



**DEPARTMENT OF PARKS AND RECREATION**

**R E Q U E S T   F O R  
P R O P O S A L S**

**Magnolia Soccer Complex Sports Field Lighting**

**October – 2016**

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### **FORM OF CONTRACT DOCUMENTS**

FORM OF CONTRACT

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## **REQUEST FOR PROPOSALS**

The City of Salina, Kansas is currently accepting proposals for the design, supply, and installation of a new field lighting system for Fields #4 and #5 at the Magnolia Soccer Complex, 2100 East Magnolia, Salina, Kansas 67401. Sealed proposals will be accepted, at the office of the City Clerk, City-County Building, 300 West Ash, Room 206 Salina, Kansas, until **10:00 a.m. (CST), Tuesday, November 8, 2016**. The proposals will be opened and tabulated at a later date.

### **RFP – Magnolia Soccer Complex Sports Field Lighting**

The specifications and other contract documents are available for public inspection at the office of the Parks and Recreation Department, City-County Building 300 West Ash, Room 100, Salina, Kansas. The documents may be obtained from the office of the Parks and Recreation Department or from the City of Salina website ([www.salina-ks.gov/bids](http://www.salina-ks.gov/bids)).

The City of Salina, Kansas, reserves the right to reject any or all proposals and to waive any irregularities therein.

THE CITY OF SALINA, KANSAS

/s/ Shandi Wicks  
CITY CLERK

# INFORMATION FOR PROPOSERS

## 1. INVITATION TO SUBMIT PROPOSALS

- 1.1 The City of Salina is soliciting sealed Proposals for the design, supply and installation of a new field lighting system for Fields #4 and #5 at the Magnolia Soccer Complex, 2100 East Magnolia, Salina, Kansas 67401. The deadline for receiving Proposals is November 8, 2016, at 10:00 a.m. (CST). All Proposals must be received at the City-County Building, 300 W. Ash, Room 206, P.O. Box 736, Salina, Kansas 67402.
- 1.2 Proposals must be hand-delivered, or sent via return receipt delivery effected by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the City's above-referenced address. Fax proposals will not be accepted. Proposals received after the specified time and date will be returned unopened.
- 1.3 Proposals will be opened and tabulated at a later date.

## 2. DEFINITIONS

- 2.1. Terms used in this Information for Proposers shall have the meanings assigned to them in the General Clauses enclosed herewith, provided that the following additional terms shall have the following meanings:
  - Proposal: A completed and properly signed and submitted offer to provide the services and equipment as specified in the RFP Documents, which includes a price therein as specified by the Proposer, together with all required information and other submittals, and which, if accepted by the City, will bind the Proposer to perform the resultant Contract. The term "Proposal" shall have the same meaning as, and shall be deemed to constitute, a "Bid" for purposes of interpreting the Contract Documents.
  - Proposer: A person or entity who submits a Proposal in accordance with the RFP Documents.
  - RFP Documents: This Request for Proposals and all attachments hereto, and the Proposal.

## 3. DESCRIPTION OF PROJECT

- 3.1. The Magnolia Soccer Complex is located at 2100 East Magnolia, Salina, Kansas. The purpose of this Request for Proposals is to solicit proposals for the design, supply, and installation of a new field lighting system. The Contractor shall provide all labor, materials, equipment, and accessories as required to supply and install of the new lighting system, all in accordance with the Specifications set forth herein.

## 4. PROPOSAL SUBMISSIONS

- 4.1 Written Proposals shall be typewritten or written in ink, in such form and containing such information as requested herein. Officials of corporations shall designate their official title; partners or sole owners shall so state, giving the names of all interested parties. The person signing the Proposal shall initial all corrections or erasures.
- 4.2 Sufficiency of Documents, Interpretations, Addenda.
  - 4.2.1 The submission of a Proposal will constitute an incontrovertible representation that the Proposer will comply with every term and condition of the Contract Documents and that such documents and specifications therein are sufficient in scope and detail to

indicate and convey understanding of all requirements for furnishing the services and all associated parts and equipment.

- 4.2.2 Any questions about the meaning or intent of the Contract Documents or requirements are to be submitted in writing to the Project Manager not less than five (5) calendar days prior to the date of Proposal opening. Questions submitted will be answered by written addenda issued to all prospective Proposers who have obtained a copy of this Request for Proposals from the City. Oral or other interpretations or clarifications will be void, without any legal effect and do not bind the City.
- 4.2.3 Addenda to the Contract Documents shall be properly acknowledged in the Proposer's Proposal.
- 4.3 Proposals with all required submittals shall be submitted at the time and place indicated in this Request for Proposals, in writing within a sealed envelope addressed to the City of Salina, in care of *Shandi Wicks, City Clerk, City-County Building, 300 W. Ash, Room 206, P.O. Box 736, Salina, Kansas 67402* and identified on the outside with Proposer's name and address and the title *RFP-Magnolia Soccer Complex Sports Field Lighting*.
- 4.4 The City is exempt from Kansas sales tax on materials and equipment to be incorporated into the work. Consequently, sales tax shall not be included in the proposed contract price.
- 4.5 All Proposals received will become the property of the City and will not be returned to the Proposers.
- 4.6 All costs incurred by a Proposer in preparation of a Proposal will be borne solely by the Proposer.
- 4.7 All questions concerning this project shall be forwarded to the Project Manager listed below:

Chris Cotten, Director of Parks and Recreation  
300 W. Ash Street, P.O. Box 736  
Salina, KS 67402-0736  
Telephone Number: (785) 309-5765  
Email: [chris.cotten@salina.org](mailto:chris.cotten@salina.org)

## 5. PROPOSAL SECURITY

5.1 The City's Proposal security requirements are as follows: ("X" indicates applicability):

<input checked="" type="checkbox"/>	Each Proposer shall submit with its Proposal a certified check, cashier's check, or an acceptable bidding bond (written on a penal sum form), in the amount of five percent (5%) of the total amount shown on the Proposal. The Proposal security shall be made payable to the City and will serve as a good faith guarantee that the Proposer will enter into any Contract awarded to the Proposer in accordance with the terms of the Proposal. If the Successful Proposer fails or refuses to enter into a Contract, or to hold the Proposal price, terms, or conditions firm, then, in addition to exercising any other available remedy at law or in equity, the City may consider the Proposer to be in default and the Proposal security of that Proposer shall be forfeited and the money derived therefrom will be turned to the use of the City. The City may retain the security of any Proposer until sixty-one (61) days after the Proposal opening, at which time the Proposal security shall be returned to all unsuccessful Proposers.
<input type="checkbox"/>	Proposal security is not required for this project.

**6. MULTIPLE PROPOSALS**

6.1. Proposers may submit more than one Proposal for the City’s consideration, in order to propose different design layouts, technical specifications, or general solutions to the City’s needs. If multiple Proposals are submitted by a single Proposer, each Proposal should be prepared on a separate Proposal Cover Page, and submitted to the City in a separate envelope with the documents and information requested in Section 14 below. If alternate Proposals are submitted, only one Proposal security submission is required, provided that such security is based on the amount of the Proposer’s highest single Proposal.

**7. PROPOSAL WITHDRAWAL**

7.1 Proposals may be withdrawn by notice in writing only if received by the City prior to Proposal opening. After opening, Proposals may not be withdrawn and shall remain open for sixty (60) days.

**8. SITE VISITS**

8.1 Site visits are not mandatory, but interested Proposers are strongly encouraged to visit the Magnolia Soccer Complex before submitting a Proposal. Any interested Proposer wishing to visit the Magnolia Soccer Complex for the purpose of gathering additional information should contact the Project Manager to schedule an appointment.

**9. PROJECT TIMELINE**

9.1 The City’s anticipated schedule for solicitation, commencement, and completion of the project is as follows:

Advertise and Issue Request for Proposals -----	October 24, 2016
Proposals Due and Opened -----	November 8, 2016
Contract Award-----	November 14, 2016
Notice of Award and Execution of Contract -----	November 16, 2016
Submission of Project to Corps of Engineers -----	November 30, 2016
Obtain Approval from Corps; Issue Notice to Proceed -----	Mid-January, 2016

**10. AWARD OF CONTRACT; SELECTION CRITERIA**

10.1 The City reserves the right to reject any and all Proposals; to waive any and all informalities or defects; to disregard all nonconforming, non-responsive or conditional Proposals; or to accept such Proposals as shall be deemed to be in the best interest of the City so to do. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

10.2 In evaluating Proposals, the City will consider the Proposers’ qualifications, understanding of the project and proposed solution, experience, references, cost proposal, ability to meet the project deadlines, and overall ability to satisfy the City’s needs. The City may also consider operating, maintenance and supply costs, service response time, performance data, guarantees of materials and equipment and any other such data at the City’s discretion.

10.3 The City may award a contract on the basis of initial Proposals received. However, the City reserves the right to request additional information from any or all Proposers. Therefore, each Proposal submitted should contain the Proposer’s best terms.

10.4 Within ten (10) days of receiving a notice of award, the successful Proposer shall execute a Contract with the City, in a form substantially similar to that attached hereto. Proposers should include with their Proposal submissions any proposed changes or alternative contract

language for the City's consideration and potential negotiation. Submission of a Proposal shall be deemed an offer to contract on the terms set forth in the City's proposed Contract, unless exceptions or alternative contract terms are otherwise expressly indicated in the submitted Proposal.

## 11. PERMITS AND AUTHORIZATIONS

11.1 The Contractor shall, at its own cost and expense, secure from the City's Development Services Department all permits, authorizations, and licenses necessary for the prosecution of the Work.

11.2 The Magnolia Soccer Complex is located near the levy for the Smoky Hill River, and all excavations for the Project must therefore be approved by the U.S. Army Corps of Engineers (the "Corps") prior to the commencement of any Work. Following the execution of a Contract between the City and the Contractor, the Contractor shall coordinate and cooperate with the City's Engineering Department to submit all information and documents to the Corps for approval. It is anticipated that Corps' approval process may take up to 8-10 weeks. Items to submit to the Corps include underseepage and uplift calculations. Other submittals may be required, and general guidance documents can be found at <http://www.nwk.usace.army.mil/Missions/Engineering-Division/Geotechnical-Branch/Geotechnical-Design-and-Dam-Safety/>.

If the Corps' approval cannot reasonably be obtained by the City, the City may voluntarily terminate the Contract upon written notice to the Contractor. In the event of such termination by the City, the Contractor shall be compensated for such services as have been satisfactorily performed by the Contractor at the written request of the City for purposes of applying for and pursuing the Corps' approval of the Work, but no compensation shall be earned after the effective date of the termination.

## 12. INSURANCE AND SURETY BONDS

12.1 The Contractor shall obtain and maintain insurance coverage as specified in the proposed Contract and General Clauses.

12.2 Before any Work may commence on this project, and as a condition to the effectiveness of any Contract with the Contractor, the Contractor shall be required to submit a Performance Bond and Payment Bond, in the amount of 100% of the total contract price, and in the forms attached hereto. Such bonds shall be delivered to the City within ten (10) days after the written notice of award.

## 13. GENERAL SCOPE OF WORK; SPECIFICATIONS

13.1. The Contractor shall provide a complete, new, turnkey lighting system capable of handling all of the functions as described herein, and Proposers are expected to provide all equipment, material, design and initial installation supervision, tools, transportation, and any other resources necessary to provide and install the complete system. In addition, the Contractor will perform and be responsible for all items listed in **RFP Attachment #1 – Scope of Work**.

13.2. The lighting system and Work shall conform to the Specifications listed in **RFP Attachment #2 – Specifications**.

## 14. PROPOSAL FORM AND REQUIREMENTS

14.1 To submit a Proposal, the Proposer must complete and submit the Proposal Cover Page, in the form attached hereto as **RFP Attachment #3**. The Proposal Cover Page shall, among other

things, provide a cost proposal for all of the proposed Work, including design, accessories and equipment, delivery, and installation. The completed Proposal Cover Page form will serve as the cover page for the remaining documents and information requested in the submittal checklist that follows the Proposal Coverage Page.

