

CITY OF LEAVENWORTH

**CONTRACT DOCUMENTS
AND
SPECIFICATIONS**

**Havens Park Trail Construction
PROJECT No. 23HV-TRAIL**



CONTRACT DOCUMENTS AND SPECIFICATIONS

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Havens Park Trail Construction Project No. 23HV-TRAIL

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OPTIONS:

1. You may write/type all required information in the Specification book and submit the entire book. (**Remember** to copy the necessary sections of the book concerning contract documents, bonds and time requirements for executing the contract.)
2. Write/type all required information using the enclosed forms to complete your bid and submit all the forms in lieu of the entire book.

SECTION I

NOTICE TO CONTRACTORS

NOTICE TO CONTRACTORS

Sealed proposals will be received by the Governing Body of Leavenworth, Kansas at the office of the City Clerk, City Hall, Leavenworth, Kansas until **10:00 a.m. on the 3rd day of February 2023**, for the construction of **Project No. 23HV-TRAIL, "Havens Park Trail Construction"** at which time and place the proposals will be publicly opened and read aloud at City Hall, 100 N. 5th Street, Leavenworth, Kansas 66048.

PRINCIPLE ITEMS OF WORK

BASE BID:

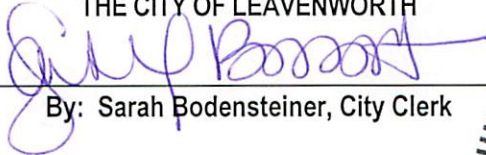
**1,100 linear feet of 5' Wide Asphalt Trail in Havens Park adding to existing trail.
4" asphalt on top of 4"AB-3 compacted base.**

Bids must be written/typed and submitted on forms attached to and made a part of the contract documents. **Ensure that you comply with all provisions regarding Affirmative Action, Non-Collusion Affidavit, Bid Bonds and other bidding conditions.** Plans, specifications and other contract documents are on file in the City Clerk's Office and are open for public inspection. Bids shall be submitted in sealed envelopes addressed to the office of the City Clerk, 100 N. Fifth, Leavenworth, KS 66048. Name of the bidder and "**Project No. 23HV-TRAIL "Havens Park Trail"**" shall be clearly written on the envelope.

There will be a **Mandatory** Pre-Bid Meeting at 1 p.m. on the 11th day of January 2023, at the site, Leavenworth, Kansas. We will meet in Havens Park, 2201 Ottawa St., LV, KS, 66048. Follow roadway into park off Ottawa to meet at the gated trail head in the interior of the park. All firms wishing to bid on this project **MUST ATTEND** this meeting.

A certified check, cashier's check or acceptable bid bond must accompany all bids for not less than 5% of the amount of the bid. All bids must be accompanied by a completed Non-Collusion Affidavit and a copy of an "Approved" City of Leavenworth Affirmative Action Program. Contact Arianne Burgoon at 913-680-2604 or by email at aburgoon@firstcity.org to obtain information on the Affirmative Action Program. The Governing Body of the City of Leavenworth, Kansas reserves the right to reject any and all bids and to waive informalities. All bidders are required to comply with the applicable policies concerning the implementations of the MBE (Resolution B-664).

THE CITY OF LEAVENWORTH


By: Sarah Bodensteiner, City Clerk



SECTION II

**INSTRUCTION
TO BIDDERS**

INSTRUCTION TO BIDDERS

The following provisions are part of the contract documents and this listing of same under the title "Instruction to Bidders" has no significance other than the fact that the provisions are primarily concerned with requirements which must be met in the preparation of bids or proposals. Compliance with these provisions is mandatory. It is understood and agreed that a person submitting a bid has read all of the contract documents, and that he has a full understanding of the scope of rights and liabilities which will arise upon submission of a proposal.

1. CONTRACT DOCUMENTS

The Notice to Contractors, Instruction to Bidders, Proposal, Contract, General Conditions, Performance Bonds, Affirmative Action Program Approval Letter, Non-Collusion Affidavit, Specifications, and the Plan Sheets and any Addendum thereto will form the Contract.

2. INTERPRETATION OF CONTRACT DOCUMENTS

Should a prospective bidder be in doubt as to the meaning of any provisions of the contract documents, he/she may submit to the Engineer a written request for the interpretation thereof 48 hours prior to the time established for the opening of bids. The person submitting the request will be responsible for its prompt delivery. Any interpretation of the contract documents will be made only by Addendum duly issued and a copy of such Addendum will be mailed or delivered to each person who has received a copy of the contract documents. The Owner will not be responsible for any other explanation or interpretation of the contract documents.

3. SITE INVESTIGATION

The bidders shall make a personal examination of the site of the work and shall fully acquaint themselves with all conditions affecting both the execution and the cost of the work.

