

PROJECT MANUAL

FOR

Project No. PWST 23-07

LEAF GRINDING

**In
University City, Missouri**

April 2023



City of University City

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INVITATION FOR BIDS

Bids for Project No. PWST 23-07 "Leaf Grinding" will be received by the City of University City in the Finance Department, 1st Floor, 6801 Delmar Blvd., University City, MO 63130, until 2:00 P.M. CDT on April 13, 2023. The bids will then be opened in the presence of a City official, and the contract will be awarded to the lowest responsible bidder, subject to confirmation by the City Council. A 5% security in the form of cash, a cashier's or certified check or an acceptable bid bond must accompany each bid.

The contractor agrees not to discriminate on the grounds or because of race, creed, color, natural origin or ancestry and religion or lack thereof, against any employee or applicant for employment with said contractor. The contractor agrees to include a similar provision to the above in all sub-contracts let or awarded under this contract.

Special Needs: If you have a special need addressed by the Americans with Disabilities Act, please notify the Department of Parks, Recreation and Forestry at 314-505-8560 or the Missouri Relay System, TDD 1-800-735-2966, at least five working days prior to the bid opening.

The City of University City hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises (DBE) will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The City of University City reserves the right to accept or reject any bid and to waive any irregularities in the best interest of the City.

INSTRUCTIONS TO BIDDERS**ARTICLE 1**
DEFINITIONS

1.1 Bidding Documents include the Invitation to Bid, Instructions to Bidders, the Bid form and the proposed Contract Documents including any Addenda issued prior to receipt of bids. The Contract Documents proposed for the Work consists of the City-Contractor Agreement, Non-Collusion Affidavit, Performance Payment Bond, the Drawings, the Specifications, the Construction Schedule, all Addenda, and all Modifications.

1.2 All definitions set forth in the General Conditions of City-Contractor Agreement or in other Contract Documents are applicable to the Bidding Documents.

1.3 Addenda are written or graphic instruments issued prior to the execution of the City-Contractor Agreement that modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

1.4 A Bid is a complete and properly signed proposal to do the Work or a designated portion thereof for the sums stipulated therein, submitted in accordance with the Bidding Documents.

1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base to which work may be added or from which work may be deleted for sums stated in Alternate Bids.

1.6 An Alternate Bid is an amount stated in the Bid to be considered in place of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials or services as described in the Bidding Documents or in the proposed Contract Documents.

1.8 A Bidder is a person or entity who submits a Bid.

1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials or labor for a portion of the Work.

ARTICLE 2
BIDDER'S REPRESENTATIONS

2.1 Each Bidder by making a Bid represents and warrants that:

2.1.1 They have read and understand the Bidding Documents and his Bid is made in accordance therewith.

2.1.2 They have visited the site, have familiarized themselves with the local conditions under which the Work is to be performed and have correlated their observations with the requirements of the proposed Contract Documents.

2.1.3 The Bid is based upon the materials, products, systems and equipment required by the Bidding Documents.

ARTICLE 3
BIDDING DOCUMENTS

3.1 COPIES

3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Invitation to Bid in the number and for the deposit sum, if any, stated therein.

3.1.2 Each Bidder shall use a complete set of Bidding Documents in preparing his Bid.

3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

3.2.1 Bidders shall promptly notify the City of any ambiguity, inconsistency or error which they may discover upon examination of the Bidding Documents or of the site and local conditions.

3.2.2 Bidders may request clarification or interpretation of the Bidding Documents by making a written request which shall reach the City at least five (5) working days prior to the date for receipt of Bids.

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

3.2.4 If the City determines that clarification of the terms and conditions of the Bidding Documents is necessary, an Addendum will be made available to all Bidders setting forth such clarification.

3.3 SUBSTITUTIONS

3.3.1 The materials, products, systems and equipment described in the Bidding Documents establish a minimum standard of required function, dimension, appearance and quality which must be met by any proposed substitution.

3.2 No substitution of the materials, products, systems and equipment described in the Bidding Documents will be considered prior to receipt of Bids unless written request for approval has been received by the City at least five (5) working days prior to the date for receipt of Bids. Each such request shall include the name of the material, product, system or equipment for which substitution will be made and a complete description of the proposed substitute including side-by-side comparisons, drawings, costs, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, products, systems or equipment or other Work that incorporation of the substitute would require shall be included in each such request. The City, in its sole discretion, may approve or disapprove the proposed substitute.

3.3.3 If the City approves any proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.

3.3.4 No substitutions will be considered after the Contract is awarded unless specifically provided in the Contract Documents.

3.4 ADDENDA

3.4.1 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of Bidding Documents.

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

3.4.3 No addenda will be issued later than three (3) working days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

3.4.4 Prior to submitting a Bid, each Bidder shall ascertain that they have received all Addenda issued, and shall acknowledge receipt of all such Addenda on their Bid Proposal.

ARTICLE 4 **BIDDING PROCEDURE**

4.1 FORM AND STYLE OF BIDS

4.1.1 Attached to the Contract Documents are a separate, complete set of Bid Forms to be signed and submitted as the Contractor's Formal Bid. To be considered, a bid shall be properly completed using these Bid Forms.

4.1.2 All blanks on the Bid Form shall be filled in by typewriter or manually in ink.

4.1.3 Where so indicated by the make-up of the Bid Form, dollar amount shall be expressed in both words and figures and in case of discrepancy between the two, the amount written in words shall govern.

4.1.4 Any interlineations, alteration or erasure must be initialed by the signer of the Bid. The Bidder shall make no additional stipulations on the bid form nor qualify the Bid in any other manner.

4.1.5 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of their bid security, state their refusal to accept an award of less than the combination of Bids so stipulated.

4.1.6 Each copy of the Bid shall include the legal name of the Bidder and a statement that the Bidder is a sole proprietor, a partnership, a corporation, or some other legal entity. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

4.1.7 The City shall not be responsible in any way for any costs or expenses related to the preparation or submission of any bid.

4.2 BID SECURITY

4.2.1 Each Bid shall be accompanied by a certified check or bank draft on a responsible solvent bank or a satisfactory bid bond executed by the Bidder and Surety Company and payable to the City of University City, Missouri, in the amount of not less than five percent (5%) of the Base Bid

plus the greatest of the Alternate Bids. If the Bidder fails to enter into a contract with the City on the terms stated in their Bid, or fails to furnish a performance bond as required by the Contract Documents, the amount of the Bid Bond shall be forfeited to the City as liquidated damages, not as a penalty.