**RFP ATTACHMENT #1**  
**SCOPE OF WORK**

1. General Scope of Work

1.1 The Contractor shall be responsible for the supply, design and installation of new lighting on fields #4 and #5 at the Magnolia Soccer Complex. The Contractor shall provide all labor, materials, equipment, accessories, etc. as required to complete and provide operation for the supply and installation of new lighting systems as per the Contract Documents.

1.2 Power to the new lights will be fed from the existing power grid located in close proximity to the concession stand and restroom facility.

1.3 The Contractor shall be responsible for the excavation, trench(s), holes, installation of the new lights, as required for a complete and successful operation of the new systems.

1.4 The Contractor shall be responsible to repair or maintain existing conditions of asphalt, lawn, sidewalk and will work with City staff to relocate and repair existing irrigation as needed to ensure that field irrigation works successfully before the job is considered complete. The Contractor shall be responsible for all cutting and patching of asphalt and pavement.

1.5 All shop drawings related to the new lighting system shall be prepared and stamped by a professional engineer, licensed to practice in the State of Kansas.

1.6 All shop drawings and detailed scopes of work shall be submitted to the City of Salina for approval, prior to commencing work. Shop drawings shall include the following:

- a.) Light layout showing the pole locations, number of poles and lights, foot candles, materials, installation procedure, assemblies, methods of joining, bonding, etc.
- b.) Clearly show all dimensions, materials, method of construction, trench layout including all conductors from service entrance to individual light poles.
- c.) Layout for the existing service entrance showing the panel sizes, sub panels, types of panels, breakers, disconnect switch etc.

1.7 The Contractor's professional engineer shall be responsible to size the breakers, underground conduit, wires, and soils to be used for the direct burial duct trenches.

1.8 Pole foundation plans shall be approved by a structural engineer, licensed in the State of Kansas. Lighting design shall require soil conditions to be of adequate bearing strength. The professional engineer shall be responsible for the specification of the base for secure installation of the light poles.

1.9 All shop drawings shall be in AutoCad format.

1.10 Prior to excavation, the Contractor shall be responsible to locate and mark the route

of the existing underground services, power, phone, natural gas, water and sewage.

1.11 All underground wires shall be in conduits.

1.12 All electrical installation to be in accordance with the 2016 National Electric Code.

1.13 The Contractor shall be responsible to verify the field dimensions by conducting their own field survey.

1.15 Supply and install underground duct and conductors from the electrical service grid to each individual light pole.

1.16 Licensed electrician shall be on site at all times during the construction.

1.17 The trench for the underground conduit shall be filled with material approved by the U.S. Army Corps of Engineers.

1.18 The installation shall be performed in accordance with manufacturer's pole locations, specifications and approvals.

1.19 The Contractor shall be responsible to coordinate all aspects of this installation to ensure successful completion of the project in accordance with the City's specifications and manufacturers requirements.

1.20 All materials and equipment shall be new and of the best quality.

1.21 For the 3 phase services, the load shall be connected such that the current for each phase shall be equal within 10%.

1.22 The Contractor shall provide revised electrical distribution plans to include change to service entrance, panel size and wiring if necessary.

## 2. Permits and Licenses; Subcontractors

2.1 The Contractor shall be responsible to obtain and pay for all licenses and permits which may be required to comply fully with laws, ordinances and regulations of the proper public authorities, in connection with the performance of this Work.

2.2 This is a turnkey project. The Contractor shall specify in its Proposal the name of each subcontractor and the object and details of all the subcontractors it proposes to enter into with each of them. The subcontractor will be expected to meet the same standards and quality of work as those required from the Contractor. The Contractor will be held responsible for all aspects of the Work carried out by the subcontractor and suppliers. The City retains the right to approve all subcontractors. However, any approval of subcontractors shall not diminish the responsibility of the Contractor.

## 3. Labeling

3.1 The Contractor shall be responsible for labeling and tagging all equipment using 3 ply

thick plastic engraving sheet, white face, black core and supplying and installing a typed directory for all the panels and sub-panels.

4. Compliance with Corps Requirements.

4.1 The Contractor shall comply with all requirements of the U.S. Army Corps of Engineers. General guidance documents can be found at:

<http://www.nwk.usace.army.mil/Missions/Engineering-Division/Geotechnical-Branch/Geotechnical-Design-and-Dam-Safety/>

**RFP ATTACHMENT #2  
SPECIFICATIONS**

**SPORTS FIELD LIGHTING SPECIFICATIONS**

**PART 1 – GENERAL**

**1.1 SUMMARY**

- A. Work covered by this section of the Specifications shall conform to the Contract Documents, engineering plans as well as state and local codes.
- B. The purpose of these Specifications is to define the performance and design standards for the City. The Contractor shall supply lighting equipment to meet or exceed the standards set forth by the criteria set forth in these Specifications.
- C. The sports lighting will be for the following fields:
  - 1. Fields #4 and #5 at the Magnolia Soccer Complex
- D. The primary goals of this sports lighting project are:
  - 1. Environmental Light Control: These fields are located in the Magnolia Soccer Complex. It is a goal of this project to minimize spill light and glare; in most instances this will require visors on the light fixtures.
  - 2. Guaranteed Light Levels: Selection of appropriate light levels impact the safety of the players and the enjoyment of spectators. Therefore, the lighting system shall be designed such that the light levels are guaranteed for a period of 30 years.

**1.2 LIGHTING PERFORMANCE**

- A. Performance Requirements: Playing surfaces shall be lit to a target average illuminance level and uniformity as specified in the chart below. Light levels shall be held guaranteed for 30 years. Lighting calculations shall be developed and field measurements taken on the grid spacing with the minimum number of grid points specified below. Measured average illumination level shall be +/- 10% of predicted mean in accordance with IESNA RP-6-01, and measured at the first 100 hours of operation.

Area of Lighting	Target average Light Levels	Maximum to Minimum Uniformity Ratio	Grid Points	Grid Spacing
Soccer	30 foot candles	2.0:1.0	96	30' x 30'

- B. Mounting Heights and Pole Details: To ensure proper aiming angles for reduced glare and to provide better playability, the pole heights shall be 60' minimum.

### **1.3 Monitoring and Controls**

- A. Digital wireless controls: providing the following functions, integrated into a control station with multiple presets and individual light zone control. Control system shall include the following features:
  - 1. System shall allow owner and users with a security code to schedule on/off system operation via a web site, phone, fax or email up to ten years in advance. Manufacturer shall provide and maintain a two-way TCP/IP communication link. Trained staff shall be available 24/7 to provide scheduling support and assist with reporting needs.
- B. Time Management System:
  - 1. Management Tools: Contractor shall provide a web-based database of actual field usage and provide reports by facility and user group.
  - 2. Hours of Usage: Contractor shall provide a means of tracking actual hours of usage for the field lighting system as is readily accessible to the owner.
  - 3. Cumulative hours: shall be tracked to show the total hours used by the facility
  - 4. Current lamp hours: shall be tracked separately to reflect the number of hours on the current set of lamps being used, so re-lamping can be scheduled accurately
- C. Wireless Remote Monitoring:
  - 1. Remote Monitoring System: System shall monitor lighting performance and notify manufacturer if individual luminaire outage is detected so that appropriate maintenance can be scheduled. The Contractor shall notify the City of outages within 24 hours, or the next business day. The controller shall determine switch position (Manual or Auto) and contactor status (open or closed).
- D. Communication Costs: The Contractor shall include communication costs for operating the controls and monitoring system for a period of 25 years

### **1.4 WARRANTY AND GUARANTEE**

- A. 30-Year Warranty: The Contractor shall supply a signed warranty covering the entire system for 30 years. Warranty shall guarantee light levels; lamp replacements; system energy consumption; monitoring, maintenance and control services, and structural integrity, excludes fuses, storm damage, vandalism, abuse and unauthorized repairs or alterations. Group lamp replacements for constant light systems must occur in accordance with the independent test report provided by the Contractor.

### **1.5 PRE-PROPOSAL SUBMITTAL REQUIREMENTS**

- A. Approved Product:
  - 1. Qualite Sports Lighting System
  - 2 Musco Structure Green
  - 3 Techline Sports Lighting System
  - 4 Philips Sportslighter

- B. All alternates must provide a complete submittal package for approval as outlined in the RFP at least 10 days prior to the deadline for Proposal submission. Special manufacturing to meet the standards of this Specifications may be required. An addendum will be issued prior to the Proposal submission deadline listing any other approved alternate lighting manufacturers and designs.
- C. Design Approval: The City will review pre-Proposal shop drawings from the Proposers to ensure compliance to the Specifications. If the design meets the design requirements of the Specifications, a letter will be issued to the Proposer indication approval for the specific design submitted.

**1.6 ALTERNATE SYSTEM REQUIREMENTS**

- A. Compliance to Specifications: Acceptance of a Proposal alternate does not negate the Contractor's and lighting manufacturer's responsibility to comply fully with the requirements of these specifications. Any exceptions to the Specifications must be clearly stated in the prior approval submittal documents.

Requirements shall be submitted at least 10 days prior to Proposal submission for alternates. No submittals will be accepted after that date.

Failure to provide any of the following information at Proposal time will be grounds for rejection of a Proposal. Each item listed below shall be provided in the form of clear and concise statements and/or plans and drawings, which can be easily read and clearly interpreted. Each item shall also be clearly numbered to correspond with the following list. All items shall be assembled in the order indicated and secured or bound in a neat and orderly fashion for easy use and reference.

- 1) Written copy of manufacturer's warranty meeting specifications for the lighting system (30 years).
- 2) A computer derived lighting layout showing point-by-point foot candle levels on playing surface.
- 3) Lighting plan indicating:
  - Aim Points
  - Lamp lumens used for design
  - Written statement of average foot candle levels.
  - Written statement of uniformity ratio.
  - Written statement showing the individual lowest target points value
  - Technical specifications for all equipment for the Proposal.
- B. If a stepped capacitance system is used the initial, maintained, and timing must be submitted per stepped cycle.
- C. Revised Electrical Distribution: Provide revised electrical distribution plans to include changes to service entrance, panel, and wire sizing.

## **PART 2 – PRODUCT**

### **2.1 LIGHTING SYSTEM CONSTRUCTION**

A. System Description: Lighting system shall consist of the following

1. Pole Composition

- (a) Steel or concrete poles and Galvanized steel cross arm assembly;
- (b) Stresscrete pre-stressed concrete pole; or
- (c) Sectional type hot-dipped galvanized steel poles with pre-stressed centrifugally spun concrete base pier.

2. All poles must be embedded in material approved by the U.S. Army Corps of Engineers per the manufacturer's guidelines.

3. All luminaires shall be constructed with a spun aluminum housing.

4. Contractor will remote all ballasts and supporting electrical equipment in NEMA 3R enclosures galvanized, powder coated and mounted approximately 10' above grade. The enclosures shall include ballast, capacitor and fusing for each luminaire. Safety disconnect per circuit for each pole structure will be located within the enclosure assembly.

B. Wire harness complete with an abrasion protection sleeve, strain relief and plug-in connections for fast, trouble-free installation.

1. Manufacturing Requirements: All components shall be designed, manufactured and UL approved as a system. All luminaires, wire harnesses, ballast and other enclosures shall be factory assembled, aimed, wired and tested.

C. Durability: All exposed components shall be constructed of corrosion resistant material and/or coated to help prevent corrosion. All exposed steel shall be hot dip galvanized per ASTM A123. All exposed hardware and fasteners shall be stainless steel of at least 18-8 grade, passivated and polymer coated to prevent possible galvanic corrosion to adjoining metals. All wiring shall be enclosed within the cross arms, pole, or electrical components enclosure.

