a short distance north of I-35 and west of Lamar Avenue. Some properties in this area are wholly in Mission while others straddle the city limit line between Mission and the Unified Government of Wyandotte County/Kansas City, Kansas (UG). The subject property, including the building, is bisected by the city limits. This building was the former location of Schatz Distributing Company, and has been vacant for several years.

Recently, a proposal to reuse the building for a commercial truck tire business was received. Under Mission's current zoning designation for the property, this use would be allowed by right. The UG's zoning regulations, which are more restrictive, required a Special Use Permit to allow this use. In order to clarify and simplify the roles and responsibilities of the two jurisdictions regarding zoning, building, and code enforcement at this property, an interlocal agreement has been prepared.

The UG has approved the Special Use Permit contingent on approval of the interlocal agreement. If the agreement is approved by the City Council, the UG will have authority for the enforcement of zoning regulations (including signs and the building), as well as authority for property maintenance regulations. The UG's authority will run for the duration of the life of the Special Use Permit granted for operation of a commercial truck tire business. Both cities have adopted the same code cycle of the building code, and both have pro-active code enforcement programs, including regulating signs.

The interlocal agreement has been developed and reviewed in cooperation with the UG staff and the City's land use attorney.

The business will be required to get a business license from the City of Mission.

**CFAA CONSIDERATIONS/IMPACTS: NA**

Related Statute/City Ordinance:	
Line Item Code/Description:	N/A
Available Budget:	N/A

**AGREEMENT BETWEEN THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS AND THE CITY OF MISSION, KANSAS FOR THE ENFORCEMENT OF ZONING REGULATIONS, BUILDING CODES AND PROPERTY MAINTENANCE FOR 3140 S. 28<sup>TH</sup> STREET, KANSAS CITY, KANSAS.**

This Intergovernmental Agreement (the “Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017 (the “Effective Date”) by and between the Unified Government of Wyandotte County/Kansas City, Kansas (“Unified Government”) and the City of Mission, Kansas (“Mission”)(collectively “the Parties”) both Parties having been organized under the laws of the State of Kansas.

WHEREAS, on November 29, 2016 Kevin Bowman of Best Drive, LLC (“the Applicant”) submitted an application to the Unified Government for a special use permit to operate a commercial truck tire center business located at 3140 S. 28<sup>th</sup> St., Kansas City, Kansas; and

WHEREAS, the Property is located in both Kansas City, Kansas and Mission, Kansas. The address of the Property in Mission, Kansas is 6650 W. 47<sup>th</sup> Ter., Mission, Kansas; and

WHEREAS, the Kansas City, Kansas Parcel IDs are: KUPN 105-069-32-0-30-07-007-00-0 and 105-069-32-0-30-07-006-00-0. A parcel map of the Kansas City, Kansas portion of the Property is attached hereto as Exhibit A

WHEREAS, the Mission Parcel IDs are: KUPN 105-130-0-00-00-0002 and 105-130-0-00-00-0002A. A parcel map of the Mission portion of the Property is attached hereto as Exhibit B; and

WHEREAS, a plat of the Property is attached hereto as Exhibit C; and

WHEREAS, a legal description of the Property is attached hereto as Exhibit D; and

WHEREAS, a commercial truck tire center is an allowed use for the Property under Mission’s Code of Ordinances. However, the use must be specially permitted under the Unified Government’s Code of Ordinances.

WHEREAS, the Unified Government approved a special use permit (the “SUP”) for the Property on March 30, 2017, subject to the adoption of an agreement between the Unified Government and Mission pertaining to enforcement of zoning, building and code enforcement regulations on the Property; and

WHEREAS, municipalities are authorized to enforce zoning regulations pursuant to state law, K.S.A. 12-741 through K.S.A. 12-771; and

WHEREAS, municipalities are authorized to incorporate building codes and property maintenance codes by reference pursuant to K.S.A. 12-3301, *et seq.*; and

WHEREAS, the Parties desire to cooperate and clarify how zoning, building code and property maintenance code enforcement with respect to the SUP will be handled for the Property in order provide consistent resolution of disputes, avoid duplication of services and conserve staff time and resources; and

WHEREAS, K.S.A. 12-2908 authorizes municipalities to contract with other municipalities to perform any governmental service, activity or undertaking which each contracting municipality is authorized to perform by law.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants and agreements contained herein, and for other good and valuable consideration, the Parties agree as follows:

1. PURPOSE OF AGREEMENT. The Parties enter into this Agreement for the purposes of clarifying how zoning, building code and property maintenance code enforcement will be handled with respect to the use of the Property under the SUP, to provide consistent resolution of disputes relating to the Property, to avoid duplication of resources and to conserve the Parties’ staff time and resources.
2. UNIFIED GOVERNMENT CONTROL OVER ZONING MATTERS. The Parties agree that the Unified Government shall have exclusive jurisdiction and control over the following zoning, building code and property maintenance regulations with respect to the Property during such time as the SUP remains in in effect:

- a. Adoption, renewal and revocation of the SUP and any other special use permits relating to the Property.
  - b. Enforcement of zoning codes under Chapter 27 of the Unified Government Code of Ordinances, including, but not limited to preliminary and final development plans, signage, noise, traffic and aesthetics.
  - c. Enforcement of building code regulations and property maintenance code regulations pursuant to K.S.A. 12-3301, *et seq.* and Chapter 8 of the Unified Government Code of Ordinances, including, but not limited to approval of building permits, environmental matters, illegal dumping, weeds and other blight remediation.
  - d. Appeals and requests for variances filed pursuant K.S.A. 12-759(d) and (e) pertaining to matters within the jurisdiction of the Unified Government Board of Zoning Appeals.
3. DURATION AND TERMINATION OF AGREEMENT. This Agreement shall be effective during such time as the SUP, as renewed or amended from time to time, remains valid. Upon the expiration of the SUP, this Agreement shall terminate. For purposes of this Agreement, the term “expiration” shall mean the later of: (i) the date on which the time period authorized by the SUP has run, and the Applicant has failed to file for a renewal of the SUP; or (ii) the date on which the Unified Government has either revoked or denied the Applicant’s request for renewal of the SUP, and the time period for appeal of such decision has run, or (iii) a decision upholding such revocation of denial has been issued by a court and Applicant’s time period to appeal such decision has run or the decision is by a court of final authority and may not be appealed further.
4. RESERVATION OF MISSION’S AUTHORITY; NO WAIVER. Nothing in this Agreement is intended to limit or waive Mission’s authority to enforce zoning regulations and police powers relating to the Property that have not been specifically waived herein.

5. AMEMDMENTS. This Agreement may not be modified or changed by any verbal statement, promise or agreement, and no modification, change or amendment shall be binding on the Parties unless it has been agreed to in writing and signed by both Parties.
6. JURISDICTION. This Agreement shall be construed according to the laws of the State of Kansas and may be enforced in any court of competent jurisdiction.
7. EFFECTIVE DATE. This Agreement shall become effective upon its adoption by the governing bodies of Mission and the Unified Government, and upon the signing of the Agreement by the mayors of Mission and the Unified Government.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed in triplicate by each of the Parties hereto on the day and year first above written.

THE UNIFIED GOVERNMENT OF  
WYANDOTTE COUNTY/KANSAS CITY,  
KANSAS

By \_\_\_\_\_  
Mark Holland  
Mayor/CEO

ATTEST:

\_\_\_\_\_  
Bridgette Cobbins  
Clerk of the Unified Government



CITY OF MISSION, KANSAS

By \_\_\_\_\_  
Steve Schowengerdt  
Mayor

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_, CITY CLERK



**Legend**

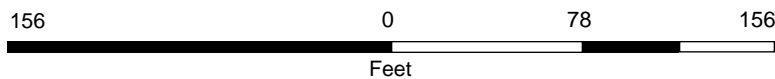
- Parcel IDs
- Buildings
- Points of Interest
- Lakes
- Rivers
- Streams
- Parks\*
- Platted Parcel
- Unplatted Parcel
- ROW Parcel
- Municipal Boundaries
- Railroads

**Locater Map**



**Notes**

Map Print Date: 11/30/2016 5:07 PM

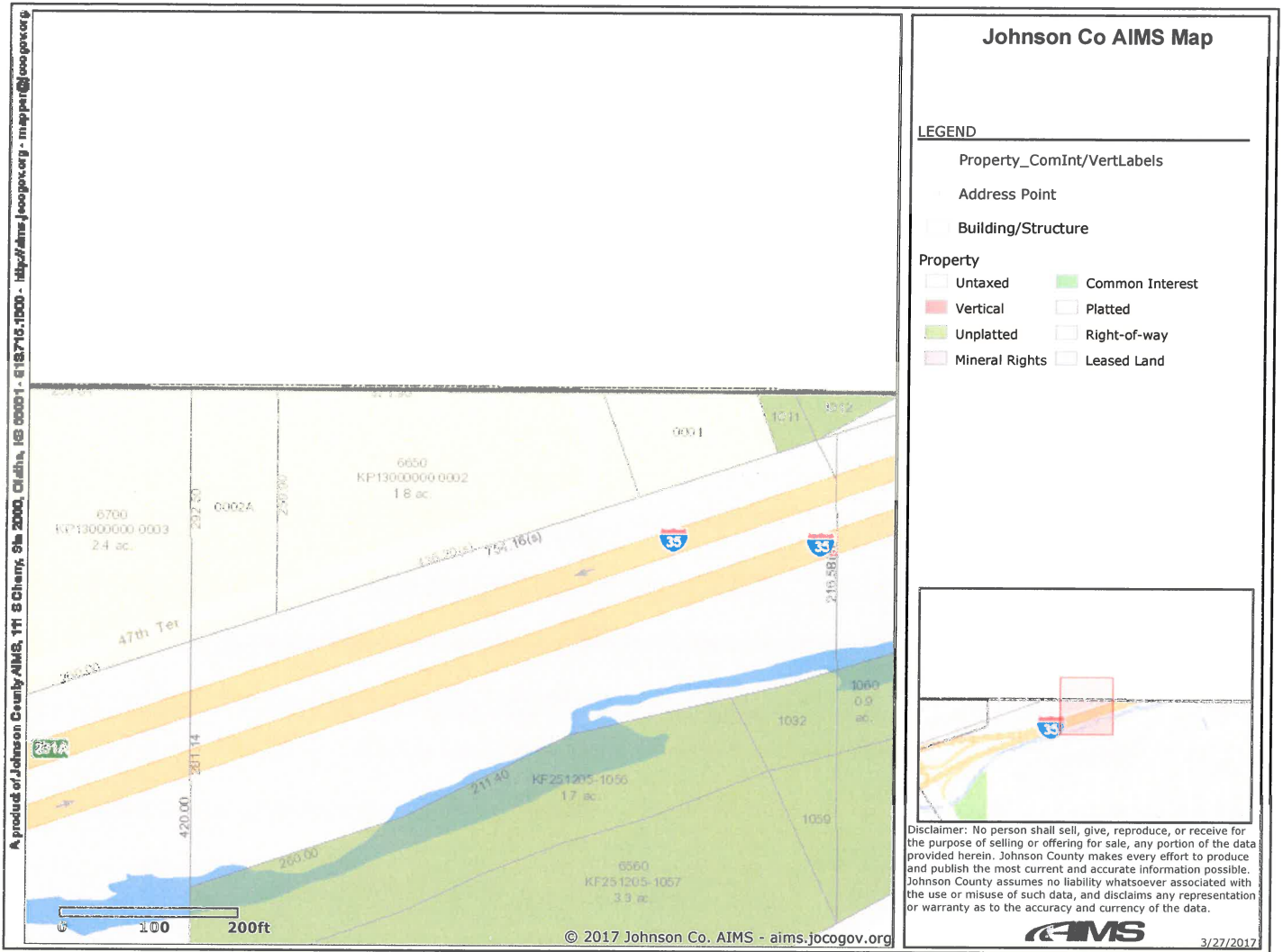


Map Scale  
1: 939



(c) 2015 Unified Government

**DISCLAIMER OF WARRANTY AND ACCURACY:** Unified Government of Wyandotte Co./Kansas City, KS (UG) makes no representations or warranties about this map or its content, including, without limitation, accuracy, completeness, or fitness for any purpose. Users of this map document do so at their own risk; UG will not be liable to any such user for any loss or damage whatsoever.





Legal Description – 3140 S 28<sup>th</sup> St, Kansas City, KS 66106

4 Parcels (2 in Wyco, and 2 in JOCO)

- FREEWAY INDUSTRIAL PARK LT 2 EX W 100' MIC 1018 2
- FREEWAY INDUSTRIAL PARK W 100'LT 2 MIC 101A 1 2A
- FREEWAY INDUSTRIAL PARK, S32, T11, R25, ACRES 1.08, L7 LS N  
50FT & E 35FT
- FREEWAY INDUSTRIAL PARK, S32, T11, R25, ACRES 0.59, N 50FT &  
E 35FT L7



# Urban Planning and Land Use

701 North 7<sup>th</sup> Street, Room 423  
Kansas City, Kansas 66101  
Email: [planninginfo@wycokck.org](mailto:planninginfo@wycokck.org)

Phone: (913) 573-5750  
Fax: (913) 573-5796  
[www.wycokck.org/planning](http://www.wycokck.org/planning)

**To:** City Planning Commission  
**From:** City Staff  
**Date:** March 13, 2017  
**Re:** **Petition #SP-2017-4**

## GENERAL INFORMATION

**Applicant:**  
Kevin Bowman

**Status of Applicant:**  
Representative  
Best Drive, LLC  
3140 South 28<sup>th</sup> Street  
Kansas City, KS 66106

**Requested Action:**  
Approval of a special use  
permit for a commercial  
truck tire center

**Date of Application:**  
November 29, 2016

**Purpose:**  
This special use permit  
application has been submitted to operate a commercial truck tire center business.

**Property Location:**  
3140 South 28<sup>th</sup> Street

**Existing Zoning:** M-2 General Industrial District



**Existing Surrounding Zoning:** **North:** M-2 General Industrial District  
**South:** City of Mission, Kansas  
**East:** M-2 General Industrial District  
**West:** M-2 General Industrial District

**Existing Uses:** **North:** Railroad Right of Way, Restaurant (Woodyard BBQ)  
**South:** Interstate 35, Industrial  
**East:** Industrial  
**West:** Industrial

**Total Tract Size:** 1.08 acres (portion in Wyandotte County)

**Master Plan Designation:** The City-Wide Master Plan and the Southwest Boulevard Merriam Lane Corridor Master Plan designate this property as business park district.

**Major Street Plan:** The City-Wide Master Plan designates 28<sup>th</sup> Street as a local Street.

**Advertisement:** The Wyandotte Echo – December 15, 2016  
Letters to Property Owner – December 13, 2016, January 2, 2017,  
and February 7, 2017

**Public Hearing:** March 13, 2017

**Public Opposition:** None to date.

---

## **PROPOSAL**

---

Detailed Outline of Requested Action: The applicant has submitted this petition for a special use permit in order to operate a commercial truck tire center. Services provided would include mounting, dismounting, balancing, and alignment of tires. This property was previously a Budweiser Distribution Center. The site includes area in Wyandotte County and the City of Mission, Kansas in Johnson County.

City Ordinance Requirements: Sec. 27-592 – Sec. 27-606.

---

## **FACTORS TO BE CONSIDERED**

---

### **1. *The Character of the Neighborhood.***

This area is industrial in character and is located between Interstate 35 and BNSF Railway Right-of-Way.

**2. *The zoning and uses of properties nearby and the proposed use's expected compatibility with them.***

The proposed use is compatible with the nearby properties, which are largely industrial in nature. Noise from the business could create a compatibility issue with restaurant uses on Merriam Lane.

**3. *The suitability of the property for the uses to which it has been restricted. Will removal of the restrictions detrimentally affect nearby property.***

Removal of restrictions to allow a commercial tire center will likely not detrimentally affect nearby property with the possible exception of noise from tire changes.

**4. *The length of time the property has remained vacant as zoned.***

The business license previous use, a Budweiser Distribution Center, expired in August of 2014.

**5. *The degree of conformance of the proposed use to the Master Plan.***

The proposed use conforms to the City-Wide Master Plan and the Southwest Boulevard Merriam Lane Corridor Master Plan.

**6. *Whether the proposed use will result in increasing the amount of vehicular traffic to the point where it exceeds the capacity of the street network to accommodate it.***

The proposed use will not increase the amount of vehicular traffic to the point where it exceeds the capacity of the street network to accommodate it.

**7. *Whether the proposed use is reasonably necessary for the convenience and welfare of the public and will not substantially or permanently injure the appropriate use, visual quality, or marketability of adjoining property.***

The proposed use will not substantially or permanently injure the appropriate use, visual quality, or marketability of adjoining property.

**8. *Whether the noise, vibration, dust, or illumination that would normally be associated with such use is of such duration and intensity as to create problems for near-by property.***

Noise has the potential to create problems for near-by property.

**9. *Whether the proposed use will pollute the air, land or water.***

The proposed use will not pollute the air, land, or water if tires and other waste byproducts are appropriately disposed of.



**10. Whether the use would damage or destroy an irreplaceable natural resource.**

The proposed use would not destroy an irreplaceable nature resource.

**11. The relative gain to the public health, safety, and welfare as compared to the hardship imposed on the individual landowner or landowners.**

This use would not represent a gain to the public health, safety, or welfare. Denial of the special use permit would impose a hardship on the landowner by not allowing this business to operate at this location.

**12. Whether the proposed use would result in overcrowding of land or cause undue concentrations of population.**

The proposed use would not result in overcrowding of land or cause undue concentrations of population.

---

**PREVIOUS ACTIONS**

---

None

---

**NEIGHBORHOOD MEETING**

---

The applicant held a neighborhood meeting on December 22, 2016. There were no attendees at the meeting.

---

**KEY ISSUES**

---

Landscape Requirements  
Intergovernmental Agreement  
Signs

---

**STAFF COMMENTS AND SUGGESTIONS**

---

**Urban Planning and Land Use Comments:**

1. **Landscape Requirements**

A total of 30 trees are required to meet the landscape requirements. The M-2 zoning requires one tree for every 10,000 square feet of site area. The commercial design guidelines require that this be exceeded by at least 75%, and that the site provide one tree for every 30 feet of street frontage. With an area of 46,872 square feet and 650.46 feet of street frontage in Wyandotte County, this site requires 30 trees.

**Staff Comment:** The Landscape Plan is showing a total of 30 trees.

**2. Intergovernmental Agreement**

This site includes area in Wyandotte County/Kansas City, KS and the City of Mission, Kansas in Johnson County. An intergovernmental agreement is necessary to allow the Unified Government to regulate land use on the entire site. The special use permit is contingent upon the approval of an intergovernmental agreement between the Unified Government and the City of Mission, Kansas.

**3. Signs**

The applicant must submit a sign permit application for all signs. All signs will undergo a separate review process.

**Public Works Comments:**

- A) Items that require plan revision or additional documentation before engineering can recommend approval:
  - 1) None
- B) Items that are conditions of approval (stipulations):
  - 1) None
- C) Comments that are not critical to engineering’s recommendations for this specific submittal, but may be helpful in preparing future documents:
  - 1) None

---

**STAFF RECOMMENDATION**

---

Staff recommends that the City Planning Commission make the findings contained within the staff report related to *Factors to be Considered*, and *Key Issues* and recommend **APPROVAL** of Petition #**SP-2017-4** subject to all comments and suggestions outlined in this staff report.

---

**ATTACHMENTS**

---

- Zoning Map
- Plat Map
- Landscape Plan
- Site Photos
- Development Plan Requirements
- Commercial Design Guidelines

---

**REVIEW OF INFORMATION AND SCHEDULE**

---

Action	Planning Commission	Unified Government Commission
Public Hearing	March 13, 2017	March 30, 2017
Special Use		

---

**STAFF CONTACT:**            **Zach Flanders**            [zflanders@wycokck.org](mailto:zflanders@wycokck.org)

---

## MOTIONS

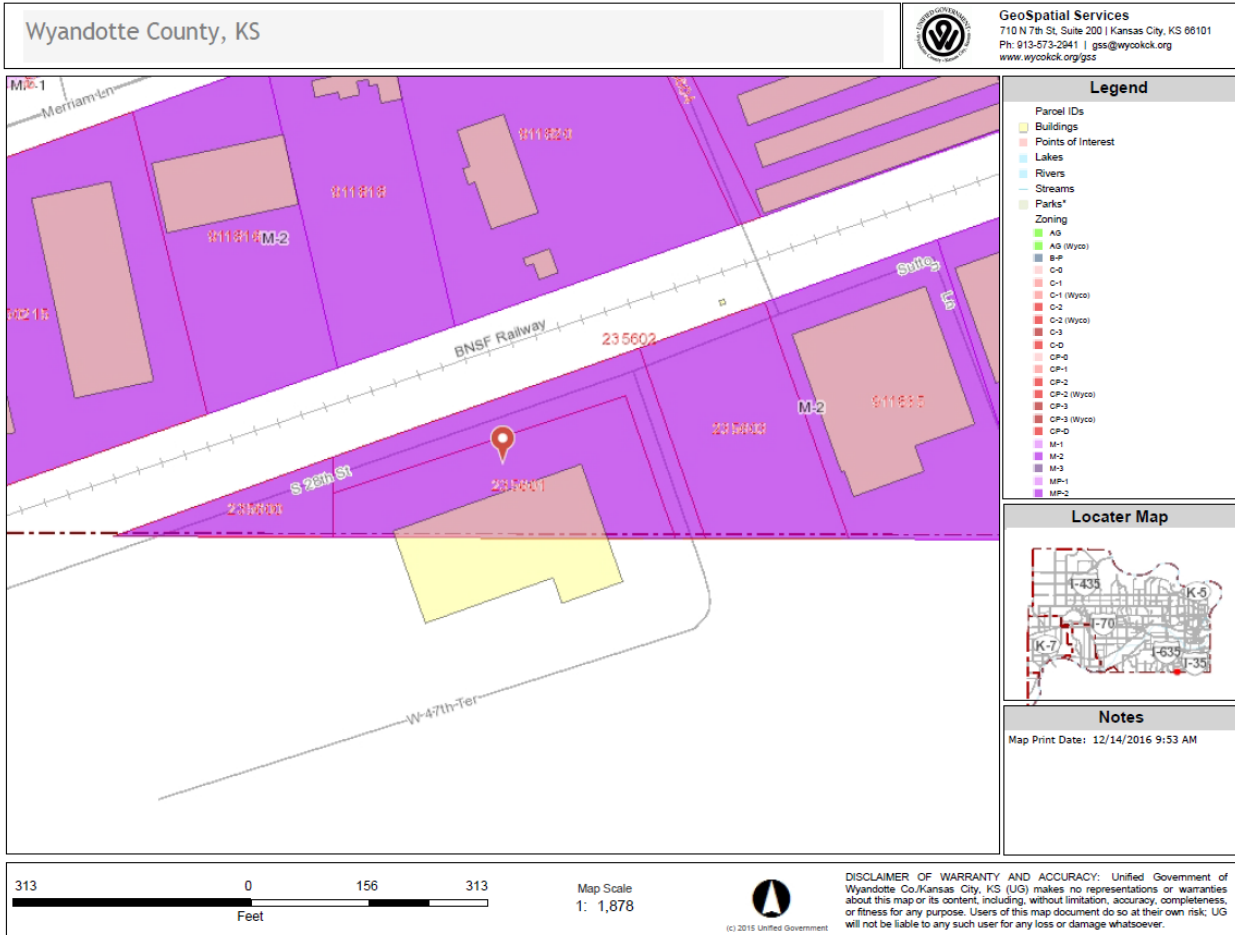
---

I move the Kansas City, Kansas City Planning Commission **RECOMMEND APPROVAL** of Petition **#SP-2017-4** to the Unified Government Board of Commissioners as meeting all the requirements of the City code and being in the interest of the public, health safety and welfare subject to such modifications as are necessary to resolve to the satisfaction of City Staff all comments contained in the Staff Report; and the following additional requirements of the Kansas City, Kansas City Planning Commission:

1. \_\_\_\_\_;
2. \_\_\_\_\_; And
3. \_\_\_\_\_.

## OR

I move the Kansas City, Kansas City Planning Commission **RECOMMEND DENIAL** of Petition **#SP-2017-4**, to the Unified Government Board of Commissioners as it is not in compliance with the City Ordinances and as it will not promote the health, safety and welfare of the City of Kansas City, Kansas; and other such reasons that have been mentioned.



## Zoning Map

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Madison  
 My commission expires March 15, 1937

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Madison  
 My commission expires March 15, 1937

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Madison  
 My commission expires March 15, 1937

# FREEWAY INDUSTRIAL PARK

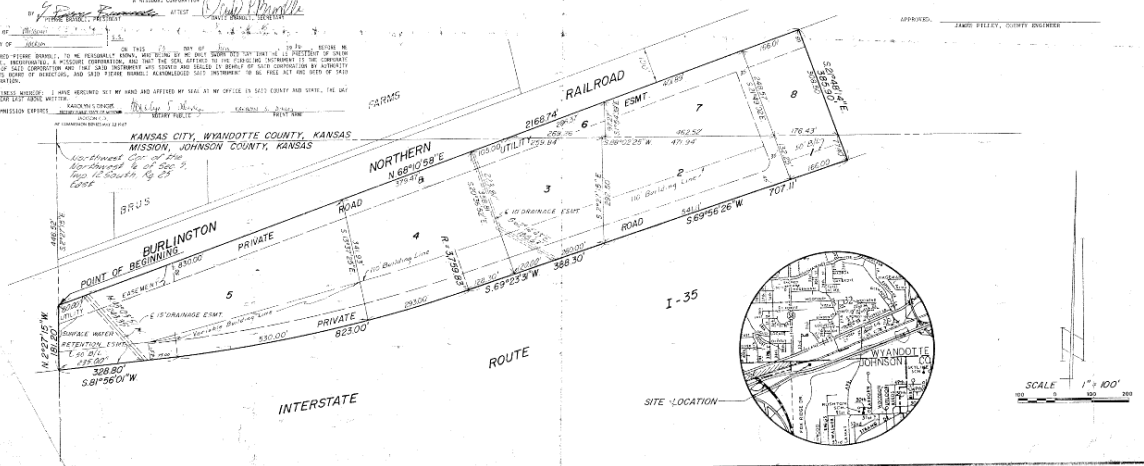
IN MISSION, JOHNSON COUNTY, KANSAS (LOTS 1-5)  
 AND IN KANSAS CITY, WYANDOTTE COUNTY, KANSAS (LOTS 6-8)

THIS PLAN OF "FREEWAY INDUSTRIAL PARK" HAS BEEN SUBMITTED TO AND APPROVED BY THE PLANNING COMMISSION OF KANSAS CITY, MISSOURI, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1937.

RECOMMENDED FOR APPROVAL BY THE BOARD OF DIRECTORS OF THE PLANNING COMMISSION OF KANSAS CITY, MISSOURI, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1937.

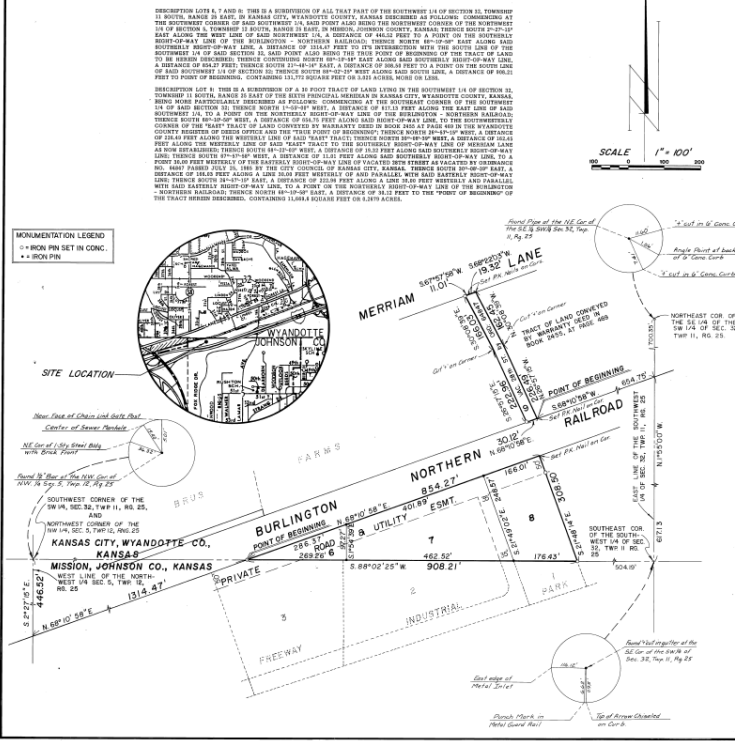
RECOMMENDED FOR APPROVAL BY THE BOARD OF DIRECTORS OF THE PLANNING COMMISSION OF KANSAS CITY, MISSOURI, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1937.

RECOMMENDED FOR APPROVAL BY THE BOARD OF DIRECTORS OF THE PLANNING COMMISSION OF KANSAS CITY, MISSOURI, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1937.



