

CITY OF OVERLAND



9119 Lackland Road, Overland Mo 63114

REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

The City of Overland, Missouri (the “City”) seeks bids from qualified contractors for the removal, provision, and installation of commercial outdoor parking lot poles and lights at the Overland Community Center located at 9225 Lackland Road, Overland, MO 63114.

Proposals will be accepted until **10:00 A.M. (PREVAILING LOCAL TIME), WEDNESDAY, OCTOBER 21, 2020.**

An electronic version of this RFP is available on the City’s website (www.overlandmo.org).

For general information regarding the request for proposal please contact Mr. Jason McConachie, City Administrator at (314) 428-4321 via email at jmccconachie@overlandmo.org.

Proposals should be submitted to:

Office of the City Clerk
Attn: Melissa J. Burton, CMC
City of Overland
9119 Lackland Road
Overland, MO 63114

Proposals may be delivered in person, by carrier, or by mail. It is the sole responsibility of the vendor to see that his/her proposal is received prior to the due date. Proposals submitted via email or proposals submitted after the submittal deadline will not be considered.

Proposals should be submitted in a sealed envelope clearly marked “**COMMUNITY CENTER – PARKING LOT LIGHTS**” with the name of the firm and with the date and time of the bid opening.

Jason McConachie

Jason McConachie
City Administrator

CITY OF OVERLAND



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REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

I. NOTICE TO CONTRACTORS

The City of Overland, Missouri (the “City”) seeks bids from qualified contractors for the removal, provision, and installation of commercial outdoor parking lot poles and lights at the Overland Community Center located at 9225 Lackland Road, Overland, MO 63114.

Proposals will be accepted until **10:00 A.M. (PREVAILING LOCAL TIME), WEDNESDAY, OCTOBER 21, 2020.**

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Proposals may be delivered in person, by carrier, or by mail. It is the sole responsibility of the vendor to see that his/her proposal is received prior to the due date. Proposals submitted via email or proposals submitted after the submittal deadline will not be considered.

Proposals should be submitted in a sealed envelope clearly marked “**COMMUNITY CENTER – PARKING LOT LIGHTS**” the name of the firm and with the date and time of the bid opening.

The successful bidder shall comply with applicable State provisions concerning the payment of prevailing wages on public works projects.

The successful bidder shall require all on-site employees to complete a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program provided by the contractor which includes a course in construction safety and health approved by OSHA, or a similar program approved by MoDOLIR which is at least as stringent as an approved OSHA program, as required under Subsection 292.675.2 RSMo. All employees are required to

complete the program within **SIXTY (60) DAYS** of beginning work under this contract. The successful bidder shall also require all subcontractors under the contractor to provide the ten-hour training program required under Subsection 292.675.2 RSMo. to such subcontractors' on-site employees.

Bid security in the amount of five (5%) percent of the Base Bid offered by the bidder as indicated on the Bid Proposal form shall accompany the bid submittal. Bid security shall be in the form of a bank draft or certified check drawn upon a responsible, solvent bank and payable to the City or a satisfactory Bid Bond executed by the bidder and by a good and sufficient surety authorized to do business in Missouri.

The City will affirmatively assure that in any contract entered into pursuant to this Notice to Contractors, qualified minority business enterprises will be afforded full opportunity to submit bids and will not be discriminated against on the grounds of race, color, religion, sex, age, disability, familial status, national origin or political affiliation. If you are a person that requires an accommodation or desires more information, please call 314-428-4321 or RELAY MISSOURI 1-800-735-2966 TDD not later than 5:00 P.M. on the last day proceeding the last day for accepting bids. Offices are open between 8:00 A.M. and 5:00 P.M. Monday through Friday.

The City intends to award a contract for the Project based on the bid that, in the City's sole discretion, best meets the interests and requirements of the City. The City reserves the right in the City's sole discretion to reject any and all bids, to waive technicalities or deficiencies in any or all bids, to negotiate with any or all bidders or others for more favorable terms or prices, and to award a contract to other than the bidder submitting the lowest cost bid proposal, with or without negotiation. The City reserves the right not to open a sole bid. Work shall continue uninterrupted according to the Specifications.

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II. INSTRUCTIONS TO BIDDERS

The City of Overland, Missouri (the “City”) seeks bids from qualified contractors for the removal, provision, and installation of commercial outdoor parking lot poles and lights at the Overland Community Center located at 9225 Lackland Road, Overland, MO 63114.

1. General

- A. All work shall be constructed and completed in accordance with the specifications for the same, relating to the construction of such improvements.
- B. The Bid Documents are on file at Overland City Hall, 9119 Lackland Road, Overland, MO 63114.
- C. An electronic version of this RFP is available on the City’s website (www.overlandmo.org).
- D. A pre-bid meeting will be held at **10:00 A.M. (PREVAILING LOCAL TIME), WEDNESDAY, OCTOBER 14, 2020.** The meeting will be held at Overland City Hall, 9119 Lackland Road, Overland, MO 63114.
- E. Bid due date is Proposals will be accepted until **10:00 A.M. (PREVAILING LOCAL TIME), WEDNESDAY, OCTOBER 21, 2020.**
- F. Bids may be delivered in person, by carrier, or by mail. It is the sole responsibility of the vendor to see that his/her proposal is received prior to the due date. Bids submitted via email or bids submitted after the submittal deadline will not be considered.

2.Scope

The City of Overland, Missouri (the “City”) seeks bids from qualified contractors for the removal, provision, and installation of commercial outdoor parking lot poles and lights at the Overland Community Center located at 9225 Lackland Road, Overland, MO 63114.

3. Obtaining Bid Documents

Bid Documents include:

Community Center – Parking Lot Lights

Date Issued: October 5, 2020
Bid Package: 2020-06

- I. Notice to Contractors
- II. Instructions to Bidders
- III. General Conditions
- IV. Plans and Technical Specifications (Scope of Work)
- V. Applicable Missouri Annual Wage Order
- VI. Bid Sheet
- VII. Bid Proposal
- VIII. Bid Bond
- IX. Subcontractor Utilization Form
- X. Affidavit of Non-Collusion
- XI. Bid Submittal Required Document Checklist
- XII. City-Contractor Agreement
- XIII. Performance and Maintenance Bond
- XIV. Payment Bond
- XV. Contract Award Required Document Checklist
- XVI. Notice of Award
- XVII. Notice to Proceed

The Bid Documents shall also include any Exhibits or Attachments to the above documents, any Addenda issued prior to receipt of bid proposals, all modifications, and all documents included in the project manual for the Project, as such may be on file in the office of the City Clerk.

4. Bid Proposals

- A. Sealed bid proposals will be received in accordance with the Notice to Contractors.
- B. Bids shall be submitted on the accompanying Bid Proposal form and Unit Price Extension Sheet. The Bid Proposal form includes the affidavits required of bidders under Section 285.530 R.S.Mo. and shall be notarized where the bidder is required to submit such affidavits.
- C. Proposals will be accepted until **10:00 A.M. (PREVAILING LOCAL TIME), WEDNESDAY, OCTOBER 21, 2020.**

Proposals should be submitted to:

Office of the City Clerk
 Attn: Melissa J. Burton, CMC
 City of Overland
 9119 Lackland Road
 Overland, MO 63114

Proposals may be delivered in person, by carrier, or by mail. It is the sole responsibility of the vendor to see that his/her proposal is received prior to the due date. Proposals

submitted via email or Proposals submitted after the submittal deadline will not be considered.

Proposals should be submitted in a sealed envelope clearly marked “**COMMUNITY CENTER – PARKING LOT LIGHTS**”, with the name of the firm and with the date and time of the bid opening.

D. Bid Submittals shall be accompanied by the following:

1. Documentation showing the bidder’s participation in a federal work authorization program, pursuant to Section 285.230 R.S.Mo. and in accordance with paragraph 13 of these Instructions to Bidders.
 2. Proof of lawful presence of the Authorized Representative of the Contractor, pursuant to Section 208.009 R.S.Mo. and in accordance with paragraph 13 of these Instructions to Bidders
 3. Bid security in the amount of five (5%) percent of the Base Bid (exclusive of numbered Alternates) as indicated on the Bid Proposal form shall accompany the bid submittal. Bid security shall be in the form of a bank draft or certified check and drawn upon a responsible, solvent bank and payable to the City or a satisfactory Bid Bond executed by the bidder and by a good and sufficient surety authorized to do business in Missouri. A Bid Bond shall be in substantially the form provided in the Bid Documents. The bid security shall be refunded or returned to the bidder upon the faithful performance of the conditions of the Bid Proposal to the satisfaction of the City.
 4. A Subcontractor Utilization Form identifying the Subcontractors and Suppliers the bidder proposes to utilize in the performance of the Project, in accordance with the General Conditions.
 5. A satisfactory Affidavit of Non-Collusion in substantially the form provided in the Bid Documents.
 6. At least three (3) references regarding prior work of the bidder on public works contracts in Missouri.
- E. No bid shall be considered unless the offering bidder shall furnish evidence satisfactory to the City that the bidder has the necessary facilities, ability and pecuniary resources to fulfill the conditions of the Contract Documents. The low bidder or any other bidder may be required to submit financial statements.
- F. All bids shall be made for materials in the different classes furnished in the Work complete, and no bid proposal will be made or considered on any part of the Work not complete in place, nor on materials except in completed work, unless specifically otherwise provided for in the Plans and Specifications.

- G. Attention of the bidders is directed to the requirement that Work on the Project shall be commenced within **THIRTY (30) DAYS** following written notice to the Contractor to proceed and the Project be completed within a period of **NINETY (90) CONSECUTIVE CALENDAR DAYS** from the date of such notice, unless an extension of time is approved by the City.
- H. No bid shall be withdrawn after the opening of bids for a period of **NINETY (90) CALENDAR DAYS** after the closing time for acceptance of bids. Any bidder may withdraw a bid personally or by written request at any time prior to the closing time for the acceptance of bids.
- I. Addenda may be issued during the bidding period. All Addenda shall become a part of the Bid Documents and shall be binding on all Bidders. Bidders shall include resultant costs in the Base Bid. The City will issue Addenda to all known persons and organizations who have obtained copies of the Bid Documents; however, it is the duty of a Bidder to ensure that such Bidder has obtained all Addenda prior to submission of a bid.
- J. Where the Bid Documents stipulate a particular product, substitutions will be considered up to **SEVEN (7) DAYS** before receipt of bids. When a request to substitute a product is made, the City may approve the substitution and if approved, will issue an Addendum to known Bidders. The submission shall provide sufficient information to determine acceptability of such products and shall provide complete information on required revisions to other work to accommodate each proposed substitution. Bidders shall not include a substitution in a Bid unless such substitution is submitted and approved as provided in this paragraph.

5. Itemized Bids

Each bid shall be itemized in component parts as set out on the Unit Price Extension Sheet form to be submitted on or before the date and time for receiving bids. Each bid shall specify unit prices for all items and shall make extensions based upon the quantities listed. The sum of the products of the quantities listed in the Unit Price Extension Sheet form as submitted, multiplied by the unit price bid shall constitute the gross sum Base Bid, which shall be entered on the Bid Proposal form.

6. Approximate Quantities

All quantities are approximate. Quantities provided in the Bid Documents are not guaranteed by the City and are used solely for the purpose of comparing bids and may or may not represent the actual quantities encountered on the Project. The City shall pay according to the actual work in place, as provided in the Contract Documents.

7. Bidder's Duties

- A. Bidders shall thoroughly examine the Plans and Technical Specifications for the Project, and also the Project site, shall inform themselves fully of the conditions relating to construction and labor under which the Work will be performed and shall judge for themselves all the circumstances affecting the cost and nature of the Work and the Project. By submitting a bid, each bidder represents that the bidder has inspected the Project site and is thoroughly familiar with the Bid Documents and all requirements for performance of the Work and failure of the bidder to do so shall not relieve the successful bidder of the obligation to furnish all labor, materials and equipment necessary to carry out the provisions of the Contract Documents and to complete the Project in accordance with the Contract Documents for the consideration set forth in the bid submitted.
- B. In a case of doubt as to the true meaning of any part of the Plans and Technical Specifications, or any other of the Bid Documents, any person who has obtained a copy of the Bid Documents may submit to the City a written request for an interpretation thereof no later than **SEVEN (7) DAYS** before the date set for receipt of bids. Questions or requests for interpretation submitted via phone or voicemail will not be answered. The person submitting the request shall be responsible for its prompt delivery. Any such interpretation will be rendered only by written Addendum duly issued and a copy of such addendum will be mailed or delivered to each person listed by the City as having obtained a copy of the Bid Documents. The City shall not be responsible for any other explanation or interpretation of the Bid Documents.