D. Lightning Protection: All structures shall be equipped with lightning protection meeting NFPA 780 standards. Contractor shall supply and install a ground rod of not less than 5/8" in diameter and 10' in length, with a minimum of 10' embedment. Ground rod should be connected to the structure by a copper main down conductor with a minimum size of #2.

E. Safety: All system components shall be UL Listed for the appropriate application.

F. Electric Power Requirements for the Sports Lighting Equipment:

1. Electric power: **New 225 Amp service, 480 Volt 3 phase**

2. Maximum total voltage drop: Voltage drop to the disconnect switch located on the poles shall not exceed three (3) percent of the rated voltage.

### **2.2 STRUCTURAL PARAMETERS**

A. Support Structure Wind Load Strength: Poles and other support structures, brackets, arms, bases, anchorages and foundations shall be determined based on 2016 National Building Code, wind speed of 90 MPH.

B. Structural Design: The stress analysis and safety factor of the poles shall conform to 2016 National Building Code.

C. Soil Conditions: The foundation design shall be based on soils of 2,000 psf.

It shall be the Contractor's responsibility to notify the City if soil conditions exist other than those on which the foundation design is based, or if the soil cannot be readily excavated. Contractor may issue a change order request / estimate for the City's approval / payment for additional costs associated with:

- a) Additional materials required to achieve alternate foundation.
- b) Excavation and removal of materials other than normal soils, such as rock, caliche, etc.

D. Foundation Drawings: Project specific foundation drawings stamped by a registered engineer in the State of Kansas for where the project is located are required.

E. Detailed plans and specifications for the project stamped by an electrical engineer of the State of Kansas.

### **PART 3 – EXECUTION**

#### **3.1.FIELD QUALITY CONTROL**

A. Illumination Measurements: Upon substantial completion of the project and in the presence of the Contractor, Contractor's professional engineer, Owner's Representative, and Manufacturer's Representative, illumination measurements shall be taken and verified. The illumination measurements shall be conducted in accordance with IESNA RP-6-01, Appendix B.

B. Correcting Non-Conformance: If, in the opinion of the City or its appointed representative, the actual performance levels including foot-candles, uniformity ratios, and maximum kilowatt consumptions are not in conformance with the requirements of the performance specifications and submitted information, the Contractor shall be liable to any or all of the following:

- 1. Contractor shall, at its sole cost and expense, provide and install any necessary additional fixtures to meet the minimum lighting standards. The Contractor shall also either replace the existing poles to meet the new wind load (EPA) requirements or verify by certification by a licensed structural engineer that the existing poles will withstand the additional wind load.

**RFP ATTACHMENT #3  
PROPOSAL COVER PAGE FOR  
MAGNOLIA SPORTS COMPLEX SPORTS FIELD LIGHTING**

TO THE BOARD OF COMMISSIONERS  
CITY OF SALINA, KANSAS

Commissioners:

1. **Proposal to Enter into Contract.** The undersigned Proposer proposes and agrees, if this Proposal is accepted, to enter into a Contract with the City to perform all Work as specified or indicated in the proposed Contract Documents and this Proposal, for the prices and within the times indicated in this Proposal, and in accordance with the other terms and conditions of the proposed Contract Documents.

2. **Proposer Acknowledgments.** Proposer accepts all of the terms and conditions of the Contract Documents. This Proposal will remain subject to acceptance for sixty (60) days after the Proposal opening, or for such longer period of time that Proposer may agree to in writing upon request by the City. Proposer will sign and deliver the required number of counterparts of the Contract with the bonds and other required documents, within ten (10) days after the date of the City's notification of award.

3. **Proposer's Representations.** In submitting this Proposal, Proposer represents that:

- a. Proposer has carefully reviewed the Contract Documents, and the following addenda, receipt of which is hereby acknowledged (*Note to Proposers – In this section, please indicate the title and date of each addendum received – e.g., "Addendum #1, dated \_\_\_\_\_, 2016"*):

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

Proposer understands and agrees that in signing this Proposal, Proposer waives all right to plead any misunderstanding regarding the Contract Documents or the above-referenced addenda.

- b. Proposer has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- c. Proposer has given the Project Manager written notice of all conflicts, errors, ambiguities, or discrepancies that Proposer has discovered in the proposed

Contract Documents, and the Project Manager’s written explanation is acceptable to Proposer.

4. **Price Proposal.** Proposer will complete the Work as specified in this Proposal and in accordance with the Contract Documents for the following lump sum price: \_\_\_\_\_ (\$ \_\_\_\_\_) (include attachment for any additional pricing options).

5. **Time of Completion.**

a. Proposer agrees that the Work will be completed and ready for final payment in accordance with the General Clauses within \_\_\_\_\_ days after the City receives approval for all excavations from the U.S. Army Corps of Engineers and issues a notice to proceed.

6. **Corps of Engineers’ Approval.** Proposer acknowledges and agrees that, if this Proposal is accepted by the City, the City’s obligations under any resultant Contract shall be subject to the express condition precedent of the U.S. Army Corps of Engineers’ approval of the Work. If the Corps’ approval cannot reasonably be obtained by the City, the City may voluntarily terminate the Contract upon written notice to the Contractor. In the event of such termination by the City, the Contractor shall be compensated for such services as have been satisfactorily performed by the Contractor at the written request of the City for purposes of applying for and pursuing the Corps’ approval of the Work, but no compensation shall be earned after the effective date of the termination.

7. **Definitions.** Terms used in this Proposal shall have the meanings assigned to them in the General Clauses included with the proposed Contract Documents.

8. **Enclosures.** Proposer has completed and attached hereto a submittal checklist and all documents and information requested therein.

NAME OF PROPOSER: \_\_\_\_\_

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

E-MAIL ADDRESS: \_\_\_\_\_

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

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

DATE SUBMITTED: \_\_\_\_\_

**SUBMITTAL INFORMATION**  
**Design Submittal Data Checklist and Certification**

The following checklist must be completed and submitted with each submitted Proposal.

<b>Included</b>	<b>Tab</b>	<b>Item</b>	<b>Description</b>
	<b>A</b>	Letter/ Checklist	Listing of all information being submitted must be included on the table of contents. List the name of the Proposer's local representative and his/her phone number. Signed submittal checklist to be included.
	<b>B</b>	On Field Lighting Design	Lighting design drawing(s) showing: a. Field Name, date, file number, prepared by, and other pertinent data b. Outline of field(s) being lighted, as well as pole locations referenced to the center of the field (x & y). Illuminance levels at grid spacing specified c. Pole height, number of fixtures per pole, as well as luminaire information including wattage, lumens and optics d. Height of meter above field surface e. Summary table showing the number and spacing of grid points; average, minimum and maximum illuminance levels in foot candles (fc); uniformity including maximum to minimum ratio, coefficient of variance and uniformity gradient; number of luminaires, total kilowatts, average tilt factor; light loss factor. f. If bidding constant light, Independent field test report from licensed professional engineer g. Alternate manufacturers shall provide both initial and maintained light scans using a maximum Recoverable Light Loss Factor as specified in section 1.8 to calculate maintained values.
	<b>C</b>	Off Field Lighting Design	Lighting design drawings showing spill light levels in foot-candles as specified.
	<b>D</b>	Photometric Report	Provide photometric report for a typical luminaire used showing candela tabulations as defined by IESNA Publication LM-35-02. Photometric data shall be certified by laboratory with current National Voluntary Laboratory Accreditation Program or an independent testing facility with over 5 years' experience.
	<b>E</b>	Luminaire Aiming Summary	Document showing each luminaire's aiming angle and the poles on which the luminaires are mounted. Each aiming point shall identify the type of luminaire.
	<b>F</b>	Structural Calculations	Pole structural calculations and foundation design showing foundation shape, depth backfill requirements, rebar and anchor bolts (if required). Pole base reaction forces shall be shown on the foundation drawing along with soil bearing pressures. Design must be stamped by a structural engineer in the state of Kansas.
	<b>G</b>	Control and Monitoring	Proposer shall provide written definition and schematics for automated control system to include monitoring. They will also provide examples of system reporting and access for numbers for personal contact to operate the system.
	<b>H</b>	Electrical distribution plans	If proposing an alternate system, Proposer must include a revised electrical distribution plan including changes to service entrance, panels and wire sizing, signed by a licensed Electrical Engineer in the state of Kansas.
	<b>I</b>	Performance Guarantee	Provide performance guarantee including a written commitment to undertake all corrections required to meet the performance requirements noted in these specifications at no expense to the owner. Light levels must be guaranteed per specification for 30 years.
	<b>J</b>	Warranty	Provide written warranty information including all terms and conditions.
	<b>K</b>	Project References	Proposer to provide a list of 5 project references of similar projects completed within the past three years.
	<b>L</b>	Product Information	Complete set of product brochures for all components, including a complete parts list and UL Listings.
	<b>M</b>	Subcontractor List	Provide a list of any proposed subcontractors, indicating each subcontractor's assigned task(s) and relevant experience.
	<b>N</b>	Schedule	Proposer to provide detailed timeline on the project from beginning to end.
	<b>O</b>	Non-Compliance	Proposer shall list all items that do not comply with the specifications.
	<b>P</b>	Compliance	Proposer shall sign off that all requirements of the specifications have been met and that the Proposer will be responsible for any future costs incurred to bring their equipment into compliance for all items not meeting specifications and not listed in item N – Non-Compliance
	<b>Q</b>	Proposal Security	Provide Proposal security as required by Section 5 of the RFP.



**CONTRACT BETWEEN THE CITY OF SALINA, KANSAS**  
**and**  
\_\_\_\_\_  
**for**  
**CONSTRUCTION OF PUBLIC IMPROVEMENTS**

This Contract is entered into \_\_\_\_\_, 201\_\_ by and between the City of Salina, Kansas, (the "City") and \_\_\_\_\_, a \_\_\_\_\_ (the "Contractor").

**Recitals**

A. The City desires to contract for the construction of public improvements described as \_\_\_\_\_ (the "Project") in compliance with federal, state, and local regulations.

B. The Contractor has the requisite qualifications and experience to construct the Project for the City and desires to perform those services pursuant to the terms of this Contract.

The parties, in consideration of the mutual promises set forth in this Contract, agree and covenant:

1. **Definitions.** Except as otherwise provided herein, capitalized words used in this Contract shall have the meanings indicated in the General Clauses.

2. **Contract Documents.** This Contract, together with the following documents and any Change Orders issued after execution of this Contract, shall comprise the "Contract Documents" for the Project:

Mark with "X" if applicable:

Request for Bids	<input checked="" type="checkbox"/>
Instructions to Bidders	<input checked="" type="checkbox"/>
Bid Form	<input checked="" type="checkbox"/>
Performance Bond	<input checked="" type="checkbox"/>
Statutory Payment Bond	<input checked="" type="checkbox"/>
Specifications	<input checked="" type="checkbox"/>
Drawings	<input checked="" type="checkbox"/>
General Clauses	<input checked="" type="checkbox"/>
Notice to Proceed (to be issued)	<input checked="" type="checkbox"/>
Certificate of Completion (to be issued)	<input checked="" type="checkbox"/>
Other: _____	<input type="checkbox"/>

There are no Contract Documents other than those above listed.

**3. Responsibilities and Representations of the Parties.**

3.1. **Responsibilities.** The parties agree to perform the responsibilities outlined in the Contract Documents.

3.2. **Representations.** In order to induce the City to enter into this Contract, the Contractor represents that it has: (a) examined and carefully studied the Contract Documents and the other related data identified in the Contract Documents; (b) visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress and performance of the Work; and (c) become aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

**4. Schedule and Completion Times.**

4.1. Time is of the Essence. All of the time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of this Contract.

4.2. Completion Times. The Work will be substantially completed, and completed and ready for final payment in accordance with the General Clauses, on or before the date(s) or within the time(s) specified in the Contractor's Bid.