4.2.2 The City will have the right to retain the Bid Bond of Bidders to whom an award is being considered until either (a) the City-Contractor Agreement has been executed and the performance bond has been furnished, (b) the specified time has elapsed so that Bids may be withdrawn as provided in Section 4.4.1 of the Instructions to Bidders, or (c) all Bids have been rejected. The Bid Bond of all Bidders to whom an award is not being considered shall be returned promptly after the bid opening.

4.3 SUBMISSION OF BIDS

4.3.1 Bidders must complete and submit with their bids the "Non-Collusion Affidavit" included with the Bid Form and 5% Bid Bond. Bidders shall also complete and submit the following forms:

1. A designation of the Work, item by item, including the related dollar amount and total dollar amount, to be performed by the Bidder with their own forces;
2. The proprietary names and the suppliers of principal items or systems of materials and equipment proposed for the Work;
3. "Subcontractor Approval Form" for each and every proposed Subcontractor, or other persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.
4. The contractor shall include in the bid forms a "Sample of Certificate of Insurance" including limits of said policy and carriers of policy.
5. The contractor shall include in the bid forms documentation on surety company letterhead by a company licensed to do business in the locale stating the rating given that company by A.M. Best. The City will accept only a rating of A- or better.
6. "Equal Opportunity Employment Compliance Form" for this project shall be included in the bid submittal, including each and every Subcontractor.
7. A completed Contractor Qualification Worksheet is required with the bid submittal stating the required information accurately.

4.3.2 All copies of the Bid, the Bid Bond and any other documents required to be submitted with the Bid shall be enclosed in a sealed envelope. The envelope shall be addressed to City of University City, Finance Department, 6801 Delmar Boulevard, City of University City, Missouri 63130 and shall be identified with the Project name, the Bidder's name and address and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "TUB GRINDING SEALED BID ENCLOSED" on the face thereof.

4.3.3 Bids shall be deposited at the designated location prior to the time and date for receipt of Bids indicated in the invitation for Bid, or any extension thereof made by an Addendum. Bids received after the time and date for receipt of Bids will be rejected.

4.3.4 The Bidder shall assume full responsibility for timely delivery at the location designated for

receipt of Bids.

4.4 MODIFICATION OR WITHDRAWAL OF BID

4.4.1 A Bid may not be modified, withdrawn or cancelled by the Bidder within ninety days (90) days following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting their Bid.

4.4.2 Prior to the time and date designated for receipt of Bids, any Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder or by electronic mail. If by electronic mail, written confirmation over the signature of the Bidder shall be mailed and postmarked on or before the date and time set for receipt of Bids, and it shall be so worded as not to reveal the amount of the original Bid.

4.4.3 Withdrawn Bids may be resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with these instructions to Bidders.

4.4.4 The amount of the Bid Bond shall be in an amount sufficient for the Bid as modified or resubmitted.

ARTICLE 5 **CONSIDERATION OF BIDS**

5.1 OPENING OF BIDS

5.1.1 Unless stated otherwise in the Invitation for Bid, all copies of the bid, and any other documents required to be submitted with the bid shall be included. If hand delivered or mailed, the envelope shall be addressed and delivered to the University City - City Hall 6801 Delmar Blvd, University City, MO 63130 Attn: Parks, Recreation and Forestry Department, and with the notation "TUB GRINDING BID ENCLOSED" on the face thereof.

5.2 REJECTION OF BIDS

5.2.1 The City shall have the right to reject any or all Bids, to reject a Bid not accompanied by a Bid bond or by other data required by the Bidding Documents, to reject a Bid which is in any way incomplete or irregular and to rebid the Work at a later date if all Bids are rejected.

5.3 ACCEPTANCE OF BID (AWARD)

5.3.1 The City may make any investigation of a Bidder as it deems necessary to determine the ability of a Bidder to perform the Work. Bidders shall furnish information regarding their qualifications in their bid submittal in accordance with Section 4.3.1 of the Instructions to Bidders and of the City. The City reserves the right to reject any Bid if the evidence submitted by, or other investigation of, the Bidder fails to satisfy the City that the Bidder has the proper qualifications to perform the Work in accordance with the Contract.

5.3.2 It is the intent of the City to award the Contract to the lowest responsible Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available.

5.3.3 The City shall have the right to accept Alternates in any order or combination, and to determine the low Bidder on the basis of the sum of the Base Bid and the Alternates accepted.

ARTICLE 6
POST BID INFORMATION

6.1 SUBMITTALS

6.1.1 The Bidder will be required to establish to the satisfaction of the City the reliability and responsibility of the persons or entities proposed to furnish and perform the Work.

6.1.2 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 Section 4.3.1 above. If the City objects to any such proposed person or entity, the Bidder may, at their option, (1) withdraw the Bid, or (2) submit an acceptable substitute person or entity with no adjustment in the bid price.

6.1.3 Persons and entities proposed by the Bidder and to whom the City has made no objection under the provisions of Subparagraph 6.1.2 must be used on the Work for which they were proposed and shall not be changed except with the prior written consent of the City.

ARTICLE 7
AWARD OF CONTRACT

7.1 Following receipt to the satisfaction of the City of all information required under Paragraph 6.1 above, the City shall mail to the successful Bidder the Notice of Award of the Contract.

7.2 Within ten (10) calendar days from the date of receipt of the Notice of Award, the successful Bidder shall execute and deliver to the City the Contract Documents, and shall furnish the Bonds required by Paragraph 8.1 below and the Certificates of Insurance required by subparagraph 10.1.3 of the General conditions. In the event the successful Bidder fails to execute and deliver the contract Documents, the Bonds and the Certificates of Insurance as aforesaid, the City may, at its option, consider the Bidder in default and award the Contract of another Bidder, in which case the Bid Bond of the defaulting Bidder shall be forfeited to the City.

ARTICLE 8
FORM OF AGREEMENT BETWEEN CITY AND CONTRACTOR

9.1 FORM TO BE USED

9.1.1 Unless otherwise required in the Bidding Documents, the City-Contractor Agreement for the Work shall be in the form attached hereto.

ARTICLE 9
E-VERIFY

The bidders shall comply with the E-Verify requirements as set forth by the U.S. Department of Homeland Security and present a Memorandum of Understanding executed with the Department of Homeland Security or a Company Information Page including their company ID documenting their enrollment in E-Verify.

SCOPE OF WORK**PART 1 –GENERAL****1.01 SCOPE**

- A. The City of University City, Missouri will receive bids for the provision of providing services for tub grinding of leaf debris within the City of University City, Missouri.
- B. The purpose of these plans and specifications is to define the standards for the tub grinding.
- C. The contractor shall furnish all materials, parts, equipment, and labor necessary for the tub grinding services.