## FREEWAY INDUSTRIAL PARK

A SUBDIVISION OF LAND IN KANSAS CITY,  
 WYANDOTTE COUNTY, KANSAS



**DESCRIPTION:** THE UNDERSIGNED PROPRIETORS OF THE ABOVE DESCRIBED TRACTS OF LAND HAVE CAUSED THE SAME TO BE SUBDIVIDED IN THE MANNER SHOWN ON THE ACCOMPANYING PLAN, WHICH SUBDIVISION SHALL BE RECAPTURED AS FREEMAN INDUSTRIAL PARK.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Wyandotte  
 My commission expires March 15, 1937

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Wyandotte  
 My commission expires March 15, 1937

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Wyandotte  
 My commission expires March 15, 1937

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Wyandotte  
 My commission expires March 15, 1937

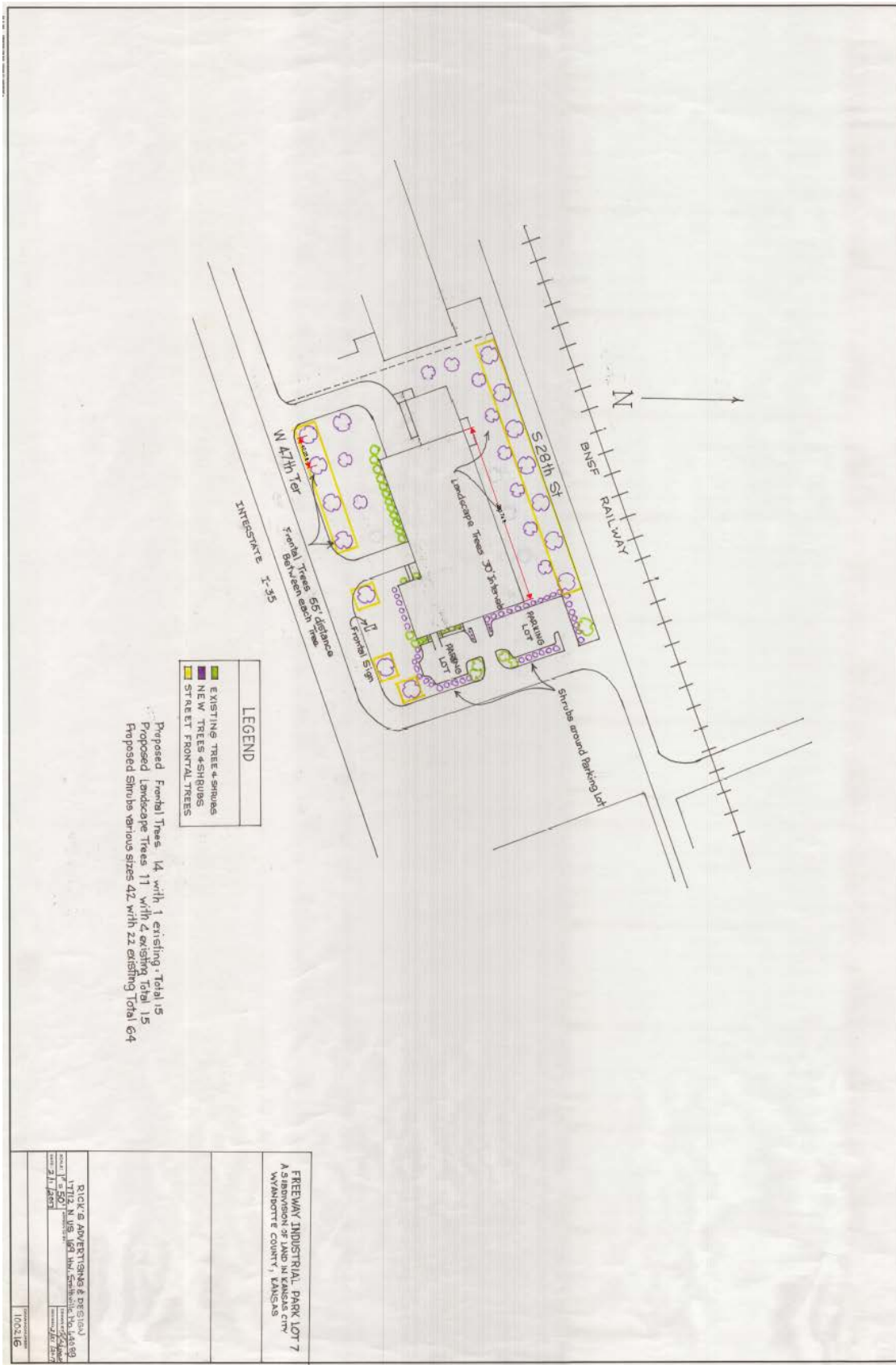
**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Wyandotte  
 My commission expires March 15, 1937

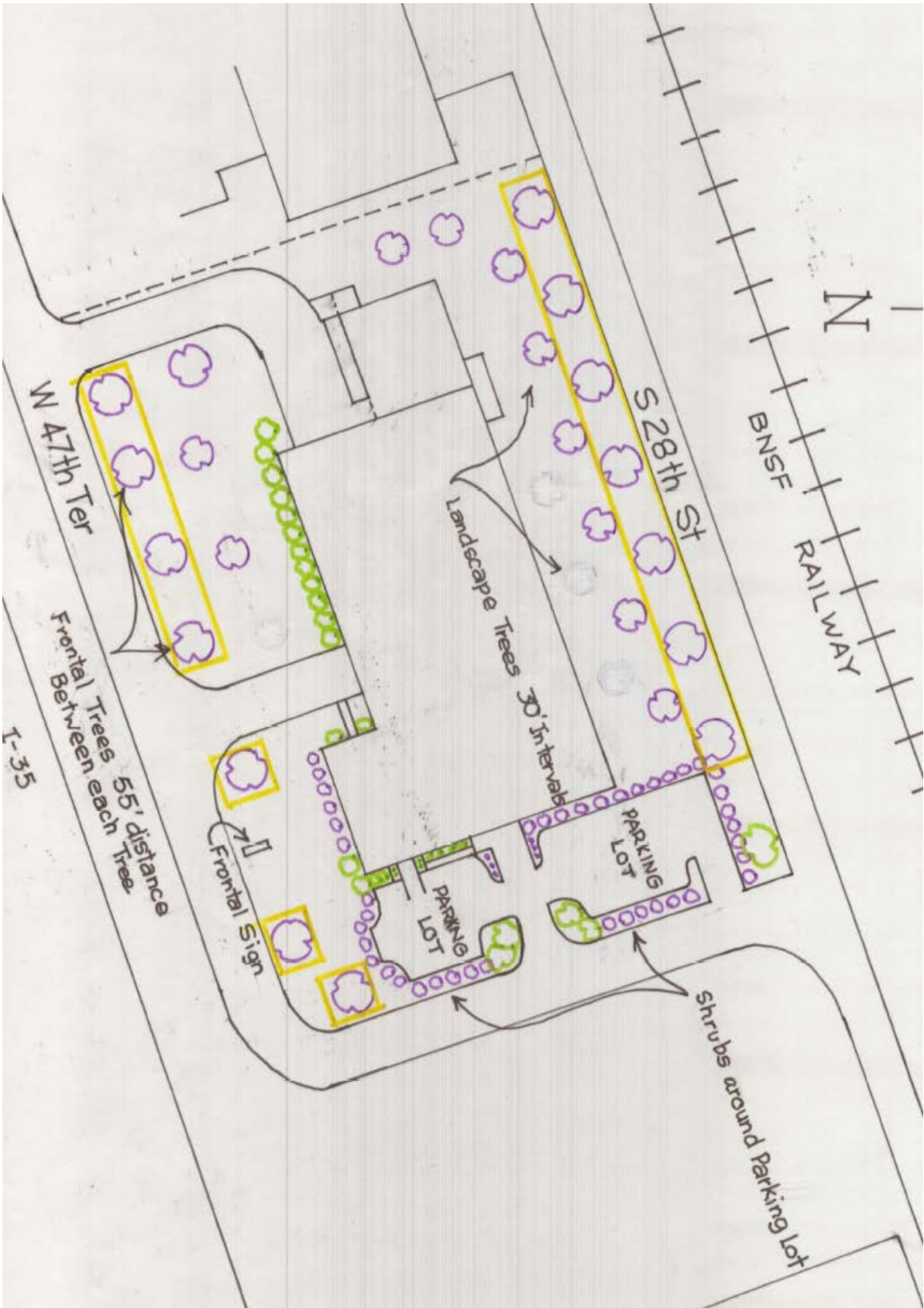
**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my seal at my office in said county and state, the day and year last above written.

**NOTARY PUBLIC**  
 STATE OF Missouri  
 COUNTY OF Wyandotte  
 My commission expires March 15, 1937

**Plat map**



**Landscape Plan**



**Landscape Plan (Detail)**















<b>City of Mission</b>	Item Number:	2.
<b>ACTION ITEM SUMMARY</b>	Date:	April 28, 2017
<b>Public Works</b>	From:	John Belger

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Contract Award for Foxridge Drive Phase I

**RECOMMENDATION:** Approve the contract with Kansas Heavy Construction LLC for the improvements to Foxridge Drive (56th Street to 51st Street) in an amount not to exceed \$1,088,152.99 with a contingency/force account of \$108,815 for a total authorized project construction budget of \$1,196,967.99.

**DETAILS:** Foxridge Drive between 56th Street and 51st Street is a 32 foot wide minor collector serving multi-family residential, commercial, and industrial traffic. The existing pavement, curb, and stormwater infrastructure is in poor condition. Sidewalks are in fair condition but lack connectivity and are not compliant with ADA standards.

At the November 16th, 2016 meeting, the City Council adopted Resolution 972 which established the design concept for this project. Proposed improvements call for a 2" mill and overlay treatment, new curb, and replacement of stormwater infrastructure. Drive lanes will be reduced to 12 feet. The space gained will be used to construct sidewalks and accommodate upgraded street light infrastructure.

On April 28th, six (6) contractors submitted bids with Kansas Heavy Construction LLC being the lowest and most responsive bidder. Below is a table summarizing the bids received.

Kansas Heavy Construction LLC	\$1,088,152.99
Phoenix Concrete	\$1,090,351.20
Freeman	\$1,091,513.60
Amino Brothers	\$1,140,869.26
JM Fahey	\$1,281,435.30
Gunter	\$1,295,920.00

The contractor will have 90 working days to complete the project once the notice to proceed has been issued. Construction is anticipated to begin in June.

The project was identified in the City's Capital Improvement Program for construction in 2017, and will receive funding from the Johnson County CARS Program. A comparison of budget

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	Street Sales Tax/Capital Improvement Fund
Available Budget:	\$725,000

<b>City of Mission</b>	Item Number:	2.
<b>ACTION ITEM SUMMARY</b>	Date:	April 28, 2017
<b>Public Works</b>	From:	John Belger

Action items require a vote to recommend the item to full City Council for further action.

estimates and current budgets for design, construction and construction inspection associated with the project is provided below:

	Estimates	Current Budget
Design/Utility Relocation	\$ 134,113.00	\$ 69,464.00
Construction	\$ 1,390,566.90	\$ 1,088,152.99
Contingency/Force Account	\$ included above	\$ 108,815.00
Construction Inspection	<u>\$ 63,095.74</u>	<u>\$ 111,112.50</u>
 Total Project Costs	 \$ 1,587,775.64	 \$ 1,377,544.49
	CARS Eligible	\$ 1,308,080.49
	Est CARS Reim	\$ 654,040.25
	<b>Mission Share</b>	<b>\$ 723,504.24</b>
	<b>Total Costs</b>	

**CFAA CONSIDERATIONS/IMPACTS:** This project provides sidewalk connectivity, ADA improvements, and upgraded street lighting.

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	Street Sales Tax/Capital Improvement Fund
Available Budget:	\$725,000

# CITY OF MISSION

---

KANSAS

**Invitation to Bid / Request for Proposals / Project Manual**

for

**FOXRIDGE DRIVE  
(56<sup>th</sup> St. to 51<sup>st</sup> ST.)**

**CARS PROJECT NO. 320001151**

Published: April 6, 2017

Proposals Due: April 28, 2017 - 2:00 PM



**002**

[www.drexeltech.com](http://www.drexeltech.com)



CITY OF MISSION  
SPECIFICATIONS  
CONTRACT DOCUMENTS

FOXRIDGE DRIVE (56th St. to 51st St.)

TABLE OF CONTENTS

<u>SUBJECT</u>	<u>PAGE TO PAGE (INCLUSIVE)</u>
Notice to Bidders	N-1 to N-2
Instructions to Bidders	I-1 to I-9
Bid	B-1 to B-4
Agreement	A-1 to A-3
Performance Bond	P-1 to P-2
Maintenance Bond	M-1 to M-2
Statutory Bond	SB-1 to SB-2
Labor and Material Payment Bond	L-1 to L-2
General Conditions – Table of Contents	G-i to G-ii
General Conditions	G-1 to G-36
Project Special Conditions – Table of Contents	PSC-1
Project Special Conditions	PSC-2 to PSC-10
Construction Plans and Documents	70 Sheets

CITY OF MISSION, KANSAS

NOTICE TO BIDDERS

Sealed bids for **FOXRIDGE DRIVE (56th St. to 51st St.)** will be received by the City of Mission, Kansas, at the office of the City Clerk, City Hall, 6090 Woodson Street, Mission, Kansas 66202 until 2:00 p.m. local time on **Friday April 28, 2017**. At that time all sealed bids will be transferred to the **City Council Chamber**, City Hall, where they will be publicly opened and read aloud. Any bid received after the designated closing time will be returned unopened.

All bids shall be submitted in sealed envelopes addressed to the City Clerk of Mission, Kansas, and marked "**FOXRIDGE DRIVE (56th St. to 51st St.)**".

**Copies of plans and specifications can be seen or purchased for a Non-Refundable fee on-line at [www.drexeltech.com](http://www.drexeltech.com) in their eDistribution plan room, additional assistance is available at [distribution@drexeltech.com](mailto:distribution@drexeltech.com). Information regarding this project can be found in the "Public Jobs" link on the website. Contractors desiring the Contract Documents for use in preparing bids may also obtain a set of such documents from Drexel Technologies; 10840 West 86<sup>th</sup> Street, Lenexa, KS 66214, telephone number is 913-371-4430. Bidding documents will be shipped only if the requesting party assumes responsibility for all related charges. Corporate, certified, or cashier's checks shall be made payable to Drexel Technologies, Inc.**

Proposers should specifically note the City of Mission prefers questions be submitted by email.

Neither the City nor consultant shall be responsible for the accuracy, completeness, or sufficiency of any bid documents obtained from any source other than the source indicated above. Obtaining copies of plans, specifications, bid documents and other contract documents from any other source(s) may result in obtaining incomplete and inaccurate information. Obtaining these documents from any source other than directly from the source listed herein may also result in failure to receive any addenda, corrections, or other revisions to these documents that may be issued.

Contractors should read and be fully familiar with all contract documents before submitting a bid. In submitting a bid, the bidder warrants that it has read the contract documents and is fully familiar therewith and that it has visited the site of the work to fully inform itself as to all existing conditions and limitations and shall include in its bid a sum to cover the cost of all items of the work.

Should a bidder find "defects" as defined in paragraph GC-3 of the General Conditions, it shall follow the procedures outlined in paragraph GC-3 to bring same to the attention of City. Changes necessitated thereby shall be in the form of addenda issued by the consultant.

All bidders shall verify that they have considered all written addenda. Neither the City nor the consultant shall be responsible for oral instructions.

Any written addenda issued during the time of bidding shall be covered and included in the bid. There will be no clarifications or exceptions allowed on the bid. Bids are for a total bid package, total contract price.

Bids shall be made upon the form provided in ink or typewritten. Numbers shall be stated both in writing and in figures; the signature shall be long hand; and the complete form shall be without alteration or erasure. On alternate items for which a bid is not submitted, a written indication of "no bid" on the bid form is required.

No oral, telegraphic, facsimile or telephonic bids or alterations will be considered.

The following items must be included in the sealed envelope with the bid:

- a. Bid
- b. 5% Bid Security--Bid Bond, Cashier's Check or Certified Check (See below.)

Each bidder shall file with its bid a bid bond, a cashier's check or a certified check drawn on any acceptable bank, made payable to the City of Mission, Kansas, in an amount of not less than five percent (5%) of the total bid, which shall be retained by the City of Mission until a contract for the project has been executed. Bid bonds will be returned to the unsuccessful bidders, with the exception of the second qualifying bidder, at such time as their bids are rejected. The bid deposit of the successful bidder and the second qualifying bidder will be returned when satisfactory bonds in an amount equal to 100% of the contract amount, required insurance certificates and other required documents shall have been furnished and the contract documents have been executed.

In the event the successful bidder is unable to execute the contract, for whatever reason, City may exercise its legal prerogatives, including, but not limited to, enforcement of its rights as to the bid security.

The City reserves the right to accept or reject any and all bids and to waive any technicalities or irregularities therein. Bids may be modified or withdrawn by written request of the bidder received in the office of the City Clerk, prior to the time and date for bid opening; provided, however, that no bidder may withdraw its bid for a period of thirty (30) days from the date set for the opening thereof. ALL BIDDERS AGREE THAT REJECTION SHALL CREATE NO LIABILITY ON THE PART OF THE CITY BECAUSE OF SUCH REJECTION. IT IS UNDERSTOOD BY ALL BIDDERS THAT AN UNSUCCESSFUL BIDDER HAS NO CAUSE OF ACTION AGAINST THE CITY FOR BID PREPARATION COSTS. THE FILING OF ANY BID IN RESPONSE TO THIS INVITATION SHALL CONSTITUTE AN AGREEMENT OF THE BIDDER TO THESE CONDITIONS.

A Pre-Bid Conference will be held at: Mission City Hall

Date & Time: Wednesday April 19, 2017 @ 2:00 P.M.

## INSTRUCTIONS TO BIDDERS

- IB-1. **BIDS:** All bids shall be made on the forms provided in this bound volume of contract documents and shall be in compliance with the Notice to Bidders. All appropriate blanks shall be filled in and shall be signed by the appropriate individual on behalf of him/herself or the entity submitting the bid. Each bid must be enclosed in a sealed envelope plainly marked "**BID FOR FOXRIDGE DRIVE (56th St. to 51st St.)**". As per the Notice to Bidders, bid shall be addressed to:

CITY OF MISSION, KANSAS  
Attention: City Clerk  
6090 Woodson Street,  
Mission, KS 66202

IB-2. **DEFINITIONS:**

- a. All definitions set forth in the General Conditions or in other contract documents are applicable to the Bidding Documents.
- b. "Alternative Bid" (or "Alternate") means an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the work, as described in the Bidding Documents, is accepted.
- c. "Base Bid" means the sum stated in the Bid for which the Bidder offers to perform the work described in the Bidding Documents as the base, to which work may be added or from which work may be deleted for sums stated in Alternate Bids.
- d. "Bid" shall mean the offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the work to be performed (and the City reserves the right to reject any and all bids).
- e. "Bidder" shall mean any individual, partnership, corporation, association or other entity submitting a Bid for the work.
- f. "Bidding Documents" shall mean all documents related to a Bidder's submitting a Bid, including, but not limited to, the advertisement for Bids, if applicable, Instructions to Bidders, the Bid form, other sample bidding and contract forms and the proposed contract documents, including any addenda issued prior to receipt of Bids. At the City's option, Bidders may be required to complete and submit a prequalification statement.
- g. "City" means the City of Mission, Kansas.
- h. "Contractor" shall mean the entity entering into the contract for the performance of the work covered by the contract, together with its duly authorized agents or legal representatives.
- i. "Successful Bidder" means the person or entity who is determined and declared by the City to have submitted the lowest and best responsible Bid in conformity with the terms of the Bidding Documents.

- j. "Unit Price" means an amount stated in the Bid as a price per unit of measurement for materials or services as described in the Bidding Documents or in the proposed contract documents.

**IB-3. BIDDER'S REPRESENTATIONS: Each Bidder by making its Bid represents that:**

- a. It has read and understands the Bidding Documents, and its Bid is made in accordance therewith.
- b. It has visited the site, has familiarized itself with the local conditions under which the work is to be performed, has reviewed all published reports, inspections and other documents relating to the project and has correlated its observations with the requirements of the proposed contract documents.
- c. Its Bid is based upon the materials, systems and equipment required by the Bidding Documents without exception.
- d. It has familiarized itself with state, federal law and local ordinances, regulations, and permitting requirements which may affect cost and/or progress or performance of the work.

**IB-4. BIDDING DOCUMENTS: Copies of plans and specifications can be seen or purchased for a Non-Refundable fee on-line at [www.drexeltech.com](http://www.drexeltech.com) in their eDistribution plan room, additional assistance is available at [distribution@drexeltech.com](mailto:distribution@drexeltech.com). Information regarding this project can be found in the "Public Jobs" link on the website. Contractors desiring the Contract Documents for use in preparing bids may also obtain a set of such documents from Drexel Technologies; 10840 West 86<sup>th</sup> Street, Lenexa, KS 66214, telephone number is 913-371-4430. Bidding documents will be shipped only if the requesting party assumes responsibility for all related charges. Corporate, certified, or cashier's checks shall be made payable to Drexel Technologies, Inc**

Neither the City nor the consultant shall be responsible for the accuracy, completeness, or sufficiency of any Bidding Documents obtained from any source other than the source indicated in the Notice to Bidders. Obtaining copies of Bidding Documents from any other source(s) may result in obtaining incomplete and inaccurate information or result in failure to receive any addenda, corrections, or other revisions to these documents that may be issued.

Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the City nor the consultant assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

The City in making copies of the Bidding Documents available on the above terms does so only for the purpose of obtaining Bids on the work and does not confer a license or grant for any other use.

**IB-5. DEFECTS IN BIDDING DOCUMENTS: Bidders shall promptly notify the City of any errors, omissions, discrepancies or inconsistencies (hereinafter "defects") which they may discover upon examination of the Bidding Documents or of the site and local conditions. Bidders will not be permitted to take advantage of any such defect.**

Bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the consultant at least seven days prior to the date for receipt of Bids.

Any interpretation, correction or change of the Bidding Documents will be made by Addendum. Interpretations, corrections or changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections and changes.

- IB-6. SUBSTITUTIONS: The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the consultant at least seven (7) days prior to the date for receipt of Bids. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or other work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Bidder. The consultant's decision of approval or disapproval of a proposed substitution shall be final.

If the consultant approves any proposed substitution prior to receipt of Bids, such approval will be set forth in a written addendum. Bidders shall not rely upon approvals made in any other manner.

No substitutions will be considered after the contract award unless specifically provided in the contract documents (see GC-61).

- IB-7. ADDENDA: Written addenda will be mailed or delivered to all who are known by the consultant to have received a complete set of Bidding Documents.

Copies of written addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

No written addenda will be issued later than four (4) days prior to the date for receipt of Bids except an addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

Each Bidder shall ascertain prior to submitting its Bid that it has received all written addenda issued, and it shall acknowledge its receipt in its Bid.

- IB-8. INSURANCE:

- a. General: The Contractor shall secure and maintain, throughout the duration of the agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Contractor shall provide certificates of insurance and renewals thereof on forms provided by the City or on forms acceptable to the City. The City shall be notified by receipt of

written notice from the insurer or the Contractor at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate.

Bidders are referred to Article GC-38 of the General Conditions for additional insurance information.

- b. Notice of Claim Reduction of Policy Limits: The Contractor, upon receipt of notice of any claim in connection with the agreement, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.

The Contractor shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the contract documents) if the Contractor's limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Contractor shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

- c. Commercial General Liability:

Limits –

General Aggregate:	\$2,000,000
Products / Completed Operations Aggregate:	\$2,000,000
Personal & Advertising Injury:	\$1,000,000
Each Occurrence:	\$1,000,000

Policy MUST include the following conditions:

1. Pollution Liability (Applicable only to contracts involving pollutants such as asbestos & lead abatement, sludge or other waste abatement, etc.)
2. **NAME CITY OF MISSION AS "ADDITIONAL INSURED"**

- d. Automobile Liability: Policy shall protect the Contractor against claims for bodily injury and/or property damage arising from the ownership or use of any owned, hired and/or non-owned vehicle.

Limits (Same as Commercial General Liability) -

Combined Single Limits, Bodily Injury and Property Damage - Each Accident:

Policy MUST include the following condition:

**NAME CITY OF MISSION AS "ADDITIONAL INSURED"**

- e. Umbrella Liability: The Umbrella / Excess Liability must be at least as broad as the underlying general liability and automobile liability policies.

Limits –

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

- f. Workers' Compensation: This insurance shall protect the Contractor against all claims under applicable state workers' compensation laws. The Contractor shall also be protected against claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation:	Statutory
Employer's Liability:	
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

- g. Owner's Protective Liability: The Contractor shall take out, pay for and deliver to the City, an Owner's Protective Liability insurance policy written on an occurrence basis and naming the City as named insured. The policy shall be maintained during the life of the agreement. Limits of protection shall be at least **\$1,000,000** Combined Single Limits, Bodily Injury and Property Damage, and shall contain no exclusion relative to any function performed by the City or its employees and agents in connection with the project.

- h. Industry Ratings: The City will only accept coverage from an insurance carrier who offers proof that it:

1. Is authorized to do business in the State of Kansas;
2. Carries a Best's policy holder rating of A- or better; and
3. Carries at least a Class VIII financial rating, or
4. Is a company mutually agreed upon by the City and Contractor.

- i. Subcontractors' Insurance: If a part of the Contract is to be sublet, the Contractor shall either:

1. Cover all subcontractors in its insurance policies, or
2. Require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss as and in the minimum amounts designated.

Whichever option is chosen, contractor shall indemnify and hold harmless the City as to any and all damages, claims or losses, including attorney's fees, arising out of the acts or omissions of its subcontractors.

- j. Railroad Protective Liability: Additional requirement applicable when working on railroad property.

Named Insured:	Applicable Railroad
Limits – Bodily Injury & Property Damage:	Per Railroad Requirements

- k. Aircraft Liability: Additional requirement applicable for aerial photograph or contract involving any use of aircraft.

Limits- Damage:	Single Limit Bodily Injury; Including Passengers; and Property Damage:
	\$1,000,000 Each Occurrence



Coverage must include all Owned, Hired and Non-Owned Aircraft.

Policy MUST include the following condition:

**NAME CITY OF MISSION AS "ADDITIONAL INSURED" ON THE HIRED AND NON-OWNED AIRCRAFT LIABILITY.**

- I. Contractor Property Insurance ("Builder's Risk"): [Additional requirement when constructing a building.] Unless otherwise provided in the contract documents, Contractor shall procure and maintain property insurance from insurance companies authorized to do business in the State of Kansas upon the entire project to the full insurable value of the project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Contractor shall include as additional insured's the interests of City, Contractor, design consultants, subcontractor and sub-subcontractors, and shall insure against the risk of direct physical loss including but not limited to fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the contract documents. The property insurance shall include physical loss or damage to the work, including materials and equipment in transit, at the site or at another location as may be indicated in Contractor's application for payment and approved by City. All deductibles are the responsibility of the Contractor.
  1. Unless the contract documents provide otherwise, Contractor shall procure and maintain boiler and machinery insurance that will include the interests of City, Contractor, design consultants, subcontractors and sub-subcontractors.
  2. Prior to commencing any work, Contractor shall provide City with certificates evidencing that (1) all Contractor's insurance obligations required by the contract documents are in full force and in effect and will remain in effect until Contractor has completed all of the work and has received final payment from City and (2) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to City. Contractor's property insurance shall not lapse or be canceled if City occupies a portion of the work. Contractor shall provide City with the necessary endorsements from the insurance company prior to occupying a portion of the work.
  3. Any loss covered under Contractor's property insurance shall be adjusted with City and Contractor and made payable to both of them as trustees for the insured's as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article II of the Agreement.
  4. City and Contractor waive against each other and City's separate contractors, design consultants, subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Contractor and City shall, where appropriate, require

similar waivers of subrogation from City's separate contractors, design consultants and subcontractors and shall require each of them to include similar waivers in their contracts.

- IB-9. BID SECURITY: Each Bid shall be accompanied by a bid bond or a certified cashier's check on an acceptable bank, made payable, without condition, to the City of Mission, Kansas, (hereinafter "City") in an amount of not less than five percent (5%) of the total Bid. In addition to other legal remedies, the amount of said bid security may be retained by and forfeited to the City as liquidated damages if such Bid is accepted and the Successful Bidder fails to enter into an agreement in the form prescribed, within the time specified in the notice of award by the City; provided, however, that the City shall not necessarily be limited in protecting its legal rights to enforcement of its rights under the bid security. Deposits will be returned to unsuccessful Bidders, with the exception of the second qualifying Bidder, at such time as their Bids are rejected. The Bid deposit of the Successful Bidder and the second qualifying Bidder will be returned when satisfactory insurance certificates, performance bond and statutory or labor and material payment bond in an amount equal to 100% of the agreement and other documents required by the General Conditions have been furnished and the contract documents have been executed.
- IB-10. TAXES: It is the intent of the City to supply the Contractor with a Project Exemption Certificate for use in purchasing materials and supplies used on the project. The Contractor shall, in preparing its Bid, omit from its computed costs all sales and compensation taxes. Upon issuance of a Kansas tax exemption number, two (2) copies of the Project Exemption Certificate (Form PR-74a) will be forwarded to the Contractor. Upon completion of the project, the City will provide the State of Kansas with the project completion date and the State will issue a Project Completion Certification. This will be forwarded to the Contractor who must sign and return it to the City. All invoices must be retained by the Contractor for a period of five (5) years and are subject to audit by the Kansas Department of Revenue. Final payment will not be made to the Contractor until the City has received the Project Completion Certification from the Contractor along with a Consent of Surety Company to Final Payment.
- IB-11. LIQUIDATED DAMAGES: In case of failure on the part of the Contractor to effect completion within the time specified, the City shall have the right to deduct from the total compensation otherwise due the Contractor as liquidated damages based on the full Bid price of the agreement, fixed and agreed to in advance, according to the following schedule:

<u>Contract Amount</u>		<u>Liquidated Damages</u>
\$0	to \$50,000	\$250.00
\$50,000	to \$100,000	\$400.00
\$100,000	to \$500,000	\$800.00
\$500,000	to \$1,000,000	\$1,000.00
\$1,000,000	to \$2,000,000	\$1,750.00
\$2,000,000	to \$5,000,000	\$2,500.00
\$5,000,000	to \$10,000,000	\$3,500.00
\$10,000,000	to \$20,000,000	\$5,500.00
\$20,000,000	and up	\$6,000.00

for each twenty-four (24) hour calendar day, including Sundays and holidays, the work remains incomplete over the specified completion time. **(THE CITY RESERVES THE**

**RIGHT TO ADJUST THE SCHEDULE OF LIQUIDATED DAMAGES, PRIOR TO ADVERTISING FOR BIDS, BASED ON THE SCOPE AND URGENCY OF THE PROJECT.)**

In the event moneys being retained by the City shall not be sufficient to cover the amount of any liquidated damages, City may sue for and recover compensation for damages for nonperformance of the contract at the time stipulated herein and provided for.

IB-12. MODIFICATION OR WITHDRAWAL OF BIDS: Bids may be modified or withdrawn by written request of the Bidder received in the office of the City Clerk, prior to the time and date for Bid opening. No Bidder may withdraw its Bid for a period of thirty (30) days from the date set for the opening thereof.

IB-13. ACCEPTANCE AND REJECTION OF BIDS AND AWARD OF CONTRACT: The contract will be awarded to the lowest and best, responsible Bidder as determined by the City.

The City reserves the right to reject any and all Bids; to waive any and all irregularities and informalities; to negotiate contract terms with the Successful Bidder; and the right to disregard all nonconforming, non-responsive or conditional Bids.

In evaluating Bids, the City may consider the qualification of Bidders, whether or not the Bids comply with the prescribed requirements, and alternates and Unit Prices if requested in the Bid forms. The City reserves the right to reject the Bid of any Bidder who does not pass the evaluation to the City's satisfaction.

IB-14. BONDS: The Contractor to whom the work is awarded will be required to furnish a Performance Bond, Maintenance Bond, and a Statutory or Labor and Material Payment Bond in the forms hereinafter provided in an amount equal to 100 percent (100%) of the amount of the contract to be awarded in each case in addition to any other bonds as may be required by the contract documents. With each bond there shall be filed with the City one copy of "Power of Attorney" certified to include the date of the bonds.

IB-15. INDEMNIFICATION: The Contractor shall be required to indemnify and hold the City harmless as set forth in Article GC-33 of the General Conditions.

IB-16. BID PREFERENCE: Existing State law (K.S.A. 75-3740a) requires that, to the extent permitted by federal law and regulations, the City, when letting contracts for bids, must require any Successful Bidder-Contractor domiciled outside the state of Kansas to submit a Bid the same percent less than the lowest bid submitted by a responsible Kansas contractor as would be required of such Kansas domiciled contractor to succeed over the bidding Contractor domiciled outside Kansas on a like contract let in the foreign Bidder's domiciliary state. All Bids are received on this condition, and if it is determined by the City that the apparent lowest and best Bidder is a foreign domiciled contractor, such contractor shall be awarded the Contract only if such Contractor's Bid complies with this state law requirement.

All Bidders domiciled outside of the State of Kansas may be requested to furnish the City with a copy of their state's preferential bidding statutes, if any.

- IB-17. NON-DISCRIMINATION, AFFIRMATIVE ACTION AND SEXUAL HARASSMENT: The Contractor shall comply with Article GC-68 of the General Conditions.
- IB-18. APPOINTMENT OF SERVICE AGENT: Kansas Statutes Annotated 16-113 requires that non-resident Contractors appoint an agent for the service of process in Kansas. The executed appointment must then be filed with the Secretary of State, Topeka, Kansas. Any Successful Bidder-Contractor domiciled outside the State of Kansas must comply with these statutory requirements.
- IB-19. SUBCONTRACTING: As provided in Article GC-36, the Contractor may utilize the services of subcontractors on those parts of the work which, under normal contracting practices, are performed by subcontractors.
- IB-20. CONFLICT OF INTEREST: 31 USCS Section 1352 requires all subgrantees, Contractors, subcontractors and consultants who receive federal funds via the City to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract, grant, loan or cooperative agreements.