~~4.3. Liquidated Damages. The parties recognize that the City will suffer financial loss if the Work is not completed on or before the date(s) or within the time(s) specified in the Contractor's Bid, plus any extensions thereof allowed in accordance with the General Clauses. The parties also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed on time. Therefore, for each day that expires after the time specified in the Contractor's Bid for Substantial Completion until the Work is substantially complete as fixed in the certificate of Substantial Completion, and for each day that expires after the time specified in the Bid for completion and readiness for final payment until the Work is completed and ready for final payment as fixed in the certificate of final completion, the Contractor agrees to pay liquidated damages to the City in the amount of \$ \_\_\_\_\_, in accordance with the General Clauses.~~

5. Payment. The City shall pay the sum or sums due the Contractor, at stated intervals and in the amounts certified by the City Manager, or his designated representative, in accordance with the provisions of the General Clauses and the Contractor's Bid.

**6. Insurance Requirements.**

6.1. Types and Amount of Coverage. The Contractor agrees to obtain insurance coverage as specified in the General Clauses, and shall not make any material modification or change from these specifications without the prior approval of the City. If the Contractor subcontracts any of its obligations under this Contract, the Contractor shall require each such subcontractor to obtain insurance coverage as specified in the General Clauses. Failure of the Contractor or its subcontractors to comply with these requirements shall not be construed as a waiver of these requirements or provisions and shall not relieve the Contractor of liability.

6.2. Rating. All insurance policies shall be issued by insurance companies rated no less than A- VII in the most recent "Bests" insurance guide, and admitted in the State of Kansas. Except as otherwise specified in the General Clauses, all such policies shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved.

6.3. Certificate of Insurance. The parties acknowledge that the Contractor has provided the City with a certificate of insurance listing the City as the Certificate Holder and evidencing compliance with the insurance requirements in this Contract. The City reserves the right to require complete certified copies of all insurance policies procured by the Contractor pursuant to this Contract, including any and all endorsements affecting the coverage required hereunder.

7. Injury to Persons or Damage to Property. The Contractor acknowledges responsibility for any injury to person(s) or damage to property caused by its employees or agents in the performance of its duties under this Contract and shall immediately notify the City's Risk Management Department at (785) 309-5705 in the event of such injury to person(s) or damage to property.

8. Indemnification. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees and court costs) attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, to the extent that such claims, damages, losses, and expenses relate to, arise out of, or are alleged to have resulted from the wrongful acts, errors, mistakes, omissions, or defective work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract.

**9. Voluntary Termination.** See General Clauses. In addition, the Contractor acknowledges and agrees that the City's obligations under this Contract shall be subject to the express condition precedent of the U.S. Army Corps of Engineers' (the "Corps") approval of all Work. If the Corps' approval cannot reasonably be obtained by the City, the City may voluntarily terminate this Contract upon written notice to the Contractor. In the event of such termination by the City, the Contractor shall be compensated for such services as have been satisfactorily performed by the Contractor at the written request of the City for purposes of applying for and pursuing the Corps' approval of the Work, but no compensation shall be earned after the effective date of the termination.

**10. Default.** See General Clauses.

**11. Remedies.** See General Clauses.

**12. Non-Assignable.** Due to the unique qualifications and capabilities of the Contractor, neither the rights nor responsibilities provided for under this Contract shall be assignable by either party, either in whole or in part.

**13. Notices.** All notices required or permitted to be given pursuant to this Contract shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, commercial courier or overnight air courier service. Notice shall be considered given when received on the date appearing on the return receipt, but if the receipt is not returned within five (5) days, then three (3) days after mailed, if sent by registered or certified mail or commercial courier service; or the next business day, if sent by overnight air courier service. Notices shall be addressed as appears below for each party, provided that if any party gives notice of a change of name or address, notices to the giver of that notice shall thereafter be given as demanded in that notice.

CITY: City of Salina  
Attn: \_\_\_\_\_  
300 W. Ash St., P.O. Box 736  
Salina, KS 67402-0736

CONTRACTOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**14. Retention and Inspection of Records.** The Contractor shall maintain complete, accurate, and clearly identifiable records with respect to all costs and expenses incurred under this Contract. The records shall be maintained during the term of this Contract, and for a period of three (3) years from the date of final payment under this Contract (the "Retention Period"); provided, however, that if any litigation, claim or audit is commenced prior to the expiration of the Retention Period, then the Retention Period shall be extended until all litigation, claims or audit findings have been completely terminated or resolved, without right of further appeal. During the Retention Period, the Contractor shall allow a representative of the City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to, or arising under, this Contract. The City agrees to responsibly utilize all information obtained pursuant to this paragraph for the purposes of reviewing, confirming, and verifying the nature and amount of all costs and expenses incurred under this Contract. The City agrees to take reasonable precautions not to disclose such information outside the scope of those stated purposes, subject to the Kansas open records act or other applicable law.

**15. Non-appropriation.** The City is subject to Kansas budget and cash basis laws, and operates on a calendar fiscal year. In the event that this Contract involves financial obligations spanning multiple fiscal years for the City, it is subject to annual appropriation by the City's governing body for future fiscal years. If the City's governing body does not appropriate the funds necessary to fulfill the City's financial obligations pursuant to this Contract, the City shall so notify the other parties to this Contract and this Contract shall be null and void for purposes of the fiscal year(s) affected by the decision of the governing body not to appropriate.

**16. Relationship.** It is expressly understood that Contractor in performing services under this Contract, does so as an independent contractor. The City shall neither have nor exercise any control or direction over the methods by which Contractor performs its services hereunder. The sole interest and responsibility of the City is to see that

the services covered by this Contract are performed and rendered in a competent, efficient, and satisfactory manner. Contractor shall be exclusively responsible for all taxes, withholding payments, employment-based benefits, deferred compensation plans, including but not limited to its workers compensation and social security obligations, and the filing of all necessary documents, forms, or returns pertinent to the foregoing.

**17. Subcontracting.** See General Clauses.

**18. Compliance with Applicable Law.** Contractor shall comply with all applicable federal, state, and local law in the performance of this Contract.

**19. Equal Opportunity.**

(a) In conformity with the Kansas act against discrimination and Chapter 13 of the Salina Code, the Contractor and its subcontractors, if any, agree that:

(1) The Contractor shall observe the provisions of the Kansas act against discrimination and Chapter 13 of the Salina Code and in doing so shall not discriminate against any person in the performance of work under this Contract because of race, sex, religion, age, color, national origin, ancestry or disability;

(2) The Contractor shall include in all solicitations, or advertisements for employees, the phrase “equal opportunity employer,” or a similar phrase to be approved by the city’s human relations director;

(3) If the Contractor fails to comply with the manner in which the Contractor reports to the Kansas human rights commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Contractor shall be deemed to have breached this Contract and it may be canceled, terminated or suspended, in whole or in part, by the City;

(4) If the Contractor is found guilty of a violation of Chapter 13 of the Salina Code or the Kansas act against discrimination under a decision or order of the Salina human relations commission or the Kansas human rights commission which has become final, the Contractor shall be deemed to have breached this Contract and it may be canceled, terminated or suspended, in whole or in part, by the City;

(5) The Contractor shall not discriminate against any employee or applicant for employment in the performance of this Contract because of race, sex, religion, age, color, national origin, ancestry or disability; and

(6) The Contractor shall include similar provisions in any subcontract under this Contract.

(b) The provisions of this section shall not apply to this Contract if the Contractor:

(1) Employs fewer than four employees during the term of this Contract; or

(2) Contracts with the City for cumulatively \$5,000 or less during the City’s calendar fiscal year.

**20. Administration of Contract.** All references in this Contract requiring the City’s participation or approval shall mean the participation or approval of the City Manager or his designee, unless otherwise provided herein.

**21. Attorney Fees.** If any suit or action is instituted by either party hereunder, including all appeals, the prevailing party in such suit or action shall be entitled to recover reasonable attorney fees and expenses from the non-prevailing party, in addition to any other amounts to which it may be entitled.

**22. Right to Independent Legal Advice.** The Contractor understands and acknowledges the right to have this Contract reviewed by legal counsel of the Contractor’s choice.

**23. Applicable Law; Venue.** This Contract and its validity, construction and performance shall be governed by the laws of Kansas. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be in the Saline County, Kansas District Court.

**24. Interpretation.** This Contract shall be interpreted according to its fair meaning, and not in favor of or against any party.

**25. Time.** Time is of the essence of this Contract. No extension will be granted unless in writing and signed by the parties. Should the end of a time period fall on a legal holiday that termination time shall extend to 5:00 p.m. of the next full business day.

**26. Severability.** The unenforceability, invalidity, or illegality of any provision of this Contract shall not render the other provisions unenforceable, invalid, or illegal.

**27. Authority and Consent to Transaction.** Each party represents to the other that the person executing this Contract has full and legal authority to bind such party to the terms of this Contract, and that the execution and delivery of this Contract have been duly and validly authorized by the governing body of each party.

**28. Persons Bound.** This Contract shall extend to and bind the heirs, executors, administrators, trustees, successors and authorized assigns of the parties hereto.

**29. Counterparts.** This Contract may be executed in any number of counterparts, each of which shall be deemed an original, or in multiple originals, and all such counterparts or originals shall for all purposes constitute one agreement.

**30. Amendments.** Neither this Contract nor any of its terms may be changed or modified, waived, or terminated except by an instrument in writing signed by an authorized representative of the party against whom the enforcement of the change, waiver, or termination is sought.

**31. Waiver.** No failure or delay by a party hereto to insist on the strict performance of any term of this Contract, or to exercise any right or remedy consequent to a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. No waiver of any breach hereunder shall affect or alter the remaining terms of this Contract, but each and every term of this Contract shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

**32. Conflict Resolution.** No interpretation of this Contract shall be allowed to find the City has agreed to binding arbitration.

**33. No Third Party Beneficiaries.** Solely the parties to this Contract shall have rights and may make claims under this Contract. There are no intended third party beneficiaries under this Contract, and no third parties shall have any rights or make any claims hereunder.

**34. Typewritten or Handwritten Provisions.** Typewritten or handwritten provisions inserted or attached, and initialed by all parties, shall supersede all conflicting printed provisions.

**35. Feminine-Masculine, Singular-Plural.**

Wherever used, singular shall include the plural, plural the singular, and use of any gender shall include all genders.

**36. Headings.** The headings of the sections of this Contract are included for the purposes of convenience only and shall not affect the interpretation of any provision hereof.

**37. Merger Clause.** These terms are intended by the parties as a complete, conclusive and final expression of all the conditions of their Contract. No other promises, statements, warranties, agreements or understandings, oral or written, made before or at the signing thereof, shall be binding unless in writing and signed by all parties and attached hereto.

{Signature page follows}

**IN WITNESS WHEREOF**, the parties hereto have caused this Contract to be executed by their authorized representatives.

**CITY OF SALINA, KANSAS**

**CONTRACTOR**

By: \_\_\_\_\_  
Aaron K. Householter, Mayor

By: \_\_\_\_\_  
\_\_\_\_\_ (name)

Attest: \_\_\_\_\_  
Shandi Wicks, CMC, City Clerk

(title)

Form: \_\_\_\_\_  
Legal Counsel

# GENERAL CLAUSES

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**CITY OF SALINA, KANSAS**  
**GENERAL CLAUSES FOR CONSTRUCTION CONTRACTS**

1. **APPLICATION.**

These General Clauses are a part of the Contract Documents and shall be binding upon all parties, except for the parts obviously not applicable to the particular Contract, or if specifically revised, modified or supplemented by the technical Specifications, Bid, or Change Order.