1.02 CONTRACTOR'S DUTIES

- A. All work performed under this contract shall be performed in accordance with all provisions of these specifications or plans and must be approved in writing by the owner or his representative. The contractor shall be presumed to have made a reasonable inspection of the premises prior to the time of bidding and shall be held responsible for all information available through such inspections. The contractor shall immediately upon discovery, bring to the attention of the owner any conflicts that may occur among the various provisions of the specifications and plans. The owner shall resolve such conflicts and shall be responsible for any costs reasonably incurred by the contractor due to such conflict. Failure of the contractor to bring conflicts or exceptions to the attention of the owner shall allow the owner to require any changes deemed necessary before acceptance by the owner.

1.03 MATERIALS

- A. All materials supplied by the contractor under the provisions of these specifications and plans shall be new materials of the kind and character called for by the specifications. Defective equipment or material damaged in the course of installation shall be replaced or repaired in a manner satisfactory to the owner. All materials and equipment to be furnished under these specifications shall be the standard product of the manufacturer's current standard design.

1.04 SUBMITTAL OF PLANS AND SPECIFICATIONS

- A. All Bids submitted, shall contain complete information covering all materials and equipment that he/she proposes to furnish. Said submittals shall be accomplished by a letter of transmittal listing the information being submitted and identifying its compliance with the provisions of this specification. The bidder/contractor shall commence no work nor purchase of any materials prior to the approval of the submittals except at the contractor's risk.
- B. Approval of the submittals by the owner shall not be considered a waiver of any provisions of the specifications nor shall they be construed to permit a waiver from any of the performance criteria required at the final inspection. Upon completion of

the work, the contractor shall provide the owner with a final set of drawings and/or manual of the system as installed.

1.05 SITE ACCESS AND DUTIES

- A. For the performance of the contract, the contractor will be permitted to occupy such portions of the site as permitted by the owner or his/her representative. A reasonable number of tools, materials or equipment for construction purposes may be stored in such place, but not more than is necessary to avoid delays in construction. Excavated and waste materials shall be piled or stocked in such a way as to not interfere with spaces that may be designated to be left free and unobstructed, not to inconvenience other contractors or the owner.
- B. Upon completion of the work and before acceptance and final payment is made, the contractor shall clean and remove from the site of the work, surplus and discarded materials, and debris of every kind. He/she shall leave the site of work in a neat and orderly condition equal to that which originally existed. Surplus and waste materials removed from the site of the work will be disposed of at locations satisfactory to the owner.

1.06 REPLACEMENT OF DAMAGED PROPERTY

- A. The contractor shall replace all property damaged by him/her including fences, trees, plants, grass, walks, drives, building surfaces, etc.

1.07 FINAL APPROVAL

- A. Work shall adhere to the requirements outlined within the Project Manual.

PART 2 – TUB GRINDING

2.01 LOCATIONS AND DESCRIPTION OF WORK:

- A. Contractor shall **DOUBLE** grind leaves in Ruth Park Woods with final grinding being done with a two (2") inch screen.

2.02 EQUIPMENT:

Specifications for tub grinding must include the following, or approved equal:

- Morbark #1300 Tub Grinder or approved equal.
- Unit must be a minimum of 1,000 horsepower.
- Re-grind material with 2in screens.
- Unit must be capable of being loaded by a separate and independent piece of support equipment, bringing material, and taking away from both the feed and discharge areas of the grinder, allowing for minimum manpower requirements by the contractor.
- Provide support equipment (950 CAT Loader or equivalent) and operators, fuel and all necessary wear parts to grind the leaves at above mentioned job site.

2.03 CREW:

Contractor shall furnish necessary manpower to operate tub grinder and to move leaf debris.

2.04 HOURS OF WORK:

The workday will be considered to be between the hours of 7:00 a.m. and 4:30 p.m., Monday through Friday.

2.05 SITE VISITS:

Prior to offering bids, bidders must visit the sites where work is to be performed in order to see the amount of leaf debris for grinding.

2.06 PARK SYSTEM CONTACT:

For contract questions and scheduling site visits, the Park System's contact person is Todd Strubhart, Deputy Director of Parks Maintenance, tstrubhart@ucitymo.org

2.07 PERIOD OF CONTRACT:

Work must be scheduled and completed within two (2) weeks of award of contract, depending on weather conditions.

2.08 METHOD OF AWARD:

Award will be made to the bidder offering the lowest total lump sum price on the proposal.

BID PROPOSAL

Project: _____, 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 and Project Manual 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 Unit Price Extension Sheet attached hereto for a Base Bid of \$ _____.

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. This Superintendent's name and cell phone number shall be provided to the City prior to beginning work.

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 University City, 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 and accepted by the City. 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 _____.

ITEMIZED PROPOSAL

| Item | Description | Units | Quantity | Unit Price | Amount |
|------------------|---------------|-------|----------|------------|--------|
| 1 | Leaf Grinding | Ea. | | \$ | \$ |
| TOTAL BID AMOUNT | | | | | \$ |

ADDENDA:

The Undersigned hereby acknowledges the receipt of any and all Addenda by attaching a signed copy of the Addenda to this proposal.

Addendum _____ No.: _____ dated _____ pages _____

Addendum _____ No.: _____ dated _____ pages _____

Addendum _____ No.: _____ dated _____ pages _____

References regarding prior comparable work:

1. _____

2. _____

3. _____

CONTRACT TIME:

If awarded the Contract, the Undersigned agrees to complete the work within thirty (30) calendar days of the commencement of the Contract time, as defined in the General Conditions of the Contract.

LIQUIDATED DAMAGES:

Since time is of the essence in this Contract, it is agreed that the Owner would suffer loss by the failure of the Contractor to have said work completed in all its parts on said day, and as it might be difficult and expensive to accurately compute the amount of such loss, in order to avoid such expense and difficulty, the Contractor expressly covenants and agrees to pay the Owner the sum of \$200.00 per day for each and every day, Sunday and legal holidays only excepted, after said thirty (30) calendar days have expired during or upon which said work or any part thereof remains incomplete and unfinished, not as a penalty but as the liquidated actual losses which the Owner will suffer on account of any failure on the part of the Contractor to have the said work completed in all its parts on said day; and that any sum which may be due the Owner for such losses may be deducted and retained by the Owner from any balance which may be due the Contractor when the said work shall have been finished and accepted as hereinafter provided. It is, however agreed that in case any failure to complete the said work or some part thereof on said day shall be due to any cause beyond the Contractors control, the Forestry Supervisor may, with the approval of the Owner, grant an extension of time.