8. Bidder Disqualifications

No contract will be awarded by the City to any person, firm or corporation: (i) who has been delinquent or unfaithful in any former contract for construction with the City; (ii) who has defaulted as surety or otherwise upon any contractual monetary obligation to the City; (iii) who appears on the Missouri Secretary of State's list of violators of the Prevailing Wage Law; (iv) who is not authorized to do business in the State of Missouri; (v) who is otherwise ineligible to be awarded a contract for the Project under applicable federal, state, or local law.

9. Return of Bid Security

The City shall return the bid security of all except the three apparent lowest and best bidders for the Project within **THIRTY (30) BUSINESS DAYS** after the opening of bids. Bid security of the three apparent lowest and best Bidders shall be returned within 48 hours after the City has accepted a Payment Bond and a Performance and Maintenance Bond and has approved and executed a City Contractor Agreement.

10. Right to Reject Bids

The City intends to award a contract based on the bid that, in the City's sole discretion, best meets the interests and requirements of the City. The City reserves the right in the City's sole discretion to reject any and all bids, to waive technicalities or deficiencies in any or all bids, to

negotiate with any or all bidders or others for more favorable terms or prices, and to award a contract to other than the bidder submitting the lowest cost bid proposal, with or without negotiation. The City reserves the right not to open a sole bid.

Bidders are solely responsible for their own expenses in preparing, and submitting Proposals, and for any meetings, negotiations or discussions with the City or its representatives and consultants, relating to or arising from this RFP. The City and its representatives, agents, consultants and advisors will not be liable to any Bidder for any claims, whether for costs, expenses, losses or damages, or loss of anticipated profits, or for any other matter whatsoever, incurred by the Bidder in preparing and submitting a Proposal, or participating in negotiations for a Contract, or other activity related to or arising out of this RFP.

11. Statutory Preferences

In awarding this Agreement, the City shall give preference to all firms, corporations, or individuals doing business as Missouri firms, corporations, or individuals, or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less. Additionally, the City shall give preference to disabled veteran businesses (as that term is defined in Section 34.076 R.S.Mo.) doing business as Missouri firms, corporations, or individuals, or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less.

To the extent permitted by federal laws and regulations, a contractor or bidder domiciled outside the boundaries of the State of Missouri shall be required, in order to be successful, to submit a bid the same percent less than the lowest bid submitted by a responsible contractor or bidder domiciled in Missouri as would be required for such a Missouri domiciled contractor or bidder to succeed over the bidding contractor or bidder domiciled outside Missouri on a like contract or bid being let in the person's domiciliary state and, further, the contractor or bidder domiciled outside the boundaries of Missouri shall be required to submit an audited financial statement as would be required of a Missouri domiciled contractor or bidder on a like contract or bid being let in the domiciliary state of that contractor or bidder.

In procuring any goods or commodities in carrying out the Work under this Agreement, Contractor shall abide by the City Codes expressing a preference for products which are made in America.

12. Award of Contract

- A. Except in cases where the City exercises the right to reject any or all bids or to negotiate with any or all bidders, the City will award a contract for the Work and the Project as soon as practicable after closing of the time for accepting bids, to the bidder who has submitted the lowest and best bid which complies in all respects with requirements of the Bid Documents and which, in the City's sole discretion, best meets the interests and requirements of the City.

- B. The successful bidder shall be required within **FIVE (5) DAYS** of receipt of written notification of award from the City to execute the City Contractor Agreement and to furnish a satisfactory Performance and Maintenance Bond and, if the Bid is excess of \$50,000 or if required on the Notice of Award, a satisfactory Payment Bond, each with a good and sufficient surety authorized to do business in the State of Missouri, each in the full amount of the bid submitted based on the bid quantity listed on the Bid Proposal form, and each substantially in the form provided in the Bid Documents. The Payment Bond furnished shall meet all requirements of Section 107.170 R.S.Mo., as amended, and shall guarantee the payment of any and all materials, incorporated, consumed or used in connection with the construction of such Work, and all insurance premiums, both for compensation, and for all other kinds of insurance, said Work, and for all labor performed in such Work whether by subcontractor or otherwise, including payment of prevailing wage requirements (if applicable) of the State of Missouri. The Performance and Maintenance Bond furnished shall guarantee the faithful performance of the Work and guarantee the Work for the guaranty period established in the City-Contractor Agreement. Such guarantee obligation is separate and independent of Contractor's obligation to provide warranties as required by the City-Contractor Agreement or applicable law. In case of failure or neglect to execute the City Contractor Agreement or to furnish a satisfactory Payment Bond or Performance and Maintenance Bond within the time above specified, such bidder will be considered as having abandoned the bid, and the bid security provided shall thereupon be forfeited to the City and collected as provided by law, and thereupon the Project shall be re-advertised or otherwise let to another bidder.

13. Compliance with State Immigration Statutes

- A. As a condition for the award of this contract, the Contractor shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Work. The Contractor shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Work. The Contractor shall not be required to provide these affidavits to the City if such affidavits have been previously provided to the City within the past year. All words in this paragraph shall have the definitions as provided in Section 285.525 R.S.Mo.
- B. Pursuant to Section 208.009 R.S.Mo., the Contractor shall provide at the time of submission of any bid affirmative proof that the Authorized Representative for the Contractor is a citizen or a permanent resident of the United States or is lawfully present in the United States. The Authorized Representative for the Contractor (or "Authorized Representative") shall be the person authorized to prepare, submit and sign bid documents on behalf of the Contractor and shall be eighteen years of age or older. Such affirmative proof shall include documentary evidence recognized by the Missouri Department of Revenue when processing an application for a driver's license, a Missouri driver's license, as well as any document issued by the federal government that confirms an alien's lawful presence in the United States.

- C. An Authorized Representative who cannot provide the proof required under Section 208.009 R.S.Mo. at the time of submission of any bid may alternatively sign an affidavit under oath, attesting to either United States citizenship or classification by the United States as an alien lawfully admitted for permanent residence. The affidavit shall be on or consistent with forms prepared by the City, which shall be available from the City Clerk if needed. Any Authorized Representative who signed an above-described affidavit must provide proof of lawful presence within the time provided in Subsection 208.009.5 R.S.Mo. for temporary public benefits and failure to provide such proof within such time may result in the City rescinding and voiding any Contract awarded to the Contractor.

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III. GENERAL CONDITIONS

ARTICLE 1 CONTRACT DOCUMENTS

1.1 DEFINITIONS

- 1.1.1 The Contract Documents. The Contract Documents shall include all those documents identified as the Contract Documents in the City-Contractor Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, or (2) a Change Order.
- 1.1.2 The Contract. The Contract Documents form the Contract. The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, both written and oral, including the bidding documents. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1.
- 1.1.3 The Work. The term Work includes all labor necessary to complete the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such construction.
- 1.1.4 The Project. The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part.
- 1.1.5 Notice to Proceed. The written notice from the City notifying the Contractor of the date on or before which he is to begin prosecution of the work.

1.2 EXECUTION, CORRELATION, INTENT, AND INTERPRETATIONS

- 1.2.1 The Contract Documents shall be signed in not less than triplicate by the City and Contractor.
- 1.2.2 The Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.
- 1.2.3 The Contract Documents are complementary, and what is required by anyone shall be as binding as if required by all. The intention of the Contract Documents

is to include all labor, materials, equipment and other items as provided in Subparagraph 3.3 necessary for execution and completion of the Work. Words which have well-known technical or trade meanings are used herein in accordance with such recognized meanings.

1.3 COPIES FURNISHED AND OWNERSHIP

1.3.1 Unless otherwise provided in the Contract Documents, the Contractor will be furnished a maximum of five (5) copies, free of charge, of the Drawings and Specifications for the execution of the work.

1.3.2 All Drawings, Specifications and copies thereof furnished by the City are and shall at all times remain property of the City. Such documents shall not be used on any other project. At the conclusion of the job, the Contractor shall submit one (1) set of mark ups for as-builts.

ARTICLE 2 CITY

2.1 DEFINITION

2.1.1 The City is the person or organization identified as such in the City-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term City means the City or its authorized representative. The City may be alternatively referred to as the "Owner."

2.2 CITY RIGHT TO ACCESS AND OBSERVATION

2.2.1 The City shall have access at all times to the Project for the purpose of observation and inspection. The Contractor shall provide proper and adequate facilities for such access and observation.

2.3 CITY'S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct defective Work or fails to supply materials or equipment in accordance with the Contract Documents, the City may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated.

2.4 CITY'S RIGHT TO CARRY OUT THE WORK

2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, or fails to perform any provision of the Contract, the City may, after **SEVEN (7) DAYS** written notice to the Contractor and without prejudice to any other remedy the City may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or hereafter due the Contractor the cost of correcting such

deficiencies. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City promptly upon request.

ARTICLE 3. CONTRACTOR

3.1 DEFINITION

3.1.1 The Contractor is the person or organization identified as such in the City-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

3.2.1 The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work.

3.3 LABOR AND MATERIALS

3.3.1 Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, supplies, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work.

3.3.2 The Contractor shall at all time enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him. If the City reasonably objects to any person employed by the Contractor, the employee shall be immediately dismissed.

3.3.3 The labor provided by the Contractor shall be directed to be a workman like character with respect to the methods of construction and quality of completed work; and, shall not encumber the premises or adjacent property or streets with materials and/or equipment.

3.3.4 If applicable, the Contractor shall comply with, and is bound by, the provisions of Missouri law pertaining to the payment of wages on public works projects contained in Sections 290.210 through 290.340 RSMo., and any amendments thereto, including, but not limited to the following:

1. In accordance with Section 290.250 RSMo., as amended, the Contractor shall not pay less than the prevailing hourly rate of wages specified by the Missouri Department of Labor and Industrial Relations Division of Labor Standards to all workmen performing Work under the Contract.

2. In accordance with 290.250 RSMo., as amended, the Contractor shall forfeit as a penalty to the City one hundred dollars (\$100.00) for each workman employed for each calendar day, or portion thereof, such workman is paid less than the said stipulated rates for any Work done under the Contract, by him or by any Subcontractor under him and shall include provisions in all bonds guaranteeing the faithful performance of said prevailing hourly wage clause.
3. In accordance with 290.265 RSMo., as amended, the Contractor and each Subcontractor shall post a clearly legible statement of all prevailing hourly wage rates to be paid to all workmen employed to complete the Work in a prominent and easily accessible place at the site of the Work and such notice shall remain posted during the full time that any workmen shall be employed at the Work.
4. Certified payrolls shall also be submitted prior to final payment for all Work completed by the Contractor or Subcontractors.
5. In accordance with Section 290.290 RSMo., as amended, before final payment is made an affidavit must be filed by the Contractor stating that he has fully complied with the prevailing wage law. No payment shall be made unless and until this affidavit is filled in proper form and order.

3.3.5 The Contractor shall execute and complete the Work in such a manner that avoids jurisdictional and other disputes among labor unions.

3.4 WARRANTY

3.4.1 The Contractor warrants to the City that all materials and equipment furnished under the Contract and incorporated in the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not so conforming to these standards shall be considered defective. The Contractor shall furnish satisfactory evidence as to the kind and quality of all materials and equipment.

3.4.2 The Contractor's obligation to correct Work under Section 12.2.2 of these General Conditions is not the limit of the Contractor's liability and shall not constitute waiver of the City's rights under 3.4.1 nor elsewhere in the Contract nor as otherwise provided by law. Nothing herein shall limit the Contractor's liability under any applicable statute of limitations, or any longer warranties required by the Contract or applicable law.

3.5 PERMITS, FEES, EASEMENTS, AND NOTICES

- 3.5.1 The Contractor shall secure and pay for all permits, governmental fees, and licenses necessary for the proper execution and completion of the Work, including those required to be obtained from the City, except fees imposed solely by the City shall be waived at the time of application.
- 3.5.2 For the purposes of operating and maintaining the Project, the City shall acquire the necessary lands, easements and rights-of-way privileges required for the same. The Contractor shall furnish and construct any necessary access roads or facilities.
- 3.5.3 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, he shall promptly notify the City in writing and any necessary changes shall be adjusted by appropriate Modification. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations and without such notice to the City, the Contractor shall assume full responsibility therefor and shall bear all costs attributable thereto.
- 3.5.4 The Contractor shall notify in writing all residents whose property is affected by the Work at least forty-eight (48) hours prior to commencement of any operation that will affect the residents' property. The City, before commencement of Work on the Project, shall review and approve the form of all such notices.