2. **DEFINITIONS.**

When the following terms are used in the Specifications or other Contract Documents, the intent and meaning shall be interpreted as follows:

- (a) **BID.** The written offer of the Bidder to perform the contemplated Work in accordance with the Contract Documents and setting forth the prices for the Work to be performed.
- (b) **BIDDER.** Any individual, partnership, firm or corporation submitting a proposal for performing the Work.
- (c) **CHANGE ORDER.** A written proposal and agreement, executed by the Contractor and City and accompanied by new surety bonds in the full amount of the change order, covering Work not included in the original Contract Documents. The City reserves the right to waive the requirements of new surety bonds. Change orders shall include such supplemental drawings and technical specifications as may be required to show the location, character, details, and extent of the additions, deletions, or modifications.

If applicable unit prices for these additions or deletions are not contained in the original Contract Documents or if the total net change increases or decreases the total Contract Price more than twenty-five percent (25%) the City shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from the Contractor covering the Work involved in the change.

If the proposal is acceptable, the Engineer shall then prepare a Change Order which includes a detailed description of the change in the Work, a definite statement as to the resulting change in the Contract Price and/or time, and a statement that all Work involved in the change shall be performed in accordance with Contract requirements except as modified by the Change Order.

If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the City may order the Contractor to proceed with the Work on a "Force Account" basis pursuant to Section 41 below.

- (d) **CITY.** The City of Salina, Kansas, a municipality, acting on its own behalf or

through legally authorized officials.

- (e) CONTRACT. The written agreement covering the performance of the Work.
- (f) CONTRACT DOCUMENTS. Those items so designated as the “Contract Documents” in the Contract.
- (g) CONTRACT PRICE. The moneys payable by the City to the Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Contract.
- (h) CONTRACT TIMES. The number of days or the dates stated in the Contract Documents to: (i) achieve Milestones, if any; (ii) achieve Substantial Completion; and (iii) complete the Work so that it is ready for final payment.
- (i) CONTRACTOR. The individual, partnership, firm, or corporation executing a Contract, acting directly or through lawful agents or employees, and who is primarily liable for the acceptable performance of the Work under Contract and for payment of all legal debts pertaining thereto.
- (j) DRAWINGS. The working drawings, supplemental drawings, or reproductions of the drawings showing the location, dimensions, and details of the Work to be done.
- (k) ENGINEER. The City Engineer of the City of Salina, Kansas, or the City Engineer’s designated consulting engineer.
- (l) INSPECTOR. An authorized representative of the Engineer or an authorized representative of the City assigned to inspect the Work performed or materials furnished by the Contractor, or all other duties required for construction of the project as set forth in the Specifications.
- (m) MILESTONE. A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
- (n) NOTICE TO PROCEED. A written notice given by the City to the Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work on the Contract Documents.
- (o) SITE. Land or areas indicated in the Contract Documents as being furnished by the City upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by the City which are designated for the use of the Contractor.
- (p) SPECIFICATIONS. The directions, provisions, and requirements pertaining to the method and manner of performing the Work, to the kind and type of equipment, or

to the qualities of materials to be furnished.

- (q) STANDARD SPECIFICATIONS AND TEST METHODS. All specifications and test methods of any society, association, or organization herein referred to are hereby made a part of the Contract Documents to the same extent as if fully set forth herein. Reference to such "Standard Specifications" shall be deemed to refer to the latest standard and tentative standards as are in force on the date Bids are received.
- (r) SUBSTANTIAL COMPLETION. The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of the Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that it can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to the "Substantial Completion" thereof.
- (s) WORK. The furnishing of all labor, materials, equipment, and other incidentals necessary or convenient to the successful completion of the construction project required to be provided under the Contract Documents, and the carrying out of all the duties and obligations imposed by the Contract.

### 3. TERMINOLOGY.

The words and terms discussed below are not defined but, when used in the Contract Documents, have the following indicated meaning:

- (a) DAY. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.
- (b) DEFECTIVE. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:
  - i. Does not conform to the Contract Documents;
  - ii. Does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
  - iii. Has been damaged prior to the Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by the City in accordance with Section 35).
- (c) FURNISH. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
- (d) INSTALL. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services,

materials, or equipment complete and ready for intended use.

- (e) PERFORM; PROVIDE. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of Contractor, “provide” is implied.

4. COMMENCEMENT OF CONTRACT TIMES; NOTICE TO PROCEED.

The Contract Times will commence to run on the thirtieth day after the effective date of the Contract, or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the effective date of the Contract.

5. BONDS.

The Contractor shall furnish such surety bonds as hereinafter identified and described. Any and all bonds shall be so written as to make the Contract Documents a part thereof, whether by reference or attachment, in order to give the surety full notice of the conditions thereof. Each bond shall be a legally issued surety drawing in an amount not less than the total Contract Price, meeting the approval of the City and all other parties concerned as required by law as to form, tenor, execution and surety, and shall be delivered to the City, along with the executed Contract, within ten (10) days after the City’s notice of award. The Contractor shall have no rights under the Contract until such acceptable bonds have been furnished and delivered. The City may waive the conditions as to time, and the acceptance of said bonds after expiration of the specified interval shall not affect the validity of the Contract or any such bonds. The Contractor shall furnish the following:

- (a) PERFORMANCE BOND. A performance bond, in the form provided by the City, running to the City, conditioned upon the prompt, full, and complete performance by the Contractor as principal of all covenants, obligations, and agreements contained in the Contract Documents. The performance bond shall remain in effect until completion of the two (2) year warranty period specified in Section 46 below.
- (b) STATUTORY BOND. A payment bond, in the form provided by the City, running to the State, conditioned that the Contractor as principal shall pay all indebtedness incurred for labor, supplies, equipment, and materials furnished in making the improvements called for by the Contract Documents.

6. INSURANCE REQUIREMENTS.

The Contractor shall purchase and maintain, and shall require each of its authorized subcontractors to obtain and maintain, for the duration of the Contract, policies of insurance, providing such coverages and meeting such requirements as specified in Schedule A attached hereto.

7. PATENTED DEVICES AND PROCESSES.

All fees, royalties, and licenses for any patented invention, device, article, or process used in, upon, or in connection with the construction, erection, or operation of the Work or any part thereof, shall be included in the Contract Price or prices; and the Contractor shall hold the City harmless against any claim or demand for payment of such.

8. WATER, GAS AND ELECTRICITY.

Water, gas, and electricity required or used on the Work shall be provided by the Contractor, who shall contact the proper representative of the utility, make all required arrangements, ascertain the applicable rates, and pay for all such water, gas, and electricity so used, unless a specified exemption is made in the technical Specifications.

9. PERMITS, LICENSES AND REGULATIONS.

Permits and licenses of a temporary nature necessary for the prosecution of the Work shall be secured and paid for by the Contractor. Permits, licenses, and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the City, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the Work as drawn and specified.

10. NOTICES.

The Contractor shall give written notice, not less than twenty-four (24) hours before breaking ground for the project, to all persons in charge of any property that may be affected by the Work or related operations. The Contractor shall not hinder or interfere with any persons performing Work as required to care for and protect property from possible damage during construction of the proposed improvements. The Contractor shall notify the Engineer or Inspector prior to beginning, suspending, or resuming operations. Such notice shall be issued in sufficient time to allow the necessary preparations to be made and the proper persons to be present.

11. OBSTACLES AND OBSTRUCTIONS.

Natural obstructions and publicly owned existing facilities and improvements encountered during construction shall be removed, relocated, reconstructed or worked around as herein specified, regardless of whether or not their existence or location is shown or noted on the Drawings. Care shall be used while excavating, trenching, or performing other Work adjacent to any facilities intended to remain in place. Except as otherwise specified, the Contractor shall be responsible for any damage to publicly owned items, and any repairs required shall be promptly made at the Contractor's expense. All Work in connection with removal and relocation shall be carefully done in accordance with accepted practices so as to result in the maximum salvage of materials suitable for reuse. Salvaged materials not utilized in relocation or reconstruction shall remain the property of the City and shall be transported and stored in warehouses or yards as directed. Waste materials shall be disposed of in a satisfactory manner at approved locations. Unless otherwise provided in the Bid, no separate or additional payment will be made for any Work in connection with removal, relocation, or restoration of obstructions and existing facilities.

- (a) SUBSURFACE OBSTRUCTIONS. Trenches may intersect water mains and services, gas mains and services, storm drains and pipe culverts, underground conduits, cables, and similar buried obstructions. The drawings indicate the general location of certain utilities and facilities; the Contractor shall make a reasonable

effort to ascertain the existence of obstructions by inquiry and examination of public and private utility maps, and shall locate obstructions by digging in advance of machine excavation where definite information is not available as to their exact location. Where such facilities are unexpectedly encountered and damaged, responsible officials and other affected parties shall be notified and proper arrangements made for the prompt repair and restoration of service, subject to the requirements of Section 11(c) below.

- (b) SURFACE OBSTRUCTIONS. Sidewalks, curb and gutter, drainage structures, and similar obstructions may be tunneled under if the length of tunnel sections at pipe is not more than eight feet; otherwise the obstruction shall be cut in straight lines parallel to the pipeline, or removed to the nearest construction joint if located within five feet of the centerline of the trench; provided that, in no case shall the joint or line of cut be less than one foot outside the edge of the trench. Surface obstructions removed to permit construction shall be reconstructed as specified for new construction, or if not specified, in accordance with accepted standard practice and to the dimensions, lines, and grades of original construction. Backfill of tunnel sections shall be rammed in place as directed.
- (c) PUBLIC UTILITIES. Public utility pipelines, poles, cables, conduits, and wires which interfere with construction shall, where practicable, be bypassed or worked around by hand excavating, tunneling, or other approved methods at the Contractor's expense. Where not possible to bypass or work around the facility, the facility shall be removed or relocated by the respective utility company upon notification that such removal or relocation work is necessary to permit new construction to lines and grades designated. The cost of such removal or relocation work shall be borne by the City, provided that the facility to be removed or relocated has been installed at a specific location and specified depth under terms written in the franchise; otherwise all costs shall be borne by the utility company. The City shall notify the utility company in writing of the approximate date on which construction Work will begin. Such notice shall be given sufficiently in advance of beginning construction to allow adequate time for the removal or relocation Work to be accomplished by the utility company without interfering with construction schedules. In the event that required removal or relocation Work has not been accomplished prior to construction at the location, the obstructing facility may be removed or relocated by the Contractor at the expense of the utility company.
- (d) TREES AND SHRUBS. Existing trees and shrubs within the construction limits shall be removed or hauled away. Trees and shrubs not directly interfering with excavation shall be carefully preserved insofar as possible without resorting to hand methods of excavation, and due care shall be taken to prevent unnecessary damage to such vegetation or landscaping improvements.
- (e) SODDED AND LANDSCAPED AREAS. Sodded and landscaped areas such as

parkings on or adjacent to improved property shall be disturbed only to the extent required to permit construction. Such areas shall not be used as storage sites for construction supplies and, insofar as practicable, shall be kept free from stockpiles of excavated materials. Upon completion of backfilling or trench compaction operations at each location, the trenches and other disturbed areas shall be carefully hand raked to allow the private property owner to re-seed grass or otherwise maintain the area.

- (f) PRIVATELY OWNED OBSTRUCTIONS. Privately owned obstructions on public property, such as fences, small buildings, or similar obstructions, will be removed by their respective owners upon notification from the City. Should progress of the Work be unduly delayed through such procedure, the Contractor may remove, relocate, or reconstruct portions of fences at the Contractor's own responsibility and expense, or by separate negotiation with the respective owner.

12. SALVAGED MATERIALS.

All salvaged materials not the property of other parties or required for new construction shall remain the property of the City. The Contractor shall handle, transport, and store such salvaged materials at designated points or locations at no additional cost to the City. The Contractor shall be responsible for the care and protection of such materials until delivered to the designated location; and the Contractor shall make good any losses occasioned by damage, theft, or misappropriation while the materials are on the work site or in route to the place of storage.