If in the opinion of the Director of Parks, Recreation and Forestry any part of the work cannot be carried on to completion because of unsuitable weather, work will be suspended by written order and the calendar day count discontinued.

OWNERS RIGHTS RESERVED:

The Undersigned understands that the Owner reserves the right to reject any or all Proposals or to waive any formality or technicality in any Proposal in the interest of the Owner.

CONTRACTORS DECLARATION:

The Undersigned Bidder hereby represents that they have visited and examined the site of the work and has carefully examined the INVITATION FOR BIDS, INSTRUCTIONS TO BIDDERS, PROPOSAL, CONTRACT, PERFORMANC BOND, PAYMENT BOND, AND ALL PROVISIONS AND CONDITIONS FOR THE CONTRACT, SPECIFICATIONS, and will execute the CONTRACT and perform all its terms, covenants and conditions, in accordance with the requirements of the specifications.

PLEASE CHECK, IF APPLICABLE, FOR YOUR COMPANY:

_____ MINORITY OWNED

_____ FEMALE OWNED

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____
_____ hereinafter called
the Principal, as Principal, and the _____
_____ of _____,
a corporation duly organized under the laws of the State of _____,
hereinafter called the Surety, as Surety, are held and firmly bound unto _____
_____ hereinafter called the Obligee, in the sum of _____
_____ dollars
(\$ _____), for the payment of which sum well and truly to be made, the said
Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors
and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for _____

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal
shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give
such bond or bonds as may be specified in the bidding or Contract Documents with good and
sufficient surety for the faithful performance of such Contract and for the prompt payment of
labor and material furnished in the prosecution thereof or in the event of the failure of the
Principal to enter such contract and give such bond or bonds, if the Principal shall pay to the
Obligee the difference not to exceed the penalty thereof between the amount specified in said
bid and such larger amount for which the Obligee may in good faith contract with another party

to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

SIGNED AND SEALED this _____ day of _____, 20____.

In the presence of:

PRINCIPAL (SEAL)

WITNESS

TITLE

SURETY (SEAL)

WITNESS

TITLE

The City of University City, Missouri reserves the right, before any award of the Contract is made, to require of any bidder to whom it may make an award of the Contract, a non-collusion affidavit in the form designated below:

NON-COLLUSION AFFIDAVIT

STATE OF _____,

COUNTY OF _____,

_____, being first duly sworn, deposes and says that he is

_____ * (sole owner, partner, president, secretary, etc.) of

_____, the party making the foregoing bid; that such bid is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that such bid is genuine and not collusive or sham; that said bidder had not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or any one else to put in a sham bid, or that any one shall refrain from bidding; that said bidder has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the bid price of said bidder or of any other bidder, or to fix any overhead, profit or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in such bid are true; and, further, that said bidder had not, directly or indirectly, submitted his bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to such person or persons as have a partnership or other financial interest with said bidder in his general business.

SIGNED: _____

(Title)

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

Seal of Notary

Notary Public

SUBCONTRACTOR APPROVAL FORM

This report must accompany and be part of the sealed bid proposal.

Name of Bidder:

Bidder Contact Information:

Address

City

State

Zip

Phone

Email

The above named bidder intends to subcontract for materials, services, supplies, specialty contractors, etc., in the following fashion:

Names & contact information of

Nature of

\$ Value of

Subcontractors

Participation

Subcontract

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

A. Total of Above

\$ _____

B. Total Bid Amount

\$ _____

Subcontractor Utilization as a % of Total Bid Amount : ($A/B \times 100$) _____ %

Name Authorized Officer of Bidder (Print)

Signature Officer or Bidder

Date

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

City of University City Municipal Code, Ordinance number 135.010 is as follows:

135.010 - Personnel requirements for contractors with city

A. Any person, firm or corporation contracting with the city to provide services such as, but not limited to, technical/professional services, street repairs, supplies, building maintenance, at a cost to the city of fifty thousand dollars (\$50,000.00) or more and involving ten or more employees in the work force providing the contracted services, shall, as a condition precedent to the rendition of such services, certify by affidavit filed with the said city that at least twenty (20) percent of the work force providing the contracted services shall consist of workers generally classified as members of minorities and/or female workers. The city council may, under special circumstances such as, for example, situations requiring technical expertise and/or specialization, waive the conditions set forth herein provided, however, that such waiver is justified by a two-thirds vote of the city council.

B. Any person, firm or corporation contracting with the city to provide services involving payment of one hundred thousand dollars (\$100,000.00) or more in which there are two or more subcontractors shall agree with the city that at least fifteen (15) percent of the total amount of the city's contract shall be allocated to subcontractors who employ workers generally classified as members of minorities and/or female workers.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

A. Contracts \$50,000 or more

Is the contract amount \$50,000 or more? YES NO (*Stop*)
Will there be 10 or more works on the project? YES NO (*If no, move on to section B.*)

Number of workers on project: _____

_____ Women and/or minority employees equals _____ % of the project workforce

B. Contracts \$100,000.00 or more

Is the contract \$100,000 or more: YES NO
Will there be (2) two or more subcontractors on project: YES NO

15% of base bid amount is: _____

1. Subcontractor: _____

Address: _____

City State Zip

Phone Email

Number of minorities and/or females employed by this subcontractor for this project _____

Amount of contract dollars to this subcontractor _____

2. Subcontractor: _____

Address: _____

City State Zip

Phone Email

Number of minorities and/or females employed by this subcontractor for this project _____

Amount of contract dollars to this subcontractor _____

3. Subcontractor: _____

Address: _____

City

State

Zip

Phone

Email

Number of minorities and/or females employed by this subcontractor for this project _____

Amount of contract dollars to this subcontractor _____

Signature

Print

Title

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

Notary Public

****Use additional sheets if required.***

CONTRACTOR QUALIFICATION WORKSHEET

**List at least five (5) similar projects within the last five years, as General Contractor
(attach a separate sheet if necessary)**

| Location | Description of Work | Owner/ Agency | Name of Representative | Phone Number | Approximate Contract Cost | Date of Completion |
|----------|---------------------|------------------|---------------------------|-----------------|---------------------------------|-----------------------|
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |

Provide a list of Equipment that is owned by your company that will be used for this project:

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| |

OSHA TRAINING PROVISIONS

Missouri law, 292.675 RSMo, requires the Contractor and its subcontractor(s) to provide a ten-hour occupational safety and health administration (OSHA) construction safety program (or similar program approved by the Missouri Department of Labor and Industrial Relations as a qualified substitute) for their on-site employees (laborers, workmen, drivers, equipment operators, and craftsmen) who have not previously completed such a program and are directly engaged in actual construction of the improvement (or working at a nearby or adjacent facility used for construction of the improvement). The Contractor and its subcontractor(s) shall require all such employees to complete this ten-hour program, pursuant 292.675 RSMo, unless they hold documentation on their prior completion of said program. Penalties for non-compliance include Contractor forfeiture to City of University City in the amount of \$2,500, plus \$100 per contractor and subcontractor employee for each calendar day such employee is employed beyond the elapsed time period for required program completion under 292.675 RSMo.