In addition, contract applicants, recipients and subrecipients must file a form disclosing any expenditures they make for lobbying out of non-federal funds during the agreement period. Necessary forms are available from the City Engineer and should be returned to the City with other contract documents. It is the responsibility of the general Contractor to obtain executed forms from any subcontractors who fall within the provisions of the Code and to provide the City with the same.

BID

**FOXRIDGE DRIVE (56th St. to 51st St.)**

TO: CITY OF MISSION,  
JOHNSON COUNTY, KANSAS

Neither the City nor Consultant shall be responsible for the accuracy, completeness, or sufficiency of any bid documents obtained from any source other than the source indicated in the Notice to Bidders. Obtaining copies of plans, specifications, bid documents and other contract documents from any other source(s) may result in obtaining incomplete and inaccurate information. Obtaining these documents from any source other than directly from the source listed in the Notice to Bidders may also result in failure to receive any addenda, corrections, or other revisions to these documents that may be issued.

The undersigned bidder hereby proposes to mobilize and furnish all materials, supplies, transportation, tools, equipment and plant, perform all necessary labor and construct, install and complete all work stipulated in, required by, and in conformity with the proposed contract documents (including all documents referred to therein) and any and all addenda thereto, for and in consideration of prices as follows:



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 215644

Certificate No. 007026924

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

David S. Salavitch

of the City of Lee's Summit, State of Missouri, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 27th day of October, 2016.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: Robert L. Raney, Senior Vice President

On this the 27th day of October, 2016, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal. My Commission expires the 30th day of June, 2021.



Marie C. Tetreault
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 28 day of April, 2012

*Kevin E. Hughes*  
Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at [www.travelersbond.com](http://www.travelersbond.com). Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

# AIA Document A310™ – 2010

## Bid Bond

**CONTRACTOR:**

(Name, legal status and address)

Kansas Heavy Construction, LLC  
PO Box 860603  
Shawnee, KS 66286

**SURETY:**

(Name, legal status and principal place of business)

Travelers Casualty and Surety Company  
of America  
7465 W. 132nd St.  
Overland Park, KS 66213

**OWNER:**

(Name, legal status and address)

City of Mission, KS  
6090 Woodson

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**BOND AMOUNT:** Five percent (5%) of amount bid

**PROJECT:**

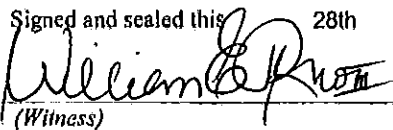
Foxridge Drive 56th To 51st St.  
CARS project no. 320001151

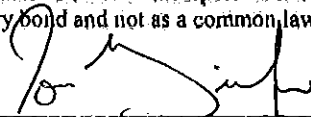
The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

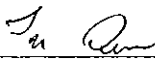
If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

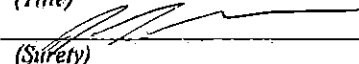
When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 28th day of April, 2017

  
(Witness)

  
(Principal) (Seal)  
MANAGING MEMBER  
(Title)

  
(Witness)

  
(Surety) (Seal)  
Attorney in fact, David S. Salavitch  
(Title)



ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT COST
1	MOBILIZATION	LS	1	400
2	CONTRACTOR STAKING	LS	1	950
3	REMOVAL OF IMPROVEMENTS	LS	1	15,000
4	EXCAVATION AND GRADING	CY	1969	25.
5	VARIABLE MILLING DEPTH	SY	10453	2.
6	ASPHALTIC CONCRETE STREET REPAIR	SY	105	59.
7	HMA SURFACE (SUPERPAVE)	TON	1508	80.
8	PLACE 5' CONCRETE SIDEWALK	SF	17205	4.
9	PLACE 6' CONCRETE SIDEWALK	SF	5320	4.
10	INSTALL ADA RAMP	EACH	2	1200
11	PLACE TYPE B CONCRETE CURB AND GUTTER	LF	7724	19.
12	PLACE TYPE C CONCRETE CURB AND GUTTER	LF	870	19.
13	PLACE CONCRETE COMMERCIAL DRIVE	SY	1560	63
14	CURB INLET	EACH	10	460
15	18" RCP	LF	306.6	65.
16	24" RCP	LF	63.4	100
17	36" RCP	LF	85.6	141
18	END SECTION	EACH	6	1,100
19	63" DIAMETER SNAP-TITE	LF	49.4	60
20	RIP-RAP	SY	10.4	12
21	SOD	SY	6348	5.
22	EROSION CONTROL	LS	1	250
23	SIGN	EACH	60	115
24	SIGN POST	EACH	23	115
25	PAVEMENT MARKING-THERMOPLASTIC-SOLID YELLOW LINE (4")	LF	7140	.7
26	PAVEMENT MARKING- PREFORMED THERMOPLASTIC- SOLID WHITE LINE (24")	LF	90	15.
27	PAVEMENT MARKING- PREFORMED THERMOPLASTIC- SOLID WHITE SHARROW SYMBOL	EACH	32	37.
28	TRAFFIC CONTROL	LS	1	110
29	STREET LIGHTING	LS	1	125
30	PAVED DITCH LINING	SY	45.2	70
31	TEMPORARY SURFACING MATERIAL (AB-3)	CY	286	45
32	REPLACE GUARDRAIL	LF	53	180

TOTAL BID \$ 1,088,150

Remainder of page intentionally left blank.

ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT COST \$	COST \$
1	MOBILIZATION	LS	1		
2	CONTRACTOR STAKING	LS	1		
3	REMOVAL OF IMPROVEMENTS	LS	1		
4	EXCAVATION AND GRADING	CY	1969		
5	VARIABLE MILLING DEPTH	SY	10453		
6	ASPHALTIC CONCRETE STREET REPAIR	SY	105		
7	HMA SURFACE (SUPERPAVE)	TON	1508		
8	PLACE 5' CONCRETE SIDEWALK	SF	17205		
9	PLACE 6' CONCRETE SIDEWALK	SF	5320		
10	INSTALL ADA RAMP	EACH	2		
11	PLACE TYPE B CONCRETE CURB AND GUTTER	LF	7724		
12	PLACE TYPE C CONCRETE CURB AND GUTTER	LF	870		
13	PLACE CONCRETE COMMERCIAL DRIVE	SY	1560		
14	CURB INLET	EACH	10		
15	18" RCP	LF	306.6		
16	24" RCP	LF	63.4		
17	36" RCP	LF	85.6		
18	END SECTION	EACH	6		
19	63" DIAMETER SNAP-TITE	LF	49.4		
20	RIP-RAP	SY	10.4		
21	SOD	SY	6348		
22	EROSION CONTROL	LS	1		
23	SIGN	EACH	60		
24	SIGN POST	EACH	23		
25	PAVEMENT MARKING-THERMOPLASTIC-SOLID YELLOW LINE (4")	LF	7140		
26	PAVEMENT MARKING- PREFORMED THERMOPLASTIC- SOLID WHITE LINE (24")	LF	90		
27	PAVEMENT MARKING- PREFORMED THERMOPLASTIC- SOLID WHITE SHARROW SYMBOL	EACH	32		
28	TRAFFIC CONTROL	LS	1		
29	STREET LIGHTING	LS	1		
30	FLASHING BEACON	EACH	1		
31	TEMPORARY SURFACING MATERIAL (AB-3)	CY	286		

TOTAL BID \$ \_\_\_\_\_

*Remainder of page intentionally left blank.*

1. The undersigned further agrees to begin upon the date stated in the Notice to Proceed and to complete the work within 90 working days, subject to the conditions set forth in paragraph SC-19, CONSTRUCTION TIMELINE AND LIMITATIONS, of the Project Special Conditions.

The undersigned also declares that it understands that if not preset by the City the time to begin construction and to complete the work will be one factor considered in determining the lowest and best responsible bidder.

The undersigned also declares that he/she understands that liquidated damages based on the full bid price of the contract shall be assessed against Contractor, as stipulated liquidated damages and not as a penalty, in an amount as set forth in paragraph GC-46 of the General Conditions for each and every calendar day the work remains incomplete over the specified completion time(s).

2. In submitting this bid, the undersigned declares that it is of lawful age and executed the accompanying bid on behalf of the bidder therein named, and that it had lawful authority so to do. The undersigned further declares that it has not directly or indirectly entered into any agreement, expressed or implied, with any bidder or bidders, having for its object the controlling of the price or amount of such bid or any bids, the limiting of the bid or bidders, the parceling or farming out to any bidder or bidders, or other persons, of any part of the contract or any part of the subject matter of the bid or bids or of the profits thereof, and that it has not and will not divulge the sealed bid to any person whomsoever, except those having a partnership or other financial interest with bidder in said bid or bids, until after sealed bid or bids are opened.
3. The undersigned further declares that it has carefully examined the Notice to Bidders, Instructions to Bidders and other contract documents, and that it has inspected the actual location of the work, together with the local sources of supply, and has satisfied itself as to all conditions and quantities, and understands that in signing this Bid it waives all right to plead any misunderstanding regarding the same.
4. The undersigned hereby agrees to furnish the required bonds and insurance certificates and execute an agreement within ten (10) calendar days from and after notice of the award of the contract, and failure of the bidder to do so shall constitute a default, and the City may thereafter take such steps to protect its legal rights as it deems in its best interest, including, but not limited to, enforcement of its rights as to bid security.
5. It is understood that the City will pay in a prompt and timely manner pay estimates when submitted and approved by the Architect/Engineer and further approved by the City staff coordinator for the project, all as provided in the contract documents.
6. Undersigned acknowledges receipt of the Plans and Specifications for the project including the following addenda (complete) #1 4-24-17; #2 4-25-17

Enclosed is a certified check, cashier's check or bid bond in the amount of

5%  
DOLLARS (\$) which the undersigned agrees is subject to being forfeited to and becoming the property of the City as liquidated damages and not as a penalty, together with other legal remedies the City may choose to invoke, all as set forth in the Instructions to Bidders Section IB-9, should this Bid be accepted and the contract be awarded to this bidder and it should fail to enter into an agreement in the form prescribed and to furnish the required insurance, bonds and other required documents within ten (10) calendar days as above stipulated, otherwise the bid security shall be returned to the undersigned upon signing of the agreement and delivery of the approved bonds and other required documents to the City of Mission, Kansas.

DATED in TONGANOXIE, KS this 28TH day of APRIL, 2015.

(SEAL)

KANSAS HEAVY CONSTRUCTION, LLC  
Contractor

Tom Giefer  
Signature

TOM GIEFER  
Printed Name

MANAGING MEMBER  
Title

P.O. Box 860603  
Street Address or P.O. Box

SHAWNEE, KS 66286  
City, State, Zip

913-845-2121  
Telephone Number

913-845-2813  
Fax Number

CITY OF MISSION, KANSAS

AGREEMENT BETWEEN  
CITY OF MISSION, KANSAS  
AND CONTRACTOR

**FOXRIDGE DRIVE (56th St. to 51st St.)**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by and between the City of Mission, Kansas, hereinafter the "City", and \_\_\_\_\_  
hereinafter the "Contractor".

WITNESSETH:

WHEREAS, the City has caused to be prepared, in accordance with the law, Notice to Bidders, Instructions to Bidders, Bid, this Agreement, General Conditions, Project Special Provisions, Plans, Specifications and other Contract Documents, as defined in the General Conditions, for the work herein described, and has approved and adopted these said Contract Documents and has caused to be published, in the manner and for the time required by law, an advertisement inviting sealed Bids for furnishing construction materials, labor, tools, equipment and transportation necessary for, and in connection with, the construction of public improvements in accordance with the terms of this Agreement; and

WHEREAS, the Contractor, in response to the advertisement, has submitted to the City, in the manner and at the time specified, a sealed Bid in accordance with the terms of this Agreement; and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined and canvassed the Bids submitted, and as a result of this canvass has, in accordance with the law, determined and declared the Contractor to be the lowest and best responsible bidder for the construction of the public improvements, and has duly awarded to the Contractor a contract therefor upon the terms and conditions set forth in this Agreement and for the sum or sums named in the Bid attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the compensation to be paid the Contractor, and of the mutual agreements herein contained, the parties hereto have agreed, and hereby agree, the City for itself and its successors, and the Contractor for itself, himself/herself or themselves, its, his/her or their successors and assigns, or its, his/her or their executors and administrators, as follows:

ARTICLE I. The Contractor will furnish at its own cost and expense all labor, tools, equipment, materials and transportation required to construct and complete the work as designated, described and required by the Contract Documents, to wit: **FOXRIDGE DRIVE (56th St. to 51st St.)** all in accordance with the Notice to Bidders, Instructions to Bidders, Bid, this Agreement, General Conditions, Project Special Provisions, Plans, Specifications and other Contract Documents as defined in paragraph GC-1 of the General Conditions of the Contract for Construction, on file with the City Clerk of Mission, Kansas, all of which Contract Documents form the Contract, and are as fully a part hereof as if repeated verbatim herein; all work to be done in a good, substantial and workmanlike manner to the entire satisfaction of the City, and in accordance with the laws of the City, the State of Kansas and the United States of America. All

terms used herein shall have the meanings ascribed to them in the General Conditions unless otherwise specified.

ARTICLE II. The City shall pay to the Contractor for the performance of the work embraced in this Contract, and the Contractor will accept in full compensation therefor, the sum of \_\_\_\_\_

DOLLARS (\$ \_\_\_\_\_) (subject to adjustment as provided by the Contract Documents) for all work covered by and included in the Contract award and designated in the foregoing Article I, payment thereof to be made in cash or its equivalent and in the manner provided in the Contract Documents.

ARTICLE III. The Contractor shall commence work upon the date stated in the Notice to Proceed, and will complete all work covered by this Contract within 90 working days subject to the conditions set forth in paragraph SC-19, CONSTRUCTION TIMELINE AND LIMITATIONS, of the Project Special Conditions. Liquidated damages based on the full bid price of the Contract shall be assessed against Contractor, as stipulated liquidated damages and not as a penalty, in an amount as set forth in paragraph GC-46 of the General Conditions for each and every calendar day the work remains incomplete over the specified completion time(s) stated above.

ARTICLE IV. The Contractor shall not subcontract, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof without previous written consent of the City. In case such consent is given, the Contractor shall be permitted to subcontract a portion thereof, but shall self-perform not less than forty percent (40%) of the total Contract Price based upon the unit prices within the Bid submitted to the City by the Contractor. No subcontracts, or other transfer of Contract, shall release the Contractor of its liability under the Contract and Bonds applicable thereto.

ARTICLE V. Contractor specifically acknowledges and confirms that: (1) it has visited the site, made all inspections it deems appropriate and has read and fully understands the Contract Documents, including all obligations and responsibilities undertaken by it as specified herein and in the other Contract Documents and knowingly accepts same; (2) it has furnished copies of all Contract Documents to its insurance carrier(s) and its surety(ies); and (3) its insurance carrier(s) and surety(ies) agree to be bound as specified herein, in the Contract Documents and in the insurance policy(ies) and bonds as to liability and surety coverage.

ARTICLE VI. It is specifically agreed between the parties executing this Agreement that the Contract Documents are not intended to create any third party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

ARTICLE VII. This Agreement, together with the other Contract Documents, constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except as provided herein or in the other Contract Documents.

ARTICLE VIII. This Agreement is entered into, under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Kansas.

ARTICLE IX. Should any provision of this Agreement or the other Contract Documents be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement

and/or the other Contract Documents shall be unaffected thereby and shall continue to be valid and enforceable.

IN WITNESS WHEREOF, the City of Mission, Kansas, has caused this Agreement to be executed on its behalf, thereunto duly authorized, and the said Contractor has executed three (3) counterparts of this Contract in the prescribed form and manner, the day and year first above written.

CITY OF MISSION, KANSAS

ATTEST:

By \_\_\_\_\_  
Steve Schowengerdt  
Mayor

\_\_\_\_\_  
Martha Sumrall  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
David Martin  
City Attorney

\_\_\_\_\_  
Contractor

(SEAL)

By \_\_\_\_\_  
Title \_\_\_\_\_ President \_\_\_\_\_

***(If the Contract is not executed by the president of the corporation or general partner of the partnership, please provide documentation which authorizes the signatory to bind the corporation or partnership. If a corporation, Contractor shall furnish City a current certificate of good standing, dated within ten (10) days of the date of this Contract.)***

CITY OF MISSION, KANSAS

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned \_\_\_\_\_,  
of \_\_\_\_\_ as principal, hereinafter referred to as the  
"Contractor," and \_\_\_\_\_,  
a corporation organized under the laws of the State of \_\_\_\_\_ and authorized to  
transact business in the State of Kansas, as surety, are held and firmly bound unto the City of  
Mission, Kansas, hereinafter referred to as "City," in the penal sum of \_\_\_\_\_  
Dollars (\$ \_\_\_\_\_),  
lawful money of the United States of America, for the payment of which sum well and truly to be  
made we bind ourselves, and our heirs, executors, administrators, successors and assigns,  
jointly and severally by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bonded Contractor, has on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_,  
executed a written Agreement with the aforesaid City for furnishing in a good, substantial and  
workmanlike manner all construction, labor, materials, equipment, tools, transportation,  
superintendence and other facilities and accessories for **FOX RIDGE DRIVE (56th St. to 51st  
St.)** designated, defined and described in the Agreement and in accordance with the Contract  
Documents to include the General Conditions, Project Special Provisions, Specifications, Plans  
and other Contract Documents therefor; a copy of the Agreement being attached hereto and  
made a part hereof.

NOW, THEREFORE, if said Contractor shall in all particulars promptly and faithfully perform  
each and every covenant, condition, and part of the Agreement, and the General Conditions,  
Project Special Provisions, Specifications, Plans and other Contract Documents thereto  
attached or by reference made a part thereof, according to the true intent and meaning in each  
case, upon written acceptance by the City of the improvement herein described in substantial  
compliance with the Contract Documents and upon the effective date of the Maintenance Bond  
for the improvement then this obligation shall be and become null and void.

PROVIDED, that said Surety, for value received, hereby stipulates and agrees that no change,  
extension of time, alteration or addition to the terms of the Agreement or the Work to be  
performed thereunder or the General Conditions, Project Special Provisions, Specifications,  
Plans and other Contract Documents accompanying same shall in any way affect its obligation  
on this bond, and it does hereby waive notice of any such change, extension of time, alteration  
or addition to the terms of the Agreement or to the Work or to the Specifications, Plans and  
other Contract Documents.

PROVIDED, FURTHER, that it is expressly agreed that the bond shall be deemed amended  
automatically and immediately, without formal and separate amendments hereto, upon  
amendment to the Agreement not increasing the contract price more than 50 percent, so as to  
bind the Contractor and the Surety to the full and faithful performance of the Agreement so  
amended. The term "amendment," wherever used in this bond, and whether referring to this  
bond or the Agreement, shall include any alteration, addition, extension, or modification of any  
character whatsoever.

Whenever Contractor is declared by City to be in default under the Contract Documents, the  
Surety may promptly remedy the default or shall within fourteen (14) days from the date of  
notice from the City:



1. Commence completing the Work of the Agreement in accordance with its terms and conditions. However, Surety may not use the defaulting Contractor, or any legal reformation of the defaulting Contractor, to complete the Work and the Surety may not use any of the subcontractors of the defaulting Contractor to complete the Work without the written consent of the City; or
2. Commence the process of obtaining a bid or bids for completing the Work of the Agreement in accordance with its terms and conditions, and upon determination by the City and the surety jointly of the lowest and best responsive, responsible bidder, arrange for an Agreement between such bidder and the City, and make available as work progresses sufficient funds to pay the cost of completion less the balance of the Contract Price, including other costs and damages for which the surety may be liable hereunder, which sum shall not exceed the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by City to Contractor under the Agreement and any amendments thereto, less the amount properly paid by City to Contractor. No right of action shall accrue on this bond to or for the use of any person or corporation other than the City or successors of the City.

IN TESTIMONY WHEREOF, said Contractor has hereunto set his/her hand, and said surety has caused these presents to be executed in its name; and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized thereunto so to do at \_\_\_\_\_, \_\_\_\_\_ on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Contractor/Principal

ATTEST: By \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Title

\_\_\_\_\_  
Surety Company

By \_\_\_\_\_ (SEAL)  
Attorney-in-Fact

NOTE:

1. Date of bond must not be prior to date of contract.
2. If Contractor is partnership, all partners should execute bond.
3. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state of Kansas.
4. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.

CITY OF MISSION, KANSAS

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_  
as principal, hereinafter referred to as the "Contractor," and \_\_\_\_\_  
\_\_\_\_\_, hereinafter referred to as the "Surety",  
a corporation organized under the laws of the State of \_\_\_\_\_ and authorized to  
transact business in the State of Kansas, as surety, are held and firmly bound unto the City of  
Mission, Kansas, hereinafter referred to as "City," in the penal sum of \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful  
money of the United States of America, for the payment of which sum well and truly to be made  
we bind ourselves, and our heirs, executors, administrators, successors and assigns, jointly and  
severally by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bonded Contractor, has on the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_, executed a written Agreement with the aforesaid City for furnishing in a good, substantial  
and workmanlike manner all construction, labor, materials, equipment, tools, transportation,  
superintendence and other facilities and accessories for **FOXRIDGE DRIVE (56th St. to 51st  
St.)**, hereinafter referred to as the "Improvement", designated, defined and described in the  
Agreement and the Contract Documents, and in accordance with the Specifications and Plans  
and other Contract Documents therefor; a copy of the Agreement being attached hereto and  
made a part hereof.

NOW, THEREFORE, upon acceptance of the Improvement by the City in substantial  
compliance with the Contract Documents, if said Improvement endures without defect or need  
of repair or maintenance for a period of two (2) years from the date of final acceptance, then this  
obligation shall be and become null and void.

If the Improvement requires repairs or maintenance within such two (2) year period then this  
obligation shall remain in full force and effect and Contractor and the Surety shall be responsible  
for the prompt payment of the penal sum to the City for such repairs and/or maintenance  
including any incidental costs associated therewith, including but not limited to the costs of  
consultants and/or engineering investigations, testing, analysis and any other costs incurred to  
determine the cause of the defect and/or the necessary repair or maintenance and attorney fees  
incurred in collection of this Maintenance Bond.

PROVIDED, that said Surety, for value received, hereby stipulates and agrees that no change,  
extension of time, alteration or addition to the terms of the Agreement or the Work to be  
performed thereunder or the Specifications, Plans and other Contract Documents  
accompanying same shall in any way affect its obligation on this bond, and it does hereby waive  
notice of any such change, extension of time, alteration or addition to the terms of the  
Agreement or to the Work or to the Specifications, Plans and other Contract Documents.

PROVIDED, FURTHER, that it is expressly agreed that the bond shall be deemed amended  
automatically and immediately, without formal and separate amendments hereto, upon  
amendment to the Agreement not increasing the contract price more than 50 percent, so as to  
bind the Contractor and the Surety to the full and faithful performance of the Agreement so  
amended. The term "amendment," wherever used in this bond, and whether referring to this  
bond or the Agreement, shall include any alteration, addition, extension, or modification of any  
character whatsoever.

IN TESTIMONY WHEREOF, said Contractor has hereunto set his/her hand, and said surety has caused these presents to be executed in its name; and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized thereunto so to do at \_\_\_\_\_ on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Contractor/Principal

ATTEST:  
(SEAL)

By \_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Title

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Surety Company

(SEAL)

By \_\_\_\_\_  
Attorney-in-Fact

NOTE:

1. Date of bond must not be prior to date of contract.
2. If Contractor is partnership, all partners should execute bond.
3. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state of Kansas.
4. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.

CITY OF MISSION, KANSAS

STATUTORY BOND

**FOXRIDGE DRIVE (56th St. to 51st St.)**

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_  
\_\_\_\_\_ as Contractor and principal, and \_\_\_\_\_  
\_\_\_\_\_ a corporation organized under the laws of the State of \_\_\_\_\_  
\_\_\_\_\_ and authorized to transact business in the State of Kansas, as surety, are held and firmly bound  
unto the State of Kansas, in the penal sum of \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) lawful money of the United States of  
America, for the payment of which sum well and truly to be made, we bind ourselves, and our heirs,  
executors, administrators, successors, and assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the said Contractor has on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, entered into an  
Agreement with the City of Mission, Kansas, a copy of which is attached hereto and incorporated herein  
for furnishing all tools, equipment, materials, transportation and supplies, performing all labor, and  
constructing public improvements described in the Agreement and the Contract Documents, all in  
accordance with Provisions, Specifications, Plans and other Contract Documents on file in the office of  
the City Clerk of the City of Mission, Kansas.

NOW, THEREFORE, if the Contractor or the subcontractors of the Contractor shall pay all indebtedness  
incurred for supplies, materials, transportation or labor furnished, or equipment used or consumed in  
connection with or in or about the construction or making of the improvements described in the  
above-mentioned Contract Documents, then this obligation shall be void; otherwise, it shall remain in full  
force and effect.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time,  
alteration or addition to the terms of the Agreement and the Contract Documents to the work to be  
performed thereunder, or the Provisions, Plans and Specifications accompanying the same, shall in any  
way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of  
time alteration or addition to the terms of the Agreement, Contract Documents or to the Plans and  
Specifications.

PROVIDED, that it is expressly agreed that this bond shall be deemed amended automatically and  
immediately, without formal and separate amendments hereto, upon amendment to the Agreement not  
increasing the contract price more than 50 percent, so as to bind the Contractor and the Surety to the full  
and faithful performance of the Agreement as so amended. The term "amendment," wherever used in  
this bond and whether referring to this bond or the Agreement shall include any alteration, addition,  
extension or modification of any character whatsoever.

The said Surety further agrees that any person to whom there is due any sum for labor furnished,  
transportation, materials, equipment or supplies used or consumed in connection with or in or about the  
construction of said public improvement, as hereinbefore stated or said person's assigns, may bring  
action on this bond for the recovery of said indebtedness within six (6) months from the completion of said  
public improvement.

IN TESTIMONY WHEREOF, the said Contractor has hereunto set his/her hand, and the said surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized thereunto so to do, at \_\_\_\_\_ on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Contractor/Principal

ATTEST:

\_\_\_\_\_  
Secretary

By \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Surety Company

By \_\_\_\_\_ (SEAL)  
Attorney-in-Fact

NOTE:

1. A Statutory Bond is required only in connection with a Contract exceeding one hundred thousand dollars (\$100,000.00) in accordance with K.S.A. 60-1111 as amended.
2. Contractor shall be responsible for seeing to it that this Statutory Bond is filed with the Clerk of the District Court for Johnson County, Kansas.
3. Date on bond must not be prior to date of contract.
4. If Contractor is partnership, all partners should execute bond.
5. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state of Kansas.
6. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.

CITY OF MISSION, KANSAS

LABOR AND MATERIAL PAYMENT BOND

**FOXRIDGE DRIVE (56th St. to 51st St.)**

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_ as Contractor and principal, and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_ and authorized to transact business in the State of Kansas, as surety, are held and firmly bound unto the City of Mission, Kansas in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the said Contractor has on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, entered into an Agreement with the City of Mission, Kansas, a copy of which is attached hereto and incorporated herein for furnishing all tools, equipment, materials, transportation and supplies, performing all labor, and constructing public improvements described in the Agreement and the Contract Documents, all in accordance with Provisions, Specifications, Plans and other Contract Documents on file in the office of the City Clerk of the City of Mission, Kansas.

NOW, THEREFORE, if the Contractor or the subcontractors of the Contractor shall pay all indebtedness incurred for supplies, materials, transportation or labor furnished, or equipment used or consumed in connection with or in or about the construction or making of the improvements described in the above-mentioned Contract Documents, then this obligation shall be void; otherwise, it shall remain in full force and effect.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement and the Contract Documents to the work to be performed thereunder, or the Plans and Specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement, Contract Documents or to the Plans and Specifications.

PROVIDED, that it is expressly agreed that this bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the contract price more than 50 percent, so as to bind the Contractor and the Surety to the full and faithful performance of the Agreement as so amended. The term "amendment," wherever used in this bond and whether referring to this bond or the Agreement shall include any alteration, addition, extension or modification of any character whatsoever.

IN TESTIMONY WHEREOF, the said Contractor has hereunto set his/her hand, and the said surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized thereunto so to do, at \_\_\_\_\_ on this, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Contractor/Principal

By \_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
Surety Company

By \_\_\_\_\_ (SEAL)  
Attorney-in-Fact

NOTE:

1. A Labor and Material Payment Bond is required only in connection with a Contract which does not exceed one hundred thousand dollars (\$100,000.00).
2. Date on bond must not be prior to date of contract.
3. If Contractor is partnership, all partners should execute bond.
4. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state of Kansas.
5. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.