3.6 SUPERINTENDENT

- 3.6.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance on the Project site at all times during the progress of all work for the duration of the total project. This person shall be a non-working superintendent who will be responsible for the satisfactory progression of the work and to ensure that all work is being completed in accordance with the plans and specifications. He is also to relay any conflicts or discrepancies that arise in the plans to the City's representative for resolution or interpretation. The name of the person selected as superintendent and his qualifications shall be submitted at the time of bids and shall be approved in writing by the City. The superintendent shall not be changed except with the written consent or at the request of the City. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. The superintendent shall be the contact person whom the City will contact in the event of after-hours and weekend emergencies and the Contractor shall provide the City with the superintendent's contact information for such purpose.

3.7 RESPONSIBILITY FOR THOSE PERFORMING THE WORK

3.7.1 The Contractor shall be responsible to the City for the acts and omissions of all his employees and all Subcontractors, their agents and employees and all other persons performing any of the Work under a contract with the Contractor.

3.7.2 The Contractor shall at all time employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by these specifications. All workmen shall have sufficient skill and experience to perform properly the work assigned to them.

3.8 DRAWINGS AND SPECIFICATIONS AT THE SITE

3.8.1 The Contractor shall maintain at the site for the City one copy of all Drawings, Specifications, Addenda, approved Shop Drawings, Change Orders and other Modifications, in good order and marked to record all changes made during construction. The Drawings, marked to record all changes made during construction, shall be delivered to the City upon completion of the work. The Contractor shall also maintain on the project site a survey level, legs, and rod at all times, which are deemed adequate by the City.

3.9 CLEANING UP

3.9.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. The Contractor shall not “stockpile” any material on the jobsite and all excavated material shall be hauled off the site at the time of excavation. However, stockpiling of materials delivered and used on the same day will be allowed if all materials are in place or removed at the end of the day.

3.9.2 The Contractor shall be responsible for keeping clean, i.e. free from mud, dirt, rock, and debris at all times all City streets used by the Contractor in connection with the Work and the Project. Should any accumulation be deemed excessive, the City may direct the Contractor to thoroughly wash or remove the debris from the street at no cost to the City.

3.9.3 The Contractor shall make satisfactory arrangements to store material and equipment after delivery and during construction off of the City right-of-way. The City will assume no responsibility for these arrangements.

3.9.4 “Removal” shall be defined as removal and disposal off the site unless otherwise specified or directed by the City.

3.10 CASH ALLOWANCES

3.10.1 The Contractor acknowledges and agrees that the Contract Sum includes all cash allowances as may be specified in the Contract Documents.

ARTICLE 4. SUBCONTRACTORS

4.1 DEFINITION

4.1.1 A Subcontractor is a person or organization who has a direct contract with the Contractor to perform any of the Work. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative.

4.1.2 A Sub-subcontractor is a person or organization who has a direct or indirect contract with a Subcontractor to perform any of the Work. The term Sub-subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Sub-subcontractor or an authorized representative thereof.

4.1.3 Nothing contained in the Contract Documents shall create any contractual relation between the City and any Subcontractor or Sub-subcontractor.

4.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

4.2.1 Unless otherwise specified in the Contract Documents or in the Instructions to Bidders, the Contractor shall submit a completed and signed Subcontractor Utilization Form, naming each Subcontractor and Supplier the Contractor proposes to employ in performing the Work under this Contract and describing the portions of the Work each proposed Subcontractor shall perform or supply, along with other required Bid documents to the City. Contractor shall complete and submit a Supplemental Subcontractor Utilization form to the City in the event of any substitution or addition of a Subcontractor by the Contractor.

4.2.2 Prior to the award of the Contract, the City will notify the Bidder in writing if the City, after due investigation, objects to any such person or entity proposed by the Bidder pursuant to Subparagraph 4.2.1 above. If the City objects to any such proposed person or entity, the Bidder may, at his option, (1) withdraw his Bid, or (2) submit an acceptable substitute person or entity with no adjustment in his bid price.

4.2.3 The City reserves the right to reject a Subcontractor, if in the City's sole discretion, delays may result in the performance of Work as a result of a Subcontractor's other obligations. The Contractor shall be held responsible, in addition to the submission of the Subcontractor Utilization Form, to apprise the

City of any additional work which a Subcontractor accrues throughout the duration of the project. This shall include work for the City under a different Contract, or any other person or entity. If such said additional work shall detrimentally impact the progression of the Work under this Contract, the City retains the right to require the Contractor to submit a substitute Subcontractor for this work at no additional cost to the City.

- 4.2.4 The Contractor shall not contract with any Subcontractor or any person or organization (including those who are to furnish materials or equipment fabricated to a special design), for proposed proportions of the Work designated in the Contract Documents or, if none is so designated, with any Subcontractor proposed for the principal portions of the Work, who has been rejected by the City.
- 4.2.5 If the City requires a change of any proposed Subcontractor or person or organization during the execution of the Work approved under the present Contract, the Contract Sum shall be increased or decreased by the difference in cost resulting from such change and an appropriate Change Order shall be issued.
- 4.2.6 The Contractor shall not make any substitution for any proposed Subcontractor or person or organization that has not been accepted by the City prior to the Contract Award, unless the substitution is accepted by the City in writing prior to such substitution.

4.3 SUBCONTRACTUAL RELATIONS

- 4.3.1 All Work performed for the Contractor by a Subcontractor shall be pursuant to an appropriate agreement between the Contractor and Subcontractor (and where appropriate between Subcontractors and Sub-subcontractors) which shall contain provisions that:
 - 1. Require the Work to be performed in accordance with the requirements of the Contract Documents;
 - 2. Require submission to the Contractor of applications for payment under each subcontract to which the Contractor is a party, in reasonable time to enable the Contractor to apply for payment in accordance with Article 8 hereof;
 - 3. Require that all claims for additional costs, extensions of time, damages for delays or otherwise with respect to subcontracted portions of the Work shall be submitted to the Contractor (via any Subcontractor or Sub-subcontractor where appropriate) in sufficient time so that the Contractor may comply in the manner provided in the Contract Documents for like claims by the Contractor upon the City;

4. Waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by the property insurance described in Paragraph 10.2, except such rights as they may have to the proceeds of such insurance held by the City as trustee under said Paragraph 10.2;
5. Obligate each Subcontractor specifically to consent to the provisions of this Paragraph 4.3; and
6. Require the Subcontractor (and the Sub-subcontractor) defend, with counsel selected by the City, to indemnify and hold harmless the City against all claims, damages, losses, expenses and attorneys' fees arising out of or resulting from the performance of the Work by Subcontractor, and its agents and employees, unless such claims, damages or losses are caused solely by the negligent act of the City.

4.4 PAYMENTS TO SUBCONTRACTORS

- 4.4.1 The Contractor shall pay each Subcontractor upon receipt of payment from the City, an amount equal to the percentage of completion allowed to the Contractor on account of such Subcontractor's Work, less the percentage retained from payments to the Contractor. The Contractor shall also require each Subcontractor to make similar payments to his Subcontractors.
- 4.4.2 If the City withholds payment to the Contractor for any cause which is the fault of the Contractor and not the fault of a particular Subcontractor, the Contractor shall pay that Subcontractor on demand for its Work to the extent completed.
- 4.4.3 The City shall not have any obligation to pay or to see to the payment of any sum to any Subcontractor or Sub-subcontractor.

ARTICLE 5. SEPARATE CONTRACTS

5.1 CITY'S RIGHT TO AWARD SEPARATE CONTRACTS

- 5.1.1 The City reserves the right to award other contracts on other terms and conditions in connection with other portions of the Project.

5.2 MUTUAL RESPONSIBILITY OF CONTRACTORS

- 5.2.1 The Contractor shall afford other contractors' reasonable opportunity for the delivery and storage of their materials and equipment and the execution of their work and shall properly connect and coordinate the Work with theirs. The Contractor shall employ, insofar as possible, such methods and means in carrying out the Work as will not cause any interruption or any interference with any other contractor.

5.2.2 If any part of the Work depends for proper execution or results upon the work of any other separate contractor, the Contractor shall inspect and promptly report to the City any apparent discrepancies or defects in such work that render it unsuitable for proper execution of the Work. Failure of the Contractor to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper to receive the Work, except as to defects which may develop in the other contractor's work after the execution of the Contractor's Work that could not have been discovered by the Contractor upon reasonable inspection.

5.2.3 If the Contractor causes damage to the work or property of any other contractor on the Project, and such separate contractor sues the City or initiates an arbitration proceeding on account of any damage alleged to have been so sustained, the City shall notify the Contractor who shall defend such proceedings at his own expense, and if any judgment or award against the City arises therefrom the Contractor shall pay or satisfy it and shall reimburse the City for all attorneys' fees and court arbitration costs which the City has incurred.

5.3 CITY'S RIGHT TO CLEAN UP

5.3.1 If a dispute arises between the separate contractors as to their responsibility for cleaning up as required by Paragraph 3.9, the City may clean up and charge the cost thereof to the several contractors.

ARTICLE 6. MISCELLANEOUS PROVISIONS

6.1 GOVERNING LAW AND JUDICIAL REVIEW

6.1.1 The Contract shall be governed by the laws of the State of Missouri and venue shall be in St. Louis County, Missouri.

6.1.2 As a prerequisite to the Contractor filing any claim against the City in any court of law or equity pursuant to this Contract, the Contractor agrees that its shall be bound to first file such claim with the City Board of Adjustment, pursuant to and in accordance with Section 401.110 of the City Code.

6.2 SUCCESSORS AND ASSIGNS

6.2.1 The City and the Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract without the prior written consent of the other, nor shall the Contractor assign any sums due or to become due to him hereunder, without the prior written consent of the City.

6.3 NOTICES

6.3.1 Any notice to any party pursuant to or in relation to the Contract shall be in writing and shall be deemed to have been duly given when delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or when deposited in the United States mail, registered or certified with postage prepaid addressed to the last business address known to the party giving the notice.

6.4 RIGHTS AND REMEDIES

6.4.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

6.5 ROYALTIES AND PATENTS

6.5.1 The Contractor shall pay all royalties and license fees payable on all designs, processes or products used in connection with the work or incorporated therein, unless otherwise agreed upon by the City. The Contractor shall defend all suits or claims for infringement of any patent rights and shall indemnify and hold the City harmless from and against any loss on account thereof.

6.6 TESTS AND INSPECTION

6.6.1 The Contractor shall bear all costs of any inspections, tests, or approvals required under any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction.

6.6.2 The City may perform special testing and inspection to verify the Work is performed in accordance with the Contract. The City will provide the Contractor with a listing of tests and inspections to be performed and approximate locations or frequency. The Contractor will be required to notify the City forty-eight hours prior to the time the Contractor will be ready for specific tests or inspection required by the City. If such special testing or inspection reveals failure of the Work to comply (1) with the requirements of the Contract Documents, or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, the Contractor shall bear the cost of the City's inspection and retesting and such cost shall be deducted then or thereafter due Contractor. In all other cases, the City shall bear such costs. Any material or workmanship which the City determines does not meet requirements of the Contract Documents will be rejected. At the direction of the City, the Contractor shall remove and replace the rejected material with acceptable material at no cost to the City.

- 6.6.3 When the Contractor has completed all Work, the City shall make a final inspection to determine conformity to the Contract Documents. The Contractor shall provide, at the Contractor's sole expense, all equipment and assistance necessary for such final inspection, including all tests specified herein or required by law. All cost for providing such equipment and assistance shall be included in the bid submitted and no additional payment therefor will be made by the City.

ARTICLE 7. TIME

7.1 DEFINITIONS

7.1.1 The Contract Time is the period of time allotted in the Contract Documents for completion of the Work. Said work shall include all punchlist items deemed necessary by the City, exclusive of punchlist items generated by any public authority having jurisdiction other than the City. The date of completion of the Contract shall be the date when all Work including City punchlist items have been approved in writing by the City.

7.1.2 The date of commencement of the Work is the date established in the written Notice to Proceed from the City to the Contractor.

7.1.3 The term "day" as used in the Contract Documents shall mean calendar day.

7.2 PROGRESS AND COMPLETION

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

7.2.2 The Contractor shall begin the Work on the date of commencement provided in the City-Contractor Agreement. The Contractor shall carry the Work forward expeditiously with adequate forces and shall complete it within the Contract Time and in accordance with the Construction Schedule.

7.3 HOURS OF WORK

7.3.1 The Contractor shall not perform any work nor move any equipment except between 7:00 A.M. and 7:00 P.M. Monday through Friday without the written consent of the City. No work shall be done on Saturday, Sunday, or City holidays, unless approved by the City in advance.