AFFIDAVIT OF WORK AUTHORIZATION

Comes now (_____) as (_____) first being duly sworn,
Name Office Held

on my oath, affirm (_____) is enrolled and will continue to participate
Company Name

in a federal work authorization program in respect to employees that will work in connection with the contracted services related to (Leaf Grinding) for the duration of the contract, if awarded in accordance with RSMo Chapter 285.530 (2). I also affirm that

(_____)
Company Name

does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services related to (Leaf Grinding) for the duration of the

contract, if awarded

In Affirmation thereof, the facts stated above are true and correct (The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo).

Signature (person with authority)

Printed Name

Title

Date

Subscribed and sworn to before me this _____ (day) of _____ (month, year). I am commissioned as a notary public within the City of University City, State of Missouri, and my commission expires on _____ (date).

Signature of notary

Date

NOTICE OF AWARD

TO: _____

PROJECT DESCRIPTION: Leaf Grinding

The CITY has considered the Bid submitted by you for the above described WORK in response to its Advertisement for Bids dated _____.

You are hereby notified that your BID has been accepted for items in the amount of \$ _____.
You are required by the Instruction to Bidders to execute the CONTRACT and furnish the required CONTRACT BONDS, and certificates of insurance within the ten (10) calendar days from the date of this Notice of Award.

If the Contract is not executed, bonds and insurance not provided within ten (10) calendar 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 to declare your BID BOND forfeited. The OWNER will be entitled to such other rights as may be granted by law. You are required to return and acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this _____ day of _____, 20____.

City of University City

OWNER

Darren Dunkle

Printed Name

Signature

Director of Parks, Recreation and Forestry

TITLE

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by: _____

Dated this the _____ day of _____, 20____.

BY _____

TITLE _____

CONTRACT

THIS AGREEMENT, made as of the _____ day of _____, 20____, by and between The City of University City, MISSOURI (here in after called the CITY) and _____, a _____ with offices at _____ (herein after called the CONTRACTOR), WITNESSETH, that whereas the CITY intends to proceed with PWST 23-07 Leaf Grinding Contract, hereinafter called the PROJECT, in accordance with the Specifications and Contract Documents prepared by the City of University City.

NOW, THEREFORE, The CITY and CONTRACTOR for the considerations hereinafter set forth, agree as follows:

THE CONTRACTOR AGREES to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete in a workmanlike manner all work required for the PROJECT, in strict compliance with the Contract Documents herein mentioned, which are hereby made a part of the Contract.

- a. Contract Time: Work under this Agreement shall be commenced upon written Notice to Proceed and shall be completed within thirty (30) calendar days of the authorization date in the Notice to Proceed.
- b. Liquidated Damages: The Contractor hereby expressly agrees to pay the City the sum of two hundred dollars (\$200.00) per day for each and every day, Sundays and legal holidays only excepted, after calendar days have expired during or upon which said work or any part thereof remains incomplete and unfinished.
- c. Subcontractors: The Contractor agrees to bind every subcontractor by the terms of the Contract Documents. The Contract Documents shall not be construed as creating any contractual relation between any subcontractor and the City. No subcontractor shall further subcontract any of their work.

THE CITY AGREES to pay, and the Contractor agrees to accept, in full payment for the performance of this Contract, the amount as stipulated in the Proposal, which is:

_____ Dollars
WORDS

(\$ _____) NUMBERS

Final dollar amount will be computed from actual quantities/services provided as verified by the Director of Parks, Recreation and Forestry and in accordance with the unit prices set out in the Proposal.

(See following pages)

CONTRACT DOCUMENTS:

The Contract comprises the Contract Documents as bound herein. If any provision of one Contract Document conflicts with the provision of another Contract Document, the provision in that Contract Document first listed below shall govern, except as otherwise specifically stated:

- A. Contract (This Instrument)
- B. Addenda to Contract Documents
- C. Conditions of the Contract
- D. Remaining Legal and Procedural Documents
 - 1. Proposal
 - 2. Instruction to Bidders
 - 3. Invitation for Bids
- E. Job Special Provisions

AUTHORITY AND RESPONSIBILITY OF THE PARKS, RECREATION AND FORESTRY DIRECTOR:

All work shall be done under the general inspection of the Director of Parks, Recreation and Forestry or his designee. The Director of Parks, Recreation and Forestry or his designee shall decide any and all questions which may arise as to the quality and acceptability of materials furnished, work performed, and rate of progress of work, interpretations of specifications and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor.

SUCCESSORS AND ASSIGNS:

This Agreement and all the covenants hereof shall insure to the benefit of and be binding upon the City and Contractor respectively and their partners, successors, assigns and legal representatives. Neither the Owner nor the Contractor shall have the right to assign, transfer, or sublet their interests or obligation hereunder without consent of the other party.

****In making out this form the title that is not applicable should be struck out. For example, if the Contractor is a corporation and this form is to be executed by its president, the words "Sole owner, a partner, secretary, etc." should be struck out.***

The Contract contains a binding arbitration provision that may be enforced by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

(SEAL)

Attest:

Title: _____

By (signature): _____

Contractor (print): _____

Date: _____

(SEAL)

CITY OF UNIVERSITY CITY

By: _____
City Manager

Date: _____

SAMPLE

NOTICE TO PROCEED

TO: _____

DATE: _____

PROJECT: Leaf Grinding PWST 23-07

You are hereby notified to commence WORK in accordance with the Contract dated _____
_____, 20____, on or before _____, 20____, and you are to complete the WORK within
Thirty (30) calendar days thereafter.

City of University City
OWNER

Darren Dunkle
PRINT NAME

SIGNATURE

Director of Parks, Recreation and Forestry
TITLE

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by _____

this _____ day of _____, 20____.