**FOXRIDGE DRIVE (56th St. to 51st St.)**

TABLE OF CONTENTS  
FOR  
GENERAL CONDITIONS

ARTICLE	SUBJECT	PAGE
GC-1	CONTRACT DOCUMENTS/CONTRACT FOR CONSTRUCTION .....	1
GC-2	DEFINITIONS .....	1
GC-3	DEFECTS IN CONTRACT DOCUMENTS .....	5
GC-4	BID .....	5
GC-5	COPIES OF THE CONTRACT .....	5
GC-6	SCOPE, NATURE AND INTENT OF PLANS AND SPECIFICATIONS .....	5
GC-7	BEGINNING, PROGRESS AND TIME OF COMPLETION OF WORK .....	6
GC-8	SHOP DRAWINGS .....	7
GC-9	CONTRACTOR'S RESPONSIBILITIES AS TO AMBIGUITIES .....	7
GC-10	CONCEALED CONDITIONS .....	8
GC-11	CONTRACTOR TO FURNISH STAKES AND HELP .....	8
GC-12	PRESERVATION OF MONUMENTS AND STAKES .....	8
GC-13	PERMITS AND NOTICES .....	8
GC-14	GENERAL ADMINISTRATION OF THE CONTRACT .....	9
GC-15	CONTRACTOR'S EMPLOYEES .....	9
GC-16	SAMPLES .....	10
GC-17	PROTECTION AND MAINTENANCE OF PUBLIC AND PRIVATE PROPERTY; LIABILITY .....	10
GC-18	WORK IN OR ACROSS STREET OR HIGHWAY RIGHT-OF-WAY .....	12
GC-19	MAINTENANCE OF TRAFFIC .....	12
GC-20	NOISE CONTROL .....	12
GC-21	DUST CONTROL .....	12
GC-22	INSPECTION OF WORK .....	12
GC-23	SUPERINTENDENCE AND SUPERVISION .....	13
GC-24	CONTRACTOR'S OFFICE AT SITE OF WORK .....	14
GC-25	CHANGES IN THE WORK .....	14
GC-26	DEDUCTIONS FOR UNCORRECTED WORK .....	16
GC-27	DELAYS AND EXTENSION OF TIME .....	16
GC-28	WORK STOPPAGES .....	17
GC-29	PATENT LIABILITY CLAUSE .....	18
GC-30	INDEPENDENT CONTRACTOR .....	18
GC-31	SEPARATE CONTRACTS .....	18
GC-32	RELATIONS WITH OTHER CONTRACTORS .....	18
GC-33	INDEMNITY .....	19
GC-34	PROTECTION OF PROPERTY/LIABILITY .....	20
GC-35	PROVISION FOR EMERGENCIES .....	20
GC-36	ASSIGNMENT AND SUBLETTING OF CONTRACT .....	21
GC-37	DISPUTE RESOLUTION .....	22
GC-38	INSURANCE .....	22
GC-39	AUTHORITY AND DUTY OF THE CONSULTING ENGINEER .....	23
GC-40	CORRECTION OF LABOR, ETC. - BEFORE FINAL PAYMENT .....	24
GC-41	CORRECTION OF LABOR, ETC. - AFTER FINAL PAYMENT .....	24
GC-42	RIGHT OF CITY TO TERMINATE CONTRACT .....	25



GC-43 CITY'S RIGHT TO DO WORK.....	26
GC-44 PAYMENTS .....	26
GC-45 PAYMENTS WITHHELD .....	27
GC-46 LIQUIDATED DAMAGES .....	27
GC-47 BONDS .....	28
GC-48 EASEMENTS AND RIGHTS-OF-WAY .....	28
GC-49 UTILITIES .....	29
GC-50 USE OF PREMISES .....	29
GC-51 ALLOWANCES.....	29
GC-52 CUTTING, PATCHING AND DIGGING .....	29
GC-53 CLEANING UP .....	30
GC-54 TEMPORARY FACILITIES .....	30
GC-55 SANITARY REGULATIONS AND WATER .....	30
GC-56 COMPLIANCE WITH LAWS.....	30
GC-57 UNFAVORABLE CONSTRUCTION CONDITIONS .....	31
GC-58 CONTRACTOR'S RISK.....	31
GC-59 SAFETY RULES.....	31
GC-60 WEEKENDS, HOLIDAY AND NIGHT WORK .....	32
GC-61 APPROVAL OF EQUALS.....	32
GC-62 TEST OF MATERIALS OFFERED BY CONTRACTOR.....	32
GC-63 TESTING OF COMPLETED WORK.....	32
GC-64 BORROW AND WASTE AREAS.....	33
GC-65 PARKING AREAS, DRIVES AND WALKS .....	33
GC-66 STREET SIGNS AND TRAFFIC AIDS .....	33
GC-67 PLACING WORK IN SERVICE/PARTIAL UTILIZATION .....	33
GC-68 NON-DISCRIMINATION/OTHER LAWS .....	33
GC-69 FEDERAL LOBBYING ACTIVITIES .....	34
GC-70 RECORDS.....	34
GC-71 TITLES, SUBHEADS AND CAPITALIZATION .....	34
GC-72 NO WAIVER OF RIGHTS.....	35
GC-73 SEVERABILITY .....	35
GC-74 GOVERNING LAW .....	35
GC-75 VENUE .....	35

GENERAL CONDITIONS  
OF THE CONTRACT FOR CONSTRUCTION

GC-1 CONTRACT DOCUMENTS/CONTRACT FOR CONSTRUCTION

The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all. The intention of the Contract Documents is to include all construction, labor, materials, tools, equipment and transportation necessary for the workmanlike construction of the Project in accordance with the Contract Documents.

The Contract Documents shall consist of (but not necessarily be limited to) the Agreement between the City and Contractor (sometimes referred to herein as the "Agreement"), these General Conditions, the Project Special Provisions, the Plans, the Specifications, all addenda issued prior to and all modifications issued after execution of the Contract (modifications consisting of written amendments to the Contract signed by both parties, Change Orders, written interpretations issued by the Consulting Engineer, written orders for minor changes in the Work issued by the Consulting Engineer and changes in the Work identified in Article GC-25), drawings and data which may be furnished by the Contractor and approved by the City, additional drawings which may be furnished by the Architect/Engineer which the Consulting Engineer deems necessary to make clear the intent of the Contract Documents (and, in particular, the Specifications), and the Bidding Documents. It is understood that the Work shall be carried out and the Project shall be constructed fully in accordance with the Contract Documents.

It is expressly understood and agreed that the bound volume of Contract Documents, any plans, schedules and other drawings herein referred to, and data which may be furnished by the Engineer as are necessary to make clear the intent of the Specifications and Plans, are each and all included in this Contract and the Work shall be done fully in accordance therewith.

If there is any conflict or discrepancy between the Agreement between the City and Contractor and these General Conditions or between the Agreement between City and Contractor and any other of the Contract Documents, the Agreement between City and Contractor shall prevail. If there is any discrepancy between the General Conditions and any other Contract Documents other than the Agreement between City and Contractor, the General Conditions shall prevail, unless such discrepancy is between the General Conditions and the Project Special Provisions, if any, in which case the Project Special Provisions shall prevail. The Contract Documents supersede all previous agreements and understandings between the parties, which previous agreements and understandings are of no further force and effect.

The Contract Documents as enumerated herein form the Contract for construction. The Contract may not be amended or modified except by a modification as hereinabove defined. These Contract Documents do not, nor shall they be construed to, create any contractual relationship of any kind between the City and any Subcontractor or remote tier Subcontractor.

All time limits stated in the Contract Documents are of the essence of the Contract.

GC-2 DEFINITIONS

Whenever any word or expression defined herein, or pronoun used in its stead, occurs in these Contract Documents, it shall have and is mutually understood to have the meaning herein given. Work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards.

1. "Bid" shall mean the offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed (and the City reserves the right to reject any and all bids).
2. "Bidder" shall mean any individual, partnership, corporation, association or other entity submitting a Bid for the Work.
3. "Bidding Documents" shall mean all documents related to a Bidder's submitting a Bid, including, but not limited to, the advertisement for Bids, if applicable, Instructions to Bidders, the Bid form, other sample bidding and contract forms and the proposed Contract Documents, including any addenda issued prior to receipt of Bids. At the City's option, Bidders may be required to complete and submit a prequalification statement.
4. "Bonds" shall mean the Bid, Performance, Maintenance, and Statutory or Labor and Material Payment Bond, together with such other instruments of security as may be required by the Contract Documents.
5. "Change Order" is a written order issued after the Agreement is executed by which the City, the Consulting Engineer and the Contractor agree to construct additional items of work, to modify the Contract Time, or, in lump sum contracts, to change the character and scope of Work shown on the Contract Plans, or as otherwise provided in Article GC-25. Change Orders must be signed by the City and the Contractor to be binding.
6. "City" shall mean the City of Mission, Kansas.
7. "Consultant" or "Consulting Engineer" shall mean the individual, firm or entity designated in the Contract Documents which has been employed by the City for the performance of professional engineering services in connection with the Project; or shall mean the City if the City acts as its own Engineer.
8. "Contract" and "Contract Documents" shall have the meaning ascribed to them in Article GC-1, such terms sometimes being used interchangeably.
9. "Contract Price" shall be the amount identified in the Agreement between City and Contractor as the total amount due Contractor for total completion of the Work as per the Contract Documents. Where the Contract provides that all or a part of the Work is to be Unit Price Work the Contract Price shall initially be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work multiplied by the estimated quantity of each item required for the Work. It is understood and agreed that estimated quantities of items for Unit Price Work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial Contract Price. Determinations of actual quantities and classifications of Unit Price Work shall be made by the Consulting Engineer. Each unit price shall be deemed to include Contractor's overhead and profit for each separately identified item.
10. "Contract Time" shall be the number of calendar days stated in the Contract Documents for the completion of the Work or shall be a date certain if so designated in the Contract Documents.
11. "Contractor" shall mean the entity entering into the Contract for the performance of the Work covered by this Contract, together with its duly authorized agents or legal representatives. (For purposes of indemnification, see GC-33 for definition of "Contractor".)

12. "Defective Work" shall mean Work which is unsatisfactory, faulty or deficient, or not in conformity with the Contract Documents. It shall also include Work damaged prior to approval of final payment unless responsibility for such damage shall have been expressly assumed by the City at substantial completion.

13. "Effective Date of the Agreement" shall mean the date indicated in the Agreement on which it becomes effective, but, if no such date is indicated, it shall mean the date on which the Agreement is signed and delivered by the City to the Contractor. For this purpose, delivery shall be accomplished by either hand-delivery to the Contractor or placing a copy in the mail, first class, postage prepaid.

14. "Field Order" shall mean a written order issued by the Consulting Engineer which orders minor changes in the Work in accordance with Article GC-25 but which does not involve a change in the Contract Price or Contract Time.

15. "Final Acceptance" shall mean the date when the Consulting Engineer accepts in writing that the construction of the Project is complete in accordance with the Contract Documents such that the entire project can be utilized for the purposes for which it is intended and Contractor is entitled to final payment.

16. "General Requirements" shall mean those provisions of the Specifications which apply to the entire Work.

17. "Inspector" shall mean the engineering or technical inspector or inspectors duly authorized by the Consulting Engineer or the City.

18. "Notice of Award" shall mean the written notice by the City to the apparent successful Bidder stating that upon compliance with the conditions precedent enumerated therein, within the time specified, the City will sign and deliver the Agreement.

19. "Notice to Proceed" shall mean the written notice by the City to the Contractor fixing the date on which the Contract Time is to commence and on which the Contractor shall start to perform its obligations under the Contract Documents. Without the prior express written consent of the City, Contractor shall do no Work until the date set forth in the Notice to Proceed.

20. "Partial Utilization" shall mean placing a portion of the Work to be provided under the Contract Documents to the use intended by the City.

21. "Pay Estimate No. \_\_\_\_\_" or "Final Pay Estimate" shall mean the form to be used by the Contractor in requesting progress and final payments, including supporting documentation required by the Contract Documents.

22. "Plans" or "the Plans" shall mean and include all drawings which may have been prepared by the City and/or the Consulting Engineer on the City's behalf as a basis for Bids, all drawings (other than Shop Drawings, as defined in Definition No. 23, below.) submitted by the successful Bidder with its Bid or by the Contractor to the City, if and when approved by the Consulting Engineer, and all drawings submitted by the City to the Contractor during the progress of the Work, all of which show the character and scope of the Work to be performed.

23. "Shop Drawings" shall mean all drawings, diagrams, illustrations, schedules and other data which are specifically prepared by the Contractor, a Subcontractor, manufacturer, fabricator, supplier or distributor to illustrate some portion of the Work and all illustrations,

brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a manufacturer, fabricator, supplier or distributor and submitted by the Contractor to illustrate material or equipment for some portion of the Work.

24. "Specifications" shall mean those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction methods, standards and workmanship as applied to the Work and certain administrative details applicable thereto. They may include, but not necessarily be limited to:

- (1) design specifications, e.g. measurements, tolerances, materials, inspection requirements and other information relative to the Work;
- (2) performance specifications, e.g., performance characteristics required, if any;
- (3) purchase description specifications, e.g. products or equipment required by manufacturer, trade name and/or type; provided, however, equivalent alternatives (including aesthetics, warranty and manufacturer reputation) may be substituted upon written request and written approval therefore by the City in accordance with Article GC-61;
- (4) such other information deemed appropriate by the City for inclusion in the Specifications for the proper construction of the Project.

25. "Subcontractor" shall mean an individual, firm or corporation having a direct contract with the Contractor or with another Subcontractor for the performance of a part of the Work.

26. "The Work" or "The Project" (used interchangeably) shall mean the work to be done necessary to complete the construction required of the Contractor by the Contract Documents, and includes all construction, labor, materials, tools, equipment and transportation necessary to produce such construction in accordance with the Contract Documents.

27. "Underground Facilities" shall mean all pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish services or materials including, but not limited to, electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

28. "Unit Price Work" shall mean Work to be paid for on the basis of unit prices (quantity variations).

29. Whenever in these Contract Documents the words "as ordered," "as directed," "as required," "as permitted," "as allowed," or words or phrases of like import are used, it is understood that the order, direction, requirement, permission or allowance of the City and/or the Consulting Engineer is intended.

30. Whenever any statement is made in the Contract Documents containing the expression "it is understood and agreed," or an expression of like import, such expression means the mutual understanding and agreement of the parties hereto.

31. The words "approved," "reasonable," "suitable," "acceptable," "properly," "satisfactory," or words of like effect in import, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper or satisfactory in the judgment of the City and/or the Consulting Engineer.

#### GC-3 DEFECTS IN CONTRACT DOCUMENTS

If Contractor has reasonable cause such that it should, in the exercise of ordinary care of someone in its position, know that any errors, omissions, discrepancies or inconsistencies (hereinafter "defects") appear in the Contract Documents, including, but not limited to, the Plans, Specifications and other documents or the Work, Contractor shall, notify the Consulting Engineer in writing of such defects. Contractor shall remedy any such defects whether or not disclosed to the Consulting Engineer without any increase in the cost of the Work. The Contract Documents shall be appended to all contracts between the Contractor and any Subcontractor or any more remote tier Subcontractor, and such Subcontractors and remote tier Subcontractors shall, likewise, notify the Contractor in writing of any defects therein, and it shall be the obligation of the Contractor to remedy same as if Contractor had discovered such defects itself. The Contractor will not be permitted to take advantage of any such defect.

#### GC-4 BID

The Contractor acknowledges and agrees that the unit prices and/or lump sum prices shown in the Bid contemplate the construction of all facilities, complete, and in conformance with the Plans and Specifications. Any item or items required in construction for which a specific unit price and/or lump sum price is not provided shall be included in the price for the closest applicable items.

#### GC-5 COPIES OF THE CONTRACT

Unless otherwise provided in the Contract Documents, City will furnish to Contractor a maximum of five (5) copies of the Contract Documents, free of charge, necessary for the execution of the Work.

Sufficient copies of the Bidding Documents, Bonds and Agreement between City and Contractor shall be prepared, each containing an exact copy of the Contractor's Bid as submitted, the Bonds properly executed and the Contract signed by both parties hereto. These executed counterparts shall be filed with the City, Contractor and the surety company executing the Bonds. The original Bid submitted by the Contractor will be retained by the City.

Contractor shall keep, and make available to City at the Project site, one copy of all Contract Documents for the Work at the Project site, in good order and legibly marked to reflect actual construction. Contractor shall also maintain at the site all approved samples and a print of all approved Shop Drawings. Such Documents, samples and Shop Drawings shall be turned over to the City at the completion of the Work if requested by the City.

Contract Documents are the property of the City, and none of the Contract Documents are to be used on other work by Contractor. At City's request, all Contract Documents shall be returned to the City with the exception of one record set for Contractor. All models and calculations are the property of City.

#### GC-6 SCOPE, NATURE AND INTENT OF PLANS AND SPECIFICATIONS

The Plans and Specifications are intended to complement, but not necessarily duplicate each other. Together they shall constitute one complete set of the Plans and Specifications, and any Work exhibited in one but not in the other shall be executed just as if it had been set forth in both in order that the Work shall be completed according to the complete design or designs as decided and determined by the Consulting Engineer.

Should anything be omitted from the Plans and Specifications which is necessary to a clear understanding of the Work, or should it appear that various instructions are in conflict, or in the event the Plans and Specifications are silent as to any detail, then it shall be the duty of the Contractor to secure written instructions from the Consulting Engineer before proceeding with the construction affected by such omissions, discrepancies or silence. In accordance with Article GC-3, Contractor's failure to bring any such matter to the attention of the Consulting Engineer shall be at the Contractor's peril, and there shall be no compensation for extra work necessitated thereby.

Dimensions and elevations shown on the Plans shall be accurately followed, even though they may differ from scaled measurements. No Work shown on the Plans, the dimensions of which are not indicated, shall be executed until the required dimensions have been obtained from the Consulting Engineer. Contractor shall be responsible for verification of all locations, dimensions and elevations in the field (including, but not limited to verification of location of Underground Facilities and utilities) and shall verify all field dimensions shown on the Contract Documents.

All Work performed under this Contract shall be done to the lines, grades, and elevations shown on the Plans. The Contractor shall keep the Consulting Engineer informed, a reasonable time in advance of the times and places at which it wishes to do Work, in order that lines and grades may be furnished and necessary measurements for record and payment may be made with the minimum of inconvenience and delay to the Consulting Engineer and the Contractor.

Any Work done without being properly located and established by base lines, offset stakes, bench marks, or other basic reference points may be ordered removed and replaced at the Contractor's cost and expense.

Contractor, together with its Subcontractors, shall carefully examine the Plans and Specifications for any interferences with the Work and clearances that may be required. Contractor shall be responsible for the proper fitting of materials and equipment without substantial alterations. Contractor shall be responsible for eliminating interferences without additional cost to City. If departures from the Plans and Specifications, or other Contract Documents, are deemed necessary by Contractor, details of such departures and reasons therefore shall be submitted to Consulting Engineer, with drawings (if Consulting Engineer determines that drawings are necessary), for approval as soon as practical. No such departure shall be made except at the peril of the Contractor without the prior written approval of the Consulting Engineer.

#### GC-7 BEGINNING, PROGRESS AND TIME OF COMPLETION OF WORK

After being awarded the Contract, the Contractor shall immediately prepare and submit for approval by the City Engineer a construction schedule giving the dates on which it expects to start and to complete separate portions of the Work, which schedule shall be strictly adhered to unless agreed to in writing by all parties or modified by any extension or extensions of time as hereinafter provided. The schedule shall be submitted before the Notice to Proceed is issued. No Work on this Contract shall begin until said schedule is approved. The City reserves the right to adjust the Contractor's schedule to coordinate with any other projects in the same area.

The Contractor shall, within ten (10) days after being instructed to do so in the written "Notice to Proceed" from the City, commence the Work to be done under this Contract; and the rate of progress shall be such that the Work shall have been completed in accordance with the terms of the Contract on or before the termination of the construction period contractually specified, subject to any extension or extensions of such time made as hereinafter provided.

The Contractor shall submit monthly progress reports and schedules. The progress report shall summarize Work completed, identify any weather and/or utility delays encountered, and indicate Work anticipated for the upcoming month. The schedule will be detailed indicating how the remaining Work will be completed within the stated deadlines (the remaining Work shall include identifying/incorporating utility relocation work with the project-related construction work). The progress report and schedule will be required before payment of monthly pay estimates.

If requested, a weekly construction schedule shall be submitted to the City and approved by the City Engineer. Modifications and/or revisions to the schedule shall have twenty-four (24) hour notice with approval by the City Engineer.

#### GC-8 SHOP DRAWINGS

Contractor shall review, approve, and submit, with such promptness as to cause no delay in its own Work or in that of any Subcontractor or other Contractor, three (3) copies of all shop, fabrication, assembly, foundation and other drawings and schedules required by the Specifications, including, but not limited to: (1) drawings of equipment and devices offered by the Contractor for approval of the Consulting Engineer in sufficient detail to adequately show the construction and operation thereof; (2) drawings showing essential details of any change in design of construction proposed, for consideration by the Consulting Engineer, by the Contractor in lieu of the design or arrangement required by the Contract Documents, or any item of extra work there under; (3) all required wiring and piping layouts; and (4) structural and reinforcing fabrication drawings. All submittals, regardless of origin, shall be stamped with the approval of the Contractor and identified with the name and number of this Contract, Contractor's name and references to applicable specification paragraphs and Contract drawings. Each submittal shall indicate the intended use of the item in the Work. Contractor's stamp of approval is representation to the Consulting Engineer, that the Contractor accepts full responsibility for determining and verifying all quantities, dimensions, field construction criteria, materials, and similar data, and that he has reviewed or coordinated each submittal with the requirements of the Work and the Contract Documents. All deviations from the Contract Documents shall be identified on each submittal and shall be tabulated in the Contractor's letter of transmittal. Such submittals shall, as pertinent to the deviation, indicate essential details of all changes proposed by Contractor (including modifications to other facilities that may be a result of each deviation).

The Consulting Engineer shall review the Shop Drawings for conformance with the design concept of the Work and information as given in the Contract Documents. The Contractor is not relieved of responsibility for any deviation from the requirements of the Contract Documents by the Consulting Engineer's approval of the Shop Drawings, product data, or samples. The Contractor is not relieved from responsibility for errors or omissions in Shop Drawings by the Engineer's approval thereof. The Consulting Engineer shall respond to, accept or reject such submissions within a reasonable time after receipt thereof. Contractor shall make such revisions as deemed necessary. On Final Acceptance, the Consulting Engineer shall be furnished with a total of five (5) copies of each drawing as finally approved, such number to include any copies of preliminary or revised drawings which are approved as submitted. No Work shall be performed in connection with the fabrication or manufacture of material or



equipment shown by any drawing thereof, nor shall any accessory, appurtenance or device not fabricated or manufactured by the Contractor or its Subcontractors be purchased, until the drawing or drawings therefore have been approved as stipulated, except at the Contractor's own risk and responsibility.

#### GC-9 CONTRACTOR'S RESPONSIBILITIES AS TO AMBIGUITIES

If there is any ambiguity in Consulting Engineer's drawings or instructions, Contractor shall ask the Consulting Engineer for clarification. Upon written request of Contractor, the Consulting Engineer shall furnish, with reasonable promptness, additional instructions by means of drawings, Specifications or other information necessary for the proper execution of the Work. The Work shall be executed in conformity therewith, and, in accordance with Article GC-3, Contractor shall do no Work without proper instructions except at its peril. Nothing herein to the contrary shall affect Contractor's responsibilities with regard to defects as set forth in Article GC-3.

#### GC-10 CONCEALED CONDITIONS

The Contractor understands that the City does not warrant that the various and sundry materials and information, including, for example, soil tests, bore reports, utility locations and other such data and as-builts in the case of renovation of or addition to existing facilities, reflect actual conditions. The Contractor warrants that it has examined the site and conducted such tests and examinations as it deems necessary. That being the case, should concealed conditions encountered in the performance of the Work below the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, there shall be no adjustment in the Contract Price for any extra work necessitated thereby, although, if necessary, the Contract Time may be adjusted.

#### GC-11 CONTRACTOR TO FURNISH STAKES AND HELP

The Contractor, unless otherwise instructed, shall stake the Work and shall furnish, without charge, competent people from its force and such tools, stakes, and other materials as required in properly staking out the Work, in making measurements and surveys and in establishing temporary or permanent reference marks in connection with said Work. The stakes furnished for the staking of the Work shall be of such type, size and quality as to be acceptable to the Consulting Engineer.

#### GC-12 PRESERVATION OF MONUMENTS AND STAKES

The Contractor shall carefully preserve all monuments, property corners, bench marks, reference points and stakes, and in case of destruction of the same, will be responsible for proper replacement and for any mistakes or loss of time that may be caused by their unnecessary loss or disturbance. In the event that the loss of stakes, etc., causes a delay in the Work, the Contractor shall have no claim for damages or extensions of time. In the case of any permanent monuments, property corners or bench marks which must of necessity be removed or disturbed in the construction of the Work, the Contractor shall carefully protect and preserve the same until they can be properly referenced for relocation. The Contractor shall furnish at its own expense such materials, surveyors and assistance as are necessary for the proper

replacement of monuments, property corners or bench marks that have been moved or destroyed.

#### GC-13 PERMITS AND NOTICES

(a) All permits and licenses shall be secured and paid for by Contractor, unless otherwise specified.

(b) Contractor shall give all notices required by and all Work shall be done in accordance with all applicable federal and state laws, City and County laws and ordinances, building codes and rules and regulations bearing on the conduct of the Work.

(c) Contractor shall notify all affected utilities of the Work and coordinate with the utilities to avoid interruption of utility service and damage to utility lines and property. This notice requirement shall also apply as to the owner/operator of any affected Underground Facility. Any project delay, damages or increase in construction costs due to utility relocation delays shall be at the Contractor's risk.

#### GC-14 GENERAL ADMINISTRATION OF THE CONTRACT

(a) Unless otherwise stipulated, Contractor shall provide and initially pay for all Work (including labor, transportation, tools, equipment, machinery, plant and appliances) necessary in producing the results called for by the Contract Documents.

(b) Unless otherwise specified, all supplies, materials, equipment and other facilities are guaranteed to be new and all Work shall be of good quality and workmanship and free from defects or fault. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of the Work.

(c) The Contractor shall be solely responsible for and have complete control and charge of construction means, methods, techniques, sequences and procedures, and for safety precautions and programs in connection with the Work. The City shall not be responsible for nor have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.

(d) The Contractor shall, in addition to the schedule required by Article GC-7, give to the Consulting Engineer full information in advance as to its plans for carrying on any part of the Work. If at any time before the beginning or during the progress of the Work, any part of the Contractor's plant or equipment or any of its methods of executing the Work, appear to the Consulting Engineer to be unsafe, inefficient or inadequate to ensure the required quality or rate of progress of the Work, the Consulting Engineer may order the Contractor to increase or improve its facilities or methods, and the Contractor shall promptly comply with such orders; but neither compliance with such orders nor failure of the Consulting Engineer to issue such orders shall relieve the Contractor from its obligation to secure the degree of safety, the quality of Work and the rate of progress required by the Contract.

(e) The approval by the Consulting Engineer of any plan, schedule or method of work proposed by the Contractor shall not relieve the Contractor of any responsibility therefore, and such approval shall not be considered as an assumption by the City, or any officer, agent or employee thereof, of any risk or liability, and the Contractor shall have no claim under this Contract on account of the failure or inefficiency of any plan or method so approved. Such approval shall be considered and shall mean that the Consulting Engineer has no objection to

the Contractor's use or adoption, at the Contractor's own risk and responsibility, of the plan or method so proposed by the Contractor.

(f) Any plan or method of Work suggested by the Consulting Engineer or the City, to the Contractor, but not specified or required, if adopted or followed by the Contractor in whole or in part, shall be used at the risk and responsibility of the Contractor, and the Consulting Engineer and the City will assume no responsibility therefor.

#### GC-15 CONTRACTOR'S EMPLOYEES

(a) Contractor shall at all times enforce strict discipline and good order among its employees and shall not employ on the Work any unfit person or anyone not skilled in the Work assigned to him.

(b) Contractor shall be responsible for compliance with all state and federal laws, if applicable, pertaining to wages, hours and benefits for workers employed to carry out the Work.

#### GC-16 SAMPLES

Contractor shall furnish for approval samples if directed by the Consulting Engineer or the Contract Documents. The Work shall be in accordance with approved samples.

#### GC-17 PROTECTION AND MAINTENANCE OF PUBLIC AND PRIVATE PROPERTY; LIABILITY

(a) Contractor shall be solely liable for all damages to the City or the property of the City, to other contractors or other employees of the City, to neighboring premises, or to any private or personal property, due to improper, illegal or negligent conduct of the Contractor, its Subcontractors, employees or agents in and about said Work, or in the execution of the Work. The Contractor shall be liable to the City for any damages, whether property damage or personal injury, occasioned by Contractor's use of any scaffolding, shoring, apparatus, ways, works, machinery, plant or any other process or thing that is required for the Work.

(b) Without in any manner limiting Contractor's responsibilities as provided elsewhere in the Contract Documents, the Contractor shall maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards, and assume full responsibility, for the protection of all public and private property, life, the Work, supplies, materials and equipment on the Project site not yet incorporated in the Work, structures, sewers and utilities both above the ground and Underground Facilities, along, beneath, above, across or near the site or sites of the Work being performed under this Contract, or which are in any manner affected by the prosecution of the Work or the transportation of people or materials in connection therewith.

(c) Protection may include, shoring, bracing, supporting and maintaining all underground pipes, conduits, drains and other underground construction uncovered or otherwise affected by the construction Work performed by Contractor. Barriers shall be kept placed at all times to protect bracing and shoring of the trenches shall be in full accordance with Occupational Safety and Health Standards – Excavations; Final Rule 29 CFR Part 1926. All open trenches and other excavations shall be provided with suitable barriers, signs and lights, at Contractor's expense, such that adequate protection is provided to the public against accident by reason of such open construction. Obstructions such as material piles and equipment shall be provided with similar warning lights and signs. All pavement, surfaces, driveways, curbs, walks, buildings, utility poles, guy wires, and other surface structures affected by construction

operations in connection with the performance of the Contract, shall be maintained, and if removed or otherwise damaged, shall be restored to the original condition thereof, as determined and approved by the Engineer. All replacement of such underground construction and surface structures or parts thereof shall be made with new materials conforming to the requirements of these Specifications, or if not specified, as approved by the Engineer, at the Contractor's own expense, unless otherwise provided by the Contract.

(d) Barriers shall be kept placed at all times to protect other than those engaged on or about the Work from accident and the Contractor shall be held responsible for all accidents to persons or property resulting from the acts of Contractor or its employees. Contractor shall give reasonable notice to any affected owner or owners when any property is liable to injury or damage through the performance of the Work and shall make all necessary arrangements with such owner or owners relative to the removal and replacement or protection of such property and/or utilities.

(e) Contractor shall comply with any and all instructions from the Consulting Engineer regarding prevention of accidents, fires or for the elimination of any unsafe practice and shall observe all the applicable recommendations of the National Fire Protection Association Standard No. 241 (or other, later revision) "Standards For Safeguarding Building Construction and Demolition Operations".

(f) Contractor shall post danger signs warning against the hazards created by such features of construction as protruding nails, hood hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, falling materials, open trenches, other excavations, obstructions and similar conditions. It shall designate a responsible member of its organization on the Project whose duty shall be the prevention of accidents. The name and position of the person so designated shall be reported to the Consulting Engineer by Contractor.

(g) In an emergency affecting the safety of life, the Work, City's property or of adjoining property, Contractor, without special instruction or authorization from the Consulting Engineer, is hereby permitted to act, at its discretion, to prevent such threatened injury or loss. Any compensation claimed by Contractor on account of emergency work shall be determined by mutual agreement of City and Contractor.

(h) Contractor shall develop and maintain an up-to-date emergency action plan, taking into account fires, hazardous materials, explosions, adverse weather, floods, etc., which shall be in compliance with all federal, state and local laws and ordinances. The procedures should outline specific action to be taken to protect life and to secure and protect the building materials, constructed work, buildings, equipment and the position of cranes. Contractor shall be fully responsible for the contents of and procedures outlined in said plan, including deficiencies therein, whether or not City shall have reviewed said plan.

(i) Contractor shall be responsible for any damage caused by settlement of backfill placed beneath pavement, street, road, and driveway surfacing, and drainage and other structures beneath yards, parking and parks, which may occur at any time prior to and during a period of two (2) years from and after the date of Final Acceptance of Work covered by the Contract; during such period, the Contractor shall at his own expense, refill all excavations where backfill settlement has occurred, and shall repair or cause to be repaired all damage to structures, pavements, surfacing and sod caused by such settlement, to the satisfaction of the City. Should the Contractor fail to repair settlements, which may occur as described above within thirty (30) days after being given notice thereof, the City shall have the right to repair such settlement and charge the cost of such repairs to the Contractor.

(j) Contractor shall be held responsible for all damage to roads, highways, shoulders, ditches, embankments, bridges, culverts, and other property, caused by the Contractor or any of the Contractor's Subcontractors in hauling or otherwise transporting materials to or from the several sites of Work, regardless of the location of such damage. Contractor shall make arrangements relative to the payment for, or repair or replacement of, such damage or damaged surfaces of structures; said arrangements shall be satisfactory and acceptable to the owner or owners of such damaged surfaces or structures, or to their legally responsible officers, agents or other representatives, and said payment shall be at the Contractor's own cost and expense, unless otherwise provided by the Contract.

(k) All streets, roads, highways and other public thoroughfares which are closed to traffic, under the authority of a proper permit, shall be protected, at Contractor's expense, by means of effective barricades on which shall be placed proper warning signs; such barricades being located at the nearest intersecting public highway or street on each side of the blocked section of such public thoroughfare.

(l) All barricades and obstructions shall be illuminated by means of amber lights at night and all lights used for this purpose shall be at Contractor's expense and shall be kept burning from sunset to sunrise. Materials stored upon or alongside public streets and highways shall be so placed, and the Work at all times shall be so conducted, as to cause the minimum obstruction and inconvenience to the traveling public.