7.4 DELAYS, EXTENSIONS OF TIME

7.4.1 Should the Contractor be delayed at any time during the execution of the Work by changes in the scope of work, or by strikes, lockouts, fire, unusual transportation delays, unavoidable casualties, or other delay beyond the control of and not

reasonably foreseeable by the Contractor and such delay is approved by the City, the time for completion shall be extended for a period commensurate with the period of the delay.

- 7.4.2 In such event, the Contractor may submit a written request for a time extension within **SEVEN (7) CALENDAR DAYS** of the occurrence of the event causing the delay.
- 7.4.3 Inclement weather shall not be considered a valid reason for extension of time, unless abnormal for the season and place of work. The Contractor shall make proper allowance for inclement weather in the bid submitted.
- 7.4.4 In case of continuing delay, a single request for time extension by the Contractor shall be sufficient.

ARTICLE 8. PAYMENTS AND COMPLETION

8.1 CONTRACT SUM

- 8.1.1 The Contract Sum is stated in the City-Contractor Agreement and is the total amount payable by the City to the Contractor for the performance of the Work.

8.2 APPLICATION FOR PAYMENT

- 8.2.1 The Contractor shall submit requests for payment not more than once monthly. By 12:00 P.M. on or before the twentieth of the month, upon substantial completion of various stages of the Work, and upon final completion of the Work, the Contractor shall submit to the City an itemized Application for Payment pursuant to the City-Contractor Agreement on such forms and supported by such data substantiating the Contractor's right to payment as the City may require.
- 8.2.2 If payments are to be made on account of materials or equipment to be incorporated into the Work and delivered and suitably stored at the site, such payments shall be conditioned upon submission by the Contractor of bills of sale, waiver of liens, or such other documents satisfactory to the City to establish the City's title to such materials or equipment or to otherwise protect the City's interest.
- 8.2.3 By submitting an Application for Payment, the Contractor warrants and guarantees that title to all Work, materials and equipment covered by such Application for Payment, whether incorporated into the Work or not, will pass to the City upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances (hereinafter referred to as "liens").

8.3 PAYMENT

- 8.3.1 If the Contractor has made Application for Payment as above, the City will make payment to the Contractor for such amount as it determines to be properly due pursuant to the Contractor's Application for Payment, or state in writing the City's reasons for withholding all or any portion of such payment. If the Contract Sum exceeds fifty thousand dollars (\$50,000), five percent (5%) of the amount of each monthly request for payment shall be withheld until after completion by the Contractor and acceptance by the City of all Work.
- 8.3.2 If the Contract Sum is not estimated to exceed \$50,000, the City may retain ten percent (10%) of each monthly request for payment to ensure performance of the Contract.
- 8.3.3 No progress payment, nor any partial or entire use or occupancy of the Work by the City, shall be evidence of the satisfactory performance of the Work, either wholly or in part, or constitute an acceptance of any Work that is defective or improper or not otherwise completed in accordance with the Contract Documents.

8.4 COMPLETION AND FINAL PAYMENT

- 8.4.1 Upon receipt of written notice from the Contractor that the Work is fully completed and ready for final inspection and acceptance, and upon receipt of a final Application for Payment, the City will promptly make such inspection. Any defects arising out of said inspection shall be promptly remedied by the Contractor at no additional cost to the City. When the City finds the Work acceptable under the Contract Documents and the Contract substantially complete, the City will make final payment to the Contractor, including any amount previously withheld by the City as retainage, less any penalties assessed against Contractor and authorized by law to be withheld by the City from its payment to the Contractor, and less any moneys which are due and payable to the City as liquidated damages. Additionally, if there are any remaining minor items to be completed, an amount equal to one hundred and fifty percent of the value of each item as determined by the City shall be withheld until such item or items are completed. If the City determines the work is not substantially completed and accepted, then the City shall provide a written explanation of why the Work is not considered substantially complete and accepted within **FOURTEEN (14) CALENDAR DAYS** to the Contractor, who shall then provide such notice to the subcontractor or suppliers responsible for such Work.
- 8.4.2 If applicable, the final payment shall not become due until the Contractor submits to the City (1) an Affidavit that all payrolls, bills for materials and equipment, and other indebtedness incurred in connection with the execution and completion of the Work for which the City or its property might in any way be responsible, have been paid or otherwise satisfied, (2) consent of the surety, if applicable, to final payment, (3) an affidavit stating the Contractor has fully complied with the

provisions and requirements of the Prevailing Wage Law, Section 290.210 through 290.340 RSMo., as amended, and (4) if required by the City, other data establishing payment or satisfaction of all such obligations, such as receipts and releases arising out of the Contract, to the extent and in such form as may be designated by the City. If any Subcontractor refuses to furnish a release or waiver required by the City, the Contractor may furnish a bond satisfactory to the City indemnifying the City against any liability relating to such Subcontractor. If any such claimed liability remains unsatisfied after all payments are made, the Contractor shall refund to the City all moneys that the City incurs or may be compelled to pay in discharging such claimed liability, including all costs and reasonable attorneys' fees.

8.4.3 The acceptance of final payment shall constitute a waiver of all claims by the Contractor, except those previously made in writing and still unsettled.

ARTICLE 9. PROTECTION OF PERSONS AND PROPERTY

9.1 SAFETY PRECAUTIONS AND PROGRAMS

9.1.1 The Contractor shall initiate, maintain, and supervise safety precautions and programs in connection with the performance of the Work.

9.2 SAFETY OF PERSONS AND PROPERTY

9.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

1. All employees on the Work and all other persons who may be affected thereby;
2. All the Work, all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his Subcontractors or Sub-subcontractors; and
3. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, sprinkler systems, structures, and utilities not designated for removal, relocation or replacement in the course of construction.

9.2.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction over the safety of persons or property to protect them from damage, injury or loss. The Contractor shall erect and maintain all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying the City and users of adjacent utilities. The Contractor shall provide signs, barrels, or any other safety devices

which the City deems necessary for public safety. No additional payment will be made, and this work shall be considered incidental to the Contract. The City will place safety devices as it deems necessary if the Contractor fails to provide the required items within 24 hours of notification. The Contract Sum shall be reduced by the cost of these devices.

- 9.2.3 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- 9.2.4 All damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by anyone for whose acts they may be liable, shall be remedied by the Contractor. The City shall document any complaint by any person regarding damage or loss to property caused by Contractor by requesting such complainant to complete a Damage Claim form. A copy of the Damage Claim form shall be submitted by the City to the Contractor and the Contractor shall correct the problem, repair such damage or otherwise compensate the complainant or file a claim for such damage with Contractor's insurance company within **TEN (10) DAYS** of the receipt of the Damage Claim form from the City. If the City shall have a legitimate basis for believing that such claim is valid, the City shall have the option to withhold payment of funds until (i) such damages are repaired; or (ii) the City has been provided with evidence that that Contractor has made restitution to the complainant.
- 9.2.5 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the City.

ARTICLE 10. INSURANCE

10.1 CONTRACTOR'S LIABILITY INSURANCE

- 10.1.1 The Contractor shall purchase and maintain such insurance required in the Contract Documents to protect him from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.
- 10.1.2 The insurance shall be written for not less than any limits of liability specified in the Contract Documents, or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations for indemnification and reimbursement of attorneys' fees and costs under the Contract Documents.

10.1.3 Certificate(s) of Insurance acceptable to the City shall be filed with the City prior to commencement of the Work. Certificate(s) of Insurance must state: “The City of Overland, Missouri is additional insured.” These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least **THIRTY (30) DAYS** prior written notice has been given to the City.

10.2 PROPERTY INSURANCE

10.2.1 Unless otherwise provided, the Contractor shall purchase and maintain property insurance (Builder’s Risk Insurance) upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the City, the Contractor, Subcontractors, and Sub-subcontractors in the Work and shall insure against the perils of Fire, Extended Coverage, Vandalism, and Malicious Mischief.

10.2.2 The Contractor shall purchase and maintain such steam boiler and machinery insurance as may be required by the Contract Documents or by law. This insurance shall include the interests of the City, the Contractor, Subcontractors, and Sub-subcontractors in the Work.

10.2.3 Certificate(s) of Insurance acceptable to the City shall be filed with the City prior to commencement of the Work. Certificate(s) of Insurance must state on the Certificate: “The City of Overland, Missouri is an additional insured.” These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least **THIRTY (30) DAYS** prior written notice has been given to the City.

10.2.4 Any loss insured by property insurance maintained by the City shall be adjusted with the City and made payable to the City as trustee for the insured, as their interests may appear, subject to the requirements of any applicable mortgage clause.

10.2.5 The City and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under this Paragraph 10.2 and the Contract Documents, City-Contractor Agreement, except such rights as they may have to the proceeds of such insurance held by the City as trustee. The Contractor shall require similar waivers by Subcontractors and Sub-subcontractors in accordance with Paragraph 4.3.1 hereof.

ARTICLE 11. CHANGES IN THE WORK

11.1 CHANGE ORDERS

11.1.1 The City, without invalidating the Contract, may order Changes in the Work within the general scope of the Contract consisting of additions, deletions or other

revisions, with the Contract Sum and the Construction Schedule being adjusted in accordance with the City-Contractor Agreement. All such changes in the Work shall be authorized by Change Order and shall be executed under the applicable conditions of the Contract Documents.

11.1.2 A Change Order is a written order to the Contractor signed by the City, issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Construction Schedule. The Contract Sum and the Contract Time may be changed only by Change Order. The Contractor shall make all requests for a Change Order on forms provided by the City upon written request to the City.

11.1.3 The cost or credit to the City resulting from a Change in the Work shall be determined in accordance with the City-Contractor Agreement.

11.2 CLAIMS FOR ADDITIONAL COST

11.2.1 If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the City written notice thereof within **TWENTY (20) DAYS** after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

11.3 MINOR CHANGES IN THE WORK

11.3.1 The City shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or the Construction Schedule and not inconsistent with the intent of the Contract Documents. Such changes may be affected by Field Order or by other written order. Such changes shall be binding on the City and the Contractor.

11.4 CHANGES IN EXCAVATION WORK *(IF APPLICABLE)*

11.4.1 During construction, it may become necessary to increase the amount of excavation or to utilize a soil stabilization process if unsuitable subgrade conditions are found. The Contractor shall immediately contact the City if this condition occurs. The City and the Contractor shall agree upon the existence of unsuitable subgrade, the depth in which to remove the unsuitable soil, and the extent of the problem area prior to any additional work. No payment will be made for any area which undergoes additional excavation which is not indicated in the above scope of work and has not been approved by the City prior to the excavation. If provided in the Contract Documents, all additional excavation which becomes necessary shall be paid at the unit bid price for "Excavation" or "Earthwork," as applicable. The City reserves the right to contract with a separate contractor for the use of a soil stabilization process. No direct payment will be

made for delays incurred due to this process and the Contractor's only compensation will be the allotment of additional days for the delay. The number of days shall be from the time the Contractor initially notifies the City of an unsuitable subgrade condition and until **TWO (2) DAYS** after the completion of the soil stabilization process.

11.5 OVERHEAD AND PROFIT FROM CHANGES IN THE WORK

11.5.1 The combined overhead and profit included in the total cost to the Owner for a change in the Work shall be based on the following schedule:

- a. For the Contractor, for Work performed by the Contractor's own forces, ten (10) percent of the cost.
- b. For the Contractor, for Work performed by the Contractor's Subcontractors, five (5) percent of the amount due the Subcontractors.
- c. For the Subcontractor involved, for Work performed by that Subcontractors own forces, ten (10) percent of the cost.
- d. For each Subcontractor involved, for Work performed by the Subcontractor's Sub-subcontractors, five (5) percent of the amount due the Sub-subcontractor.
- e. In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials, and Subcontracts. Where major cost items are Subcontracts, they shall be itemized also.

ARTICLE 12. UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

12.1.1 If any Work should be covered contrary to the request of the City, it must, if required by the City, be uncovered for his observation and replaced, at the Contractor's expense.

12.1.2 If any Work has been covered which the City has not specifically requested to observe prior to being covered, the City may request to see such Work and it shall be uncovered by the Contractor. If such Work is found to be in accordance with the Contract Documents, the Cost of uncovering and replacement shall, by appropriate Change Order, be charged to the City. If such Work is found to be not in accordance with the Contract Documents, the Contractor shall pay the costs of uncovering and replacement.