Signature: _____

Printed Name & Title: _____

CONDITIONS OF THE CONTRACT**ARTICLE 1
CONTRACT DOCUMENTS****1.1 DEFINITIONS**

1.1.1 The Contract Documents. The Contract documents consists of the Contract, General Conditions of the Contract, Non-Collusion Affidavit, the Drawings, the Specifications, the Construction Schedule, all Addenda and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, and (2) a written 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 means the services required or reasonably inferable from the Contract Documents and includes all labor necessary to complete the services required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such services.

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 duplicate by the City and Contractor within ten (10) working days after the awarding of the contract.

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.

1.2.4 In the event of any conflict or inconsistency in the Contract Documents, the better quality and quantity of Work, as determined by the Director, shall be provided without change in the Contract Sum.

1.3 COPIES FURNISHED AND OWNERSHIP

1.3.1 Unless otherwise provided in the Contract Documents, the Contractor will be furnished a maximum of two (2) 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.

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.

2.2 CITY'S RIGHT TO STOP THE WORK

2.2.1 If the Contractor fails to correct defective Work or fails to supply labor, 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; however, the City's right to stop the Work shall not give rise to a duty on the part of the City to exercise this right for the benefit of the Contractor or any third party.

2.3 CITY'S RIGHT TO CARRY OUT THE WORK

2.3.1 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 he may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter 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.

2.4 DIRECTOR'S STATUS DURING CONTRACT

2.4.1 The Director of Parks, Recreation and Forestry ("Director") and/or his/her designee will be the City's representative during the contract period.

2.4.2 Director will make periodic visits to the sites to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. He shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work.

2.4.3 Director will issue with reasonable promptness such written clarifications or interpretations of the Contract documents (in the form of Drawings or otherwise) as he may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If Contractor believes that a written clarification and

interpretation entitles him/her to an increase in the Contract Price, he/she may make a claim in writing, therefore.

2.4.4 Director will have authority to disapprove or reject Work which is "defective" (which term is hereinafter used to describe Work that is unsatisfactory, faulty or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection or test or has been damaged prior to approval of final payment). He will also have authority to require special inspection or testing of the Work whether or not the Work is completed.

2.4.5 Director may furnish a Resident Project Representative and assistants to assist Director in carrying out his/her responsibilities at the site.

2.4.6 Neither Director's authority to act in the Contract Documents nor any decision made by him in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of Director to Contractor, or any of their agents or employees or any other person performing any of the Work.

2.4.7 Director will not be responsible for Contractor's means, methods, techniques, sequences or procedures of work, or the safety precautions and programs incident thereto, and he will not be responsible for Contractor's failure to perform the Work in accordance with Contract Documents.

2.4.8 Director will not be responsible for the acts or omissions of Contractor, or any of his agents or employees, or any other persons at the site or otherwise performing any of the Work.

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 perform the Work in accordance with the Contract Documents, and 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 and shall be solely responsible for job-site safety precautions, procedures and programs.

3.3 LABOR AND MATERIALS

3.3.1 Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, 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 times 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 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. If required by the City, the contractor shall furnish satisfactory evidence as to the kind and quality of all materials and equipment. Aforementioned shall constitute by the contractor a guarantee of one year from the date of final acceptance.

3.5 PERMITS, FEES 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.

3.5.2 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 thereof and shall bear all costs attributable thereto.

3.6 SUPERINTENDENT

3.6.1 The Contractor shall employ a competent superintendent and necessary assistants who "shall be in attendance" on the project Work sites 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.**

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.

3.8 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.

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 without prior written consent of the City, and all material shall be hauled off the site at the time of Work.

3.9.2 The Contractor is responsible for securing his own project storage site which shall not be located on City property without prior written consent of the City. After completion of the Work the Contractor shall remove all remaining waste materials and rubbish from and about the Project as well as all tools, equipment, machinery and surplus materials, and shall clean all surfaces and leave the Work "broom clean" or its equivalent, except as otherwise specified.

3.10 INDEMNIFICATION

3.10.1 The Contractor shall indemnify and hold harmless the City and its agents and employees from and against any and all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the Work, including, but not limited to, any such claim, damage, loss or expense that is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting there from unless such claims, damages or losses are caused solely by the negligent act of the City.

3.10.2 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, the indemnification obligation under this Paragraph 3.11 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.

3.11 CASH ALLOWANCES

3.11.1 The Contractor acknowledges and agrees that the Contract Sum includes all cash allowances specified in the Contract Documents.

ARTICLE 4 **SUBCONTRACTORS**

4.1 DEFINITION

4.1.1 A Subcontractor is a person or organization that 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 Subcontractor is a person or organization that has a direct or indirect contract with a Subcontractor 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 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 Approval form, along with other required Bid documents to the City. Contractor shall complete and submit a Supplemental Subcontractor Approval form to the City in the event of any substitution or addition of a Subcontractor by the Contractor. A Subcontractor shall perform no work until the City has approved such Subcontractor.

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 above.

4.3.1 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 Contractor shall at all times during the term of the Contract be in compliance with all of the specifications of the WORK as outlined in the Project Manual and shall not subcontract more than ten percent (10%) of the total Contract cost.

4.2.4 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 Subcontractor's other obligation. The Contractor shall be held responsible, in addition to the submission of the "Subcontractor Approval Form," to appraise the City of any additional work that 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.

4.2.5 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 in the Instruction to Bidders or, if none is so designated, with any Subcontractor proposed for the principal portions of the Work, who has been rejected by the City.

4.2.6 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.

4.2.7 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 VIII hereof;
3. require 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 Paragraph 10.2;
5. obligate each Subcontractor specifically to consent to the provisions of this Paragraph 4.3 and require the Subcontractor (and the Sub-subcontractor 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 that 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 Work.

5.1.2 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 project engineer if this condition occurs. The project engineer 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 that undergoes additional excavation that is not indicated in the above scope of work and has not been approved by the project engineer prior to the excavation. All additional excavation that becomes necessary shall be paid at the unit bid price for "Excavation." 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 days after the completion of the soil stabilization process.

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.

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 so to 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 there from the Contractor shall pay or satisfy it and shall reimburse the City for all attorneys' fees and court or 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 3.10, the City may clean up and charge the cost thereof to the several contractors.