(m) All barricades, signs, lights and other protective devices in public rights-of-way shall be installed and maintained in conformity with applicable statutory requirements and as required by the Manual on Uniform Control Devices, as amended, or any other applicable statutes or ordinances.

#### GC-18 WORK IN OR ACROSS STREET OR HIGHWAY RIGHT-OF-WAY

All Work performed and all preparations of the Contractor or its employees, and Subcontractors, if any, within the limits of street or highway rights-of-way shall be in conformity with the requirements, and be under the control, through the City, of the street or highway authority owning or having jurisdiction and control over such rights-of-way in each case. Any costs incurred to comply with such requirements are the responsibility of Contractor.

#### GC-19 MAINTENANCE OF TRAFFIC

Local traffic on all streets shall be carried through construction whenever possible. Detours of traffic will be permitted when necessary and with the prior permission of the City. Streets may be closed for short periods of time under authority of proper permit issued by the City or authority having jurisdiction. However, the Contractor shall conduct its Work so as to interfere as little as possible with public travel, whether vehicular or pedestrian, on such streets. Proper notification to County and City police units and to Fire Districts shall be given by the Contractor before closing any public thoroughfare.

Where construction operations require the closing of private driveways, the Contractor shall give adequate notice to the owner or owners thereof and where necessary shall provide temporary access to private property.

#### GC-20 NOISE CONTROL

Contractor shall take reasonable measures to avoid unnecessary noise. Such measures shall be appropriate for the normal ambient sound levels in the area during working hours. All

construction machinery and vehicles shall be equipped with practical sound muffling devices, and operated in a manner to cause the least noise consistent with efficient performance of the Work.

#### GC-21 DUST CONTROL

Adequate precaution shall be taken to insure that excessive dust does not become airborne during construction. The Contractor shall comply with any local, state, or federal regulations which apply to this matter in the geographical area of the Work. No separate payment will be made for performing dust control or for applying water for this purpose.

#### GC-22 INSPECTION OF WORK

(a) Consulting Engineer shall at all times have access to the Work for the observation and inspection thereof wherever it is in preparation or progress, and Contractor shall provide proper facilities for such inspection. The Contractor shall furnish all reasonable aid and assistance required for any such inspection.

(b) All Work must be inspected, tested or approved and the Contractor shall give the Consulting Engineer timely notice of its readiness for such inspection, testing or approval and the date fixed for such inspection, testing or approval, if the inspection, testing or approval is by an authority other than Consulting Engineer. If any Work should be covered up which is required by the above to be inspected, tested or approved and which, by virtue of being so covered up, is not susceptible to being properly inspected, tested or approved, Contractor shall, if requested by Consulting Engineer, uncover such Work and at Contractor's expense bear the cost of uncovering such Work and redoing same after inspection, testing or approval and redoing such other Work damaged as a result of having to uncover and redo same.

(c) Consulting Engineer reserves the right to inspect any and all Work before it is covered up; and, accordingly, Contractor must notify Consulting Engineer before covering any Work. Consulting Engineer shall be given a reasonable time to make its inspection. Contractor shall not cover any Work prior to Consulting Engineer having a reasonable time to inspect. If Work to be covered does not conform to the Contract Documents, Consulting Engineer can withhold its consent to covering up Work until such Work is made to conform at Contractor's expense.

(d) If any labor, supplies, materials or equipment are found not to be in accordance with the Contract Documents, Contractor shall at its own expense bear the cost of uncovering such labor, supplies, materials or equipment, the cost of removing same, as well as the cost of undoing and redoing the Work and other Work damaged by such nonconforming labor, supplies, materials or equipment.

(e) The Contractor shall comply with the directions and instructions of the Consulting Engineer.

(f) The City, the Consulting Engineer and all designated Inspectors shall be free at all times to perform their duties, including the observation and inspection of the Work, and intimidation or attempted intimidation of any one of them by the Contractor or by any of its employees shall be sufficient reason, if the City so desires, to terminate the Contract.

(g) Any inspection, by whosoever conducted, shall not relieve the Contractor from any obligation to perform the Work strictly in accordance with the Plans and Specifications, and

any of the Work not so constructed shall be removed and made good by the Contractor at its own expense.

#### GC-23 SUPERINTENDENCE AND SUPERVISION

The Contractor shall be responsible for coordination between all phases of the Work and provide all necessary supervision to the Work using its best skill, care, judgment and attention and shall keep on the Work, during its progress, a competent superintendent and any necessary assistants, all satisfactory to Consulting Engineer. The Contractor shall coordinate the activities and scheduling of all operations in accordance with the approved schedule. All unsupervised Work shall be unacceptable and subject to removal and replacement at the Contractors expense. The superintendent shall not be changed except with the consent of the Consulting Engineer unless the superintendent proves to be unsatisfactory to the Contractor and/or ceases to be in its employ; provided however, that the Consulting Engineer retains the right to require that the Contractor replace the superintendent at any time, such right not to be arbitrarily exercised.

The superintendent shall be fully authorized to act for the Contractor and receive whatever orders as may be given for the proper prosecution of the Work or notices in connection therewith. Use of Subcontractors on portions of the Work shall not relieve the Contractor of its obligation to have a competent superintendent directly employed by the Contractor on the Work at all times.

#### GC-24 CONTRACTOR'S OFFICE AT SITE OF WORK

During the performance of this Contract, the Contractor shall maintain a suitable office at or near the site of the Work which shall be the headquarters of the superintendent authorized to receive drawings, instructions, or other communications or articles from the Consulting Engineer, and any such communication given to the said superintendent or delivered at the Contractor's office at the site of the Work in his/her absence shall be deemed to have been given to the Contractor.

#### GC-25 CHANGES IN THE WORK

(a) Change Orders. City, without invalidating the Contract, may by Change Order direct changes in the Work which may result in an addition to or deduction from the Contract Price and/or changes in the Contract Time. All Change Orders shall be executed under the provisions of the original Contract Documents. If the Change Order consists of a modification to the Contract Price, the value of such change shall be determined as per paragraph (e) below.

Except for Work done as a result of an emergency endangering life or property, no Work resulting in an additional pay item shall be performed unless pursuant to the provisions of a Change Order.

(b) Quantity Variations. Where changes in the Work involve a change in the quantity of any Bid item, the Contract Price shall be revised by extension of the quantities and unit price of all Bid items so changed subject to written approval of the Consulting Engineer.

(c) Field Orders. Consulting Engineer may order minor changes in the Work through Field Orders, which in no specific, concrete or substantial way increase or decrease the Work;

and such minor changes in the Work shall not involve an addition or deduction from the Contract Price.

(d) From time to time the Consulting Engineer may also issue written orders to Contractor for needed clarifications, modifications or corrections. Should a difference of opinion arise as to whether the order constitutes extra work for which additional compensation is due, and the City insists on its performance, the Contractor shall proceed with the Work after making a written request for a Change Order, and it shall keep an accurate account of the actual field cost thereof as provided for in (e)(3) below. The Contractor will thereby preserve the right to submit a claim therefor.

(e) The value of any change in the Work which results in an addition/deletion to the Contract Price shall be determined in one or more of the following ways, at the option of City:

- (1) By agreed lump sum.
- (2) By unit prices named in the Contract or subsequently agreed upon.
- (3) By actual field cost (time and material) plus fifteen percent (15%) and shall include a "Not to Exceed" figure.

In order to arrive at the value for any change, Contractor shall credit City with its projected cost(s), including overhead and fee for any Work which was previously included but which has been excluded by any such change.

(f) No change in the Work shall entail additional time unless the Consulting Engineer determines that additional time is required and specifically so provides in the Change Order. No change in the Work shall entitle the Contractor to delay damages.

(g) Where extra work is performed under (e)(3) above, the term "actual field cost" of such extra work is hereby defined to be and shall include:

- (1) The cost of all workers, such as foremen, timekeepers, mechanics, and laborers, for the time actually employed in the performance of the said extra work;
- (2) All materials and supplies;
- (3) Trucks and rentals on machinery and equipment for the time actually employed or used in the performance of said extra work;
- (4) Any transportation charges necessarily incurred in connection with said equipment authorized by the Consulting Engineer for use on said Work and similar operating expenses;
- (5) All incidental expenses incurred as a direct result of such extra work, including payroll taxes and a ratable proportion of premiums on construction Bonds and, where the premiums therefore are based on payroll costs, public liability and property damage, worker's compensation, and other insurance required by the Contract; provided, however, Contractor must enumerate and justify to City's satisfaction any such claimed incidental expenses; and provided, further, that without in any way limiting City's right to challenge any individual costs claimed by Contractor, incidental costs shall not include:



- (A) Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in Contractor's principal or a branch office for general administration of the Work unless specifically agreed to by City - all of which are to be considered administrative costs covered by the Contractor's overhead and profit.
- (B) Expenses of Contractor's principal and branch offices other than Contractor's office at the site.
- (C) Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- (D) Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of Defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.
- (E) Other overhead of general expense costs of any kind and the costs of any item not specifically and expressly agreed to by City.

The Consulting Engineer may direct the form in which accounts of the actual field cost shall be kept and may also specify in writing, before the Work commences, the method of doing the Work and the type and kind of machinery and equipment, if required, which shall be used in the performance of extra work under (e)(3) above. In the event that machinery and heavy construction equipment shall be required for such extra work, the authorization and basis of payment for the use thereof shall be stipulated in the written extra work order.

The fifteen percent (15%) of the actual field cost to be paid to the Contractor shall cover, and be full compensation for, the Contractor's profit, overhead, general superintendence, field office expense and all other elements of cost not embraced within the "actual field cost" as herein defined.

(h) In the event that unit prices are provided for in the Contract Documents as to all or a part of the Work, if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed is substantially inequitable to either the City or the Contractor, the unit prices shall be reevaluated and adjusted in accordance with the following:

- (1) If the total cost of a particular item of Unit Price Work amounts to twenty percent (20%) or more of the Contract price and the variation in the quantity of that particular item of Unit Price Work performed by Contractor differs by more than thirty-three percent (33%) from the estimated quantity of such item indicated in the Contract; and

- (2) If there is no corresponding adjustment with respect to any other item of Work; and
- (3) If Contractor has incurred additional expense as a result thereof; or
- (4) If City believes that the quantity variation entitles it to an adjustment in the unit price and, the parties are unable to agree as to effect of any such variations in the quantity of Unit Price Work performed; then either City or Contractor may request the Consulting Engineer to make an adjustment in the Contract price.

(i) No claim for extra work of any kind will be allowed except as provided herein. If extra work orders are given in accordance with the provisions of this Contract, such Work shall be considered a part hereof and subject to each and all of the terms and requirements of this Contract.

(j) Contractor shall be responsible for notifying its surety(ies) of any modifications to the Contract price or time, and said surety(ies) shall not seek discharge as a result of any failure on Contractor's part to notify surety(ies).

#### GC-26 DEDUCTIONS FOR UNCORRECTED WORK

If City deems it inexpedient to have corrected any Work which is not in accordance with the Contract Documents, an equitable deduction from the Contract Price shall be made therefor.

#### GC-27 DELAYS AND EXTENSION OF TIME

(a) If Contractor shall be delayed at any time in the progress of the Work by an act or omission of City or by any separate contractor employed by City and over which Contractor has no control and which is not a result of the Contractor's acts or the acts of any of its employees, Subcontractor or suppliers, negligent or otherwise, then the time of completion shall be extended for such reasonable time as the Consulting Engineer shall decide, and no adjustment shall be made in the Contract Price.

(b) No such extension shall be made for delay unless Contractor provides written notice to Consulting Engineer of such delay, the reasons therefore and the expected length of delay within seven (7) days of the commencement of such delay. In the case of a continuing cause of delay, only one claim is necessary.

(c) In executing the Contract, the Contractor expressly covenants and agrees that, in undertaking to complete the Work within the time therein fixed, it has taken into consideration and made allowances for all hindrances and delays incident to such Work, whether growing out of delays in securing materials, workers, weather conditions or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the Work, or any portion thereof, included in this Contract, except as provided in subparagraph (a), (b), or (d) of this Article.

(d) The Contractor shall delay or suspend the progress of the Work or any part thereof, whenever it shall be so required by written order of the Consulting Engineer, and for such periods of time as the Consulting Engineer shall require; provided, that in the event of such delay or delays or of such suspension or suspensions of the progress of the Work, or any part thereof, the time for completion of Work so suspended or of Work so delayed by such suspension or suspensions shall be extended for a period equivalent to the time lost by reason

of such suspension or suspensions; but such order of the Consulting Engineer shall not otherwise modify or invalidate in any way, any of the provisions of this Contract. In the event that the Work shall be stopped by order of the Consulting Engineer, through no fault of the Contractor, its employees, Subcontractors or suppliers, any incidental expenses (see Article GC-25 (g)(5)) which, in the opinion and judgment of the Consulting Engineer, are caused thereby shall be paid by the City to the Contractor; provided, however, that such suspension or suspensions shall not be the basis for any claim by Contractor for additional compensation or damages for delay.

(e) The City reserves the right and may delay Work on certain portions of Work until such time as weather and/or utility relocations will allow proper progress on major items of Work. The City may direct the Contractor to clear the right-of-way before utility relocations, if, in the opinion of the Engineer, such clearing would expedite utility relocation. Also, the City may direct the Contractor to work on certain items of Work after partial utility relocations have been made. There shall be no charge made by the City or the Contractor for delays arising from the issuance of such delayed Work direction other than provided for in paragraphs (a) through (d) in this Article.

#### GC-28 WORK STOPPAGES

Contractor warrants to the City that there shall be no work stoppages or interruptions arising out of labor disputes, including, but not limited to, those due to the presence of both union and non-union workforces at the job site. Contractor further agrees that in the event of any strike, picket, sympathy strike, work stoppage or other form of labor dispute or picket in connection with the Work of the Contractor, other contractors, Subcontractors, the City, or any other person, the Contractor will, contingent upon the City providing a picket-free entrance, continue to perform the Work required herein without interruption or delay. Anything in this Contract to the contrary notwithstanding, in the event the Contractor fails to continue performance of the Work included herein without interruption or delay, because of such picket or other form of labor dispute, the City may terminate the services of said Contractor after giving forty-eight (48) hours written notice to Contractor and its sureties of its intent to do so, or the City may invoke any of the rights set forth elsewhere in the Contract Documents.

#### GC-29 PATENT LIABILITY CLAUSE

Contractor agrees to defend any claim, action or suit that may be brought against City, its Governing Body, officers, agents or employees for infringement of any patents arising out of the performance of this Contract or out of the use or disposal by or for the account of City of supplies furnished or construction Work performed hereunder, and also to indemnify and hold harmless City, its Governing Body, officers, agents, and employees against all judgments, decrees, damages, costs and expenses recovered against it or them or sustained by it or them on account of any such actual or alleged infringement.

It is understood that all royalties and fees for and in connection with patents, or patent infringement, claims for materials, articles, apparatus, devices or equipment used in or furnished for the Work shall be included in the Contract Price. Final payment to the Contractor by the City shall not be made while any suit or claim involving infringement or alleged infringement of any patent remains unsettled.

#### GC-30 INDEPENDENT CONTRACTOR

The right of general supervision of the City and/or the Consulting Engineer shall not make the Contractor an agent of the City, and the liability of the Contractor for all damages to

persons, firms and corporations arising from the Contractor's execution of the Work shall not be lessened because of such general supervision, but as to all such persons, firms and corporations, and the damages, if any, to them or their property, the Contractor herein is an independent contractor in respect to the Work.

#### GC-31 SEPARATE CONTRACTS

(a) City reserves the right to perform by itself or let other contracts in connection with Work. Contractor shall afford reasonable opportunity for the introduction and storage of materials and the execution of Work by City or others and shall properly connect and coordinate its Work with the Work of City or others.

(b) If any part of Contractor's Work depends upon the Work of the City or others, Contractor shall inspect and promptly report to City any defects in any such Work that render it unsuitable for proper execution or results. Its failure to so inspect and report shall constitute an acceptance by it of such other Work as fit and proper for the reception of its Work.

#### GC-32 RELATIONS WITH OTHER CONTRACTORS

The Contractor shall cooperate with all other contractors or workers who may be performing Work on behalf of the City or any other entity on any Work in the vicinity of the Work to be done under this Contract, and it shall so conduct its operations as to interfere to the least possible extent with the Work of such Contractors or workers. Contractor shall be responsible for any injury or damages that may be sustained by other contractors, workers or their Work because of any fault or negligence on Contractor's part, and shall at its own expense repair or pay for such injury or damage. Any difference or conflict which may arise between the Contractor and other contractors, or between the Contractor and the workers of the City or any other entity, in regard to their Work, shall be adjusted and determined by the Consulting Engineer. If the Work of the Contractor is delayed or damaged because of any acts or omissions of any other contractor or contractors, the Contractor shall have no claim against the City on that account; provided, however, the City may, in its discretion, grant an extension of time.

When two or more contracts are being executed at one time in such manner that Work on one Contract may interfere with that on another, the Consulting Engineer shall decide which contractor shall cease Work and which shall continue, whether the Work on both contracts shall progress at the same time, and in what manner the Work is to proceed.

When the territory of one contract is the necessary or convenient means of access for the transportation or movement of men/women, materials or appliances required for the execution of another contract, such privileges of access or any other responsible privilege may be granted by Consulting Engineer to the Contractor so desiring to the extent which may be reasonably necessary.

In the event that Contractor is performing Work at a site or on a project involving City and one or more other private or governmental entities, which have their own contractors on site as well, Contractor shall advise Consulting Engineer when it anticipates that there may be interference with the Contractor's Work or with the Work of any other contractor. Consulting Engineer shall, to the best of its ability, with input from Contractor as to coordination of the Work, seek to schedule Work of the various contractors so as to avoid as much inconvenience and delay as possible; provided, however, that in the event Contractor experiences a delay or damage to the Contractor's Work as a result of the presence of other such contractors, Contractor shall not be entitled to additional compensation or damages for delay or damage to

the Contractor's Work; rather, Contractor's only recourse shall be an extension of time to be determined by the Consulting Engineer.

#### GC-33 INDEMNITY

##### (a) Definitions

For purposes of indemnification requirements as set forth throughout the Contract, the following terms shall have the meanings set forth below:

- (1) "The Contractor" means and includes Contractor, all of its affiliates and subsidiaries, its Subcontractors and materialmen and their respective servants, agents and employees; and
- (2) "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim, whether real or spurious, for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with, or are claimed to arise out of or be connected with, the performance of this Contract whether arising before or after the completion of the Work required hereunder.

##### (b) The Indemnity

For purposes of this Contract, and without in any way limiting indemnification obligations that may be set forth elsewhere in the Contract, Contractor hereby agrees to indemnify, defend and hold harmless the City from any and all Loss where Loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractor, its employees, agents, Subcontractors and suppliers.

It is agreed as a specific element of consideration of this Contract that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City or any third party and, further, notwithstanding any theory of law including, but not limited to, a characterization of the City's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature.

##### (c) General Limitation

Nothing in this Article shall be deemed to impose liability on the Contractor to indemnify the City for Loss when the City's negligence or other actionable fault is the sole cause of Loss.

##### (d) Waiver of Statutory Defenses

With respect to the City's rights as set forth herein, the Contractor expressly waives all statutory defenses, including, but not limited to, those under workers compensation, contribution, comparative fault or similar statutes to the extent said defenses are inconsistent with or would defeat the purposes of this Article.

#### GC-34 PROTECTION OF PROPERTY/LIABILITY

Without in any manner limiting Contractor's responsibilities as provided elsewhere in the Contract Documents, the Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers and utilities, both above the ground and Underground Facilities, along, beneath, above, across or near the site or sites of the Work being performed under this Contract, or which are in any manner affected by the prosecution of the Work or the transportation of men/women or materials in connection therewith. Barriers shall be kept placed at all times to protect persons other than those engaged on or about the Work from accident, and the Contractor will be held responsible for all accidents to persons or property resulting from the acts of Contractor or its employees.

The Contractor shall give reasonable notice to the affected owner or owners when any such property is liable to injury or damage through the performance of the Work and shall make all necessary arrangements with such owner or owners relative to the removal and replacement or protection of such property and/or utilities.

The Contractor shall satisfactorily shore, support and protect any and all structures and all pipes, sewers, drains, conduits and other facilities and shall be responsible for any damage resulting thereto. The Contractor shall not be entitled to any additional time on account of any postponement, interference or delay caused by any such structures and facilities being on the line of the Work, whether they are shown on the Plans or not.

#### GC-35 PROVISION FOR EMERGENCIES

Whenever, in the opinion of the Consulting Engineer, the Contractor has not taken sufficient precaution for the safety of the public or the protection of the Work to be constructed under this Contract, or of adjacent structures or property which may be injured by process of construction, and whenever, in the opinion of the Consulting Engineer, an emergency shall arise and immediate action shall be considered necessary in order to protect property interests and to avoid personal injury and/or death, then the Consulting Engineer, with or without notice to the Contractor, shall, upon notification to the City, provide suitable protection to the said interests by causing such Work to be done and materials to be furnished at places as the Consulting Engineer may consider necessary and adequate. The cost and expense of such Work and material so furnished shall be borne by the Contractor and, if the same shall not be paid on presentation of the bills therefore, such costs shall be deducted from any amounts due or to become due the Contractor. The performance of such emergency work shall in no way relieve the Contractor of responsibility for damages which may occur during or after such precaution has been duly taken.

#### GC-36 ASSIGNMENT AND SUBLETTING OF CONTRACT

In case the Contractor assigns all, or any part, of the monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due the Contractor shall be subject to all prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in this Contract and that no money shall be paid assignee on behalf of the Contractor by the City until such time as the Contractor has discharged its obligations to the City under the Contract. It is expressly understood and agreed that no assignment shall be effective as against the City unless it complies with the foregoing.

The Contractor shall not award subcontracts which total more than sixty percent (60%) of the total Contract Price based upon the unit prices within the Bid submitted to the City by the Contractor and shall self-perform not less than forty percent (40%) of the total Contract Price

based upon the unit prices within the Bid submitted to the City by the Contractor. Should any Subcontractor fail to perform in a satisfactory manner, the Work undertaken by such Subcontractor shall be immediately terminated by the Contractor. The Contractor shall be as fully responsible to the City for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it. Approval by the City of any Subcontractor shall not constitute a waiver of any right of the City to reject Defective Work, material or equipment not in compliance with the requirements of the Contract Documents. The Contractor shall not make any substitution for any Subcontractor accepted by the City unless the City so agrees in writing.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the Work of the Subcontractor and to give the Contractor the same power to terminate any subcontract as the City has to terminate the Contractor under any provisions of the Contract Documents.

Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the City, nor shall anything contained in the Contract Documents create any obligation on the part of the City to pay to or to see to the payment of any sums due any Subcontractor.

Prior to the City's approval of the Contract Bid, the successful Bidder shall submit to the City Engineer or the City's designated representative for City acceptance a list of the names of all Subcontractors proposed for portions of the Work and shall designate which Work each is to perform.

The City Engineer or the City's designated representative shall, prior to City's approval of the Contract Bid, notify the successful Bidder, in writing, if the City, after due investigation, has reasonable objection to any Subcontractor on such list, and the Contractor shall substitute a Subcontractor acceptable to the City at no additional cost to the City or shall be allowed to withdraw its Bid, and the City shall either rebid the Project or accept the next best lowest and responsible Bidder. The failure of the City to make objection to a Subcontractor shall constitute an acceptance of such Subcontractor but shall not constitute a waiver of any right of the City to reject Defective Work, material or equipment not in conformance with the requirements of the Contract Documents.

The Contractor shall not make any substitution for any Subcontractor who has been accepted by the City unless the City Engineer or the City's designated representative determines that there is a good cause for doing so. The City's disapproval of any Subcontractor shall not, under any circumstance, be the basis for an increase in the Contract Price or a claim for delay damages.

#### GC-37 DISPUTE RESOLUTION

City and Contractor agree that disputes relative to the Work shall first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the Work as per the Contract Documents as if no dispute existed; and provided further that no dispute will be submitted to arbitration without the City's express written consent.

In order to preserve its rights to dispute a matter hereunder, the complaining party must submit a written notice to the other party setting forth the basis for its complaint within twenty (20) calendar days following receipt of the decision of the Consulting Engineer as to such matter as per Article GC-39. No dispute resolution shall be a condition precedent to any legal action.

#### GC-38 INSURANCE

The Contractor shall secure and maintain through the duration of this Contract insurance (on an occurrence basis unless otherwise agreed to) of such types and in such amounts (but not less than the amounts set forth in Section IB-8 of the Instructions to Bidders) as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of Loss as hereinafter specified. The form and limits of such insurance, together with the underwriter thereof in each case, shall be approved by the City, but regardless of such approval it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times. Failure of the Contractor to maintain adequate coverage shall not relieve it of any contractual responsibility or obligation, including, but not limited to, the indemnification obligation.

Satisfactory certificates of insurance shall be filed with the City prior to Contractor's starting any construction work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy covered thereby is changed or cancelled. Failure by the Contractor to furnish the required insurance within the time specified in the Notice of Award of the Contract by the City may, at the City's option, be the basis for the City's exercising its right to terminate the Contract pursuant to Article GC-42.

(a) Commercial General Liability - This insurance shall protect the Contractor against all claims arising from the injuries to members of the public or damage to property of others arising out of any act or omission of the Contractor or its agents, employees or Subcontractors. In addition, this policy shall specifically insure the contractual liability assumed by the Contractor under Article GC-33.

The liability limits shall be as stated in the Instructions to Bidders or in the Project Special Provisions.

(b) Automobile Liability - This insurance shall protect the Contractor against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned or hired.

The liability limits shall be as stated in the Instructions to Bidders or in the Project Special Provisions.

(c) Worker's Compensation and Employer's Liability - This insurance shall protect the Contractor against all claims under applicable state worker's compensation laws. The Contractor shall also be protected against claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.

The liability limits shall be as stated in the Instructions to Bidders or in the Project Special Provisions.

(d) Additional Insurance -



- (1) The Contractor shall be required to purchase an Owner's Protective Liability Insurance Policy, issued on an occurrence basis and covering bodily injury (and death) and property damage, naming the City as named insured. The liability limits shall be as stated in the Instructions to Bidders or in the Project Special Provisions. The original policy shall be placed on file with the City and maintained during the life of the Contract. Such policy shall contain no exclusion relative to any function performed by the City or its employees and agents in connection with the Work.
  - (2) Additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Instructions to Bidders or Project Special Provisions.
- (e) Subcontractors' Insurance - If a part of the Contract is to be sublet, the Contractor shall either:
- (1) Cover all Subcontractors in its insurance policies; or
  - (2) Require each Subcontractor not so covered to secure insurance which will protect Subcontractor and the City against all applicable hazards or risks of loss as and in the minimum amounts designated for the Contractor.

#### GC-39 AUTHORITY AND DUTY OF THE CONSULTING ENGINEER

Unless the City acts as its own Consulting Engineer, the Consulting Engineer is an independent contractor. It is mutually agreed by and between the parties to this Contract that the Consulting Engineer shall observe and inspect all Work included herein (provided, however, that any such observations and inspections shall not alter the rights, responsibilities and obligations of the parties as set forth in Article GC-22). Anything in the Contract Documents to the contrary notwithstanding, in order to prevent delays and disputes, it is further agreed by and between the parties to this Contract that the Consulting Engineer shall in all cases determine the amount and quantities of the several kinds of Work which are to be paid for under this Contract; that Consulting Engineer shall determine all questions relating to the Plans and Specifications for the Project; that Consulting Engineer shall issue promptly any written clarifications or interpretations of the requirements of the Contract Documents (in the form of drawings or otherwise) which Consulting Engineer may determine are necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents; that Consulting Engineer's decisions and findings shall be a condition precedent to the right of the parties to submit any proper matter and to any rights of the Contractor to receive any money under this Contract; provided, however, that should the Consulting Engineer render any decision or give any direction which, in the opinion of either party hereto, is not in accordance with the meaning and intent of this Contract, either party may file with the other, within twenty (20) days a written objection to the decision or direction so rendered and, by such action, may reserve the right to submit the question so raised as herein provided, except as otherwise provided in Article GC-37. It is the intent of the Contract that there shall be no delay in the execution of the Work, and the decisions or directions of the Consulting Engineer as rendered shall be promptly carried out.

#### GC-40 CORRECTION OF LABOR, ETC. - BEFORE FINAL PAYMENT

At Consulting Engineer's request, Contractor shall, at Contractor's expense, promptly remove from the job site all labor, supplies, materials, equipment and/or other facilities

condemned by Consulting Engineer as not in accordance with the Contract Documents, whether incorporated or not; and the Contractor shall, at Contractor's expense, promptly replace and re-execute all labor, supplies, materials, equipment and/or other facilities in accordance therewith and, at Contractor's expense, restore all Work of other Contractors and Subcontractors destroyed or damaged as a result of such removal, replacement and re-execution.

#### GC-41 CORRECTION OF LABOR, ETC. - AFTER FINAL PAYMENT

(a) Contractor guarantees to City that all Work performed under this Contract shall be free from defects in material or workmanship for a period of not less than two (2) full years from the date of final payment by City; provided, however, that whenever any provision of the Contract Documents requires a guarantee for a period in excess of two (2) years to be furnished by Contractor, Contractor shall promptly execute same in writing and shall promptly deliver same to City.

(b) Contractor shall promptly procure from each Subcontractor a written guarantee that all Work performed by such Subcontractor shall be free from defects in material or workmanship for a period of not less than two full (2) years from the date of final payment by City to Contractor and shall promptly deliver same to City; provided, however, that wherever any provision of the Contract Documents requires a guarantee for a period in excess of two (2) years to be furnished by a Subcontractor, Contractor shall promptly procure same in writing from the appropriate Subcontractor and shall promptly deliver same to City.

(c) Whenever any provision of the Contract Documents requires a guarantee for a period in excess of two (2) years, but does not specify who is to give such a guarantee, it shall be given by the Contractor regardless of who is performing the Work for which the guarantee is required. All such guarantees shall be in writing and shall be promptly delivered to City.

(d) The furnishing of guarantees by Subcontractors and materialmen shall not relieve Contractor of its obligations under guarantees required of Contractor under the Contract Documents. In addition to the above guarantees, Contractor will (1) obtain and assign to City all available manufacturers and suppliers warranties; and (2) at City's sole option, assign to City any rights Contractor may have against any Subcontractor and/or supplier for Defective Work, materials or equipment.

(e) Any provision of the Contract Documents to the contrary notwithstanding, all guarantees provided for in the Contract Documents shall begin to run from the date of final payment by City to Contractor.

(f) Neither the issuance of the final certificate, payment nor any provision in the Contract Documents shall relieve the Contractor of responsibility for Work determined by City not to be in accordance with the Contract Documents. If, within two (2) years of the date of final payment to Contractor or within any longer period of time as may be prescribed by applicable law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found by City to be defective or not in conformance with the Contract Documents then, at City's request, Contractor shall, at Contractor's expense, promptly remove from the premises all Work determined by the City to be defective or not in accordance with the Contract Documents; and Contractor shall, at Contractor's expense, promptly replace and re-execute all Work in accordance therewith and, at Contractor's expense, restore all Subcontractors' Work and Work of other Contractors and Subcontractors damaged as a result of such removal, replacement and re-execution. City shall with reasonable promptness give notice of any Work

condemned by City as not in accordance with the Contract Documents. If, within ten (10) days after the mailing of such notice, the Contractor shall fail or neglect to make, or undertake to make, with due diligence any required repairs or corrections, the City shall make such repairs at Contractor's expense; provided, however, that, in case of an emergency which, in the judgment of City, would cause serious loss, hazard or damage if not corrected immediately, such repairs may be made without prior notice being sent to the Contractor, and Contractor shall nevertheless be liable to the City for the cost thereof.