12.2 CORRECTION OF WORK

12.2.1 The Contractor shall promptly correct all Work rejected by the City as defective or as failing to conform to the Contract Documents, whether observed before or after substantial completion of the Work, and whether or not fabricated, installed or completed. The Contractor shall bear all cost of correcting such rejected Work.

12.2.2 In addition to the Contractor’s general warranty obligations under Section 3.4, if, within one year after the date of substantial completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of the Work is found by the City to be defective or not in accordance with the Contract Documents, the Contractor shall correct it within **FIVE 5 DAYS** after receipt of a written notice from the City. If the Contractor does not correct such deficiencies within that time, the City shall be entitled to specific performance from a court of equity or money damages in the amount of the reasonable cost of repairs, if adequate, provided that nothing shall limit the City’s ability to draw upon the Performance and Maintenance Bond to correct such deficiencies. In all situations in which the City is forced to enforce the terms or specifications of the Contract Documents, the City shall be entitled to its reasonable attorneys’ fees for enforcement of any provision of the Contract Documents.

12.2.3 All such defective or non-conforming Work under Subparagraphs 12.2.1 and 12.2.2 shall be removed from the site if necessary, and the Work shall be corrected to comply with the Contract Documents without additional cost to the City.

12.2.4 The Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.

12.2.5 In the alternative to Section 12.2.2, if the Contractor fails to correct such defective or non-conforming Work, the City may correct it in accordance with Paragraph 2.4 hereof.

12.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

12.3.1 If the City prefers to accept defective or non-conforming Work, it may do so instead of requiring removal and correction, in which case a Change Order will be issued to reflect an appropriate reduction in the Contract sum, or if the amount is determined after final payment, it shall be paid by the Contractor.

ARTICLE 13. SPECIAL PROVISIONS

13.1 SCHEDULING OF WORK AND INTERFERENCE WITH TRAFFIC (*IF APPLICABLE*)

- 13.1.1 The Contractor's work must be scheduled and accomplished in stages such that local traffic is maintained during construction. It shall be the Contractor's responsibility to provide a traffic way that is usable in all weather conditions. The Contractor shall construct and maintain in a safe condition temporary pavements and connections for local traffic.
- 13.1.2 Suitable temporary barriers shall be provided to protect traffic from the Work if necessary. At all times until final acceptance of the Work, the Contractor shall provide and maintain such signs, lights, barriers, cones, watchmen or flaggers as may be necessary to properly protect the Work and provide for safe and convenient public travel. In the case of open excavations or other potentially hazardous conditions existing during non-working periods, the traveling public will be protected and advised by signs and flasher barricades. Parking of equipment or storage of materials on or near the Project site will be permitted only if adequate protective devices are provided and then only for the minimum time required for any specific job.
- 13.1.3 No additional payment shall be made for temporary guardrail, barriers, signs, lights, or other work as may be necessary to maintain traffic and to protect the Work and the public and all labor, equipment, and material necessary to accomplish this task shall be considered incidental.

13.2 ACCESS (*IF APPLICABLE*)

- 13.2.1 Areas of intersections and roadways within the construction limits shall be constructed in phases so that at no time will access be denied.
- 13.2.2 Access to private driveways may be limited by the nature of the Work. The Contractor shall schedule his work such that at no time during the life of this Contract will any driveway be denied access for any reason other than the curing of concrete. All concrete, including curbs, sidewalks and driveway pavements, shall be formed and poured within a two-calendar day period for each and every driveway. Excavation for this work shall be accomplished a maximum of one calendar day prior to forming, however, access shall be provided immediately after excavation. At the end of the curing period, access shall be immediately supplied using asphalt or compacted aggregate.
- 13.2.3 All temporary materials used for access will be the responsibility of the Contractor and shall be included in his unit bid price for each related item. No separate payment will be made for the placement, maintenance or removal of said access.
- 13.2.4 If said access is not supplied as set out above, the City will supply said access with its own forces, without notification to the Contractor, and will deduct such costs from the sums due the Contractor, notwithstanding any other provisions given this Contract. Wherever excavation affects pedestrian access to houses or

public buildings, plank or other suitable bridges shall be placed at convenient intervals.

13.3 CONSTRUCTION STAKING AND LAYOUT *(IF APPLICABLE)*

13.3.1 The Contractor shall be responsible for providing labor, equipment, and materials necessary for construction staking and layout as required, to the grades, elevations, and alignment as determined by the City. No separate payment will be made for construction staking and layout. The Contractor shall make his bid accordingly. No payment shall be made for re-staking except as expressly authorized due to changes made by the City during construction.

13.4 OVERTIME

13.4.1 In order to provide sufficient control of work, the Contractor shall be required to inform the City schedules of overtime work, including work on Saturdays, Sundays, and City holidays as given below at least forty-eight (48) hours in advance of any such work. If the Contractor fails to appear on a scheduled overtime period, the City shall deduct the cost for the City's assigned personnel from the Contract Sum for the time period schedule.

13.4.2 Per Code Section 120.010, the City currently observes the following holidays: The first (1st) day of January (designated New Year's Day), the third (3rd) Monday of January (designated Martin Luther King, Jr. Day), the third (3rd) Monday of February (designated Presidents' Day), the first (1st) Tuesday of April (designated General Municipal Election Day), the last Monday of May (designated Memorial Day), the fourth (4th) day of July (designated Independence Day), the first (1st) Monday of September (designated Labor Day), the second (2nd) Monday in October (designated Columbus Day), the eleventh (11th) day of November (designated Veterans Day), any Thanksgiving Day appointed by the President of the United States or by the Governor of this State (designated Thanksgiving Day), and the day following Thanksgiving Day, and the twenty-fifth (25th) day of December (designated Christmas Day).

13.5 INTERFERENCE WITH EXISTING WATER AND SEWER SERVICES AND MAINS *(IF APPLICABLE)*

13.5.1 The Contractor shall minimize the outage of water and sewer service to residents. The cutting off of water and sewer service shall be only with the consent of the City. The Contractor shall notify the City and have their approval prior to commencing work on each water or sewer main or connection item.

13.5.2 The Contractor shall conduct his work in such a manner as not to endanger existing water or sewer mains, services or appurtenances. Mains and services shall be adequately supported where they cross or are adjacent to the excavation.

The Contractor shall bear the cost of all repairs to water or sewer mains or appurtenances damaged because of his own carelessness or neglect.

13.5.3 When it becomes necessary to shut down any existing water or sewer main, a representative of the City shall be present during this operation. The total time for the main to be shut down should be held to a minimum and in no case shall any customer be without water or sewer service for more than eight (8) hours. The Contractor shall notify each water or sewer customer whose water or sewer service will be interrupted at least one hour prior to shutdown. The Contractor shall assume full responsibility for shutting down the main and notifying the customers.

13.6 COORDINATION WITH UTILITIES (*IF APPLICABLE*)

13.6.1 The Contractor shall contact and coordinate with all affected utilities prior to commencing any operations. Prior to commencement of any work involving excavation, demolition of facilities or the erection of posts, it will be the sole responsibility of the Contractor to notify all utilities of the planned work and request that the utilities suitably mark underground installations in the vicinity of the planned work and arrange for disconnection of any necessary utilities.

13.7 PRECONSTRUCTION CONFERENCE

13.7.1 A preconstruction conference may be held prior to the issuance of a notice to proceed with the Work. This meeting will be attended by the Contractor, the City, and representatives of the various utility companies that have facilities in the project area. The meeting date will be established after the taking of bids and at a time convenient to all parties.

13.8 SEQUENCE OF WORK

13.8.1 A schedule of the Contractor's work shall be submitted to the City for approval. It shall contain a listing of the order in which the Contract items will be constructed and the approximate dates for starting and finishing each Contract item.

13.8.2 The Contractor shall furnish the City his proposed sequence and schedule for the completion of all work for its review and approval prior to the time of the preconstruction conference. The City shall have the right to specify the order of construction as deemed necessary.

13.9 CONSTRUCTION LIMITS (*IF APPLICABLE*)

13.9.1 The construction limits consist of public areas and acquired easement areas, as shown in the Contract Documents. The Contractor shall limit his operations

accordingly. No activity outside the public areas or easement areas shall performed without the express written permission of the property owner.

13.10 ALTERED QUANTITIES

13.10.1 The City reserves the right to make changes in plan details which may vary the accepted quantities from those shown on the itemized Bid.

13.10.2 The Contractor shall accept, as payment in full, payment at the original Contract unit prices bid for the accepted quantities of work done. No allowance will be made for any increase expense or loss of expected profit suffered by the Contractor resulting directly from such altered quantities or indirectly from expense derived by handling small quantities of materials or performing operations within restricted areas. No allowance shall be made for any increased expense or loss of expected profit suffered because of the anticipated use of specific equipment which was not used.

13.11 MEASUREMENT OF QUANTITIES

13.11.1 Generally. Unless otherwise directed within the Technical Specifications, the quantities for which payment will be made shall be those shown in the Contract for the various items, provided the project is constructed as shown on the plans. Contract quantities will be used for final payment except when:

- a. Errors are formed in the original computations in excess of 15% of the contract quantities.
- b. An original cross section if found to have an average deviation from the true elevation in excess of one foot.
- c. An authorized change in grade, slope or typical section is made.
- d. Unauthorized deviations decrease the quantities on the plans.

When the above conditions are encountered, the correction or revisions will be computed and added to or deducted from the contract quantity.

When the plans have been altered or when disagreement exists between the Contractor and the City as to the accuracy of the plan quantities of any balance, or the entire project, either party shall have the right to request a recomputation of contract quantities within any area, by hand calculation of the average-end-area method for cubic yard quantities, and standard measurement methods for other quantities, by written notice to the other party. The written notice shall contain evidence that an error exists in the original groundline elevation or in the original computations which will affect the final payment quantity in excess of 15%.

When such final measurement is required, it will be made from the latest available ground surface and the design section.

- 13.11.2 By Weight. These specifications require that the Contractor must furnish the representative of the City, on the job site, with original weight certificates on a daily basis signed by a bonded weighmaster for all materials supplied by the Contractor that are incorporated into this work, which payment therefore is based on weight.

13.12 ADDITIONS TO CONTRACT

- 13.12.1 Unit prices in this Contract may be used to negotiate a Change Order for additional work involving similar projects.

13.13 PURCHASE OF MATERIALS AND EQUIPMENT

13.13.1 Special Sales Tax Provisions. The City intends to take maximum advantage of the City's sales tax exemption status. Contractor shall purchase construction materials and supplies in accordance with these Special Sales Tax Provisions. Compliance with these procedures is compulsory and for the benefit of the City. Accordingly, contractors shall not include sales tax in bid proposal amounts

- a. City shall furnish the Contractor a "Project Tax Exemption Certificate" which shall include the following:
1. City's name, address, Missouri tax identification number and signature of authorized representative;
 2. The project location, description, and unique identification number;
 3. The date the City-Contractor Agreement is entered into, which is the earliest date materials may be purchased for the project on a tax-exempt basis;
 4. The estimated date of completion for the Project;
 5. The Tax Exemption Certificate expiration date. Such certificate is renewable for a given project at the option of the City, only for the purpose of revising the certificate expiration date as necessary to complete the Project.
- b. Contractor shall:
1. Furnish the Project Tax Exemption Certificate to all subcontractors. The Contractor and any subcontractor purchasing materials shall present, on behalf of the City, all tangible personal property and materials to be

incorporated into or consumed in the construction of the Project and no other on a tax-exempt basis. Suppliers shall execute to the purchasing Contractor or Subcontractor invoices made out to the Contractor. The invoices must also bear the name of the City and the project identification number. Nothing in this section shall be deemed to exempt the purchase of any construction machinery, equipment, or tools used in constructing, repairing or remodeling facilities for the City. All invoices for all personal property and materials purchased for the Project utilizing the Project Tax Exemption Certificate shall be retained by the purchasing Contractor or subcontractor for a period of five (5) years and shall be subject to audit by the Missouri Director of Revenue.

- i. Any excess re-salable tangible personal property or materials which were purchased for the Project by the Contractor or subcontractor under the Project Tax Exemption Certificate but which were not incorporated into or consumed in the construction of the Project shall either be returned to the supplier for credit or the appropriate sales or use tax on such excess property or materials shall be paid by the Contractor or subcontractor not later than the due date on the Contractor or subcontractor's Missouri sales or use tax return following the month in which it was determined that the materials were not to be used in the Project.
 - ii. No Contractor, subcontractor or material supplier shall, upon audit, be required to pay tax on tangible personal property and materials incorporated into or consumed in the construction of the Project, due to the failure of the City to revise the certificate expiration date as necessary to complete any work required. If it is determined that tax is owed on such property and materials due to the failure of the City to revise such certificate expiration date, the City shall be liable for the tax owed.
2. Order all necessary materials and equipment to complete the Work and the Project in accordance with the Plans and Specifications.
3. Inspect all delivered materials for conformance to specifications, damage, or breakage and subsequently accept materials if found to be satisfactory.
 - i. Purchase of materials on behalf of the City shall not relieve the Contractor of obligations to order, schedule deliveries, inspect, accept, or reject, store, handle or install materials or perform any other duties required by the Contract Documents or customarily performed in conjunction with providing materials to complete the Work.