ARTICLE 6
MISCELLANEOUS PROVISIONS

6.1 GOVERNING LAW

6.1.1 The Contract shall be governed by the laws of the State of Missouri.

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 there under 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 THIS SECTION INTENTIONALLY LEFT BLANK

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 punch list items deemed necessary by the City, exclusive of MSD-generated punch list items. The date of completion of the Contract shall be the date when all work including City punch list 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. Calendar days shall be defined in the following manner: Any day of the week, including Saturday, Sunday and Holidays will be considered calendar days. Work is permitted Monday thru Friday from seven a.m. until eight p.m., unless permission is granted by the director of Parks, Recreation and Forestry for other work hours. The City of University City shall not be held responsible or liable for any delays or acts beyond its control.

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.

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 By the twenty-fifth (25th) day 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 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 The Contractor warrants and guarantees that title to all Work, materials and equipment covered by an 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, in accordance with the City-Contractor Agreement, 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.

8.3.2 In event that the Missouri Department of Labor and Industrial Relations has determined that a violation of Section 292.675, RSMo, has occurred and that a penalty as described in Section 9.3 shall be assessed, the City shall withhold and retain all sums and amounts due and owing when making payments to the Contractor under this Contract.

8.3.3 No progress payment, nor any partial or entire use or occupancy of the Work by the City, shall constitute an acceptance of any Work not completed in accordance with the Contract Documents.

8.4 COMPLETION AND FINAL PAYMENT

8.4.2 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 and, when the City finds the Work acceptable under the Contract Documents and the Contract fully performed, the City will make final payment to the Contractor in accordance with the City-Contractor Agreement.

8.4.3 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 any, to final payment, and (3) if required by the City, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens 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 such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the City all moneys that the City may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

8.4.4 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 AUTHORIZED EMPLOYEES

9.2.1 Contractor acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform within the state of Missouri. Contractor therefore covenants that it is not knowingly in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform work on the Project, and that its employees are lawfully eligible to work in the United States.

9.3 SAFETY TRAINING

9.3.1 Contractor shall provide a ten (10) hour Occupational Safety and Health Administration (OSHA) construction safety program for all employees who will be on-site at the Project. The construction safety program shall include a course in construction safety and health that is approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations which is at least as stringent as an approved OSHA program as required by Section 292.675, RSMo.

9.3.2 Contractor shall require its on-site employees to complete a construction safety program within sixty (60) days after the date work on the Project commences.

9.3.3 Contractor acknowledges and agrees that any of the Contractor's employees found on the Project site without documentation of the successful completion of a construction safety program shall be required to produce such documentation within twenty (20) days or will be subject to removal from the Project.

9.3.4 Contractor shall require all of its Subcontractors to comply with the requirements of this Section and Section 292.675, RSMo.

9.4 NOTICE OF PENALTIES FOR FAILURE TO PROVIDE SAFETY TRAINING

9.4.1 Pursuant to Section 292.675, RSMo, the Contractor shall forfeit to the City as a penalty two thousand five hundred dollars (\$2,500.00), plus one hundred dollars (\$100.00) for each on-site employee employed by the Contractor or its Subcontractor, for each calendar day, or portion thereof, such on-site employee is employed without the construction safety training required in Section 9.3 above.

9.4.2 The penalty described in Subsection 9.4.1 of this Section shall not begin to accrue until the time periods described in Subsection 9.3.2 and 9.3.3 above have elapsed.

9.4.3 Violations of Section 9.3 above and imposition of the penalty described in this Section shall be investigated and determined by the Missouri Department of Labor and Industrial Relations.

9.5 SAFETY OF PERSONS AND PROPERTY

9.5.1 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, structures and utilities not designated for removal, relocation or replacement in the course of construction.

9.5.2 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 City and users of adjacent utilities. The Contractor shall provide signs, barrels, or any other safety devices that 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 twenty-four (24) hours of notification. The Contract Sum shall be reduced by the cost of these devices.

9.5.3 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.

9.5.4 All damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor, or 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 the Contractor has made restitution to the complainant.

9.5.5 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 section 10.1.3 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 in section 10.1.3, or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under Paragraph 3.11.

10.1.3 The Contractor shall purchase and maintain in full force and effect the following insurance coverage with an insurance carrier acceptable to the City:

The policy shall be endorsed to cover the contractual liability of the Contractor under the General Conditions.

The Contractor and his Subcontractors shall procure and maintain during the life of this agreement insurance of the types and minimum amounts as follows:

1. Workers' Compensation in full compliance with statutory requirements of Federal and State of Missouri law and Employers' Liability coverage in the amount of \$1,000,000.
2. Comprehensive General Liability and Bodily Injury
Including Death: \$460,000 each person
\$3,070,000 each occurrence
Property Damage: \$3,070,000 each occurrence
\$3,070,000 each occurrence
3. Comprehensive Automobile Liability, Bodily Injury
Including Death: \$460,000 each person
\$3,070,000 each occurrence
Property Damage: \$3,070,000 each occurrence
4. Owner's Protective Bodily Injury
Including Death: \$460,000 each person
\$3,070,000 each occurrence
Property Damage: \$3,070,000 each occurrence
\$3,070,000 each occurrence

An umbrella or excess liability policy may be used to attain the shown Worker's Compensation and Employers' Liability limits.

10.1.4 Certificates of Insurance acceptable to the City shall be filed with the City prior to commencement of the Work. Certificate of Insurance must state: "The City of University City is an additional insured." The City of University City shall also be provided an endorsement page. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least fifteen 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 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 Certificates of Insurance acceptable to the City shall be filed with the City prior to commencement of the work. Certificates of Insurance must state on the certificate: "The City of University City is an additional insured." The City of University City shall also be provided an endorsement page. These Certificates shall contain a provision that coverages afforded under the policies will not be canceled until at least fifteen 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 Sub-contractors and Sub-subcontractors in accordance with Subparagraph 4.3.1.

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.

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. If the City and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by arbitration. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

11.2.2 The Contractor shall carry on the Work and adhere to the Work Schedule pending all disputes or disagreements with the City. No Work shall be delayed or postponed pending resolution of any disputes or disagreements. The City agrees to pay the Contractor, in accordance with the Contract Documents, for Work performed that is not subject to dispute or disagreement.

11.2.3 If conditions are encountered at the site which are subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents, then the Contractor shall give written notice thereof to the City before the conditions are disturbed and in no event later than seven (7) days after first observance of the conditions. The City will promptly investigate such conditions and, if they differ materially from those indicated in the Contract Document and cause an increase or decrease in the Contractor's cost of or time required for performance of the Work, will adjust the Contract Sum or the Contract Time, or both. If the City and the Contractor cannot agree on the amount of the adjustment to the Contract Sum or the Contract Time, it shall be determined in accordance with Paragraph 11.2.5.