4. TAXES

The bidder shall understand that all taxes that might lawfully be assessed against the Owner in connection with the contract work are to be paid by the contractor and the bid price or prices submitted shall include the total cost of all such taxes. This is a tax-exempt project.

5. PROPOSALS

All proposals must be made upon the form furnished and will give unit and lump sum prices and the total amount of the bid in accordance with the form of the proposal. The proposal must be signed in ink by the bidder with his/her full name and business address or place of residence. In the case of a firm, the name and address of each member must be shown. In the case of a corporation, an official who is authorized to bind the bidder must sign the proposal in the name of the corporation and the title of the person executing the proposal shall be clearly indicated beneath his/her signature. The completed proposal shall be enclosed, bound with the contract documents, in a sealed envelope marked "Proposal" and with the name of the work and project number for which the proposal is made and addressed to the authority designated in the "Notice to Contractors".

6. PROPOSAL GUARANTEE

Either a certified check, cashier's check or as shall be designated in the Notice to Contractors, in the amount of five percent (5%) of the total cost of the Proposal, shall accompany each proposal and be attached thereto as the "Proposal Guarantee". The security document shall be issued in favor of the Owner.

Security documents will be returned to the respective bidders within ten (10) days after the Proposals are opened, except those which the Owner elects to hold until the successful bidder has executed the contract. Thereafter, all security documents, including that of the successful bidder, will be returned as soon as possible.

7. WITHDRAWAL OF PROPOSAL

A proposal may be withdrawn if not accepted within thirty (30) days after the closing time scheduled for receipt of proposals.

8. PROPOSAL DISCREPANCIES

In case of a difference in written words and figures in the proposal, the amount stated in written words shall govern.

9. OPENING OF PROPOSALS

At the time and place fixed for the opening of proposals in the Notice to Contractors, every proposal received within the time fixed for receiving same and has all required documents included, will be opened and publicly read aloud. Bidders and other persons properly interested may be present, in person or by representative.

10. AWARD OF CONTRACT - REJECTION OF BIDS

The Owner reserves the right to accept the bid which in its judgment is the lowest and best bid, to reject any or all bids and to waive irregularities or informalities in any bid. Bids received after the specified time of closing will be returned unopened.

The Owner also reserves the right to reject the bid of any bidder who has previously failed to perform properly, or to complete on time, contracts of a similar nature; who is not in a position to perform the contract or who has habitually and without just cause neglected the payment of bills or otherwise disregarded his/her obligations to subcontractors, materials, suppliers or employees. In determining the lowest responsive bidder, the following elements, in addition to those mentioned, will be considered:

- a. Maintains a permanent place of business.
- b. Has adequate plant and equipment available to do the work properly and expeditiously.
- c. Have suitable financial resources to meet the obligations incident to the work.
- d. Has appropriate technical experience.

The ability of a bidder to obtain a performance bond shall not be regarded as the sole test of such bidder's competency or responsibility.

11. TIME FOR EXECUTING CONTRACT AND DAMAGES FOR FAILURE TO EXECUTE

Any bidder whose proposal shall be accepted will be required to execute the contract within ten (10) days after notice that the contract has been awarded. Failure and neglect to do so shall constitute a breach of the agreement affected by the acceptance of the Proposal.

The damages to the Owner for such breach will include loss from interference with its construction program and other items whose accurate amount will be difficult or impossible to compute and the amount of the guarantee accompanying the Proposal shall be retained by the Owner as liquidated damages for such breach. In the event that any bidder whose proposal shall be accepted fails or refuses to execute the contract as herein before provided, the Owner may at his option determine that the bidder has abandoned the contract and thereupon the Proposal and the acceptance thereof shall be null and void and the Owner shall be entitled to liquidated damages as provided above.

12. INSURANCE AND BONDS

The contractor shall be required to procure insurance and bonds as specified under **General Conditions**.

13. POSTPONEMENT OF DATE FOR PRESENTING AND OPENING PROPOSALS

The Owner reserves the right to postpone the date for presentation and opening of Proposals and will give notice of any such postponement to each prospective bidder.

14. TIME OF COMPLETION

The time of completion, if indicated in the proposal, is a basic element of the contract; however, the contractor when required to state completion time as part of his proposal, must recognize that the time stated is to be realistic and is not to be used to obtain favorable consideration of his bid by promising an early completion date not warranted by his ability to execute the work. If not stated in the proposal, the time of completion as contained in the contract documents shall be binding.