- ii. Costs of complying with the foregoing Special Sales Tax Provisions shall be included in the Bid Proposal submitted and the Contractor shall not be entitled to receive additional compensation for such compliance.

13.13.2 Any manufactured goods or commodities used or supplied in the performance of the Contract Documents or any subcontract thereto shall be manufactured or produced in the United States as required and in accordance with Section 34.353 RSMo.

a. This section shall not apply when:

1. The purchase, lease, or contract involves an expenditure of less than twenty-five thousand dollars;
2. Only one line of a particular good or product is manufactured or produced in the United States;
3. The specified products are not manufactured or produced in the United States in sufficient quantities to meet the City's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the City's requirements;
4. Obtaining the specified products manufactured or produced in the United States would increase the cost of the contract by more than ten percent.

b. If this section shall not apply because of the circumstance described in paragraphs (a)(3)-(4), then the Contractor shall provide the City with the information necessary to make the certifications required under Section 34.353 RSMo.

13.14 CONTROL OF MATERIAL

13.14.1 All tickets will be collected to verify the quantity of each item in their original form only. Xerox or fax copies will not be accepted. All tickets shall be submitted on the day of delivery, to the Director of Parks and Recreation, or they will not be accepted for payment.

13.14.2 Contractors and subcontractors will be required to produce letters of certification or certified test reports from materials producers and suppliers in order to determine compliance with specifications for designated materials prior to the incorporation thereof into the Work.

13.14.3 The City will determine which materials are to be tested. The form and content of these test reports shall be in accordance with recognized standards and practices for this work or as otherwise determined by the City.

13.15 TERMINATION BY THE OWNER FOR CAUSE

13.15.1 In addition to all other remedies available to the Owner, the Owner may terminate the Contract if the Contractor:

1. Repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
2. Fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
3. Repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
4. Otherwise is guilty of substantial breach of a provision of the Contract Documents.

13.15.2 When any of the above reasons exists, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, **SEVEN (7) DAYS'** written notice, terminate employment of the Contractor and may, subject to any prior right of the surety:

1. Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
2. Accept assignment of subcontracts; and
3. Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

13.15.3 When the Owner terminates the Contract for cause, the Contractor shall not be entitled to receive further payment until the Work is finished.

13.15.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for professional services (including architects and engineers) and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the project architect, upon application, and this obligation for payment shall survive termination of the Contract.

13.16 TERMINATION BY THE OWNER FOR CONVENIENCE

13.16.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

13.16.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

1. Cease operations as directed by the Owner in the notice;
2. Take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
3. Except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

13.16.3. In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and actual costs incurred by reason of such termination.

CITY OF OVERLAND



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REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

IV. TECHNICAL SPECIFICATIONS (SCOPE OF WORK)

The Scope of Work for the project is as follows;

- Contractor to remove existing designated outdoor parking lot lighting poles and fixtures (total of 6 poles and 11 fixtures).
- Contractor to furnish and install 6 NAFCO 20-foot-high Square Straight Steel Light Poles, Anchor Base with anchor bolts (VS-SSSA-20-5005-07-AB-FP) with a 7ga thickness in a Dark Bronze finish paint color. Mounting configuration to consists of single drill with caps and double drills with caps at 180 degrees. Consideration will be given to comparable poles.
- Contractor to furnish and install 12 NAFCO Banner Brackets with each pole having (2) 30-inch clamp around arms in a dark bronze finish (NAFCO BB-A-FFBN-CP-1-000-FP-30). Consideration will be given to comparable brackets.
- Contractor to furnish and install 11 Westgate LED High Lumen LF3 Outdoor Flood Lights 150 W with 50K with a mounting “U” bracket in a dark bronze finish. Each light will have a Westgate Straight extension arm for shoe box application 3-3/4” Wide (LF3-HL-EXT ARMS) in a dark bronze finish. **Lens type to be selected by City depending on recommended photometric layouts by Contractor. Consideration will be given to comparable lights.
- Contractor to supply any underground electrical work and/or other work or materials required to complete the connection to the existing electrical service in existing parking lot.
- Contractor shall provide the City with a photometric plan denoting difference between existing lights and proposed lights while meeting the required number of lumens for a public parking lot. Illumination distribution patterns, BUG ratings and cutoff types as defined by the IESNA shall be as shown in drawings.
- Contractor shall properly identify, sort, and dispose of discarded materials properly from the site daily. All hazardous materials must be disposed of in accordance with applicable regulations.

Further,

- All work to be completed during normal business operating hours when the business is open to the public, Monday thru Friday 8:00 a.m. to 3:30 p.m. If necessary, work may be completed when the facility is closed to the public by prior authorization from the Director of Street Operations or his designee.
- The Contractor's project manager will meet with the Director of Street Operations or his designee as often as required for the purpose of reviewing progress and providing necessary guidance.
- Contractor shall meet with Director of Street Operations or his designee for final inspection of install and testing.
- Contractor shall furnish all labor, materials, equipment, transportation, and supervision necessary to accomplish the work.
- City to provide concrete bases for pole installation.
- Access to designated sites will be coordinated with on-site personnel.
- Contractor to supply City with maintenance and operating manuals, including technical data sheets, wiring diagrams, and information for order replacement parts.
- Contractor shall be fully responsible for having his equipment comply with current OSHA regulations, and to have available all Material Safety Data Sheets that pertain to the products used.
- Contractor is responsible to repair any damage caused by the cleaning performance on City property.
- Contractor shall warranty work for a minimum ninety (90) days for all materials, parts and workmanship under normal usage conditions.

END SECTION

CITY OF OVERLAND



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REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

VI. BID SHEET (PAGE 1 OF 2)

**DUE DATE: 10:00 A.M. (PREVAILING LOCAL TIME),
WEDNESDAY, OCTOBER 21, 2020**

CONTRACTOR/VENDOR INFORMATION:

Company Submitting Bid: _____

Company Mailing Address: _____

City: _____

State: _____

Zip Code: _____

Phone #: _____

Fax #: _____

Email Address: _____

Authorized Representative: _____

(Please Print or Type Name)

Signature: _____

Date: _____

BID SHEET (PAGE 2 OF 2)

Project Name	Project Cost
Removal and Replacement of Parking Lot Lighting	
<i>Material Costs</i>	\$ _____
<i>Labor Costs</i>	\$ _____
TOTAL PROJECT COSTS	\$ _____
# of days to complete project following award of contract?	_____

***NOTE:** The City reserves the right to modify the Scope of Work, including but not limited to, the elimination of the labor component thereby limiting the Scope of Work to the purchase of the required materials for the project, to be installed by the City.

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VII. BID PROPOSAL

Project: **Community Center – Removal and Replacement of Parking Lot Lighting.**

_____, a:
(Name of Bidder)

(check one)

- corporation or limited liability company organized and existing under the laws of the State of _____;
- _____ partnership;
- individual doing business as _____;
- other (specify) _____;

(hereinafter, the “Bidder”), having carefully examined the Bid Documents including the Plans and Specifications for the Project, which Bid Documents are hereby made a part of this Bid Proposal, the Project site and all conditions relating to construction and labor under which the Work will be performed, hereby propose and agree to furnish all necessary machinery, tools, apparatus and other means of construction, and to perform all Work and furnish all the materials specified in the Contract Documents in the manner and time therein prescribed, and in accordance with the Bid Sheet attached hereto.

(BIDDER MUST ATTACH BID SHEET AS PROVIDED IN SECTION VI.)

The Contractor shall employ _____ as Superintendent for the Project, who shall represent the Contractor to the City and all communications given to the Superintendent shall be as binding as if given to the Contractor and perform all duties required of the Superintendent as provides in the Bid Documents. A list of the Superintendent’s qualifications is attached as a part of this Bid Proposal.

Bid security in the amount of five (5%) percent of the Base Bid in the form of:

(check one)

- a bank draft or certified check payable to the City of Overland, Missouri; or
- a Bid Bond executed by the Bidder and by a good and sufficient surety;

which is attached to this Bid Proposal, is hereby posted in accordance with the Instructions to Bidders. For purposes of this paragraph, the Base Bid shall be the Base Bid as extended on the attached Unit Price Extension Sheet, exclusive of any numbered Alternates.

If notified by the City in writing of the acceptance of this Bid Proposal within **NINETY (90) DAYS** of the scheduled date for receipt of bids, the Bidder agrees to within **FIVE (5) DAYS** of receipt of such written notification: (i) execute the City Contractor Agreement to perform the Work for above stated compensation; and (ii) furnish a satisfactory Performance and Maintenance Bond and, if required, a satisfactory Payment Bond, each with good and sufficient surety and in the full amount of the Contract Sum as set forth in the City-Contractor Agreement. The Bidder hereby acknowledges and agrees that in the event of the Bidder's failure to comply in all respects with this paragraph, the accompanying Bid security shall be declared forfeit.

The undersigned Authorized Representative, under oath, hereby affirms that the Bidder is enrolled and will continue to participate in a federal work authorization program in respect to employees that will work in connection with the contracted services related to the Project that is the subject of this Bid Proposal for the duration of the contract, if awarded, in accordance with Section 285.530.2 R.S.Mo., and that the Bidder does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services for the duration of the contract, if awarded. Attached to this affidavit is documentation of the Bidder's participation in a federal work authorization program.

(BIDDER MUST ATTACH DOCUMENTATION SHOWING THAT COMPANY PARTICIPATES IN FEDERAL WORK AUTHORIZATION PROGRAM)

Pursuant to Section 208.009 RSMo., attached to this Bid Proposal is affirmative proof that the Authorized Representative for the Contractor is a citizen or a permanent resident of the United States or is lawfully present in the United States.

(AUTHORIZED REPRESENTATIVE MUST ATTACH DOCUMENTARY PROOF OF LAWFUL PRESENCE, AS INDICATED ABOVE)

_____, BIDDER
(Legal Name of Person, Firm or Corporation)

Signature of Authorized Representative

Date

Typed Name

Title

Bidder's Street Address

Bidder's Telephone Number

City, State, Zip

Bidder's Fax Number

STATE OF MISSOURI)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, 20____.

[SEAL]

Notary Public

My commission expires on _____.

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VIII. BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto the City of Overland, Missouri as OWNER in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successor and assigns.

Signed the _____ day of _____, 20_____.

The condition of the above obligation is such that whereas the Principal has submitted to the City of Overland, Missouri a certain BID attached hereto and hereby made a part hereof to enter into a contract in writing for the **Community Center – Removal and Replacement of Parking Lot Lighting.**

NOW, THEREFORE:

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated, except as part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys’ fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by an extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principle
Surety

(SEAL)

By: _____

By: _____

Title: _____

Title: _____
Attached Surety's
Power of Attorney

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XI. BID SUBMITTAL REQUIRED DOCUMENTS

Bidders shall provide the following documents are part of their response to this Request for Proposals. Further, bidder shall initial each item below indicating that they comply with the requirement and that said documentation is included as part of their response to this Request for Proposal.

ITEM

INITIALS

VI. Bid Sheet (see Page 43 of the RFP)

VII. Bid Proposal (see Page 44 of the RFP)

VIII. Bid Bond (see Page 47 of the RFP)

In accordance with the requirements set forth in *Section II. Instructions to Bidders, 4. Bid Proposals (C)*, the bidder shall provide the following documents are part of their response to this Request for Proposals.

Documentation showing the bidder’s participation in a federal work authorization program, pursuant to Section 285.230 R.S.Mo. and in accordance with paragraph 13 of these Instructions to Bidders.

Proof of lawful presence of the Authorized Representative of the Contractor, pursuant to Section 208.009 R.S.Mo. and in accordance with paragraph 13 of these Instructions to Bidders

Bid security in the amount of five (5%) percent of the Base Bid (exclusive of numbered Alternates) as indicated on the Bid Proposal form shall accompany the bid submittal. Bid security shall be in the form of a bank draft or certified check and drawn upon a responsible, solvent bank and payable to the City or a satisfactory Bid Bond executed by the bidder and by a good and sufficient surety authorized to do business in Missouri. A Bid Bond shall be in substantially the form provided in the Bid Documents. The bid security shall be refunded or returned to the bidder upon the faithful performance of the conditions of the Bid Proposal to the satisfaction of the City.