11.2.4 If the Contractor wishes to make claim for an increase in the Contract Time, he shall give the City written notice thereof within seven (7) days after the occurrence of the event-giving rise to such claim.

11.2.5

- a. All claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement or the breach thereof will be decided by arbitration in accordance with the Arbitration Rules of the American Arbitration Association. This Agreement to arbitrate and any other agreement or consent to arbitrate will be specifically enforceable under the prevailing law of any court having jurisdiction. The location of the arbitration will be St. Louis County, Missouri.
- b. Notice of demand for arbitration must be filed in writing with the other party to this Agreement and with the American Arbitration Association. The demand must be made within a reasonable time after claim; dispute or other matter in questions has arisen. In no event may the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.
- c. No arbitration arising out or related to this Agreement shall include, by joinder, consolidation or other manner, any person not a party to this Agreement.
- d. The award rendered by the arbitrators will be final, judgment may be entered upon it in any court having jurisdiction thereof, and will not be subject to modification or appeal except to the extent permitted by Sections 10 and 11 of the Federal Arbitration Act (9U.S.C. Sections 10 and 11).
- e. Unless otherwise agreed in writing. Contractor shall carry on the Work and maintain its progress during any arbitration proceedings, and the City shall continue to make payments to Contractor in accordance with this Agreement. This Paragraph 11.2.5 shall survive completion or termination of this Agreement.

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 written Field Order or by other written order. Such changes shall be binding on the City and the Contractor.

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 be found not in accordance with the Contract Documents, the Contractor shall pay such costs.

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 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 to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the City.

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 If the Contractor fails to correct such defective or non-conforming Work, the City may correct it in accordance with Paragraph 2.3.

12.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

12.3.1 If the City prefers to accept defective or non-conforming Work, he may do so instead of requiring its 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

In the event any part of the work to be performed hereunder shall require the Contractor of his Subcontractors to enter, cross, or work upon or beneath the right-of-way or other property of a railroad, the Contractor in addition to the indemnification and insurance requirements of this article, shall comply with the related requirements for such work as are set out in the Contract Documents.

13.1 SCHEDULING OF WORK AND INTERFERENCE WITH TRAFFIC

13.1.1 The Contractor's work must be scheduled and accomplished in stages such that local traffic is maintained during Work. 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 Temporary guardrail, or other suitable temporary barriers shall be provided to protect traffic from the Work. At all times until final acceptance of the Work, the Contractor shall provide and maintain such signs, lights, watchmen and barriers, in addition to the temporary guardrail, as may be necessary to properly protect the work and provide for safe and convenient public travel.

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

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13.4 OVERTIME AND WORKING DAYS

13.4.1 In order to provide sufficient control of work, the Contractor shall be required to inform the City of University City of scheduled 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 scheduled.

CITY HOLIDAYS

There are nine (9) holidays. They are:

| | |
|-----------------------------|------------------------|
| New Year's Day | Labor Day |
| Martin Luther King, Jr. Day | Thanksgiving Day |
| President's Day | Day after Thanksgiving |
| Memorial Day | Christmas Day |
| Independence Day | |

13.4.2 No day will be considered a working day on which there is precipitation or temperature in an amount to prevent the beginning of operations, except if operations are begun later in that day only that time worked will be charged against the time allotted to the project for time worked, or if precipitation starts after the beginning of operations, necessitating the discontinuance thereof, only that part of the time worked will be charged against the allotted time.

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13.8 PRECONSTRUCTION CONFERENCE

13.8.1 A pre-construction conference may be held prior to the issuance of a notice to proceed with the Work. The Contractor, the City of University City, and representatives of the various utility companies that have facilities in the project area will attend this meeting. The meeting date will be established after the taking of bids and at a time convenient to all parties.

13.9 SEQUENCE OF WORK

13.9.1 A schedule of the Contractor's work shall be submitted to the City for approval as required under the Agreement. 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.

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

13.10 CONSTRUCTION LIMITS

13.10.1 The project limits consist of the designated area provided by the City. The Contractor shall limit his operations accordingly.

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 expenses 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 that was not used.

13.11 ADDITIONS TO CONTRACT

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

13.12 TAXES

13.12.1 As set forth in 144.062 RSMo Sup. 1988 and 144.039 RSMo Sup. 1988, Contractors and any subcontractors who purchase materials and/or supplies "for the purpose of constructing, repairing, or remodeling facilities for the City are exempt from paying sales tax if the purchases are for the City". The official State Tax exemption letter will be furnished on request. The quoted phrases were taken directly from the statute.

REQUIREMENTS INCLUDE:

1. Contractor:
 - a. Order all necessary materials to complete the Work in accordance with the Contract Documents.
 - b. Inspect all delivered materials for conformance to Contract Documents, damage, breakage and subsequently accept materials if found to be satisfactory.
2. Owner:
 - a. Provide tax-exempt status letter to Contractor.
3. Direct purchase of materials by City does not relieve 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.

ARTICLE 14
EQUAL OPPORTUNITY EMPLOYMENT

14.1 In accordance to University City Municipal Code Section 2-7.2 Personnel requirements for contractors of service contracts with University City wherein payment by the city is fifty thousand dollars (\$50,000) or more and Contractor's employees on project exceed ten (10) in number.

14.1.1 Any person, firm or corporations contracting with the city to provide services such as, but not limited to, technical/professional services, street repairs, supplies, building maintenance, at a cost to the city of fifty thousand dollars (\$50,000) or more and involving ten (10) or more employees in the work force providing the contracted service, shall, as a condition precedent to the rendition of such services, certify by affidavit filed with the said city that at least twenty (20) percent of the work force providing the contracted services shall consist of workers generally classified as members of minorities and/or females workers. The city council may, under special circumstances such as, for example, situations requiring technical expertise and/or specialization, waive the conditions set forth herein provided, however, that such waiver is justified by two-thirds vote of the city council.

Ref: Ord. No. 5604

14.2 In accordance to University City Municipal Code Section 2-7.3 Personnel requirements with respect to employees of subcontractors when the prime service contract with the city is one hundred thousand (\$100,000) or more and there are two or more subcontractors.

14.2.1 Any person, firm or corporation contracting with the city to provide services involving payment of one hundred thousand dollars (\$100,000) or more in which there are two (2) or more subcontractors shall agree with the city that at least fifteen (15) percent of the total amount of the city's contract shall be allocated to subcontractors who employ workers generally classified as members of minorities and/or females workers.

Ref: Ord. No. 5606