13. MATERIALS FURNISHED BY CITY.

All materials, supplies, or equipment furnished by the City for incorporation in the Work shall be handled and transported by the Contractor at the Contractor's expense from cars, warehouses, or yards where received or stored by the City. The Contractor shall include in the Contract Price or prices all costs in connection with handling, sorting, protecting, and installing all such materials, supplies, or equipment furnished by the City, and shall make good all losses and breakage due to carelessness or negligence while same are in the Contractor's possession.

14. BARRIERS AND LIGHTS.

As required to prevent accidents to the general public and to workers, the Contractor shall provide all materials and labor to erect and maintain fences, barriers, barricades, and warning signs; provide and maintain flares, lanterns, and lights.

15. RESPONSIBILITY FOR PROPERTY DAMAGE.

The Contractor shall make payment for all damage to buildings, structures, trees, shrubbery, or other property located outside the construction limits, or located within those limits but not designated for removal or reconstruction, providing such damage shall result from the wrongful acts, errors, mistakes, omissions, or defective Work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of the Work.

16. PUBLIC CONVENIENCE.

During the progress of the Work, the convenience of the local public and of residents along the Work shall be considered and, where possible, their rights of access shall be preserved.

Temporary driveways, approaches, and crossings shall be provided where practicable and maintained in good condition. Construction materials shall be so stored or stockpiled as to cause as little obstruction as possible and still be readily accessible for use or inspection. No material shall be stored within two feet of any tree or building nor within five feet of any fire hydrant; fire hydrants shall remain ready for immediate use by the fire department.

17. QUALITY OF MATERIALS AND EQUIPMENT.

All materials shall meet the requirements of the technical Specifications or, if not specified, shall meet the generally accepted commercial standards for such materials when used for the intended purposes. No materials shall be incorporated in the Work until they have been examined and approved by the Inspector, nor shall construction equipment be used which has not received the Inspector's approval. All rejected materials and equipment shall be removed promptly from the site.

Wherever in any of the Contract Documents an item of material or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vendor, the term "or equal," if not inserted, shall be implied. The specific item of material or equipment mentioned shall be understood as establishing a standard of type, function, efficiency, minimum basis of design, and quality desired. Other manufacturers' products of comparable quality, design, and efficiency, and suitable for the services intended will be considered.

18. WORKMANSHIP.

All improvements shall be constructed in a neat and workmanlike manner. Improper or defective Work shall be corrected and if necessary removed, replaced, or reconstructed to comply with the plans and Specifications. The Contractor shall be held responsible for the quality of the entire Work; should the Contractor refuse or neglect to remedy defects when ordered to do so, the City may require the condemned portions to be replaced, restored, repaired, or reconstructed at the expense of the Contractor or the Contractor's surety.

19. PRESERVATION OF MONUMENTS AND MARKERS.

The Contractor shall protect from disturbance all permanent monuments, benchmarks, and markers of the local, state, or federal government, and shall not excavate within five (5) feet of any of them without specific permission of the Engineer or Inspector.

20. TEST SAMPLES AND SPECIMENS.

Properly identified test samples and specimens shall be submitted by the Contractor in ample time to permit tests to be conducted, and results determined, well in advance of the time such materials are to be incorporated in the Work. Samples and specimens shall be submitted in standard or ample sizes and quantities for the determination of all specified tests, and shall be shipped charges prepaid to an approved testing laboratory. Commercial laboratories shall be instructed to distribute copies of test results to the Contractor, City, Inspector, and Engineer. All costs in connection with sampling and testing, including materials, transportation charges, and commercial laboratory fees, shall be borne by the Contractor. No charges will be made for tests performed by the Engineer or his inspectors.

21. SPECIAL CONSTRUCTION METHODS.

The Engineer or Inspector may assent to special methods of construction or means of prosecuting the Work other than as provided or stipulated in the technical Specifications, but his assent or his presence on the Work while such special methods are in use shall not constitute a waiver of the Contract, or any part thereof, by the City. Nor shall the fact the Engineer may have seen Work executed which later is found to be defective, nor shall any act of his assistants or inspectors, constitute a waiver of any part of the Contract. The Contractor shall be held responsible for the quality of the entire Work.

22. SHOP AND ERECTION DRAWINGS.

The Contractor shall furnish and submit for review to the Engineer six copies of all shop and erection drawings for structural and reinforcing steel, special drawings, and layouts for equipment or machinery to be furnished under the Contract, and any similar or supplemental drawings required for prosecution of the Work. The Engineer's approval of such drawings or schedules shall not relieve the Contractor from responsibility for deviation from Drawings or Specifications, nor shall it relieve the Contractor from responsibility for errors of any sort in shop drawings or schedules.

23. REPRESENTATION.

The Contractor shall be represented on the Work at all times by a competent superintendent, satisfactory to the Engineer or Inspector and capable of reading and understanding the Drawings and Specifications. The superintendent shall have full authority to employ required workers, order materials, arrange for construction equipment, and otherwise represent or act on behalf of the Contractor; any direction given to the superintendent by the Engineer or Inspector shall be as binding as if given to the Contractor.

24. COOPERATION.

The Contractor shall give to the Work the constant attention necessary to facilitate the progress and shall cooperate in every possible way with the Engineer or his Inspectors, with the City, and with other contractors or constructors concerned in the Work. The Contractor shall plan and schedule the Work to the mutual benefit of all interested parties and shall perform the Work in accordance with the agreed schedule. In case of controversy, the Engineer will allocate the Work and designate the sequence in which it shall be performed. The Contractor shall accept and fulfill the directions of the Engineer when acting within his authority; willful failure or neglect to comply with such instructions shall be considered as sufficient cause for termination of the Contract by the City.

25. INCIDENTAL WORK.

All Work to be done by the Contractor as shown on the Drawings and described in the Specifications, including any and all minor details not specifically shown or described but obviously essential to the proper completion of the Work, shall be considered as subsidiary to, and included with, the Work for which prices are named in the Contract Documents. The Contractor shall not be entitled to any extra or additional compensation for such incidental Work unless otherwise specified.

26. FINAL CLEANUP.

Immediately upon completion of the Work or any usable unit, the Contractor shall remove all surplus or unused materials from the vicinity of the Work, leaving the entire site in a clean, sightly, and pleasing condition, conforming to the grades and contours shown on the Drawings or designated by the Inspector.

27. RESPONSIBILITIES OF THE CONTRACTOR.

All Work shall conform to the technical Specifications for materials, workmanship, and methods of construction and shall be in accordance with the lines, grades, and dimensions shown on the Drawings or given by the Inspector. Before commencing Work, the Contractor shall be responsible for ensuring the correctness and meaning of all stakes and marks. No claim will be entertained for, or on account of, alleged inaccuracies unless the Contractor notifies the Engineer or Inspector thereof in writing before commencing the Work. The Contractor under the Contract Prices shall furnish and pay for all labor, equipment, accessories, and materials not salvaged or otherwise furnished as specified, and shall perform all operations necessary to construct and complete the improvements, ready for use, including all preparatory, temporary, and incidental Work. The Contractor shall be responsible for the protection of all Work under the Contract; any Work or materials damaged or impaired from any cause prior to final acceptance of the completed whole shall be restored or reconstructed by the Contractor at the Contractor's sole expense. All losses or damages arising from the nature of the Work to be done, from the action of the elements, or from unforeseen circumstances or difficulties, shall be sustained by the Contractor; such losses or damages shall not relieve the Contractor of responsibility to fulfill the Contract and to deliver a completed Work in accordance with the Contract Documents.

The Contractor shall provide the Engineer and his representatives free access to any and all parts of the Work, whether within the construction limits or at any place where material intended for incorporation in the project is procured, produced, or manufactured. The Contractor shall furnish all required information relating to the Work or materials, including copies of invoices, bills of lading, waybills, and test reports. The Contractor shall be present at, and assist in, the final inspection of the project and shall furnish all labor and equipment required for final tests.

The Contractor shall furnish all stakes, batter board, straight-edges, and grade string and shall furnish workers to set them under the direction of the Inspector. The Contractor shall notify the Inspector at least 48 hours in advance, stating where stakes are wanted, before requiring stakes on any section of the project. After construction stakes are set, the Contractor shall preserve them. Any Work done without lines and grades as given by the Inspector, or without supervision of any authorized representative of the Engineer, may be ordered removed and replaced at the expense of the Contractor.

28. SANITARY CONVENIENCES.

The Contractor shall provide all necessary privy accommodations for the use of the Contractor's employees and shall maintain the same in a clean and sanitary condition. The Contractor shall not create or permit any nuisance to the public or to residents in the vicinity of the Work.

29. APPROVAL OF SUBCONTRACTORS.

The Contractor shall file with the City and the Engineer the names of all subcontractors to whom the Contractor expects to sublet any portion of the Work, and shall not change subcontractors without written approval of the City and the Engineer. The approval of subcontracts shall not relieve the Contractor of any liabilities under the Contract. Should any subcontractor fail to satisfactorily perform its portion of the Work, the City may annul and terminate the contract of such subcontractor.

30. RESPONSIBILITY OF THE ENGINEER.

The findings and determinations of the Engineer on all questions pertaining to materials and workmanship or as to interpretation of the Drawings and Specifications shall be final and binding on all parties to the Contract.

31. INTERPRETATION OF CONTRACT DOCUMENTS.

The Contract Documents are complementary, and what is called for by one shall be as binding as though called for by all. In case of actual or alleged disagreement or discrepancy between the Contract and the Drawings or Specifications, the language and provisions of the Contract shall take precedence and prevail; if between the Drawings and Specifications, the Engineer will determine in each case whether the Drawings or Specifications shall rule and govern.

32. INSPECTION.

The Inspector shall inspect all materials to be incorporated, construction equipment to be used, and all Work to be performed under the Contract. Such inspection shall extend to any and all parts of the Work and to the preparation or production of all materials to be incorporated. All sampling of Work shall be done by, or in the presence of, the Engineer or his representatives. The Inspector will conduct field tests on Work and materials whose physical characteristics and general suitability may be determined under such procedures. Inspectors shall have the authority to reject defective materials, to delay the respective construction while the suitability of materials is being determined or while equipment is being adjusted or calibrated, and to suspend operations on any part of the Work not meeting Contract requirements. Inspectors shall have no authority to deviate from or to relax the Specifications without written permission of the Engineer or to delay the Work by failing to inspect or field test any of the Work and materials with reasonable promptness.

The Inspector will maintain a project record showing the chronological sequence of progress, and will prepare such progress reports as required during construction and at monthly intervals will prepare, and submit to the City, periodic payment estimates based on the amount and value of all Work performed to date by the Contractor.

33. WORK AFFECTED BY WEATHER.

The Inspector may order such parts of the Work suspended should the weather or season be such that any part of the Work cannot be done properly and with due regard to durability, finish, or appearance. The Contractor may be required to protect the several parts of exposed Work from damage by the elements or other causes.

34. CONTROL AND REGULATION OF WORK.

The Engineer or Inspector shall have the authority to exercise their judgment and initiative in the control and regulation of the Work. The Engineer or Inspector may regulate the amount of Work open or under construction in advance of completed portions and require the Contractor to place materials and perform Work in the manner, order, and sequence as required for the mutual advantage of all parties concerned.

35. USE OF COMPLETED PORTIONS.

The City shall have the right to take possession of and use any completed portion or usable unit of the Work at any time, but such possession and use shall not be deemed an acceptance of any Work not constructed or completed in accordance with the Contract Documents. If such prior use delays the completion or increases the cost of the Work, the Contractor shall be entitled to such extension of time or extra compensation, or both, as the Engineer may determine. The City, in taking possession prior to final acceptance, shall agree to abide by the Engineer's decision relative to responsibility for damages to the Work during the period of such prior possession and use.