#### GC-42 RIGHT OF CITY TO TERMINATE CONTRACT

Without in any manner limiting the right of the City to terminate the Contract or declare the Contractor in default thereof for any reason set forth in the Contract Documents, if the Work to be done under this Contract shall be abandoned by the Contractor; or if this Contract shall be assigned by Contractor otherwise than as herein provided; or if the Contractor should be judged as bankrupt; or if a general assignment of its assets should be made for the benefit of its creditors; or if a receiver should be appointed for the Contractor or any of its property; or if at any time the Consulting Engineer shall certify in writing to the City that the performance of the Work under this Contract is being unnecessarily delayed, that the Contractor is violating any of the conditions or covenants of this Contract or the Specifications therefore, that it is executing the same in bad faith or otherwise not in accordance with the terms of said Contract; or if all Bid items of the Project are not completed within the time named for their completion or within the time to which such completion date may be extended; then, in addition to other rights the City may choose to exercise, the City may, at its option, serve written notice upon the Contractor and its surety of City's intention to terminate this Contract, and, unless within five (5) days after the serving of such notice upon the Contractor, a satisfactory arrangement be made for the continuance thereof, this Contract shall cease and terminate. In the event of such termination, the City shall immediately serve notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and complete the Work; provided, however, that if the surety does not commence performance thereof within thirty (30) days from the date of said notice of termination, the City may take over the Work and prosecute same to completion, by contract or otherwise, for the amount and at the expense of the Contractor, and the Contractor and its surety shall be liable to the City for any and all excess cost sustained by the City by reason of such prosecution and completion; and in such event the City may take possession of, and utilize in completing the Work, all such materials, equipment, tools and plant as may be on the site of the Work and necessary therefore. When Contractor's services have been so terminated, such termination shall not affect any rights or remedies of City against Contractor then existing or which may later accrue. Similarly, any retention or payment of monies due Contractor shall not release Contractor from liability.

City reserves the right, in its sole discretion and for its convenience and without cause or default on the part of Contractor, to terminate the Contract by providing written notice of such termination to Contractor. Upon receipt of such notice from City, Contractor shall: (1) immediately cease all Work; or (2) meet with City and, subject to City's approval, determine what Work shall be required of Contractor in order to bring the Project to a reasonable termination in accordance with the request of City. If City shall terminate for its convenience as herein provided, City shall: (1) compensate Contractor for all purchased materials and actual cost of Work completed to date of termination; and (2) release and indemnify Contractor against any liability Contractor may have to any third parties as the result of any contracts, commitments, purchase orders or any other such liabilities Contractor may have incurred as a result of its obligations under the provisions of the Contract. Contractor agrees that it shall minimize such potential liabilities by, where practical, informing third parties of City's right to terminate and attempting to obtain from such third parties a waiver of any liability in the event of such termination.

Any termination of the Contract for alleged default by Contractor that is ultimately determined to be unjustified shall automatically be deemed a termination for convenience of the City.

#### GC-43 CITY'S RIGHT TO DO WORK

Without otherwise limiting City's rights under the Contract Documents, if Contractor should neglect to prosecute the Work properly or fail to perform any provision of the Contract Documents, City, after three (3) days' written notice to Contractor may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due Contractor.

#### GC-44 PAYMENTS

(a) Before the first application for payment, the Contractor shall submit to the Consulting Engineer a schedule of values allocated to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Consulting Engineer may require. This schedule, unless objected to by the Consulting Engineer, shall be used only as a basis for the Contractor's applications for payment and does not constitute approval by the Consulting Engineer of the method or performance by the Contractor.

(b) Payment will be made to Contractor monthly from funds available within thirty (30) days of the City's receipt of a proper undisputed pay request from the Contractor on the basis of a duly certified estimate of the value of all labor and materials delivered on the site and accepted by the Consulting Engineer during the preceding month, calculated in proportion to the Contract Price, but to ensure the proper performance of the Contract, ten percent (10%) of the amount of each estimate will be retained until final completion and acceptance of all Work covered by the Contract.

(c) Each payment made to the Contractor shall be on account of the total amount payable to the Contractor by or for the City, and all materials and Work covered by the partial payments made shall therefore become the sole property of the City. This provision shall not be construed as relieving the Contractor from the responsibility imposed by the Contract Documents for the care and protection of materials and Work upon which payments have been made, for the restoration of any damaged Work, or as a waiver of the right of the City to require the fulfillment of all the terms of the Contract. Progress payments in respect to materials will be made only for materials delivered on the site and accepted by the Consulting Engineer, all calculated in proportion to the Contract Price.

(d) In general, no allowance will be made in estimates for materials delivered on the site and not incorporated in the Work except in case of those items considered by the Consulting Engineer to be major items of considerable magnitude, which will be allowed in estimates on the basis of ninety percent (90%) of invoices, the value calculated in proportion to the Contract Price.

(e) The retained percentages herein provided for are to be retained and held for the sole protection and benefit of the City, and no other person, firm or corporation shall have or assert any lien, claim, right or priority therein, thereon or thereto, or be entitled to receive any part thereof, except as herein expressly provided.

(f) The City shall require at intervals as it shall determine and at any time before final payment is made for the Work specified herein that the Contractor furnish the City with written acknowledgments (to the extent of payment made) by all Subcontractors and vendors who have done work or labor on, or who have furnished materials for, this Project that they have been fully paid in whole or in part by the Contractor for such work or labor done or materials furnished by them. Contractor's failure to furnish said list or to include all such Subcontractors and vendors shall not relieve Contractor or its surety of any obligation assumed under this Contract, nor shall the City's request for such list create any obligation on City's part to verify accuracy. City may require, at its option, lien waivers on forms supplied by City.

(g) The Contractor has, per the Instructions to Bidders, Bid this job net of all sales and compensation taxes. No application for payment shall include any amount for reimbursement of such taxes paid by Contractor resulting from Contractor's failure to use the Project Exemption Certificate for any purchase in connection with the Work. Final payment will not be made to Contractor until the City has received the Project Completion Certification from the Contractor along with a Consent of Surety to Final Payment.

(h) The Contractor shall be responsible for the return and/or exchange of surplus materials, and all credits for returned or exchanged materials shall be first submitted to the Consulting Engineer for approval. Applications for payment shall reflect any such credits, and the Contract Price shall be adjusted as necessary to reflect such credits. Non-returnable excess materials shall be turned over to the City, or, at its option, be removed from the Project site at Contractor's expense.

(i) The acceptance by the Contractor of final payment shall be and shall operate as a release to the City of all claims and all liability to the Contractor other than written claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this Contract and for every act and neglect of the City and others relating to or arising out of this Contract. Any payment, however, final or otherwise, shall not release the Contractor or its sureties from any obligations under the Contract Documents, the Bonds, or insurance coverage's.

#### GC-45 PAYMENTS WITHHELD

City may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any application for payment to the extent necessary to protect City from loss on account of:

- (a) Incomplete Work or Defective Work not remedied;
- (b) A reasonable doubt that the Work can be completed for the balance of the Contract Price then unpaid;
- (c) Damage to City; or
- (d) A breach of this Contract.

#### GC-46 LIQUIDATED DAMAGES

It is mutually understood and agreed by and between the parties to this Contract that time is of the essence of this Contract, and that in the event that the Contractor shall fail in the performance of the Work specified and required to be performed within the period of time

stipulated therefore in the Contract, after due allowance for any extension or extensions of time which may be granted under the Contract, the said Contractor shall pay to City, as stipulated liquidated damages and not as a penalty, the sum stipulated herein for each and every day that the Contractor shall be in default.

In the case of joint responsibility for any delay in the final completion of the Work covered by this Contract, where two or more separate contracts are in force at the same time and cover work on the same project and at the same site, the total amount of liquidated damages assessed against all contractors under such contracts, for any one day of delay in the final completion of the Work will not be greater than the approximate total of the damages sustained by the City by reason of such delay in completion of the Work as set forth in the table below, and the amount assessed against any one contractor for such one day of delay will be based upon the individual responsibility of such contractor for the aforesaid delay as determined by, and in the judgment of, the City.

In case of failure on the part of the Contractor to effect completion within the time specified, the City shall have the right to deduct from the total compensation otherwise due the Contractor as liquidated damages based on the full Bid price of the Contract, fixed and agreed to in advance, an amount according to the following schedule:

<u>Contract Amount</u>			<u>Liquidated Damages</u>
\$0	to	\$50,000	\$250.00
\$50,000	to	\$100,000	\$400.00
\$100,000	to	\$500,000	\$800.00
\$500,000	to	\$1,000,000	\$1,000.00
\$1,000,000	to	\$2,000,000	\$1,750.00
\$2,000,000	to	\$5,000,000	\$2,500.00
\$5,000,000	to	\$10,000,000	\$3,500.00
\$10,000,000	to	\$20,000,000	\$5,500.00
\$20,000,000	and up		\$6,000.00

for each twenty-four (24) hour calendar day, including weekends and holidays, the Work remains incomplete over the specified completion time. **(THE CITY RESERVES THE RIGHT TO ADJUST THE SCHEDULE OF LIQUIDATED DAMAGES, PRIOR TO ADVERTISING FOR BIDS, BASED ON THE SCOPE AND URGENCY OF THE PROJECT.)**

The City shall have the right to deduct said liquidated damages from any moneys in its hands, otherwise due or to come due, to the Contractor, or to sue for and recover compensation for damages for nonperformance of this Contract.

#### GC-47 BONDS

Contractor shall after Notice of Award furnish City the Performance, Maintenance, and Statutory or Labor and Material Payment Bond as required by the Instructions to Bidders. Failure to furnish such Bonds within the time specified in the Notice of Award may, at the City's option, be the basis for declaring Contractor in default and pursuing such legal rights as the City deems in its best interest, including, but not limited to, enforcement of the City's rights as to Bid security.

#### GC-48 EASEMENTS AND RIGHTS-OF-WAY

Permanent and temporary (construction) easements and rights-of-way will be provided by the City as shown on the Plans. The Contractor shall confine its operations to the

easements provided and shall carefully note where buildings, structures or other obstructions will limit its working space. In the event that easements and rights-of-way are not available or if they have not been secured, or if entry to property is denied by court order, injunction, litigation or any other reason, the Contractor shall cease operations in such area and confine its Work to other areas approved by the City. In the event of any delay arising from delays in securing easements and rights-of-way, the Contractor shall have no claim against the City for damages arising from such delay but may request an extension of time under Article GC-27.

#### GC-49 UNDERGROUND FACILITIES AND UTILITIES

Underground Facilities and utilities, including sewer, water, gas, sprinkler systems, etc. damaged by the Contractor within or outside the right-of-way shall be restored at the Contractor's expense and at no cost to the City. The Contractor shall make every effort to locate these lines and protect them.

#### GC-50 USE OF PREMISES

(a) Contractor shall confine its operations to limits indicated by law, ordinances, rules, regulations, permits of City or directions of Consulting Engineer and shall not unreasonably encumber the premises and/or site.

(b) Contractor shall not load or permit any part of any structure, streets or highways to be loaded with a weight that exceeds load limits which will endanger their safety.

(c) Contractor shall comply with federal, state and local laws and ordinances, as well as any specific instructions regarding signs, advertisements, fires and smoking from Consulting Engineer.

(d) A laydown area or staging area will be provided at the site and shall be chosen by Consulting Engineer. Contractor will furnish its own weather protection if required.

(e) No City equipment will be taken out of service or put into service without approval of City.

#### GC-51 ALLOWANCES

Contractor agrees that the Contract Price includes all allowances required by the Contract Documents. Contractor declares that the Contract Price includes all other sums for expenses and overhead and fee on account of allowances as it deems proper. No demand for expenses or overhead and fee other than those included in the Contract Price shall be allowed.

#### GC-52 CUTTING, PATCHING AND DIGGING

(a) Contractor shall do all cutting, fitting or patching of its Work that may be required to make its several parts come together properly and fit it to receive or be received by Work of others shown upon or reasonably implied by the Contract Documents.

(b) Contractor shall not endanger any property of City or any other individual or entity, or the Work by cutting, digging or otherwise and shall not cut or alter the work of others except with the written consent of City.

(c) Contractor shall assume responsibility for the patching or repairs, by the proper trade, of damages caused by Work under this Contract.

(d) Contractor shall comply with all local ordinances dealing with cutting, patching and digging and shall obtain all necessary permits.

#### GC-53 CLEANING UP

Contractor shall at all times keep the premises/site free from accumulations of waste material or rubbish caused by its employees or Work; and at the completion of the daily Work it shall remove all its rubbish from and about the premises/site and all its tools, scaffolding and surplus materials, and shall leave its Work "broom clean" or its equivalent unless more exactly specified. In case of dispute, City may remove the rubbish and charge the cost to Contractor.

#### GC-54 TEMPORARY FACILITIES

(a) Except where special permission has been granted by City to use existing toilet facilities belonging to City, Contractor shall provide and maintain sanitary temporary toilet facilities located where directed by Consulting Engineer for accommodation of all persons engaged on the Work. Sanitary facilities shall be of reasonable capacity, properly maintained throughout the construction period, and obscured from public view to the greatest practical extent. If toilets of the chemically treated type are used, at least one toilet will be furnished for each twenty workers. Contractor shall enforce the use of such sanitary facilities by all personnel at the site.

Temporary toilets shall be enclosed and weatherproof and kept in sanitary and approved condition at all times. After use for same has ceased, Contractor shall remove the temporary toilet facilities from City's premises and disinfect and fill any vaults.

(b) Contractor shall provide and maintain any necessary temporary offices, storerooms, roadways, etc., as may be required for its Work. Same shall be located and constructed in an approved manner acceptable to Consulting Engineer. Upon completion of Work or when requested by Consulting Engineer, Contractor shall remove same from City's premises and leave the area in a clean and orderly condition.

(c) Contractor shall provide and maintain temporary heat as required to protect all Work and material against injury from dampness and/or cold to the satisfaction of Consulting Engineer.

(d) Unless otherwise specified in the Contract Documents, Contractor shall provide, at its cost and expense, temporary power, wiring and lights from City's provided source as may be required for its operations.

#### GC-55 SANITARY REGULATIONS AND WATER

The operations of the Contractor shall be in full conformity with all of the rules and regulations of boards and bodies having jurisdiction with respect to sanitation. The Contractor shall supply safe and sufficient drinking water to all of its employees. The Contractor shall obey and enforce all sanitary regulations and orders, and shall take precautions against infectious diseases and the spread of same.

All water used in the course of the Work shall be hauled in or purchased from the local water company's distribution system at the Contractor's own cost and expense.



#### GC-56 COMPLIANCE WITH LAWS

The Contractor shall be fully familiar with all City, county, state and federal laws, ordinances or regulations which would in any way control the actions or operations of those engaged in the Work under this Contract or which would affect the materials supplied to or by them. It shall at all times observe and comply with all ordinances, laws and regulations and shall protect and indemnify and defend the City and the City's officers and agents against any claims or liability arising from or based on any violation of same.

#### GC-57 UNFAVORABLE CONSTRUCTION CONDITIONS

During unfavorable weather, or other unfavorable conditions for construction operations, the Contractor shall pursue only such portions of the Work as will not be damaged thereby. No portions of the Work, the satisfactory quality or efficiency of which will be affected by any unfavorable conditions, shall be constructed while these conditions exist, unless, by special means or precautions approved by the Consulting Engineer, the Contractor shall be able to perform the Work in a proper and satisfactory manner.

#### GC-58 CONTRACTOR'S RISK

The Contractor shall assume full responsibility for the Work and shall bear any loss and repair any damage at his/her own cost occasioned by neglect, accident, vandalism or natural cause, whether foreseen or unforeseen, during the progress of the Work and until the Work is completed and accepted by the City.

#### GC-59 SAFETY RULES

(a) Contractor shall be responsible for enforcing safety rules to ensure protection of the employees and property of City, to assure uninterrupted production and to assure safe working conditions for Contractor and Subcontractors and their employees and to assure the safety of the general public. In addition to any other rights the City might exercise, Contractor and/or any Subcontractor failing to follow safety rules shall be subject to eviction from the job site and may be refused reentry.

(b) Contractor is expected to establish and enforce a comprehensive safety program on this Project for the protection of its personnel, its Subcontractors' personnel, City's employees and all other persons exposed to hazards resulting from Contractor's operations. As a minimum requirement, Contractor shall review and discuss the details of its program with Consulting Engineer at the first project meeting. The items to be covered shall include, but not necessarily be limited to,

- (1) Personal protective equipment;
- (2) First aid - personnel and facilities;
- (3) Arrangements for medical attention;
- (4) Sanitary facilities;
- (5) Fire protection;
- (6) Signs, signals and barricades;
- (7) Security regulations;
- (8) Safety inspections;
- (9) Designation of persons responsible for the program;
- (10) Reporting forms and procedures;
- (11) Material handling and storage;

- (12) Lines of communication;
- (13) Determination of potential hazards;
- (14) Personnel safety meetings and education;
- (15) Access to work areas;
- (16) Subcontractors involvement in the program;
- (17) Inspections and corrective action.

Contractor is fully responsible for the safety program and any and all methods and procedures provided for therein whether or not City or Consulting Engineer shall have reviewed and/or accepted such program.

#### GC-60 WEEKENDS, HOLIDAY AND NIGHT WORK

No Work shall be done between the hours of 6:00 p.m. and 7:00 a.m., nor on weekends or City holidays, without the written approval or permission of the City forty-eight (48) hours in advance in each case, except such Work as may be necessary for the proper care, maintenance and protection of Work already done or of equipment, or in the case of an emergency.

Night Work may be established by the Contractor, as a regular procedure, with the written permission of the City; such permission, however, may be revoked at any time by the City.

#### GC-61 APPROVAL OF EQUALS

"Approved Equals," where permitted by the Contract Documents or otherwise made feasible by market conditions, shall be considered for approval as follows:

(a) Contractor shall notify City in writing if it wishes to use an approved equal specifically named in the Contract Documents.

(b) If Contractor desires to use an "equal" not specifically named in the Contract Documents, it must first inform City and receive written approval for such substitutions. City has no obligation to approve such request and is not responsible for any delay or cost incurred caused by Contractor's making such request.

The Contractor shall be solely responsible for design risks, delays and other claims arising out of any approved alternates.

#### GC-62 TEST OF MATERIALS OFFERED BY CONTRACTOR

All specified and required tests for approval of material shall be made at the expense of the Contractor by a properly equipped laboratory of established reputation, whose work and testing facilities shall be approved by the Consulting Engineer. Approval of materials based on acceptable tests will apply only while such materials as furnished equal or exceed the tested samples or test specimens in quality and minimum requirements. Any change in origin, method of preparation or manufacture of such materials will require new tests and approval thereof. Reports of all tests shall be furnished to the Consulting Engineer in as many certified counterparts as may be required by the Consulting Engineer.

#### GC-63 TESTING OF COMPLETED WORK

Before Final Acceptance, all installed and constructed equipment, devices and other work which is to be tested under the Contract Documents shall be tested and each part shall be in good condition and working order or shall be placed in such condition and order at the expense of the Contractor. All tests of such completed Work required under this Contract shall be made under the direction of the Consulting Engineer.

#### GC-64 BORROW AND WASTE AREAS

All borrow materials shall be obtained by the Contractor at its own cost and expense. The borrow area and materials shall be approved by the Consulting Engineer and shall be friable material suitable for compaction.

All waste areas shall be located off the site and arrangements and payment for use of such areas shall be the sole responsibility of the Contractor. All waste disposal shall be in compliance with federal, state and local laws, ordinances and regulations.

#### GC-65 PARKING AREAS, DRIVES AND WALKS

All existing parking areas, drives and walks within the Project limits shall be adjusted to conform to the lines and grades shown on the Plans. Any of the above structures that are removed or damaged during construction shall be reconstructed at Contractor's expense of materials that will create a quality equal to or better than the condition of the existing facility prior to construction operation.

#### GC-66 STREET SIGNS AND TRAFFIC AIDS

The Contractor shall be responsible for all preexisting traffic control devices at the Project site, including installation, maintenance, removal and storage of such devices. All temporary and permanent traffic control devices supplied by the Contractor shall comply with and be installed in accordance with the Manual on Uniform Traffic Control Devices, current edition as revised, and the Traffic Control Devices Handbook.

#### GC-67 PLACING WORK IN SERVICE/PARTIAL UTILIZATION

If desired by the City, portions of the Work may be placed in service when completed for Partial Utilization by the City, and the Contractor shall give proper access to the Work for this purpose; but such use and operation shall not constitute an acceptance of the Work, and the Contractor shall be liable for defects due to faulty construction until the entire Work under this Contract is finally accepted and for such periods of time as designated in the Contract Documents or otherwise permitted by law.

#### GC-68 NON-DISCRIMINATION/OTHER LAWS

- (a) The Contractor agrees that:
- (1) The Contractor shall observe the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;
  - (2) In all solicitations or advertisements for employees, the Contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");

- (3) If the Contractor fails to comply with the manner in which the Contractor reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached the present Contract and it may be cancelled, terminated or suspended, in whole or in part, by the City;
- (4) If the Contractor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Contractor shall be deemed to have breached the present contract and it may be cancelled, terminated or suspended, in whole or in part, by the City; and
- (5) The Contractor shall include the provisions of Subsections (1) through (4) in every subcontract or purchase order so that such provisions will be binding upon such Subcontractor or vendor.

The provisions of this Article shall not apply to a contract entered into by a Contractor:

- (A) Who employs fewer than four employees during the term of such contract; or
  - (B) Whose contracts with the City cumulatively total \$5,000 or less during the fiscal year of the City.
- (b) The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

#### GC-69 FEDERAL LOBBYING ACTIVITIES

31 USCS Section 1352 requires all subgrantees, contractors, subcontractors and consultants who receive federal funds via the City to certify that they will not use federal funds to pay any person for influencing or attempting to influence a federal agency or Congress in connection with the award of any federal contract, grant, loan or cooperative agreements.

In addition, contract applicants, recipients and subrecipients must file a form disclosing any expenditures they make for lobbying out of non-federal funds during the Contract period.

Necessary forms are available from the City Engineer and must be returned to the City with other Contract Documents. It is the responsibility of the general Contractor to obtain executed forms from any Subcontractors who fall within the provisions of the Code and to provide the City with the same.

#### GC-70 RECORDS

Contractor shall maintain copies of records pertaining to the construction of this Project for a period of five (5) years from the date of final payment. Such records shall be made available to the City for audit and review purposes upon written request therefor from City or its

authorized agent(s) during the construction period and the five (5) year period following final payment.

#### GC-71 TITLES, SUBHEADS AND CAPITALIZATION

Titles and subheadings as used herein and other Contract Documents are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Contract Documents. Some terms are capitalized throughout the Contract Documents, but the use of or failure to use capitals shall have no legal bearing on the interpretation of such terms.

#### GC-72 NO WAIVER OF RIGHTS

No waiver of any breach of this Contract shall be construed to be a waiver of any other or subsequent breach.

#### GC-73 SEVERABILITY

The parties agree that should any provision of the Contract Documents be determined to be void, invalid, unenforceable or illegal for whatever reason such provision(s) shall be null and void but that the remaining provisions of the Contract Documents shall be unaffected thereby and shall continue to be valid and enforceable.

#### GC-74 GOVERNING LAW

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Kansas.

#### GC-75 VENUE

Venue of any litigation arising in connection with this Agreement shall be the State courts of Johnson County, Kansas.

CITY OF MISSION

FOXRIDGE DRIVE (56TH ST. TO 51ST ST.)

PROJECT SPECIAL CONDITIONS

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>SUBJECT</u>	<u>PAGE</u>
SC-1.	SCOPE OF WORK.....	2
SC-2.	CONTRACT SPECIFICATIONS.....	2
SC-3.	STANDARD SPECIFICATIONS .....	2
SC-4.	CONTRACT DRAWINGS.....	2
SC-5.	MEASUREMENT AND PAYMENT .....	3
SC-6.	MOBILIZATION OF EQUIPMENT.....	3
SC-7.	INSPECTION OF WORK.....	3
SC-8.	BRACING AND SHORING .....	3
SC-9.	TRENCH BACKFILL .....	3
SC-10.	SAMPLING AND TESTING .....	4
SC-11.	TRAFFIC SAFETY .....	4
SC-12.	NOTIFICATION OF PROPERTY OWNERS .....	4
SC-13.	TREE AND PLANT PROTECTION .....	4
SC-14.	WEEDS.....	5
SC-15.	RESTORATION.....	5
SC-16.	UTILITY MEETINGS AND UTILITY ADJUSTMENT .....	5
SC-17.	WATER POLLUTION CONTROL .....	6
SC-18.	RIGHT-OF-WAY .....	6
SC-19.	CONSTRUCTION TIMELINE AND LIMITATIONS .....	7
SC-20.	SPECIFICATIONS FOR SNAP-TITE® CULVERT LINERS .....	7
SC-21.	INDEMNIFICATION.....	10

**CITY OF MISSION**

**FOX RIDGE DRIVE (56TH ST. TO 51ST ST.)**

**PROJECT SPECIAL CONDITIONS**

**SC-1. SCOPE OF WORK**

The work provided for in these Specifications shall consist of furnishing all labor, materials, appliances, and equipment, and performing all work and operations in connection with the construction of items and all other incidental and related work as set forth in these Specifications and as directed by the Engineer to make a complete and finished job.

**SC-2. CONTRACT SPECIFICATIONS**

The specifications that shall govern the materials furnished and work performed in the construction of the project covered by this contract shall be the "Design and Construction Standards - Volume 2 Construction Specifications, 2015 Edition" for the City of Overland Park, Kansas; as though fully set forth herein.

The specifications can be downloaded at the following location:

<http://www.opkansas.org/wp-content/uploads/Design-and-Construction-Standards-2015-Edition-Volume-2-Construction-Specifications.pdf>

No attempt has been made in the foregoing designated Specifications to segregate work to be performed by any trade, subcontract, or proposal item, under any one specification. Any segregation between trade or craft jurisdiction limits, and the establishment of subcontract limits, will be solely a matter of agreement between the Contractor and his employees and his subcontractors. The Specifications will govern the construction of the entire work, and the provisions thereof will govern each item and unit of work to which such provisions apply.

Work not covered within the above referenced specification shall be governed by the Standard Specification for State Road and Bridge Construction, Kansas Department of Transportation, 2015 Edition, and Special Provisions.

When reference is made to Engineer, it shall have the same meaning as consulting engineer as set forth in Paragraph GC-2 of the General Conditions.

**SC-3. STANDARD SPECIFICATIONS**

The work shall conform to these Specifications and to the "Standard Specifications" where reference is made herein. Where reference is made in the Specifications and Contract Documents to "Standard Specifications," it shall mean that the reference is made to the current edition of the Standard Specifications for State Road and Bridge Construction, Kansas Department of Transportation, current edition of City of Overland Park Traffic Signal Specifications, current edition of the Manual On Uniform Traffic Control Devices, and The City of Overland Park Traffic Control Handbook for Street Maintenance and Construction Operations with such revisions, amendments, and supplements as are contained herein.

**SC-4. CONTRACT DRAWINGS**

The Contract Drawings or "Plans" on which the proposals and contracts are to be based, and which are to be supplemented by additional shop and dimension drawings of material and equipment and other drawings, where specified, are shown in the "Index of Sheets" on the cover sheet of the Plans.

## **SC-5. MEASUREMENT AND PAYMENT**

### **a. Method of Measurement**

The completed work shall be measured by the units described in the Proposal under each bid item that is satisfactorily completed by the Contractor. At monthly intervals, beginning one month after the Notice to Proceed, the Contractor shall submit to the City Engineer an accurate record of the work completed.

### **b. Basis of Payment**

The amount of completed work, measured as set forth above, shall be paid for at the contract unit price bid per item described in the Proposal and shall be full compensation for furnishing all materials, labor, equipment, tools, supplies and incidental related items necessary to complete the work in accordance with the Specifications. Work not measured separately for payment is subsidiary to the item to which it pertains.

## **SC-6. MOBILIZATION OF EQUIPMENT**

All equipment used by the Contractor having metal tracks shall not be driven over City streets other than those streets being constructed. Such equipment must be transported from one work area to the next work area.

Observe legal load restrictions when operating equipment, hauling equipment, or hauling materials on public roads; newly constructed/reconstructed base, pavement, and structures; and any existing base, pavement or structures that will remain in place. Assume responsibility for changes in legal load restrictions that occur after the project was let. Obtain the Engineer's written approval and a special permit to exceed legal load restrictions on the City street system and on newly constructed/reconstructed portions of the project.

Protect roadways and structures within project limits from damage. Observe curing periods before operating equipment or hauling loads on newly constructed pavement, reconstructed pavement, or structures. Do not haul loads of any size on pavement base, except when operations require equipment on pavement base to place material. The Contractor shall assume all responsibility for damages to roadways and structures caused by the Contractor from operating equipment or hauling loads.

## **SC-7. INSPECTION OF WORK**

The Contractor shall not commence placing concrete or backfilling of pipe/structures until such time as the City Engineer or his authorized representative has made inspection. Form location, grades, slopes and subgrade shall have been approved prior to placing any concrete.

## **SC-8. BRACING AND SHORING**

It shall be the contractor's responsibility to brace and shore existing structures during construction. Any additional damage to or collapse of existing structures during the contract period shall be the sole responsibility of the Contractor.

The Contractor shall brace and shore all trenches in full accordance with Occupational Safety and Health Standards - Excavations; Final Rule 29 CFR Part 1926.

Bracing and shoring shall not be paid for directly but shall be considered subsidiary to other bid items. No additional payment shall be considered for increased quantities of earthwork, asphalt removal and replacement, or increases in other items as a result of compliance with this specification.

## **SC-9. TRENCH BACKFILL**

Flowable Fill is required for all trenches within all paved portions of the ROW including future paving, if they are known, per the Manual for Infrastructure Standards For Right of Way Restoration and City of Overland Park Standard Details.



#### **SC-10. SAMPLING AND TESTING**

All sampling and testing deemed necessary by the Engineer shall be performed by a Testing Laboratory selected by the City, except that all Asphaltic Concrete mix design and tests shall be performed by a Certified Testing Laboratory selected by the Contractor, as stated in specification section "Asphaltic Concrete Surface and Intermediate Course". The costs of all such tests, showing compliance with the Specifications, shall be paid by the City, except that all Asphaltic Concrete mix design and testing costs shall be paid by the Contractor. However, in the event that any test indicates non-compliance with the Specifications, additional testing will be paid for by the Contractor to determine acceptability of the material or methods. City reserves the right to weigh any selected truck as determined by the Engineer. The City shall only pay weighing costs and any additional costs shall be at the Contractor's expense.

#### **SC-11. TRAFFIC SAFETY**

When working in the traveled way, the Contractor shall provide adequate and suitable barriers, signs, warning lights, flaggers, and all other equipment necessary to direct and reroute traffic and protect the public from moving or stationary vehicles, equipment, and materials, and other obstructions. Also, adequate protective warning lights and signs shall be provided to warn of any obstruction or excavation in the street, and easement area. All barricades, signs, lights and other protective devices in public right-of-way and easements shall be installed and maintained in conformity with applicable statutory requirements, the latest edition of the "Manual on Uniform Traffic Control Devices", and the "Overland Park Traffic Control Handbook for Street Maintenance and Construction Operations".

The Police Department, Fire Department, and Med-Act shall be notified prior to closing a street with the approval of the City Engineer.