A Subcontractor Utilization Form identifying the Subcontractors and Suppliers the bidder proposes to utilize in the performance of the Project, in accordance with the General Conditions.

A satisfactory Affidavit of Non-Collusion in substantially the form provided in the Bid Documents.

At least three (3) references regarding prior work of the bidder on public works contracts in Missouri.

Certificates of Insurance in accordance with Article 10. Insurance of the RFP issued by the City and with Section 7 of the XII. City-Contractor Agreement included in the RFP.

The City reserves the right to reject any proposal submitted in response to this RFP that does not include all the above noted documents.

CITY OF OVERLAND



9119 Lackland Road, Overland Mo 63114

REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

XII. CITY-CONTRACTOR AGREEMENT

THIS CITY CONTRACTOR AGREEMENT (this “Agreement” or “City-Contractor Agreement”), is made and entered into as of this ____ day of _____ by and between _____, having a principal office at _____ the “Contractor”), and the City of Overland, a Missouri municipal corporation located in St. Louis County (the “City”). *All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Contract Documents (as hereinafter defined).*

RECITALS

A. In response to **RFP 2020-06**, issued by the City, requesting bid proposals related to the **Community Center – Removal and Replacement of Parking Lot Lighting**, the Contractor has submitted a certain Bid Proposal in accordance with the Bid Documents to perform the Work.

B. After due consideration, the City has accepted the Bid Proposal of the Contractor and the parties hereto desire to enter into this Agreement whereby the Contractor shall undertake the performance of the Work in accordance with the Contract Documents and the City shall pay the Contractor as hereinafter specified.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth the City and the Contractor hereby agree as follows:

1. **Contract Documents**. The entire Agreement between the parties shall consist of this Executed City-Contractor Agreement and, without limitation, the following documents:
 - I. Notice to Contractors
 - II. Instructions to Bidders
 - III. General Conditions
 - IV. Plans and Technical Specifications
 - V. Applicable Missouri Annual Wage Order
 - VI. Bid Sheet
 - VII. Bid Proposal (executed by Contractor)
 - VIII. Bid Bond (if submitted, executed by Contractor and surety)
 - IX. Subcontractor Utilization Form (executed by Contractor)

- X. Affidavit of Non-Collusion (executed by Contractor)
- XI. Bid Submittal Required Document Checklist
- XII. City-Contractor Agreement
- XIII. Performance and Maintenance Bond (executed by Contractor and surety)
- XIV. Payment Bond (executed by Contractor and surety)
- XV. Contract Award Required Document Checklist
- XVI. Notice of Award (issued by City and receipt acknowledged by Contractor)
- XVII. Notice to Proceed (issued by City and receipt acknowledged by Contractor)

and shall also include any Exhibits to the above documents, any Addenda issued prior to receipt of bid proposals, any duly-issued Modifications, and all other documents contained or specified within the Project Manual, as such may be on file in the office of the City Clerk of Overland, Missouri (all of the foregoing collectively referred to as the “Contract Documents” are hereby incorporated in this Agreement by reference). Unless otherwise stated, to the extent that any terms or provisions within Contractor’s Bid Proposal conflicts with the terms or provisions within the City-Contractor Agreement or General Conditions, such terms and provisions within the City-Contractor Agreement or General Conditions shall prevail.

2. **The Work/Contract Sum.** The Contractor shall furnish all labor, materials, tools, equipment and services, and perform and complete and warrant the Work required for the Project in accordance with this Agreement which shall include provision of every item specified in the Contract Documents necessary to complete the Project as designed. The Contract Sum is _____ which includes all compensation to Contractor due for the Work, which shall include all such work within the Base Bid [, *and additionally all such work within the following numbered Alternative(s):* _____ Any additional Work not within the Base Bid [*or Alternatives*] that is hereinafter approved by the City in writing pursuant to a Change Order shall be completed for the unit prices set forth in the Contract Documents, if applicable.
3. **Time of Completion.** Contractor shall commence work under this Agreement within **TEN (10) DAYS** of receipt of written notice from the City to proceed and shall fully complete all items of the Work within the time set forth in the Contract Documents. The parties understand that time is of the essence and that the rate of progress and prompt completion are essential conditions, and that in the event the Work is not fully completed within the period provided herein, the Contractor shall pay to the City the sums provided in the Contract Documents.
4. **One Year Correction Period.** In addition to the Contractor’s general warranty obligation under Section 3.4 of the General Conditions, and as required by applicable law, the Contractor also, in accordance with Section 12.2 of the General Conditions, hereby expressly guarantees the aforesaid Work as to workmanship and quality of materials used in connection herewith for a term of one (1) year, commencing on the date of final acceptance by the City, and binds itself, its successors or assigns, to make all repairs or replacements which may become necessary within said period due to construction defects and nonconformity with the Contract Documents. Upon expiration of the one (1) year correction period, the City shall release the Performance and

Maintenance Bond, less any amounts reasonably necessary to remedy any of the Contractor's performance and/or maintenance obligations under this Agreement that may still be outstanding at the time. Contractor's general warranty obligations required by Section 3.4 of the General Conditions and the one-year correction period as required herein and Section 12.2 of the General Conditions, as well as any other obligation to provide surety or a bond, are each an independent and separate obligation of Contractor. The release or expiration of any guaranty, or any other surety or bond provided for in this Agreement shall not release, or be claimed to release, the obligation to complete the Work according to all warranties, specifications, and requirements expressed or implied by this Agreement or required by applicable law.

5. **Payment Bond.** If the Contract Sum is in excess of \$50,000 or if required on the Notice of Award, the Contractor shall furnish within **FIVE (5) DAYS** of notification of contract award a satisfactory Payment Bond in the full amount of the Contract Sum. The Payment Bond furnished shall meet all requirements of Section 107.170 of the Revised Statutes of Missouri, as amended, and shall guarantee the payment of any and all materials, incorporated, consumed or used in connection with the construction of such work, and all insurance premiums, both for compensation, and for all other kinds of insurance, said work, and for all labor performed in such work whether by subcontractor or otherwise, including payment of prevailing wage requirements, if applicable, of the State of Missouri. The submitted Payment Bond shall be substantially in the form of the "Form of Payment Bond" included within the Bid Documents.
6. **Performance and Maintenance Bond.** The Contractor shall also furnish within **FIVE (5) DAYS** of notification of contract award a satisfactory Performance and Maintenance Bond in the full amount of the Bid based on the bid quantities listed on the Bid Proposal form. The Performance and Maintenance Bond furnished shall guarantee the faithful performance of the Work and guarantee the Work established in this City Contractor Agreement. The submitted Performance and Maintenance Bond shall be substantially in the form of the "Form of Performance and Maintenance Bond" included within the Bid Documents.
7. **Insurance.** The Contractor shall obtain and maintain during the term of the Project and the City Contractor Agreement the insurance coverages at least equal to the coverages set forth in this paragraph 7, and as further provided in the General Conditions, but no event less than the individual and combined sovereign immunity limits established by Section 537.610 R.S.Mo., or its successor. Insurance policies providing required coverages shall be with companies licensed to do business in the State of Missouri and rated no less than AA by Best or equivalent. All costs of obtaining and maintaining insurance coverages are included in the Bid Amount and no additional payment will be made therefor by the City.

Comprehensive General Liability Insurance (including coverage for Bodily Injury and Property Damage)

- \$2,728,000.00 per occurrence
- \$2,728,000.00 aggregate

Comprehensive General Liability Insurance (including coverage for Bodily Injury and Property Damage)

- \$2,728,000.00 per occurrence
- \$2,728,000.00 aggregate

Employer's Liability

- \$2,728,000 bodily injury by accident (each accident)
- \$2,728,000 bodily injury by disease (each employee)
- \$2,728,000 bodily injury policy limit

In addition, the Contractor and all subcontractors shall provide Worker's Compensation Insurance in at least statutory amounts for all workers employed at the Project site. The Contractor shall also provide a policy of Builder's Risk Insurance in the amount of 100% of the complete insurable value of the Project, which policy shall protect the Contractor and the City, as their respective interests shall appear.

Before commencing any work, the Contractor shall provide to the City certificates of insurance evidencing the issuance and maintenance in force of the coverages required by this paragraph 7. Each such certificate shall show the City, and such other governmental agencies as may be required by the City to be insured by underlying grant or contract relating to the Project, as an additional insured, and shall bear an endorsement precluding cancellation of or change in coverage without at least **THIRTY (30) DAYS** written notice to the City. Any self-insurance or deductible above \$50,000.00 is not permitted.

***PLEASE NOTE: The City may waive any insurance coverages or amounts required by this paragraph 7 when the City deems such waiver to be in the interest of the public health, safety, and general welfare.**

8. **Indemnification.** To the fullest extent permitted by law, the Contractor agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suit, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or money damages, or trespass, or any other circumstances, sustained by the City or others, arising from the Contractor's breach of the Contract or out of services or products provided by the Contractor or its subcontractors under the terms of this agreement. The Contractor shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required to enforce this provision, the Contractor agrees that this indemnification requires the Contractor to obtain insurance in amounts specified in the Contract Documents and that the Contractor has had the opportunity to recover the costs of such insurance in the compensation set forth in this Agreement.

In any and all claims against the City or any of its agents or employees by any employee

of the Contractor, any Subcontractor, anyone directly or indirectly employed by any one of them or anyone for whose acts any of them may be liable, this indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.

9. **Attorney Fees' and Costs.** The Contractor shall reimburse to the City any costs and attorneys' fees that the City may reasonably incur in pursuit of any remedies at law or equity or enforcement of any rights established in this Agreement, which may result from the Contractor's breach of the Agreement, the Contractor's failure to perform any obligation or requirement contained herein, or the City's enforcement of this Agreement.

10. **Liquidated Damages.** The Contractor agrees and acknowledges that time is of the essence of this Agreement and that delay in the prosecution of the Work and the Project will inconvenience the public and increase administrative costs of the City, the costs of which the Contractor and the City are incapable of ascertaining at this time. Should the Contractor, or in the case of Contractor's default, the surety, fail to complete the Work within the time stipulated in this Agreement, or within such extension of time as may be allowed by the City in the manner set forth in the Contract Documents, the Contractor (or surety, as applicable) shall pay to the City as liquidated damages, and not as a penalty, the sum of **Five Hundred Dollars (\$500.00)** for each calendar day that the Work remains uncompleted after the time allowed for the completion, including approved extensions. In the sole discretion of the City, the amount of the liquidated damages may be deducted from any money due the Contractor under this Agreement. Permitting the Contractor to finish the Work or any part thereof after the expiration of the time for completion or any approved extension, shall in no way operate as a waiver of the City of any of rights under this Agreement.

11. **Compliance with Federal, State, and Local Law.** The Contractor shall comply with all applicable federal, state and local law requirements for performance under this Agreement. The Contractor shall abide by all health and environmental requirements imposed by law in performance of its duties.

12. **Prevailing Wage.** If applicable, the Contractor shall be required to comply with all applicable provisions concerning the payment of prevailing wages on public works projects, as provided in the General Conditions. A copy of the applicable Annual Wage Order and Incremental Increases for each occupational title required under this project is included in the Bid Documents and shall be included in the Contract Documents.

13. **Required OSHA Training.** Pursuant to Section 292.675 RSMo., Contractor shall require all on-site employees to complete the ten-hour training program as required under Subsection 292.675.2 RSMo. This program shall be provided by Contractor and shall be a ten-hour Occupational Safety and Health Administration ("OSHA") construction safety program for Contractor's on-site employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the Missouri

Department of Labor and Industrial Relations (“MoDOLIR”) which is at least as stringent as an approved OSHA program. All employees are required to complete the program within **SIXTY (60) DAYS** of beginning work under this Agreement. Contractor shall further require all subcontractors under Contractor to provide the ten-hour training program required under Subsection 292.675.2 RSMo. to such subcontractors’ on-site employees. On-site employees who have previously completed such ten-hour training program must hold documentation of prior completion of the program.

Notice is hereby given to Contractor that it shall be subject to the penalties set forth in Subsection 292.675.4 RSMo. and such penalties shall be forfeited to the City pursuant to such Subsection. MoDOLIR shall investigate any claim of violation of Section 292.675 RSMo. Upon City’s receipt of notification from MoDOLIR of violations of 292.675 by Contractor and a determination by MoDOLIR that penalties shall be assessed for such violations, the City shall withhold and retain from the contract all sums and amounts due and owing to the City as a result of any violation of Section 292.675 RSMo. All words in this paragraph shall have the definitions as provided in Section 292.675.1 RSMo.