36. VARIATIONS, CHANGES AND MODIFICATIONS.

The Work contemplated in the Contract Documents may be subject to such changes as normally occur during construction. The Engineer, as authorized by the City, may order minor variations in the Work, provided such variations are consistent with the intent of the Drawings and Specifications, and improve or expedite the Work.

The Engineer may, without written order or other formality, correct obvious errors in the Drawings and Specifications or make such minor adjustments as are required to adapt the Work to existing conditions or circumstances, provided such corrections and revisions are consistent with the intent of the Drawings and Specifications, and do not materially affect the total Contract Price.

The City reserves the right to make such changes in the Drawings, the Specifications, and other changes in the Contract quantities as may be considered necessary or desirable; provided such changes, alterations, and modifications are affected legally and in accordance with the following procedures. No Work may be performed under any Change Order until all documents have been approved by the Engineer and executed by the contracting parties. After such approval and execution, all Work included shall be subject to the terms, conditions, and provisions of the original Contract Documents, except as otherwise specifically stipulated. In case a satisfactory adjustment in price or other basis cannot be obtained, the Work may be ordered done by force account.

37. CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT.

If, through no fault of the Contractor, the Work be stopped for a period of three months or more under order from any court or other public authority; or if the Engineer fails to issue any estimate for payment within fourteen (14) days after the due date; or if the City fails to pay to the Contractor within ten (10) days after due presentation any sum certified by the Engineer or awarded by arbitrators; the Contractor may, upon the seventh day after written notice to the City and to the Engineer, stop Work or terminate the Contract and recover from the City full payment for all Work properly executed, together with invoice cost of unincorporated materials purchased by the Contractor or on irrevocable order plus the actual cost of handling and storing said materials, provided said handling and storing cost does not exceed five percent (5%) of the invoice cost.

38. CITY'S RIGHT TO SUSPEND WORK.

The City may suspend Work on any or all parts of the Work pending settlement of disputes on any point of controversy. The Contractor will not be entitled to any claim for loss or damage by reason of such delay; nor shall the Contractor be entitled to any extension of time for completion of the Contract, except at the City's option.

39. CITY'S RIGHT TO TERMINATE CONTRACT.

(a) The occurrence of any one or more of the following events will justify termination for cause:

- i. The Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment);
- ii. The Contractor's persistent disregard of laws, ordinances, or regulations, or the directions of the Engineer; or
- iii. The Contractor's violation in any substantial way of any provisions of the Contract Documents.

(b) If one or more of the events identified in Section 39(a) above occur, the City may, after giving the Contractor and its surety ten (10) days written notice of its intent to terminate the services of the Contractor, terminate the Contract or the Contractor's right to complete the Contract, and:

- i. Exclude the Contractor from the Site, and take possession of the Work and of all the Contractor's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by the Contractor (without liability to the Contractor for trespass or conversion);
- ii. Incorporate in the Work all materials and equipment stored at the Site or for which the City has paid the Contractor but which are stored elsewhere; and
- iii. Complete the Work as the City may deem expedient.

(c) If the City proceeds as provided in subsection (b) above, the Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court costs) sustained by the City arising out of or relating to completing the Work, such excess will be paid to the Contractor. If such claims, costs, losses, and damages exceed such unpaid balance, the Contractor shall pay the difference to the City. When exercising any rights or remedies under this

section, the City shall not be required to obtain the lowest price for the Work performed.

(d) Notwithstanding the foregoing, the Contractor's services will not be terminated if the Contractor begins within ten (10) days of receipt of notice of intent to terminate to correct its failure to perform and proceeds diligently to cure such failure within no more than thirty (30) days of receipt of said notice.

(e) If the Contractor's services have been terminated by the City, the termination will not affect any rights or remedies of the City against the Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due the Contractor by the City will not release the Contractor from liability.

40. PAYMENTS TO CONTRACTOR.

Five days prior to the City's first regularly scheduled meeting of each month a periodic estimate, based on Work completed or on receipted invoices for approved materials and equipment stored at the project site, shall be prepared by the Engineer. Periodic estimates for a lump sum Contract will be based on an itemized breakdown of all Work included in the Contract, prepared by the Contractor, and submitted to the Engineer for approval prior to preparation of the initial periodic estimate. The breakdown shall include all costs in connection with each major classification of construction items and shall show quantities, unit prices and extensions, the sum of which shall be the total amount of the Contract. In making partial payments, ten percent (10%) will be retained from each payment. Upon the Engineer's certification of the Project's final completion and readiness for final payment pursuant to Section 45(b) below, the Owner shall make payment of retainage. In measuring Work for payment the actual length, width, depth, area, contents, or number shall be considered, and the length shall be measured along the centerline of the Work whether straight or curved. No extras of any kind will be allowed unless covered by written order or agreement specifically describing such extras.

41. FORCE ACCOUNT.

Where it is specified, or agreed during the course of the Work, that any portion of the construction shall be done by "force account," the Contractor shall keep an accurate record of all materials, labor, and equipment used and shall furnish the Inspector a copy of each day's record within twenty-four (24) hours to permit an accurate check thereof. The City shall pay for such construction at the actual cost to the Contractor of materials and labor, including the costs of insurance, social security, taxes and bonds, chargeable to this portion of the Work; plus fifteen percent (15%) for superintendence, overhead, and the use of tools and appliances.

The use of equipment on such construction shall be paid for at rental rates recommended by the Association of General Contractors, modified for Kansas by the Kansas Department of Transportation; such price and payment being full compensation for all costs in connection with operation, repair, maintenance, overhead, depreciation, and profit.

42. EXTENSION OF CONTRACT TIMES.

(a) DELAYS CAUSED OTHER THAN BY WEATHER. If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the City, or of a separate contractor employed by the City; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's reasonable control that the Engineer determines may justify delay, excluding the occurrence of unusually severe weather at the Site, then the Contract Time shall be extended by Change Order for such reasonable time as the Engineer may determine, if such adjustment is essential to the Contractor's ability to complete the Work within the Contract Times. Notwithstanding the foregoing, the Contractor acknowledges and agrees that adjustments in the Contract Time will be permitted for a delay only to the extent such delay: (1) is not caused, could not have been reasonably anticipated and mitigated, by the Contractor; and (2) could not be limited or avoided by the Contractor's timely notice to the Owner of the delay. If the delay is due to causes beyond the reasonable control of the City, an extension of the Contract Times shall be the Contractor's sole and exclusive remedy for the delay.

(b) DELAYS CAUSED BY WEATHER.

- i. The Contract Times may be extended by Change Order due to the occurrence of unusually severe weather if the Engineer determines that the following conditions have been satisfied:
  - 1. The weather experienced at the project Site during the Contract period must be found to be unusually severe, as evidenced by weather that is more severe than the adverse weather anticipated at the Site during any given month; and
  - 2. The unusually severe weather must actually cause a delay to the completion of the Work. The delay must be beyond the control and without the fault or negligence of the Contractor.
- ii. The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project Site and will constitute the baseline for the Engineer's monthly evaluations of the Contractor's entitlement to an extension of the Contract Times under this Section. The Contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities for the duration of the Work.

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY  
WORK DAYS BASED ON FIVE-DAY WORK WEEK\*

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
(10)	(6)	(4)	(5)	(5)	(6)	(5)	(4)	(5)	(4)	(3)	(7)

- iii. Upon acknowledgment of the Notice to Proceed and continuing throughout the

duration of the Contract, the Contractor shall record daily the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical path activities for fifty percent (50%) or more of the Contractor's scheduled work day. On or before the 10<sup>th</sup> day of each month, the Contractor shall provide the Engineer with written report of its proposed dates of actual adverse weather delay days for prior month. The report shall: (1) list the number of actual adverse weather delay days and include days impacted by actual adverse weather (even if such adverse weather occurred in previous month); (2) be calculated chronologically from the first to the last day of each month, and be recorded as full days; and (3) include documentation and all details reasonably available to demonstrate the nature and duration of the delays and their effect on the critical path activities. If the number of actual adverse weather delay days exceeds the number of days anticipated in subsection (b) above, the Engineer will convert any qualifying delays to calendar days and the Contract Time shall be extended by Change Order. After the original Contract Times have expired, adverse weather that causes delay to the completion of the Work will be granted day-for-day without deducting anticipated adverse weather delay days and will be converted from work days to calendar days.

- iv. Monthly anticipated weather delay days shall be adjusted proportionally if Work is scheduled to be performed greater than or less than five (5) days during any work week. The following formula shall be used to adjust the monthly anticipated weather delays: Adjusted monthly anticipated weather delays = **A** multiplied by (**B** divided by **C**); where

**A** = The monthly anticipated adverse weather delay for a particular month based on a five-day work week.

**B** = The actual average number of days work is scheduled to be performed in a work week during that particular month.

**C** = The number five (5).

Example - If the monthly anticipated adverse weather delay for January based on a five day work week is 10 days, but the Contractor actually scheduled an average of a 6-day work week for that month, the monthly anticipated weather delay would be adjusted by applying the above formula as follows:  $10 \times (6/5) = 12$  days.

Monthly anticipated weather delay days shall also be adjusted proportionally for those situations involving a fractional part of a month. The following formula shall be used to adjust the monthly anticipated weather delays: Adjusted monthly anticipated weather delays = **D** multiplied by (**E** divided by **F**); where

**D** = The monthly anticipated adverse weather delay for a particular month.

**E** = The number of calendar days during that fractional part of a particular month.

**F** = The number of calendar days in that particular month.

Example - The monthly anticipated adverse weather delay for the particular month is 9 days. The original contract completion date is on the 20th day of a 30-day month. The monthly anticipated adverse weather delay would be adjusted by applying the above formula as follows:  $9 \times (20/30) = 6$  days.

43. LIQUIDATED DAMAGES.

In the event the Contractor shall fail to complete any portion of the Work within the applicable Contract Times, then the City shall be entitled to deduct liquidated damages, in the amount set forth in the Contract, from any sum or sums due the Contractor in final settlement between the parties. In addition, the Contractor shall be held liable for and shall pay the wages of the Inspectors on the Work after said time limit has expired, which wages shall be deducted from any amount found to be due the Contractor on such final settlement. Nothing herein contained shall be deemed to be a waiver of the right of the City to insist upon the timely performance of the Contract, or to prevent the City from looking to the sureties of the Contractor for any and all damages caused by any such delay, or as a consent to or waiver of any abandonment of the said Work by the Contractor, either before or after the date fixed by completion.

44. ALTERNATES.

To receive consideration for any proposed alternate for material, equipment, or item specified in the Contract Documents, the Contractor shall submit a full description of the proposed alternate not later than ten (10) days prior to the date of receiving proposals by the City, for the purpose of evaluation and approval.

45. CERTIFICATES OF COMPLETION.

(a) SUBSTANTIAL COMPLETION. When the Contractor considers the entire Work ready for its intended use, the Contractor shall notify the City and Engineer in writing that the entire Work is substantially complete and request that the Engineer issue a certificate of Substantial Completion. If the Engineer considers the Work substantially complete, the Engineer will execute and deliver a certificate of Substantial Completion, which shall fix the date of Substantial Completion and shall be accompanied by an attached "punch list" of items to be completed or corrected before the Work is deemed completed and ready for final payment. The certificate of Substantial Completion shall also provide for the division of responsibilities, pending final payment to the Contractor, with respect to security, operation, safety, and protection of the Work, maintenance, utilities, insurance, and warranties and guarantees.

(b) FINAL COMPLETION. After the issuance of a certificate of Substantial Completion, and upon written notice from the Contractor that the entire Work is completed and ready for final payment, the Engineer will promptly make a final inspection. If the Contractor has, in the opinion of the Engineer, satisfactorily completed the Work, including all punch list items, the Engineer will execute and deliver a certificate of final completion, which shall fix the date of final completion and readiness for final payment. The final completion date will also serve as the commencement date for the two-year warranty period pursuant to Section 46

below.