#### **SC-12. NOTIFICATION OF PROPERTY OWNERS**

The Contractor shall provide advance notification to the adjacent property owners on all phases of the operations.

#### **SC-13. TREE AND PLANT PROTECTION**

All trees and other vegetation which must be removed to perform the work shall be removed and disposed of by the Contractor; however, no trees or cultured plants shall be unnecessarily removed unless their removal is indicated on the drawings. All trees and plants not removed shall be protected against injury from construction operations.

The Contractor shall take extra measures to protect trees designated to be preserved, such as erecting barricades or fences around the drip line, and trimming low hanging branches to prevent damage from construction equipment. Barricade or fence shall not be removed without consent of the Engineer. When installing a pipe, or any other work that may damage the tree, hand excavating or tunneling methods shall be used. Where encroachment by vehicles or equipment is expected within the drip line of the tree, the contractor will be required to place at least a 6 inches layer of organic mulch on top of the affected area to offset possible compaction. Such trees shall not be endangered by stockpiling excavated material or storing equipment within the drip line of the tree. No backfill material exceeding 4 inches in depth shall be placed within the drip line area of any tree designated to be preserved without prior consent from the Engineer.

When excavation is required within the drip line of any protected tree, the contractor shall take extra measures to protect as many roots as possible. All roots to be cut or removed shall be "cut" with a chain saw, trencher, or other methods as approved by the engineer that will leave a smooth cut surface. All roots exposed during excavation shall be protected to prevent the roots from drying out by covering the exposed area with canvas or burlap, peat moss, or mulch, and kept damp until the area has been

backfilled. Where shown on the plans, trees requiring root removal of one third or more of the circumference of the root system, may require the pruning of limbs on the opposite side of the root removal or thinning the entire tree equally as directed by the Engineer. All pruning, repair, and replacement of trees and plants shall be performed by qualified nurserymen or arborists. Trees requiring trimming are as noted on the plans. This work shall not be paid for directly but shall be considered subsidiary to other bid items.

When the injury or removal of trees designated to be preserved cannot be avoided; each tree injured beyond repair or removed shall be replaced with a similar tree, or provide compensation to the City as determined by the Engineer.

#### **SC-14. WEEDS**

The Contractor shall restrict the excessive growth of weeds, grasses, and other uncultivated vegetations within the project limits in accordance with the Mission Municipal Code. The Contractor shall cut down any excessive growth by mowing or trimming or as directed by the engineer.

No direct payment will be made for this work as it shall be considered subsidiary to other bid items in the contract.

#### **SC-15. RESTORATION**

##### **a. Pre-Restoration Meeting**

The Contractor shall be responsible for scheduling a pre-restoration meeting within 1 (one) week prior to beginning final grading, select soil placement, and restoration of the sodded areas in the project. The time and location of the meeting shall be approved by the Project Engineer, with required attendance by the Contractor's superintendent and any/all subcontractors involved in the restoration. The purpose of this meeting is to discuss in detail the requirements of sod restoration in the Specifications. At this meeting the Contractor shall provide:

- 1) A complete schedule of operations and proposed methods for soil preparation, sod placement, and watering.
- 2) A list of the equipment to be used for soil preparation and compaction, fertilizer distribution, sod delivery, placement and rolling, and watering.
- 3) The proposed source or sources of the sod, select soil, and water.
- 4) A list or set of "marked up" plans indicating the proposed location of each type of sod.
- 5) A list of at least 3 locations that the sod crew to be used on this project has placed sod within the previous 2 weeks.

#### **SC-16. UTILITY MEETINGS AND UTILITY ADJUSTMENT**

It shall be the duty of the Contractor to notify the serving utility companies of pending construction operations and the schedule of same, prior to any work being done on this project. The Engineer will furnish plans to the utility companies for their records. These companies will relocate and adjust their own facilities at no cost to the Contractor, except for sanitary and storm sewers. The Contractor shall be responsible for the adjustment and protection of all sanitary and storm sewer facilities. Some minor grading and backfill work may be required of the Contractor at locations of utility adjustments. This work shall be considered subsidiary to other items of work.

The Contractor shall be responsible for holding periodic utility meetings with the City, the Engineer, and utility companies during the relocation of utility lines. The frequency of meetings will initially be bi-weekly (or more frequently if necessary) and then, as relocation work begins to diminish, will be held more infrequently. The Contractor shall keep minutes of the meetings and send copies to all those in attendance.

### **SC-17. WATER POLLUTION CONTROL**

Contractor shall prevent the pollution of streams, lakes, wetlands, drainageways or storm sewers from fuel, oils, hazardous chemicals, sediment, trash, debris, or other substances resulting from construction activities.

All trash shall be placed in dumpsters or trash barrels provided by the Contractor and accumulated trash shall be hauled offsite and properly disposed. Floating debris found in any waterbody on or immediately adjacent to construction shall be removed immediately, regardless of source. Hazardous wastes shall be stored, transported offsite, and disposed of properly. Sanitary facilities must be made available and their use enforced by the Contractor.

All equipment used onsite shall be free of leaks and receive regular preventative maintenance and be inspected daily to reduce chance of leakage. No fueling, servicing, maintenance, or repair of equipment shall be done within 50 feet of a stream, drainageway, lake, storm sewer manhole or other water body. Fuel tanks onsite shall in good condition, free of leaks or drips, painted brightly for visibility, monitored daily and shall sit behind or within a secondary containment tank or earthen berm.

Concrete wash or rinsewater from concrete mixing equipment, tools and/or ready-mix trucks, tools, etc, may not be discharged into or be allowed to run directly into any existing water body or storm inlet. One or more locations for concrete wash out will be designated on site, such that discharges during concrete washout will be contained in a small area where waste concrete can solidify in place and excess water evaporated or infiltrated into the ground.

Chemicals or materials capable of causing pollution may only be stored onsite in their original container. Materials stored outside must be in closed and sealed water-proof containers and located outside of drainageways or areas subject to flooding. Manufacturers data regarding proper use and storage, potential impacts to the environment if released, spill response, and reportable quantities for spill reporting shall be maintained by the field superintendent onsite at all times. Locks and other means to prevent and reduce vandalism shall be used.

All spills in excess of reportable quantities shall be reported to all of the following within 24 hours of their occurrence: KDHE 24-hour spill response center (785) 296-1679; KDHE Northeast District, Lawrence, (785) 842-4600; and the National Spill Response Center 1-800-424-8802. Spills that pose immediate threat to public safety or contamination of a water body shall be reported immediately to the Fire Department at 911. Such spills shall also be reported to the Kansas Division of Emergency Management, (800) 275-0297 or (785) 296-8013.

Contractor shall respond immediately by containing with an appropriate device or earthen berms and shall prevent its migration with sawdust, sand, kitty litter, rags or other absorbents. Manufacturer recommendations shall be followed. Leaks from broken hoses will be immediately contained with house clamps, plugs, or drained into leak-tight containers. Contractor shall have onsite at all times and ready for immediate use the necessary tools, equipment, and supplies to respond to a spill or leak. Contractor personnel shall be trained to properly respond immediately to a leak or spill. All spills shall be cleaned up and disposed of in accordance with applicable regulations or as directed by Kansas Division of Health and Environment or other applicable agency.

Herbicides, pesticides and fertilizers used as part of the work shall be applied only in accordance with manufacturer recommendations. Direct spray into water bodies shall be avoided. Such chemicals shall not be used if rain is forecast within 24 hours, unless they are approved for wet weather application.

Care will be taken to avoid excessive disturbance or erosion of land area and controls shall be maintained to prevent migration of silt and sediments into water bodies. Provisions of the contract for erosion and sediment control shall be followed.

### **SC-18. RIGHT-OF-WAY**

Right-of-way and easements are currently available for this project.

The Contractor shall confine his construction operations to the right-of-way limits and easements provided for the project. Equipment or materials shall not be stored beyond these limits without the express approval of the owner of such property. The Engineer shall be informed as to any arrangements that Contractor makes on his behalf in these matters.

**SC-19. CONSTRUCTION TIMELINE AND LIMITATIONS**

The following limitations shall apply:

- A. The Notice to Proceed is anticipated to be no sooner than May 17, 2017.
- B. The undersigned further agrees to complete all work within 90 working days.

**SC-20. SPECIFICATIONS FOR SNAP-TITE® CULVERT LINERS**

- 1. **Description** — This Item shall govern for furnishing, installing, grouting and providing all labor, material and equipment necessary to rehabilitate existing culvert pipe by sliplining an existing culvert pipe with high density polyethylene (HDPE) pipe. The pipes shall be sizes, types, designs and dimensions shown on the plans and shall include all connections, joints and other appurtenances as required to complete the work.

The sliplining process will require the contractor to completely grout the annular void between the host and insert pipe. The grouting process shall be considered subsidiary to this item.

- 2. **Materials** — Unless otherwise specified on the plans or herein, culvert pipe renewal shall conform to the following:

Snap-Tite® Culvert Liner as provided by ISCO Industries or approved equal.

**A. Liner Material – High Density Polyethylene (HDPE) Pipe**

- 1. High density polyethylene pipe and fittings shall meet the requirements in the AASHTO M326-08 Specification.
- 2. Raw Materials. The pipes and the fittings shall be manufactured from PE resin compounds, which have a minimum cell class 345464C as defined and described in ASTM D3350.
- 3. HDPE Resin Specifications.

Property	Specifications	Unit	Nominal Value
Material Designation	PPI/ASTM		PE3408/PE3608
Cell Classification	ASTM D3350		345464C
1. Density (3)	ASTM D1505	Gm/cm <sup>3</sup>	0.955
2. Melt Index (4)	ASTM D1238	gm/10 min.	0.11
3. Flexural Modulus (5)	ASTM D790	psi	135,000
4. Tensile Strength	ASTM D638	psi	3,200

(4)			
5. Slow Crack Growth			
a. ESCR	ASTM D1693	hours in 100% igePAL	>5,000
b. PENT (6)	ASTM F1473	hours	>100
6. HDB @ 73 deg. F (4)	ASTM D2837	psi	1,600
7. UV Stabilizer (C)	ASTM D1603	%C	2.5%

**B. Designation of Type**

1. The HDPE pipes used for liners in gravity flow culverts shall be solid-wall construction with mechanical end connectors, male and female, consisting of 2 machined-groove landing points, to prevent the pipe from pulling apart during installation.
2. Individual liner section lengths shall be a minimum of 6 ft. but shall not exceed 50 ft. unless pre-approved.

**C. Pipe joints** shall comply with ASTM D3212 Standard Specification for joint tightness.

1. Extrusion welded joints shall not be allowed to join the liner pipe together to keep grout from leaking out during the grouting stage.
2. Neoprene Cement shall not be allowed to create a seal at the joint to prevent grout from leaking out during the grouting stage.

**D. Hydraulic flow characteristics** for the liner pipe shall provide a Manning's coefficient of  $n = 0.00914$ . Pipe Manufacturer shall submit 3rd party test data verifying the Manning's coefficient has been achieved.

**E. Liner Pipe** material must be pre-approved by the governing state agency's materials testing department before bid and have a minimum of 1,000' of said liner installed in said state.

**F. HDPE Pipe Liners** with male and female mechanical end connectors must be supplied by one manufacturer that has a certified quality management system registered to ISO 9001:2008

**G. Oval Pipe**

The liner shall be furnished in an oval shape to match the existing CMP elliptical pipe, with horizontal and vertical wood struts inserted through the liner by the manufacturer before delivery to the jobsite, as to keep the liner in an oval shape before grouting into place. After the liner has been grouted fully in place, the struts shall be removed. The Contractor is responsible for ascertaining actual measurements prior to ordering the liner.

**H. Other pipe liners** that do not meet this specification must be submitted for approval prior to bid date.

**I. Liner Pipe must be manufactured in the United States under the 'Buy American Products' program**

**J. Grouting Material** – Contractor shall utilize material specifications for solidification of the annular void between host and the inserted liner with low-density flowable fill or cellular grout. The cellular grout with a density between 40 and 80 lbs. per cubic foot may be used. Reduced-density flowable fill grout with a density between 100 and 120 lbs. per cubic foot may be used.

**K. End Treatment** – The upstream/inlet end of the new liner pipe shall be fitted with a flow enhancement device to reduce inlet control effects. The device shall be HDPE material, same as the liner pipe, and have a connector included for connection to the liner pipe. The opening at the

end of the device shall be larger than the ID of the host pipe. 3rd Party Test data shall be provided to show improvement of flow by at least 30% at 2 feet of headwater depth or an entrance loss coefficient (K) of approximately 0.2 for outlet control conditions. The device shall be the Hydro-Bell or approved equal.

3. **Cleaning** — The existing culvert pipe shall be cleaned by whatever means necessary to remove all obstructions which may be encountered that would prevent insertion of the pipe liner into the host pipe as approved by the engineer. This work will not be paid for directly, but shall be considered subsidiary to this item.
4. **Construction**
  - A. **Installation**
    - a. Manufacturer's Rep must be on site at critical stages of the liner installation and grouting application.
  - B. **Liner Pipe** – Liner pipe shall be inserted and installed in accordance with manufacturer's recommendations. Grade of liner pipe shall be maintained parallel to grade of host pipe.
  - C. **Grouting**
    - a. Upon completion or partial completion of the sliplining process, grouting will be required to be placed in the annular void between the insertion pipe and the host pipe. Cellular grout with a density between 40 and 80 lbs. per cubic foot may be used. Reduced- density flowable fill grout with a density between 80 and 120 lbs. per cubic foot may be used. Project engineer shall state density of grout to be used on drawings or in specifications.
    - b. A detailed plan on holding the liner pipe on the invert of the host pipe, including concrete bulkheads shall be submitted to the engineer for approval.
    - c. The annular void shall be completely grout filled without deflecting the insertion pipe greater than 1.5 percent.
    - d. The contractor shall provide end seals at the open points of each run of pipe to be grouted.
    - e. Penetration of the host pipe shall be permitted for host pipe constructed with Corrugated Metal Pipe (CMP) to facilitate grouting of the annular void. Multiple fill pipes will be required.
    - f. The annular void shall be grouted solid by injecting grout from one end of the pipe run and allowing it to flow toward the other end. Venting of the annular void shall be performed to assure uniform filling of the void space during the grouting process.
    - g. An open-ended, high-point tap or equivalent vent must be provided and monitored at the bulkhead opposite to the point of grouting.
    - h. Pressure on the annular void shall not exceed 2 PSI to avoid damage to the liner pipe. Regardless of the pressure, the contractor shall be solely responsible for any damage or distortion to the insertion pipe due to the grouting process.
    - i. The grout shall be made using the preformed foam process using foam-generating equipment calibrated daily by the foam manufacturer to produce a precise and predictable volume of foam. The foam concentrate shall be certified by the customer to have specific liquid/foam expansion ratio at a constant dilution ratio with water.
    - j. The specific job mix shall be submitted to the customer by either the foam concentrate supplier or the certified /licensed contractor for approval prior to use on this project. The mix shall have a minimum 28 day compressive strength of 300 psi.
    - k. Grout mixed off-site shall be delivered to the jobsite in a truck mixer filled to half its capacity. The foam concentrate shall then be added to the cement mix in the truck and mixed to a uniform consistency and pumped into the annular space.

- l. Contractor must have a written erosion control plan with a method for waste grout recovery submitted to county with attached bid proposal.
- m. Customer will verify that post-construction conditions are acceptable after installation and ensure that proper seeding and general cleanup has been completed.

**D. Pipe Stockpiling and Handling** – Pipe and fittings shall be stockpiled in a safe manner at each contractor staging area or pit location. The stockpiling shall be arranged to cause a minimum of interference to pedestrian and stored outside the safety clear zone of vehicular traffic. When handling sliplining pipe, the contractor shall take all precautions necessary to avoid damaging the pipe. For pipe with cuts greater than 10% of the wall thickness, repair or replacement will be at the entire expense of the contractor.

- 5. **Clean-up and Restoration** — Upon acceptance of the installation work and testing, the contractor shall clean-up and restore the project area affected by operations as approved by the engineer.
- 6. **Measurement** — This item shall be measured by the foot. Such measurement shall be made along the flowline of the liner pipe, complete in place.

For multiple culverts to be lined, the measurement length shall be the sum of the lengths of each barrel, measured as prescribed above.

The accepted quantities of pipe liner will be paid for at the contract unit price per linear foot for the size of the existing pipe in which the liner is installed, complete in place.

- 7. **Payment** — The work performed and the materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for as the unit bid for "63" DIAMETER SNAP-TITE" of the type, design (if required), and size specified. This price shall be full compensation for cleaning existing pipe; for furnishing, hauling, installing liner pipe and placing grout; for all connections; and for all labor, tools equipment, materials, clean-up and incidentals.

#### **SC-21. INDEMNIFICATION**

The Project Contractor shall defend, indemnify and save the Board of County Commissioners of Johnson County, Kansas and the City harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to persons or property by reason of the negligence or other actionable fault of the Project Contractor, his or her sub-contractors, agents or employees in the performance of this contract.

The Board of County Commissioners of Johnson County, Kansas shall be named as an additional insured on all policies of insurance issued to the Project Contractor and required by the terms of his/her agreement with the City.

<b>City of Mission</b>	Item Number:	3.
<b>ACTION ITEM SUMMARY</b>	Date:	April 28, 2017
<b>Public Works</b>	From:	John Belger

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Foxridge Drive Phase I - Inspection Services Contract

**RECOMMENDATION:** Approve a task order with Olsson Associates for Foxridge Drive construction inspection services in an amount not to exceed \$111,112.50.

**DETAILS:** The first phase of the Foxridge Drive project (51st to 56th Street) was identified in the City's Capital Improvement program for construction in 2017. The Foxridge Project includes a number of improvements including pavement, curb, sidewalk, street lighting, and stormwater infrastructure. To ensure these items are built to plan specifications, it is critical to have a Certified Inspector on site at all times while work is being done.

All documentation, observation, and required testing is included as a part of this contract. The contract is based on a 90 day construction timeline, but staff anticipates the work would be completed in a shorter period of time. The City will only be billed for actual time spent on the project.

The project has been approved for Johnson County CARS funding which means that 50% of construction and construction inspection expenses are eligible for reimbursement. The total estimated maximum liability for the City for the construction and construction inspection phase of the project is \$654,040.24.

**CFAA CONSIDERATIONS/IMPACTS:** This project provides sidewalk connectivity, ADA improvements, and upgraded street lighting.

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	Street Sales Tax Fund/Capital Improvement Fund
Available Budget:	\$725,000



# Scope of Services

## Foxridge Drive – 56<sup>th</sup> St. to 51<sup>st</sup> Street

The scope of this work includes the project observation, administration, and documentation for the above referenced project. The fee is based on a construction time frame of 90 Working Days.

### GENERAL

Olsson has acquainted itself with the information provided by Client relative to the project and based upon such information offers to provide the services described below for the project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property.

### PROJECT DESCRIPTION AND LOCATION

Project will be located at: City of Mission, Kansas

Project Description: Foxridge Drive – Construction Administration, Observation, and Testing for Street Improvements

### SCOPE OF SERVICES

Olsson shall provide a lead representative, materials testing, and project manager. The tasks shall consist of the following items:

- Pre-construction reviews of plans, quantities, and specifications
- Coordination of design issues during construction
- Daily construction inspection and documentation
- Daily construction administration and coordination with the City
- On site and lab testing of soils, concrete, and asphaltic concrete pavement
- Post construction activities to determine that project is completed and accepted by all parties

Olsson shall provide the following services (Scope of Services) to Client for the Project by the lead construction observer, construction services team leader:

- 1.1 Serve as the point of contact between the business/property owners affected by construction, and the Mission, Kansas.
- 1.2 Provide weekly progress summaries to the City.
- 1.3 Attend progress meetings at least monthly and at other times as required for work progress (no more than 20 meetings). Contractor will preside over construction meetings, and prepare and distribute meeting minutes.
- 1.4 Monitor project traffic control on a periodic basis for conformance with pay applications. The proper installation and maintenance of all traffic control facilities is Contractor's sole responsibility.

- 1.5 Be on-site when Contractor is working on contract items requiring inspection, as designated in Contract Documents. This will include work on contract pay items and controlling items of work.
- 1.6 Compile a daily diary documenting weather conditions, Contractor(s) construction activity, Contractor's personnel, and equipment used.
- 1.7 Provide field book documentation of contract pay items, as incorporated into the project.
- 1.8 Advise Owner and Contractor, or its superintendent, immediately of the commencement of any work requiring a shop drawing submission, if the submission has not been accepted by the design professional or Owner.
- 1.9 Keep and maintain project files of the Contractor's certifications of materials incorporated into the project.
- 1.10 Determine whether Contractor is generally adhering to the specifications and plan documents, and schedule on-going observations.
- 1.11 Report to Owner, giving opinions and suggestions based on observations regarding defects or deficiencies in Contractor's work and relating to compliance with plans, specifications, and design concepts.
- 1.12 Assist Owner in preparation and review of change orders.
- 1.13 Verify pay items with Contractor, review monthly pay applications, and recommend and present pay applications to Owner.
- 1.14 Monitor Contractor's progress regarding erosion control measures for conformance with pay applications. Necessary repairs to BMP's and required documentation/entries into the SWPPP manual will be the contractor's responsibility. Contractor will be responsible for all required SWPPP documentation and upkeep of the SWPPP manual.
- 1.15 Perform necessary concrete, and asphaltic concrete testing for proposed public improvements.
- 1.16 Provide transportation, equipment, tools, and incidentals, as necessary, to perform construction site monitoring services.
- 1.17 Attend two walk-throughs upon project completion. Compile notes and distribute final punch list to the prime Contractor and Owner.
- 1.18 Prior to final walk-through, submit to the Contractor a list of items observed to require completion or correction.
- 1.19 Complete and submit to the Owner final paperwork required by contract documents.
- 1.20 Review final pay estimate and the final change order and submit to Owner.
- 1.21 Attend one (1) final close out meeting with Owner.

## **ASSUMPTIONS**

1. A construction timeframe of 90 working days; commencing in June 2017, with substantial completion by November 2017. Olsson has estimated the contract working days will occur over a total of 170 calendar days, with no work occurring on Saturdays. Should estimate hours be exceeded, a supplemental agreement will be provided.
2. A part to full-time daily involvement of one lead inspector.
3. Rock and sand products for concrete will be accepted, based on certificates of compliance supplied by Contractor and/or producer.
4. Manufactured items shall be accepted based on certificates of compliance, shop drawings, catalog data, et cetera, where indicated.
5. Construction phase engineering and shop drawing review will be provided by the City's engineer of record.

## **EXCLUSIONS**

1. Review of shop drawings and material submittals and/or certifications will be the responsibility of the City's engineer of record.
2. Inspections associated with any maintenance bond correction period. Such services may be contracted later, if requested by the City.
3. No time has been included in this fee estimate for surveying associated with utility relocations, setting project control for Contractor prior to construction, or staking of temporary easements.
4. As-Built Drawings – Contractor is responsible for providing as-built elevations for tops and flowlines of storm sewer and sanitary sewer structures, and necessary plans for City submittal.
5. Specialized Testing – Any special testing will be considered additional services.
6. Special Inspections for Private Improvements – Special inspections and testing associated with private pavement, private utility construction, footings and foundations for buildings, and associated private site improvements is excluded.
7. Wage rate interviews and payroll reviews.

Should Client request work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

## **SCHEDULE FOR OLSSON'S SERVICES**

Unless otherwise agreed, Olsson expects to perform its services under the Agreement as follows:

Anticipated Start Date: June, 2017  
Anticipated Completion Date: November, 2017

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

## **COMPENSATION**

Client shall pay to Olsson for the performance of the Scope of Services, the actual time of personnel performing such services on an hourly rate basis for services rendered by our principals and employees engaged directly on the Project, and all actual reimbursable expenses. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

Olsson's Scope of Services will be provided on a time and expense basis not to exceed One Hundred Eleven Thousand One Hundred Twelve Dollars and Fifty Cents (\$111,112.50).

## **TERMS AND CONDITIONS OF SERVICE**

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative shall be John Belger.

If this Scope of Services satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain a copy for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of 30 days from the date set forth above, unless changed by us in writing.

**OLSSON ASSOCIATES, INC.**

By \_\_\_\_\_  
Curt Mader, PE

By \_\_\_\_\_  
Bryan Johnson, PE, Office Leader

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept this Work Order, please sign:

**CITY OF MISSION, KANSAS**

By \_\_\_\_\_  
Signature

Print Name \_\_\_\_\_

Title \_\_\_\_\_

Dated: \_\_\_\_\_

Attachments

Estimate of Fee

**Foxridge Drive - 56th St. to 51st St.  
Mission, Kansas  
Estimate of Fee  
Construction Admin., Inspection & Testing**



	Employee Type	Hourly Rate	Estimated Hours	Extension
<b>Pre-Construction Phase</b>				
Pre-Construction Meeting	Const. Manager	\$ 160.00	3	\$ 480.00
	Lead Inspector	\$ 92.00	4	\$ 368.00
	Clerical	\$ 56.00	2	\$ 112.00
Plan & Construction Document Review	Lead Inspector	\$ 92.00	6	\$ 552.00
Project Documentation Set-up * Field Books/Project Files/Qty. Checks	Lead Inspector	\$ 92.00	8	\$ 736.00
Inspection Management	Project Manager	\$ 160.00	5	\$ 800.00
<b>Phase Totals</b>			<b>28</b>	<b>\$ 3,048.00</b>
<b>Construction Phase</b>				
Daily Observation/Documentation/Coordination, etc.	<b>Straight Time Hours</b>			
	Lead Inspector	\$ 92.00	720	\$ 66,240.00
	<b>Overtime Hours (Hourly Billing Rate x 1.50)</b>			
Materials Testing	Testing Technician	\$ 59.00	192	\$ 11,328.00
	Clerical	\$ 56.00	14	\$ 784.00
Shop Drawing & Material Submittal Review	Const. Manager	\$ 160.00	8	\$ 1,280.00
Insp. Mgmt, Mtgs., Reports, Contractor issues RFI & Plan Interpretation Response, Estimate, CO's	Const. Manager	\$ 160.00	72	\$ 11,520.00
Clerical - Reports, etc.	Clerical	\$ 56.00	6	\$ 336.00
<b>Phase Totals</b>			<b>1045</b>	<b>\$ 96,042.00</b>
<b>Post-Construction Phase</b>				
Punch List & Remedial Work Inspection	Lead inspector	\$ 92.00	30	\$ 2,760.00
	Const. Manager	\$ 160.00	8	\$ 1,280.00
Final Documentation	Clerical	\$ 56.00	4	\$ 224.00
<b>Phase Totals</b>			<b>42</b>	<b>\$ 4,264.00</b>
<b>TOTAL LABOR</b>			<b>1115</b>	<b>\$ 103,354.00</b>
<b>DIRECT EXPENSES</b>				
	Units	Unit Price		
Mileage (@\$0.75/mi)	5,578	\$0.75		\$ 4,183.50
Concrete Cylinders	235	\$ 15.00		\$ 3,525.00
Copies and Mailing	1	\$50.00		\$ 50.00
<b>ESTIMATED DIRECT EXPENSES</b>				<b>\$ 7,758.50</b>
<b>TOTAL ESTIMATED FEE</b>				<b>\$ 111,112.50</b>

Assumptions:

Const. Phase - Est. Start 06/05/17; Est. End 11/21/17  
90 Working Days Days (or 170 total calendar days of work)  
No Saturday Work  
Full-time lead inspector

**Foxridge Drive - 56th St. to 51st St.**  
**Mission, Kansas**  
**Estimate of Construction Phase Hours and Vehicle Usage**



<b>Construction Phase</b>		Start 6/5/2017					End 11/21/2017		Phase Totals
		Jun	Jul	Aug	Sep	Oct	Nov.		
	Cal Days	26	31	31	30	31	21	170	
	Week Days	20	21	22	21	22	15	121	
	Est. Weather Delay/Recovery Days	7	5	5	5	4	5	31	
	<b>Est. Working Days</b>	<b>13</b>	<b>16</b>	<b>17</b>	<b>16</b>	<b>18</b>	<b>10</b>	<b>90</b>	
	Saturdays	3	5	4	5	4	4	25	
Lead Inspector \$92.00	Est. Avg. Hrs/Day	8	9	9	8	8	6		
	Est. Saturdays Worked	0	0	0	0	0	0	0	
	Est. Straight Time Hours	104	128	136	128	144	80	<b>720</b>	
	Est. Overtime Hours	0	16	17	0	0	0	<b>33</b>	
Const. Manager \$160.00	<b>Calendar Year 2017</b> Const. Manager - 24 wks @ 3 hr/wk =							72	

<b>Estimate of Mileage</b>								
<b>Pre-Construction Phase</b> 3 trips = _____ →								80
<b>Construction Phases</b>		Jun	Jul	Aug	Sep	Oct	Nov.	Total 2017
Sr. Inspector	Avg. Mi/Day	30	30	30	30	30	30	
	Est. Miles	390	480	510	480	540	300	2700
Const. Manager	Est. Miles	200	200	200	200	200	200	1200
<b>Post-Construction Phase</b> 4 trips _____ →								110
							<b>TOTAL</b>	<b>4090</b>

**Foxridge Driver - 56th St. to 51st St.**  
**Mission, Kansas**  
**Construction Materials Testing**



<b>CONCRETE ITEMS</b>		<b>Assumptions (Slump, Air, Temp., Cylinders)</b>					
		Est. # of Tests	Tech Hrs. per Test	Est. Tech Hrs.	Est. # of Cylinders	Est. Miles	Est. Clerical Hrs. for Reports
Item	Est. Cu Yd						
Concrete Sidewalk (5' & 6' Wide)	275	10	3	30	25	260	2.5
Commercial Entrance 8"	350	32	3	96	160	832	7.75
Curb & Gutter (Type B & C)	500	10	3	30	50	260	2.5
Sidewalk Ramps	2	1	3	3	0	26	0.25
Street Light Controller Pad	2	0	3	0	0	0	0
<b>TOTALS</b>	<b>1129</b>	<b>53</b>		<b>159</b>	<b>235</b>	<b>1378</b>	<b>13</b>

<b>ASPHALTIC CONCRETE</b>		<b>Assumptions (In-Place Densities &amp; Physical Properties)</b>					Est. Clerical Hrs. for Reports
		Est. # of Site Visits	Tech Hrs. per Site Visit	Est. Tech Hrs.	Lab Testing Hrs.	Est. Miles *	
Item	Tons						
Asphaltic Concrete Surface	1508	3	4	12	18	80	1
Asphaltic Concrete Base Repair	50	1	3	3	0	30	
<b>TOTALS</b>				<b>15</b>	<b>18</b>	<b>110</b>	<b>1</b>

<b>RECAP OF TESTING</b>	Units	Unit Cost	Est. Total Cost
Estimated Testing Tech Hrs.	192	\$ 59.00	\$ 11,328.00
Estimated Clerical Hours	14	\$ 56.00	\$ 784.00
Estimated Mileage	1488	\$ 0.75	\$ 1,116.00
Concrete Cylinders	235	\$ 15.00	\$ 3,525.00
<b>ESTIMATED TOTAL TESTING FEES</b>			<b>\$ 16,753.00</b>



<b>City of Mission</b>	Item Number:	4.
<b>ACTION ITEM SUMMARY</b>	Date:	April 28, 2017
<b>Public Works</b>	From:	John Belger

Action items require a vote to recommend the item to full City Council for further action.

**RE:** Johnson County CARS 2017 Interlocal Agreement for funding of public improvements to Foxridge Drive from 51st to 56th Street.