14. **Taxes.** The City is exempt from federal excise tax and Missouri sales tax and the Contractor shall not charge the same to the City and shall comply in all respects with the Special Sales Tax Provisions of the General Conditions.
15. **Other Representations, Warranties, and Other Covenants by the Contractor.** The Contractor represents and warrants that the Contractor has been engaged in such Work as is required for the Project and has provided services such as the ones to be performed under this Agreement to other municipalities and/or private enterprises and that the Contractor owns sufficient equipment and engages sufficient personnel to perform the Contractor’s obligations under this Agreement. The Contractor further represents and warrants that the Contractor is an equal opportunity employer. Contractor agrees to abide by the City’s City Code provisions a preference for American Products and agrees to comply with Section 34.353 RSMo. to the extent applicable to this Agreement. The Contractor agrees that the Contractor shall not use in any form or medium the name of the City for any advertising unless the Contractor receives the prior written consent of the City.
16. **Amendment; Waiver.** No amendment, modification or waiver of any provision of this Agreement shall be effective unless in writing signed by an authorized representative of the party against whom such provision as amended or modified or such waiver is sought to be enforced. Failure to insist upon strict compliance with any of the terms or conditions of the Agreement shall not be deemed a waiver of such term or condition.
17. **Choice of Law.** This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws.
18. **Headings.** The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

19. **Severability.** The invalidity or unenforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision of this Agreement, which shall remain in full force and effect to the maximum extent permitted by law.

20. **Counterparts.** This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

CONTRACTOR

CITY OF OVERLAND, MISSOURI

Name

Mayor

Address

Attested

City, State, Zip

Date

By: _____

COUNTERSIGNED

Title

CITY OF OVERLAND



9119 Lackland Road, Overland Mo 63114

REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

XIII. FORM OF PERFORMANCE AND MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____, as Principal, and _____ a corporation organized and existing under and by virtue of the laws of the State of Missouri, and regularly authorized to do business in the State of Missouri, as Surety, are held and firmly bound unto the CITY OF OVERLAND, MISSOURI, hereinafter called the “City”, for the use and benefit of the City and any and all persons who may suffer damages by breach of the conditions hereof or of the Contract (as defined below) in the penal sum of _____ lawful money of the United States, well and truly to be paid unto the said City for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has by written agreement dated _____, entered into a Contract with the City for the construction of the work designated as the **Community Center – Removal and Replacement of Parking Lot Lighting** in the City of Overland, in the State of Missouri, in accordance with the Contract, which Contract is by this reference made a part hereof, and is hereinafter referred to as the “Contract.”

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE AS FOLLOWS:

1. The Surety shall become liable on this obligation if the Principal fails to fulfill the following conditions: The Principal shall faithfully perform the Contract on its part, and satisfy all claims and demands incurred by the Principal in the performance of the Contract (including any maintenance or guarantee period provided in the Contract and any warranty as may be applicable by law), and shall fully indemnify and save harmless the City from all cost and damages which the City may suffer by reason of the failure of the Principal to do so, and shall fully reimburse and repay to the City all costs, damages, and expenses, which shall include reasonable attorney’s fees, which the City may incur in making good any default by the Principal, including but not limited to, any default based upon the failure of the Principal to complete the work required by and in accordance with the Contract or failure to fulfill its obligation to furnish maintenance, repairs or replacements for any period of time after the work is completed as provided for in the Contract, and shall provide for prosecution of the work required by the Contract whether by Subcontract or otherwise, and shall pay all valid claims and demands whatsoever, and shall defend, indemnify and hold harmless the City and its agents against loss or expense from bodily injury, including death, or damage or destruction of property, including loss

of use resulting therefrom, arising out of or resulting from the performance of the work. If the Principal fulfills these conditions, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

2. As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered;
3. The Surety's obligation under this Bond shall arise after the City has declared the Principal defaulted, formally terminated the Contract *or* terminated the Principal's right to complete the Contract and notified the Surety in writing of the City's claim under this Bond. Notice shall be deemed provided to Surety the day the City places such Notice in the mail addressed to:

Mr. Jason McConachie
City Administrator
City of Overland, Missouri
9119 Lackland Road
Overland, MO 63114

4. The means, method or procedure by which the Surety undertakes to perform its obligations under this Bond shall be subject to the advance written approval of the City. The Surety shall commence performance of its obligations and undertakings under this Bond no later than **THIRTY (30) DAYS** after written notice from the City to the Surety as provided in Paragraph 3, except that the Surety shall proceed within forty-eight (48) hours after notice, where the notice states that immediate action by the Surety is necessary to safeguard life or property.
5. When the conditions in Paragraph 3 above have been met, the Surety shall, at the Surety's sole cost and expense, undertake one or more of the following actions, at the City's sole option:
 - a. With the prior written consent of the City, cause Principal to promptly remedy the default; or
 - b. Promptly complete the Contract in accordance with its terms and conditions by, at the sole option of the City, either: (a) obtaining bids through qualified contractors who are acceptable to the City for completing the Contract in accordance with its terms and conditions, and upon determination by the City of the lowest and best bidder, arrange for a Contract between the City and such bidder, and make available as the work progresses sufficient funds to pay the costs of completion, not exceeding the amount of this Bond or (b) obtaining bids through qualified contractors who are acceptable to the City, for completing the Contract in accordance with its terms and conditions, and upon determination by the City of the lowest and best bidder, the Surety shall arrange for a contract between the

Surety and such bidder, which performance and completion shall be undertaken in strict accordance with the terms and conditions (including all specifications) of the Contract; or

c. Tender payment to the City in the amount of all loses incurred by the City as a result of the Principal default and as determined by the City for which the Surety is liable to the City, including all costs of completion of the Contract and all consequential loses, costs, and expenses incurred by the City as a result of the Principal’s default, except that Surety’s payment under this option shall in no event exceed the limit of the Bond amount. The Surety may not proceed with this option, in lieu of the options set forth in subparagraphs (a) or (b) above, except upon the express written consent of the City, which consent may be withheld by the City for any reason.

6. If the Surety fails to proceed in accordance with Paragraph 4 and 5 above, then the Surety shall be deemed in default on this Bond.

7. The 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.

Signed and sealed this _____ day of _____, 20____,

Principle
Surety

(SEAL)

By: _____

By: _____

Title: _____

Title: _____
Attached Surety's
Power of Attorney

CITY OF OVERLAND



9119 Lackland Road, Overland Mo 63114

REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

XIV. FORM OF PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____ as Principal, and _____ a corporation organized and existing under and by virtue of the laws of the State of Missouri and regularly authorized to do business in the State of Missouri, as Surety, are held and firmly bound unto the CITY OF OVERLAND, Missouri, hereinafter called the “City,” in the penal sum of _____ lawful money of the United States, well and truly to be paid unto the said City for the payment of which Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has by written agreement dated _____, entered into a Contract with the City for the construction of the work designated as the **Community Center – Removal and Replacement of Parking Lot Lighting** in the City of Overland, in the State of Missouri, in accordance with the Contract, which Contract is by this reference made a part hereof, and is hereinafter referred to as the “Contract.”

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE AS FOLLOWS:

SURETY shall become liable on this obligation if PRINCIPAL fails to fulfill the following conditions: In connection with the Contract, including all duly authorized modifications thereto, prompt payment shall be made to all laborers, subcontractors, teamsters, truck drivers, owners or other suppliers or for equipment or materials employed on the job, and other claimants, for all labor performed in such work whether done for PRINCIPAL, a subcontractor, SURETY, a completion contractor or otherwise (at the full wage rates required by any law of the United States or of the State of Missouri, where applicable), for services furnished and consumed, for repairs on machinery, for equipment, tools, materials, lubricants, oil, gasoline, water, gas, power, light, heat, oil, telephone service, grain, hay, feed, coal, coke, groceries and foodstuffs, either consumed, rented, used or reasonably required for use in connection with the construction of the work or in the performance of the Contract and all insurance premiums, both for compensation and for all other kinds of insurance on the work, for sales taxes and for royalties in connection with, or incidental to, the completion of the Contract, in all instances whether the claim be directly against PRINCIPAL, against SURETY or its completion contractor, through a subcontractor or otherwise, and, further, PRINCIPAL shall defend, indemnify, and hold harmless the CITY from all such claims, demands or suits by any such person or entity. If PRINCIPAL fulfills these conditions, then this obligation shall be void;

otherwise, it shall remain in full force and effect.

Any conditions legally required to be included in a Payment Bond on this Contract, including but not limited to those set out in §107.170 RSMo. are included herein by reference.

SURETY agrees that, in the event that PRINCIPAL fails to make payment of the obligations covered by this Bond, it will do so and, further, that within **FORTY-FIVE (45) DAYS** of receiving, at the address given below, a claim hereunder stating the amount claimed and the basis for the claim in reasonable detail, it (a) will send an answer to the claimant, with a copy to the CITY stating the amounts that are undisputed and the basis for challenging any amounts that are disputed, and (b) will pay any amounts that are undisputed. The amount of this Bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.

While this Bond is in force, it may be sued on at the instance of any party to whom any such payment is due, in the name of the CITY to the use for such party. The CITY shall not be liable for the payment of any costs or expenses of any such suit.

The CITY may sue on this Bond, and any person furnishing material or performing labor, either as an individual or as a Subcontractor shall have the right to sue on this Bond in the name of the CITY for his use and benefit, all in accordance with the provisions of Section 522.300, RSMo., and any amendments thereto.

No suit shall be commenced or pursued hereunder other than in a state court of competent jurisdiction in St. Louis County, Missouri, or in the United States District Court for the Eastern District of Missouri.

SURETY, for value received, hereby expressly agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder, shall in any way affect the obligations of this Bond; and it does hereby waive notice of any such change, extension of time, or alteration or addition to the terms of the Contract or the Work to be performed thereunder.

Signed and sealed this _____ day of _____, 20____,

Principle
Surety

(SEAL)

(SEAL)

By: _____

By: _____

Title: _____

Title: _____

Attached Surety's
Power of Attorney

CITY OF OVERLAND



9119 Lackland Road, Overland Mo 63114

REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

XV. CONTRACT AWARD REQUIRED DOCUMENTS

Upon award of the contract by the City Council, completion and submission of the following documents shall be required.

ITEM	OVERLAND INITIALS	CONTRACTOR INITIALS
City-Contractor Agreement (executed by City and Contractor)	_____	_____
Performance and Maintenance Bond (executed by Contractor and surety)	_____	_____
Payment Bond (executed by Contractor and surety)	_____	_____
Notice of Award (issued by City and receipt acknowledged by Contractor)	_____	_____
Notice to Proceed (issued by City and receipt acknowledged by Contractor)	_____	_____

In addition, the Contractor shall be required to provide the following;

Certificates of Insurance in accordance with Article 10. Insurance of the RFP issued by the City and with Section 7 of the XII. City-Contractor Agreement included in the RFP (if not already provided).

CITY OF OVERLAND



9119 Lackland Road, Overland Mo 63114

REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

XVI. NOTICE OF AWARD

TO:

Project Description: **Community Center – Removal and Replacement of Parking Lot Lighting**

The City has considered the BID submitted by you for the above described Work in response to its Notice to Contractors dated: _____ and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of _____.

You are required by the Information for Bidders to execute the City-Contractor Agreement and furnish the required PERFORMANCE AND MAINTENANCE BOND, PAYMENT BOND (if required), and certificates of insurance within **FIVE (5) CALENDAR DAYS** from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within **FIVE (5) DAYS** from the date of this Notice, said City will be entitled to consider all your rights arising out of the City’s acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The City will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the City.

Dated this _____ day of: _____

CITY OF OVERLAND, MISSOURI

By _____

Title _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

by _____

this the ____ day of _____, 20____.

By _____

Title _____

CITY OF OVERLAND



9119 Lackland Road, Overland Mo 63114

REQUEST FOR PROPOSALS

COMMUNITY CENTER – COMMERCIAL OUTDOOR PARKING LOT LIGHTING

XVII. NOTICE TO PROCEED

To: _____

Date: _____

Project: **Community Center – Removal and Replacement of Parking Lot Lighting**

You are hereby notified to commence the Work in accordance with the Agreement dated _____ on or before _____.

The date of completion of all work is therefore _____.

City of Overland, Missouri

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by _____ this the _____ day of _____, 20____.

By: _____

Title: _____