46. CONTRACTOR'S TWO-YEAR WARRANTY PERIOD.

If within two years after final acceptance (as indicated on the Certificate of Completion provided pursuant to Section 45 above) of the Work as a whole, any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use is found to be defective, the Contractor shall promptly, without cost to the City and in accordance with the City's written instructions:

- (a) Correct such defective Work; or
- (b) Repair such defective land or areas; or
- (c) If the defective Work has been rejected by the City, remove it from the Site and replace it with Work that is not defective; and satisfactorily correct or repair, or remove and replace, any damage to other Work, to the work of others, or other land or areas resulting therefrom.

If the Contractor does not promptly comply with the terms of the City's written instructions, or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by the Contractor.

Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this section, the warranty period hereunder with respect to such Work will be extended for an additional period of two years after such correction or removal and replacement has been satisfactorily completed.

The Contractor's obligations under this section are in addition to any other obligation or warranty, and shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitations or repose.

47. MAINTENANCE OF PROJECT SITE.

The Contractor shall be responsible for keeping a neat and orderly job site. Locations for storing equipment and materials shall be at the Inspector's discretion. Grasses and other cover crops necessary for erosion control shall be kept under 12" in height and trimmed away from pavements, curbs, and sidewalks. The Contractor shall perform corrective maintenance promptly upon notification from the Inspector.



**GENERAL CLAUSES - SCHEDULE A**  
**INSURANCE REQUIREMENTS**  
*(Construction Services)*

Pursuant to Section 6 of the Contract and Section 6 of the General Clauses, the Contractor shall obtain, pay for, and maintain – and shall require each of its authorized subcontractors to obtain and maintain – for the duration of the Contract, policies of insurance meeting the following requirements:

1. General Requirements.

A. Additional Insured. With the exception of the workers’ compensation and professional liability policies to be obtained by the Contractor hereunder, all policies shall name the City of Salina (“City”), its agents, representatives, officers, officials, and employees as additional insured(s). Insurance for the additional insured shall extend to Products/Completed Operations and be as broad as the insurance for the named insured, including defense expense coverage, and shall apply as primary and non-contributory insurance before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured(s).

B. Waiver of Subrogation. Where allowed by law, all policies will include a waiver of subrogation in favor of the City, its agents, representatives, officers, officials, and employees.

C. Claims Made Policies. If coverage is written on a claims-made basis for any of the policies required by this Contract, the Contractor must maintain the coverage for a minimum of two (2) years from the date of final completion of all work under the Contract.

D. Premium and Deductible Expenses. The Contractor shall be responsible for all premiums and retention or deductible expense for any and all policies required by this Contract.

2. Specific Coverage Requirements.

A. Commercial General Liability (“CGL”). The Contractor shall maintain CGL coverage written on ISO Occurrence form CG00 01 or an industry equivalent, which shall cover liability arising from Personal Injury, Bodily Injury, Property Damage, Premises and Operations, Products and Completed Operations, Contractual Liability, Independent Contractors and Advertising Injury. The policy limits shall not be less than the following:

- Each occurrence \$1,000,000
- General aggregate \$2,000,000
- Personal and Advertising Liability \$1,000,000



E. Crane Service Liability. If the Work includes the provision of crane services, then the Contractor's Commercial General Liability policy shall be amended to apply to insure against bodily injury and property damage arising from the crane operations. The policy shall include coverage for Rigger's Liability and shall not exclude coverage for damage to property being lifted. The policy limits shall not be less than the following:

- Each occurrence Bodily Injury and Property Damage \$5,000,000
- Personal Injury \$5,000,000
- Aggregate for Products - Completed operations \$5,000,000
- General aggregate \$5,000,000

Subcontractor's coverage for crane services may be provided either by the subcontractor's own policy, or by the policy of a lower tier contractor providing such crane services for the subcontractor. The policy shall include a per project general aggregate.

**City of Salina, Kansas  
PERFORMANCE BOND**

“CONTRACTOR” (Name and Address):

“SURETY” (Name and Principal Place of Business):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

“CITY”:

City of Salina  
P.O. Box 736  
Salina, KS 67402-0736

“PERFORMANCE BOND”:

Bond Number: \_\_\_\_\_

Bond Amount: \_\_\_\_\_

Bond Date\*: \_\_\_\_\_

*\*not earlier than Contract date stated below*

1. The Contractor has, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, entered into a contract with the City (“Contract”), for the furnishing of all materials and labor and doing all the work of whatever kind necessary to construct certain improvements for the City, which are generally described as follows:

\_\_\_\_\_  
(briefly describe project)

all in accordance with the detailed plans and specifications for such work on file in the office of the City, and in accordance with the Contract.

2. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the City for the performance of the Contract, which is incorporated herein by reference.

3. If the Contractor performs and fulfills all of the undertakings, covenants, terms, conditions, and agreements of the Contract, the Surety and the Contractor shall have no further obligation under this Performance Bond.

4. The Surety’s obligation under this Performance Bond shall arise after the City has declared a Contractor Default as defined below, formally terminated the Contract or the Contractor’s right to complete the Contract, and notified the Surety of the City’s claim under this Performance Bond.

5. When the City has satisfied the conditions of Paragraph 4 above, the Surety shall, at the Surety’s sole cost and expense, undertake one or more of the following actions:

5.1. Arrange for the Contractor to perform and complete the Contract, provided, however, that the Surety may not proceed with this option, except upon the express written consent of the City, which consent may be withheld by the City for any reason;

5.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors;

5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the City for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by the City and contractor selected with the City's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Contract, and pay to the City the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the City resulting from the Contractor Default; or

5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

- i. After investigation, determine the amount for which it may be liable to the City and, as soon as practicable after the amount is determined, tender payment therefore to the City; or
- ii. Deny liability in whole or in part and notify the City citing reasons therefore.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Performance Bond three (3) business days after receipt of written notice from the City to the Surety demanding that the Surety perform its obligations under this Performance Bond, and the City shall be entitled to enforce any legal or equitable remedies available to the City. If the Surety proceeds as provided in subparagraph 5.4, and the City refuses the payment tendered or the Surety has denied liability, in whole or in part, the City shall be entitled without further notice to Surety to enforce any legal or equitable remedies available to the City.

7. After the City has terminated the Contract or the Contractor's right to complete the Contract, and if the Surety is proceeding under subparagraph 5.1, 5.2, or 5.3 above, then the responsibilities of the Surety to the City shall not be greater than those of the Contractor under the Contract, and the responsibilities of the City to the Surety shall not be greater than those of the City under the Contract. To the limit of the amount of this Performance Bond, but subject to commitment by the City of the Balance of the Contract Price to mitigation of costs and damages on the Contract, the Surety is obligated without duplication for:

7.1. The responsibilities of the Contractor for correction of defective or unsuitable work and performance and completion of the Contract;

7.2. Additional legal, design professional, and delay costs incurred by the City as a result of the Contractor's Default, and as a result of the Surety's actions or failures to act under Paragraph 5 above;

7.3. Liquidated damages as specified in the Contract, or, if no liquidated damages are specified in the Contract, actual damages incurred by the City as a result of delayed performance or non-performance of the Contract by the Contractor or the Surety; and

7.4. Payment of all unpaid and due and owing fees or payments owed to the City under the Contract at the time of the Contractor Default.

8. To the extent of payment to the Surety of the Balance of the Contract Price, the Surety shall defend, indemnify, and hold harmless the City from all claims, suits, causes of actions, and demands (including all costs of litigation and reasonable attorneys' fees), which are brought against the City by the Contractor or any other party and which arise from or by reason of payment to the Surety the Balance of the Contract Price.

9. The Surety hereby waives notice of any change or modification to the Contract, including changes of time, or changes to related subcontracts, purchase orders, and other obligations.

10. Any proceeding, suit, or claim, legal or equitable, under this Performance Bond shall be instituted in the Saline County, Kansas District Court and shall be instituted within two years of the date on which the Surety refuses or fails to perform its obligations under this Performance Bond, in accordance with Paragraph 5 above.

11. All notices to the Surety or the Contractor shall be mailed or delivered to the respective addresses shown on the first page. In the event of a change in the address of the Surety or the Contractor, such party shall promptly provide notice to the City and the other party, with such notice to include a reference to the Contract and this Performance Bond.

12. This Performance Bond and its validity, construction, and performance shall be governed by the laws of Kansas.

13. Definitions. As used herein, the following terms shall have the following definitions:

13.1. "Balance of the Contract Price" shall mean the total amount payable by the City to the Contractor under the Contract after all proper adjustments have been made, including change orders and credits due the City, reduced by all valid and proper payments made to or on behalf of the Contractor under the Contract and reduced further by all direct costs and expenses incurred by the City as a result of the Contractor Default, including costs of additional supervision or inspection by the City of the Contractor's work under the Contract and fees and expenses paid to consultants or others hired by the City for purposes of monitoring or investigating the Contractor's work under the Contract.

13.2. "Contract" shall mean the agreement between the City and the Contractor identified in Paragraph 1 above, including all related contract documents and changes thereto.

13.3. "Contractor Default" shall mean the failure of the Contractor to perform or otherwise comply with the terms of the Contract.

{Signature Page Follows}

IN TESTIMONY WHEREOF, the Contractor has hereunto set its hand, and the Surety has caused this Payment Bond to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized to do so, as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**CONTRACTOR AS PRINCIPAL**

**SURETY**

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

\_\_\_\_\_  
Surety's Name and Corporate Seal

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

\_\_\_\_\_  
Title

By: \_\_\_\_\_  
Signature (Attach Power of Attorney)

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

\_\_\_\_\_  
Title

(A certified copy of the agent's Power of Attorney must be attached hereto.)

**City of Salina, Kansas**  
**STATUTORY PAYMENT BOND**  
**(Pursuant to K.S.A. § 60-1111)**

“CONTRACTOR” (Name and Address):

“SURETY” (Name and Principal Place of Business):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

“CITY”:

City of Salina  
P.O. Box 736  
Salina, KS 67402-0736

“PERFORMANCE BOND”:

Bond Number: \_\_\_\_\_

Bond Amount: \_\_\_\_\_

Bond Date\*: \_\_\_\_\_

*\*not earlier than Contract date stated below*

KNOW ALL BY THESE PRESENTS:

THAT the Contractor and the Surety are held and firmly bound unto the State of Kansas in the amount of this Payment Bond, for the payment of which sum, well and truly to be made, said Contractor and Surety bind themselves, their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the Contractor has, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, entered into a contract with the City (“Contract”), for the furnishing of all materials and labor and doing all the work of whatever kind necessary to construct certain improvements for the City, which are generally described as:

\_\_\_\_\_  
(briefly describe project)

all in accordance with the detailed plans and specifications for such work on file in the office of the City, and in accordance with the Contract, a copy of which is by reference made a part hereof.

NOW, THEREFORE, if the Contractor, or the subcontractor or subcontractors of the Contractor, shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies, used or consumed in connection with, or in or about the construction or making of, the above described improvements, including gasoline, lubricating oils, fuel oils, greases, and similar items used or consumed directly in furtherance of such improvement, this obligation shall be void; otherwise, it shall remain in full force and effect.

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

PROVIDED FURTHER, the said Surety agrees that any person to whom there is due any sum for labor or materials furnished, as hereinbefore stated, or said person's assigns, may bring an action on this bond for the recovery of the indebtedness; PROVIDED, that no action shall be brought on the bond after six (6) months from the completion of said public improvements.

IN TESTIMONY WHEREOF, the Contractor has hereunto set its hand, and the Surety has caused this Payment Bond to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized to do so, as of this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**CONTRACTOR AS PRINCIPAL**

**SURETY**

By: \_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Print Name  
  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Surety's Name and Corporate Seal

By: \_\_\_\_\_  
Signature (Attach Power of Attorney)

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

\_\_\_\_\_  
Title

(A certified copy of the agent's Power of Attorney must be attached hereto.)