**RECOMMENDATION:** Approve the Interlocal Agreement with Johnson County for the public improvement of Foxridge Drive from 51st to 56th Street (CARS Project No. 320001151) using 2017 CARS Program funding in an amount not to exceed \$725,000.

**DETAILS:** Foxridge Drive between 56th Street and 51st Street is a 32 foot wide minor collector serving multi-family residential, commercial, and industrial traffic. The existing pavement, curb, and stormwater infrastructure is in poor condition. Sidewalks are in fair condition but lack connectivity and are not compliant with ADA standards.

The project was identified in the City's Capital Improvement Program for construction in 2017, and is approved for funding through the Johnson County CARS Program. Up to 50% of the project's construction and construction inspection costs are eligible to be reimbursed by the CARS Program. The Interlocal Agreement specifies the County's participation in the project for a total cost not to exceed \$725,000, and commits the City's funds to the project. Approval of the interlocal agreement is the final step in moving forward with the Foxridge Drive Phase I project.

**CFAA CONSIDERATIONS/IMPACTS:** NA

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	Street Sales Tax/Capital Improvement Fund
Available Budget:	\$725,000

**Agreement between Johnson County, Kansas,  
and the City of Mission, Kansas, for the Public Improvement of  
Foxridge Drive from 51st Street to 56th Street  
(320001151)**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between the Board of County Commissioners of Johnson County, Kansas ("Board") and the City of Mission, Kansas, ("City").

WITNESSETH:

WHEREAS, the parties have determined that it is in the best interests of the general public in making certain public improvements to Foxridge Drive from 51st Street to 56th Street (the "Project"); and

WHEREAS, the laws of the State of Kansas authorize the parties to this Agreement to cooperate in undertaking the Project; and

WHEREAS, the governing bodies of each of the parties have determined to enter into this Agreement for the purpose of undertaking the Project, pursuant to K.S.A. 12-2908 and K.S.A. 68-169, and amendments thereto; and

WHEREAS, the Project has been approved, authorized, and budgeted by the Board as an eligible project under the County Assistance Road System ("CARS") Program; and

WHEREAS, the Board has, by County Resolution No. 106-90, authorized its Chairman to execute any and all Agreements for County participation in any CARS Program project which has been approved and authorized pursuant to the Policies and Guidelines adopted by the Board and for which funding has been authorized and budgeted therefore; and

WHEREAS, the governing body of the City did approve and authorize its Mayor to execute this Agreement by official vote on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the parties agree as follows:

1. **Purpose of Agreement.** The parties enter into this Agreement for the purpose of undertaking the Project to assure a more adequate, safe and integrated roadway network in the developing and incorporated areas of Johnson County, Kansas.

2. **Estimated Cost and Funding of Project**

a. The estimated cost of the Project (“Project Costs”), a portion of which is reimbursable under this Agreement, is One Million Five Hundred Twenty Three Thousand One Hundred Twenty Six Dollars (\$1,523,126).

b. Project Costs include necessary costs and expenses of labor and material used in the construction of the Project and construction inspection and staking for the Project.

c. The Project Costs shall be allocated between the parties as follows:

i. The Board shall provide financial assistance for the Project in an amount up to but not exceeding Fifty Percent (50%) of the Project Costs. However, the Board's financial obligation under this Agreement shall be limited to an amount not to exceed Seven Hundred Twenty Five Thousand Dollars (\$725,000). For purposes of this Agreement, Project Costs shall not include any portion of costs which are to be paid by or on behalf of any state or federal governmental entity or for which the City may be reimbursed through any source other than the general residents or taxpayers of the City. Further, it is understood and agreed by the parties hereto that the Board shall not participate in, nor pay any portion of, the Costs incurred for or related to the following:

1. Land acquisition, right-of-way acquisition, or utility relocation;
2. Legal fees and expenses, design engineering services, Project administration, or financing costs;

3. Taxes, licensing or permit fees, title reports, insurance premiums, exactions, recording fees, or similar charges;
4. Project overruns;
5. Project scope modifications or major change orders which are not separately and specifically approved and authorized by the Board; and;
6. Minor change orders which are not separately and specifically approved and authorized by the Director of Public Works & Infrastructure of Johnson County, Kansas ("Public Works Director"). Minor change orders are those which do not significantly alter the scope of the Project and which are consistent with the CARS Program Policies and Guidelines and administrative procedures thereto adopted by the Board.

It is further understood and agreed that notwithstanding the designated amount of any expenditure authorization or fund appropriation, the Board shall only be obligated to pay for the authorized percentage of actual construction costs incurred or expended for the Project under appropriate, publicly bid, construction contracts. The Board will not be assessed for any improvement district created pursuant to K.S.A. 12-6a01 et seq., and amendments thereto, or any other improvement district created under the laws of the State of Kansas.

- ii. The City shall pay One Hundred Percent (100%) of all Project Costs not expressly the Board's obligation to pay as provided in this Agreement.

3. **Financing**

- a. The Board shall provide financial assistance, as provided in Paragraph 2.c. above, towards the cost of the Project with funds budgeted, authorized, and appropriated by the Board and which are unencumbered revenues that are on-hand in deposits of Johnson County, Kansas. This paragraph shall not be construed as limiting the ability of the Board to finance its portion of the costs and expenses of the Project through the issuance of bonds or any other legally authorized method.
- b. The City shall pay its portion of the Project Costs with funds budgeted, authorized, and appropriated by the governing body of the City.

4. **Administration of Project.** The Project shall be administered by the City, acting by and through its designated representative who shall be the City public official designated as Project Administrator. The Project Administrator shall assume and perform the following duties:

- a. Cause the making of all contracts, duly authorized and approved, for retaining consulting engineers to design and estimate the Project Costs.
- b. Submit a copy of the plans and specifications for the Project to the Johnson County Public Works Director for review, prior to any advertisement for construction bidding, together with a statement of estimated Project Costs which reflects the Board's financial obligation under the terms of this Agreement. The Public Works Director or his designee shall review the copy of the plans and specifications for the Project and may, but shall not be obligated to, suggest changes or revisions to the plans and specifications.
- c. If required by applicable state or federal statutes, solicit bids for the construction of the Project by publication in the official newspaper of the City. In the solicitation of bids, the appropriate combination of best bids shall be determined by the City.
- d. Cause the making of all contracts and appropriate change orders, duly authorized and approved, for the construction of the Project.
- e. Submit to the Public Works Director a statement of actual costs and expenses in the form of a payment request, with attached copies of all invoices and supporting materials, on or before the tenth day of each month following the

month in which costs and expenses have been paid. The Public Works Director shall review the statement or payment request to determine whether the statement or payment request is properly submitted and documented and, upon concurrence with the Finance Director of Johnson County, Kansas, (“Finance Director”) cause payment to be made to the City of the Board's portion of the Project Costs within thirty (30) days after receipt of such payment request. In the event federal or state agencies require, as a condition to state or federal participation in the Project, that the Board make payment prior to construction or at times other than set forth in this subsection, the Public Works Director and the Finance Director may authorize such payment.

- f. Except when doing so would violate a state or federal rule or regulation, cause a sign to be erected in the immediate vicinity of the Project upon commencement of construction identifying the Project as part of the CARS Program. The form and location of the sign shall be subject to the review and approval of the Public Works Director.

Upon completion of the construction of the Project, the Project Administrator shall submit to each of the parties a final accounting of all Project Costs incurred in the Project for the purpose of apportioning the same among the parties as provided in this Agreement. It is expressly understood and agreed that in no event shall the final accounting obligate the parties for a greater proportion of financial participation than that set out in Paragraph 2.c. of this Agreement. The final accounting of Project Costs shall be submitted by the Project Administrator no later than sixty (60) days following the completion of the Project construction.

It is further understood and agreed by the City that to the extent permitted by law and subject to the provisions of the Kansas Tort Claims Act including but not limited to maximum liability and immunity provisions, the City agrees to indemnify and hold the County, its officials, and agents harmless from any cost, expense, or liability not expressly agreed to by the County which result from the negligent acts or omissions of the City or its employees or which result from the City's compliance with the Policy and Procedures.

This agreement to indemnify shall not run in favor of or benefit any liability insurer or third party.

In addition, the City of Mission shall, and hereby agree to, insert as a special provision of its contract with the general contractor ("Project Contractor") chosen to undertake the Project construction as contemplated by this Agreement the following paragraphs:

The Project Contractor shall defend, indemnify and save the Board of County Commissioners of Johnson County, Kansas and the City of Mission harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to persons or property by reason of the negligence or other actionable fault of the Project Contractor, his or her sub-contractors, agents or employees in the performance of this contract.

The Board of County Commissioners of Johnson County, Kansas shall be named as an additional insured on all policies of insurance issued to the Project Contractor and required by the terms of his/her agreement with the City.

**5. Acquisition of Real Property for the Project**

- a. The Board shall not pay any costs for acquisition of real property in connection with the Project.
- b. The City shall be responsible for the acquisition of any real property, together with improvements thereon, located within the City's corporate boundaries, which is required in connection with the Project; such real property acquisition may occur by gift, purchase, or by condemnation as authorized and provided by the Eminent Domain Procedure Act, K.S.A. 26-201 et seq. and K.S.A. 26-501 et seq., and any such acquisition shall comply with all federal and state law requirements.

6. **Duration and Termination of Agreement**

- a. The parties agree that this Agreement shall remain in full force and effect until the completion of the Project, unless otherwise terminated as provided for in Paragraph 6.b. herein below. The Project shall be deemed completed and this Agreement shall be deemed terminated upon written certification to each of the parties by the Project Administrator that the Project has been accepted as constructed. The City shall provide a copy of the Project Administrator's certification to both the Public Works Director and the Finance Director within thirty (30) days of the Project Administrator's determination that the Project is complete.
- b. It is understood and agreed that the Public Works Director shall review the status of the Project annually on the first day of March following the execution of this Agreement to determine whether satisfactory progress is being made on the Project by the City. In the event that the Public Works Director determines that satisfactory progress is not being made on the Project due to the City's breach of this Agreement by not meeting the agreed upon project deadlines or otherwise not complying with the terms of this Agreement, the Public Works Director is authorized to notify the City that it shall have thirty (30) days from receipt of such notification to take steps to cure the breach (the "Cure Period"). It is further understood and agreed that the Board shall have the option and right to revoke funding approval for the Project and terminate this Agreement should the Board find, based upon the determination of the Public Works Director, that satisfactory progress is not being made on the Project and that the City has not taken sufficient steps to cure the breach during the Cure Period. Should the Board exercise its option as provided herein, it shall send written notice of the same to the City and the Board shall have no further liability or obligation under this Agreement.

7. **Placing Agreement in Force.** The attorney for the City shall cause sufficient copies of this Agreement to be executed to provide each party with a duly executed copy of this Agreement for its official records.



IN WITNESS WHEREOF, the above and foregoing Agreement has been executed by each of the parties hereto and made effective on the day and year first above written.

**Board of County Commissioners of  
Johnson County, Kansas**

**City of Mission, Kansas**

---

Ed Eilert, Chairman

---

Steve Schowengerdt, Mayor

Attest:

Attest:

---

Linda W. Barnes  
Clerk of the Board

---

City Clerk

Approved as to form:

Approved as to form:

---

Robert A. Ford  
Assistant County Counselor

---

City Attorney

<b>City of Mission</b>	Item Number:	5.
<b>ACTION ITEM SUMMARY</b>	Date:	April 24, 2017
<b>Public Works</b>	From:	John Belger

Action items require a vote to recommend the item to full City Council for further action.

**RE:** 49th Street stormwater repair solutions

**RECOMMENDATION:** Approve the task order with GBA to provide design and survey services to address stormwater issues impacting the residence at 6341 W. 49th Street in an amount not to exceed \$27,964.

**DETAILS:** The property located at 6341 W. 49th Street has been experiencing flooding issues during moderate to heavy rain events. Multiple attempts by the homeowner and Public Works have had only minor impacts, but not addressed the issues wholly. The fact that there is a combination of private and public ownership of the stormwater system and structures, makes it difficult to completely resolve the issues.

The current infrastructure consists of an area inlet on the west side of the property, located in City Right-of-Way (ROW). This inlet flows into a 12" corrugated metal pipe, which is located on private property. No easements or ROW exists in the area where the pipe is located. The pipe then connects to a curb inlet on the east side of the property on 49th Street. This curb inlet does not have a pipe flowing out. During rain events, the inlet fills with water and overflows onto the street. The overflowing water is then captured by two curb inlets at 49th & Lamar.

The task order from GBA will provide multiple alternatives to address this issue. Once evaluated, a recommended alternative will be brought back to Council for consideration.

**CFAA CONSIDERATIONS/IMPACTS:** NA

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	22-61-207-03 Engineering/Architect Services
Available Budget:	\$50,000

March 8, 2017

John Belger  
Public Works Director  
4775 Lamar Ave  
Mission, KS 66202

**SUBJECT:** Mission On Call Storm Repairs  
Authorization of Services

John,

Please review the scope of services below for the proposed storm sewer improvements in the vicinity of West 49<sup>th</sup> Street and Lamar Avenue:

**SCOPE OF SERVICES**

This project consists of assisting the City of Mission, Kansas (Mission) with survey, design, and limited bid phase services for addressing storm sewer overflows impacting the property at 6341 W 49<sup>th</sup> St. GBA will provide design and survey services to assist Mission with reviewing existing storm system issues, analysis of proposed alternatives, recommending and discussing courses of action, preparing design drawings, preparing specifications for bidding, and assisting with bid review. Refer to attached Exhibit for boundary of project area.

**Task 1 Project Administration**

**\$2,292**

- a. Invoices. Prepare and submit an invoice for the completed work.
- b. Project Management. Manage and administer project including invoicing, and allocate resources to complete the project within schedule and budget limitations. Project meetings will be limited to a maximum of 1. It is assumed that all project related meetings will take place at the Mission Public Works facility. In the event there is consideration to change the scope of the project, the Consultant shall develop and present the potential scope adjustment to Mission on all anticipated cost and schedule impacts on the Consultant's work.

**Task 2 Survey and Design**

**\$22,104**

- a. Site visit of repair location to evaluate existing conditions and confirm and validate design solutions.
- b. Identification and coordination with any utilities in the project area. Survey of project area for flowline information of existing system, roadway limits, sidewalks, landscaping, and any other existing

surface conditions which may affect the construction cost of the repair. Preparation of basemap with collected survey data.

- c. Analyze the hydrology and hydraulics of the existing system and up to 3 proposed improvement alternatives. Analysis of proposed improvements will include approximately 300-feet of additional pipe and 5 structures, as well as the potential for detention near the upstream/western limits of the defined project area (Exhibit).
- d. Compose a memorandum with results of analysis, opinion of probable construction costs, and recommendation of improvement alternative. Include 11"x17" exhibits for each improvement alternative.
- e. Preparation of plan and profile design drawings, up to 3 sheets, for approximately 550-foot length of project area.

**Task 5 Limited Bid Phase Services**

**\$3,248**

- a. Provide special conditions, measurement and payment, bid form, and opinion of probable cost.
- b. Assist Mission with the distribution of plans to a select number of bidders. Answer questions from bidders and provide an addendum as necessary.
- c. Assist Mission with the review of the bids, development of bid tabulation, and make a recommendation of award.

**Expenses Mileage, Equipment, and Printing**

**\$320**

**PROPOSED FEE = \$27,964**

**ASSUMPTIONS AND EXCLUSIONS**

1. No easement document preparation is included on Scope Item 2. If repairs are determined, through the course of the design, to be outside of easements or right of ways a scope adjustment will be necessary.
2. Mission shall provide, or provide access to, all necessary CCTV, reports, as-builts, and existing maps of existing pipe segments as needed for GBA to review to aid in design of plans.
3. No pre-bid meeting anticipated.

4. Hydrologic and hydraulic analysis shall be based on the rational method and headwater to depth calculations for storm sewer conveyance at defined problem areas.
5. Proposed improvements will not include reviewing or updating the existing pipe between the homes at 6341 and 6347 W 49<sup>th</sup> Street.
6. Contractor shall coordinate site access issues, utilities, and develop traffic control plans, as necessary.
7. Utility coordination during design development has not been included as part of this scope of work.
8. Traffic control plans have not been included as part of this scope of work.
9. No permitting or assistance to obtain permits will be done as part of this project.

#### **SCHEDULE**

Anticipated schedule: March 28<sup>th</sup> through May 30<sup>th</sup>, 2017.

#### **BASIS OF PAYMENT**

GBA will complete the work tasks described in the above listed Scope of Services on an hourly rate plus expenses basis. Invoices will be submitted for all work completed during each previous month, including an itemized task summary as required by the City staff, and will become due and payable within thirty (30) days.

We appreciate the opportunity to serve you on this important project. If you agree with the project scope, schedule, and fee, please sign the following project authorization form and mail the original back to GBA at our attention.

Respectfully submitted,

**GEORGE BUTLER ASSOCIATES, INC.**

G. Cory Clark, P.E.  
Sr. Associate / Municipal Group Leader

Doug Carpenter, CPESC  
Project Manager

I hereby authorize George Butler Associates, Inc. (GBA) to perform the tasks in the above listed Scope of Services. I acknowledge and agree with the listed project schedule and fee. I further agree to pay the monthly invoices from GBA for the services provided within thirty days of receipt.

Authorized by: \_\_\_\_\_

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



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

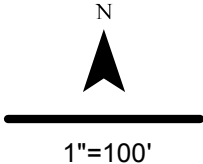
Draft



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

# Mission Storm Repairs West 49th Street and Lamar Avenue

-  Project Boundary
-  Project Excludes This Pipe



<b>City of Mission</b>	Item Number:	6.
<b>DISCUSSION ITEM SUMMARY</b>	Date:	April 25, 2017
<b>COMMUNITY DEVELOPMENT</b>	From:	Danielle Sitzman

Discussion items allow the committee the opportunity to freely discuss the issue at hand.

**RE:** An ordinance amending Chapter 405.070-090 of the Municipal Code

**DETAILS:** Several pending developments in the next year are expected to make use of zoning deviations from the Planned Zoning District section of the zoning code. In reviewing the relevant code sections, several changes were recommended to clarify the City's expectations of the approval process. Upon the advice of the City's land use attorney, staff prepared changes to the zoning code regarding consideration of deviations in Planned Zoning Districts.

Conventional zoning does not easily accommodate innovative development, especially where mixed-use or infill projects are proposed. In addition, conventional zoning relief requires changing the zoning code on a project by project basis or the consideration of variances. In the case of the former, changing zoning district standards can create non-conformities because the new rules are applied to all existing developed property within the same zoning district. Variances are difficult to justify as the criteria used for evaluation rely on the demonstration of a unique hardship related to the physical characteristics of the property. The merits of a particular development concept alone are not a proper reason to grant a variance.

The stated intent of the City of Mission's planned district code is to encourage quality development by permitting deviations from the conventional zoning to encourage large-scale developments, efficient development of smaller tracts, innovative and imaginative site planning, conservation of natural resources, and minimum waste of land. The proposed code changes are intended to clarify the standards by which planned district deviations are evaluated and update the list of zoning districts to be included. The proposed code language more accurately reflects the appropriate standard of review while still protecting the public good and the intent of the code. The full staff report to the Planning Commission is included in the packet.

The Planning Commission, at their April 24, 2017 meeting, voted 7-0 to recommend approval of the changes. A public hearing was conducted and no comments were received.

For reference, the supporting documentation for this agenda item includes the draft changes in a "redline" format. A clean copy of the document in ordinance format will be prepared for the the City Council meeting.

**CFAA CONSIDERATIONS/IMPACTS:** NA

Related Statute/City Ordinance:	N/A
Line Item Code/Description:	N/A
Available Budget:	N/A





---

To: Mission Planning Commission

From: Danielle Sitzman, City Planner

Date: April 24, 2017

Re: Case # 17-03 Planned Zoning District Code Changes

---

#### Background

Several pending developments in the next year are anticipated to make use of zoning deviations from the Planned Zoning District section of the zoning code. In reviewing this section with the City's Land Use Attorney, several code changes were recommended to clarify the City's expectations of the approval process. Staff has prepared the attached code changes for consideration and recommendation by the Planning Commission to the City Council.

#### Analysis of Proposed Code Changes

In January of 2001 the City's zoning code established the requirement that any and all rezonings to be to "Planned Zoning Districts" as defined in Chapter 405 Article II. A planned district is a zoning technique that is intended to create additional flexibility in the application of zoning standards such as but not limited to setbacks and height. Conventional zoning, which relies on rigid dimensional standards, does not easily accommodate innovative development especially where mixed-use or infill projects are proposed. In addition, conventional zoning relief requires changing the zoning code on a project by project basis or the consideration of variances. In the case of the former, changing zoning district standards often would create non-conformities as the new rules are then applied to all existing developed property within the same zoning district. Variances are difficult to justify as the criteria used for evaluation rely on the demonstration of a unique hardship related to the physical characteristics of the property. The merits of a particular development concept alone are not a proper reason to grant a variance. The adoption of planned zoning in Mission was a precursor to the development of other innovative zoning techniques such as mixed use zoning districts like the Main Street District 1 & 2 districts and other overlay zones. It is a valuable tool as it allows for deviations from conventional zoning standards on a case by case basis upon review of specific development proposals.

The stated intent of the City of Mission's planned district code is to encourage quality development by permitting deviations from the conventional zoning district to encourage large-scale developments, efficient development of smaller tracts, innovative and imaginative site planning, conservation of natural resources, and minimum waste of land. Basic elements of a planned district ordinance include a statement of the purpose and intent (Section 405.080 Statement of Objectives), eligible zoning districts (Section 405.070 Planned Zoning Districts), and development standards (405.090 Standards of Development).

The proposed code changes to these sections are intended to clarify the standards by which planned district deviations are evaluated and update the list of zoning districts to include the

more recently created districts. The City's attorney has proposed code language which is more in line with the appropriate standard of review while still protecting the public good and the intent of the code. The current code language is too similar to the criteria used to evaluate variances. Attached is a redline copy of the proposed code changes to these sections.

Next Steps

Staff asks that the Planning Commission conduct the public hearing as advertised, discuss the information presented above and the proposed changes, and make a recommendation to the City Council.

Staff Recommendation

Staff recommends approval of the proposed changes to the the code as presented in the redline copy. Text shown as strikethrough will be removed in final version.

Planning Commission Recommendation

The Planning Commission, at their April 24, 2017 meeting, voted 7-0 to recommend approval of the code changes as proposed.

**Section 405.070 Planned Zoning Districts.**

Planned zoning districts and their equivalent districts are as follows:

	<b>Planned District</b>	<b>Equivalent District</b>
"RP-1"	Planned Single-Family Residential	"R-1"
"RP-2"	Planned Two-Family Residential	"R-2"
"RP-3"	Planned Town House District	"R-3"
"RP-4"	Planned Garden Apartment District	"R-4"
"RP-5"	Planned Apartment House District	"R-5"
"RP-6"	Planned High-Rise Apartment District	"R-6"
"CP-O"	Planned Office Building District	"C-O"
"CP-1"	Planned Restricted Business District	"C-1"
"CP-2"	Planned General Business District	"C-2"
"CP-2A"	Pedestrian Oriented Business District	"C2A"
"CP-2B"	General Business District	"C2B"
<u>"MS1"</u>	<u>Main Street District 1</u>	<u>"MS1"</u>
<u>"MS2"</u>	<u>Main Street District 2</u>	<u>"MS2"</u>
<u>"DND"</u>	<u>Downtown Neighborhood District</u>	<u>"DND"</u>
<u>"MXD"</u>	<u>Planned Mixed Use District</u>	<u>"MXD"</u>

**Section 405.080 Statement of Objectives.**

A. *Planned Zoning Districts.* The zoning of land in the City of Mission to one (1) of the planned zoning districts (~~"RP-1" through "RP-6" and "CP-O" through "CP-2B"~~) shall be for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found in projects developed under conventional zoning, but permitting deviations from the normal and established development techniques. The use of planned zoning procedures is intended to encourage large-scale developments, efficient development of small tracts, innovative and imaginative site planning, conservation of natural resources and minimum waste of land. The following are specific objectives of the planned zoning district

1. Proposal to rezone land to a planned district shall be subject to the same criteria relative to compliance with master plans, land use policies, neighborhood compatibility, adequacy of streets and utilities and other elements as is normal in rezoning deliberations.
2. The submission by the developer and the approval by the City of development plans represents a

firm commitment by the developer that development will indeed follow the approved plan ~~in concept, intensity of use, aesthetic levels and quantities and qualities of open space in all aspects.~~

~~3. Deviations in yard requirements, setbacks and relationship between buildings as set out in standards of development may be approved if it is deemed that other amenities or conditions will be gained to the extent that an equal or higher quality of development is produced.~~

43. Residential areas will be planned and developed in a manner that will produce more useable open space, better recreational opportunities, safer and more attractive neighborhoods than under standard zoning and development techniques.

54. Commercial areas will be planned and developed so as to result in attractive, viable and safe centers and clusters, as opposed to strip patterns along thoroughfares. Control of vehicular access, architectural quality, landscaping and signs will be exercised to soften the impact on nearby residential neighborhoods and to assure minimum adverse effects on the street system and other services of the community.

65. The ~~developer-applicant~~ will be given latitude in using innovative techniques in the development of land not feasible under application of standard zoning requirements.

76. Planned zoning shall not be used as a refuge from the requirements of the equivalent district as to intensity of land use, amount of open space or other established development criteria.

87. Any building or portion thereof may be owned in condominium under K.S.A. 58-3101.

98. For purposes of this Title, the term "*shopping center*", "*office park*", "*industrial park*" or other grouping of buildings shall mean developments that were planned as an integral unit or cluster on property under unified control or ownership at the time the zoning was approved by the City. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or portions thereof from complying with development standards, architectural quality, sign concepts and other conditions that were committed at the time of rezoning.

#### Section 405.090 Standards of Development.

A. The amount of signage, open space, buffer zone, yard, parking, play areas, density and height requirements shall be determined by the City Council upon recommendation of the Planning Commission after review of the proposed plan. The City Council and the Planning Commission shall use the requirements and standards found in the corresponding district as detailed in these regulations as a guide in making their determination but may permit deviations from these requirements and standards in the interest of efficient land development and utilization. In reviewing such development plan, the maximum height of buildings and structures within such planned district shall generally be as set out in the corresponding district. It shall be permissible that front, side and rear yards may be reduced to zero in appropriate circumstances.

B. The permitted uses shall be the same as those permitted in the equivalent district unless otherwise altered as part of the development plan approved by the City Council for the specific area to which each planned district applies. Alterations may include allowing additional uses that the underlying district does not otherwise allow as well as prohibiting uses that the underlying district otherwise allows. For example, the City Council may permit mixed residential uses or mixed residential and commercial uses in accordance with the development plan for the planned district.

C. The Planning Commission and/or City Council may require assurance of the financial and administrative organization and ability of any agency created by a developer for the purpose of maintaining common open space and facilities or amenities of a non-public nature.

D. The Planning Commission and City Council may in the process of approving preliminary and final

**Commented [1]:** \* The bracketed language in subsection G herein was inadvertently retained within the revisions made in Ord. No. 1142, however Subsection (F) was deleted in Ord. No. 1142, 12-8-04.

**Formatted:** Indent: Left: 0", Hanging: 0.38"

plans indicate that a portion of the parking area required under this Title may remain unimproved until such time as the City Council deems it must be improved to serve parking demand adequately.

- E. Any deviation from the requirement in the equivalent district may be granted by the Planning Commission and Council only where there is ample evidence that said deviation will not adversely affect neighboring property, nor will it constitute the mere granting of a privilege.
- F. The parking ratio for grouped commercial projects shall as a minimum follow the existing district requirements. However, approval of a preliminary rezoning plan does not exempt the ultimate tenant or tenants from following any higher requirement set forth in this Code for specific uses. Reduction of setbacks or other open space shall be compensated by additional open space in other appropriate portions of the project. In all cases such deviation shall be in keeping with good land planning principles and must be specifically set out in the minutes of the Commission, as well as on plans and other exhibits in the record.

The design of all planned projects, whether residential, commercial, industrial or mixed use, shall be such that access and circulation by fire-fighting equipment is assured and may not be retarded by steep grades, heavy landscaping or building space.

Formatted: Indent: Left: 0.31"

- G. The Planning Commission or City Council may, in the process of approving preliminary plats, final plats, preliminary development plans or final-development plans, approve deviations from the specific terms of this Title which would not be contrary to the public interest and where, owing to special conditions, and provided that the spirit of this ordinance shall be observed, the public safety and welfare is secured and substantial justice done for the property owner or applicant.

An application for a deviation may only be granted upon a finding that all of the following conditions have been met: applicable development standards \*[other than those listed in Subsection (F) of this Section] only if it finds that all of the following conditions are met:

Formatted: Indent: Left: 0.31", First line: 0"

- ~~1. The deviation requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zoning district and is not created by an action or actions of the landowner or the applicant.~~
- ~~2.1 The granting of the deviation will not adversely affect the rights of adjacent landowners or residents/property owners.~~
- ~~3. The strict application of the provisions of this Title would constitute unnecessary hardship upon the landowner represented in the application.~~
- ~~4.2 That Tthe deviation desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.~~
- ~~5.3. The granting of the deviation will not be opposed to the general spirit and intent of this Title.~~
- ~~4. That it has been determined the granting of a deviation will not result in extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing federal or state laws.~~
- ~~5. The granting of the deviation will not be opposed to the general spirit and intent of this Title.~~

<b>City of Mission</b>	Item Number:	7.
<b>DISCUSSION ITEM SUMMARY</b>	Date:	April 27, 2017
<b>Community Development</b>	From:	Brian Scott

Discussion items allow the committee the opportunity to freely discuss the issue at hand.

**RE: Plan Review and Inspection Services - Status Update**

**DETAILS:** Since 2009, the City utilized the Johnson County Department of Planning and Codes for plan review and inspection services. The interlocal agreement was canceled by Johnson County in December due to pending retirements and organizational restructuring within the department. As of January 1st, the City chose to enter into an agreement with the Institute for Building Technology and Safety (IBTS) to provide building plan review and inspection services on a temporary basis while the City reviewed it options for a long-term solution.

IBTS is a national, not-for-profit organization that was formed in the late 1990s for the purpose of providing qualified staff that can assist governmental agencies with technical analysis and services that support their building code and public safety functions. IBTS has recently established an office in the Kansas City area through the auspices of the Mid-America Regional Council (MARC) and has entered into agreements with several communities in the metro area to provide various building code services.

Staff has also been working with the City of Overland Park to explore the feasibility of utilizing their staff for building plan review and inspection services. The proximity of the two communities, similarity in housing stock and commercial development, and familiarity with other agencies in the area seem to make this an ideal situation. Unfortunately, these discussions have not progressed as quickly as we had hoped. Their community development staff has been very busy with a high level of construction activity and the recent apartment fire.

Internally, we have the idea of hiring a full-time building inspector. This presents its own set of challenges in that one, qualified applicants with the appropriate level of training and experience may be difficult to find, and two, to find an applicant with skills in plan review as well as commercial and residential inspections may be even more difficult. Staff plans to post an ad for a Building Inspector in order to determine if bringing the function in-house is even a viable option.

We have also considered soliciting proposals for firms that could provide supplemental building plan review and inspection services. This may be in addition to or in lieu of a full-time staff person. Staff will discuss these options in more detail with the City Council at the Committee meeting.

**CFAA CONSIDERATIONS/IMPACTS: NA**

Related Statute/City Ordinance:	NA
Line Item Code/Description:	NA
Available Budget:	NA