15. AFFIRMATIVE ACTION PROGRAM

In accordance with the City of Leavenworth Regulations, all bidders shall submit an annual Affirmative Action Program to the City Manager who will review and verify that the contractor's Affirmative Action Program conforms with the City's Affirmative Action Program. **It is required that the contractor submit his Affirmative Action Program prior to the bid date to ensure that the program is acceptable to the City.**

The contractor's Affirmative Action Program is effective only for one year only, with a universal renewal date of July 1 each calendar year. All contractors must renew their plan on a yearly basis with any changes and updates. **Any contractor who does not have a current approved Affirmative Action Program on file in the office of the City Manager and who fails to submit**

the “Affirmative Action Program Approval Letter” with their bid, shall have their bid rejected and will not be considered.

16. NON-COLLUSION AFFIDAVIT

Any contractor who fails to submit a signed Non-Collusion Affidavit will have their bid rejected and will not be considered.

17. ANTI-DISCRIMINATION

The bidder agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment of employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase “equal opportunity employer”; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

18. CONTRACT WORKING DAYS

City of Leavenworth views each calendar day as one work day.

SECTION III

PROPOSAL

BID PROPOSAL

(Must either be typewritten or in ink; all others will be rejected)

Project 23HV-TRAIL Havens Park Trail

Base Bid - Lump Sum Price – includes all insurance and bond costs, equipment, materials, appurtenances, and labor for the installation of the items as identified in the “Project Scope”.

Project No. 23HV-TRAIL

DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL
BASE BID:				
1,100' of 5' Wide Asphalt Trail per plans and specifications	L.S.	1		

_____ **HEREBY** agrees that the City of Leavenworth has a right to reject any and all bids or parts thereof. The undersigned bidder herewith deposits with the City Clerk the sum of _____ \$_____ Dollars (Certified check, cashier's check or acceptable bid bond) and makes this bid on the condition and agreement that if said bidder shall fail to enter into a contract to do said work and file good and sufficient bonds as required by law on account of the work awarded to said bidder with the City Clerk within ten (10) working days after said work shall have been awarded to said bidder, that said deposit shall therefore be forfeited to the City of Leavenworth as and for liquidated damages by reason of such failure and that said award may be rescinded and contract awarded to the next lowest responsive bidder.

Completion date to be **Sixty (60) calendar days** after the Parks Director or Parks Superintendent representative has given "Notice to Proceed" or liquidated damages shall be in accordance with Table 1 in Section 58 of the General Conditions of this document for each calendar day until project completion.

Bidder: _____
FEIN: _____
Address: _____
By: _____ Title: _____
Telephone No: _____ Fax No: _____
Email Address: _____

SECTION IV

NON-COLLUSION

AFFIDAVIT

NON- COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, say that he/she has not, nor has any other member, representative, or agent of the firm company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone such letting nor to prevent any person from bidding nor to include anyone to refrain for bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/ She further says that no person or persons, firms or corporation has; have to will receive directly, any rebate, fee gift, commission or thing of value on account of such of sale.

OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated this _____ day of _____, _____

(Name of Organization)

(Title of person Signing)

(Signature)

ACKNOWLEDGEMENT

STATE OF _____)

)SS

COUNTY OF _____)

Before me, a Notary Public, personally appeared the above name and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to me this _____ day of _____, _____.

Notary Public Signature

My Commission Expires: _____

SECTION V

MAINTENANCE BOND

Project No. _____

Bond No. _____

CITY OF LEAVENWORTH, KANSAS

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____ as the "Principal," hereinafter referred to as "Contractor," and _____ as and hereinafter referred to as the "Surety," a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Kansas, are held and firmly bound unto the CITY OF LEAVENWORTH, KANSAS hereinafter referred to as "City," in the penal sum of _____ Dollars (\$ _____) for the payment of which sum, well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, firmly by these presents:

THE CONDITION OF THIS BOND is such that:

WHEREAS, Contractor has executed a written Agreement, including the Contract Documents, with City to construct certain improvements referred to as _____, more particularly described in the Agreement and the Contract Documents dated _____, 20____, the Agreement and the Contract Documents are made a part hereof by reference as if fully set out herein.

NOW, THEREFORE, if Contractor has constructed and completed or caused to be constructed and completed the entire improvement in strict compliance with the Agreement and Contract Documents, including all documents incorporated therein, between City and Contractor, and all applicable laws, rules, and regulations such as, but not limited to, those set forth in the Code of the City including the Minimum Standards for the Design and Construction of Streets, Sanitary Sewers, Storm Drainage Improvements, Turf Grass and all Landscape Plantings and Features completed to the satisfaction of the City Engineer

MAINTENANCE BOND

and with such materials and in such manner that the same shall endure without need of repairs or maintenance for a period of **(2) two years** from and after the completion and acceptance by City's governing Body; and if said improvement shall actually endure without the need of repairs or maintenance for the period of **(2) two years** from and after the completion and acceptance thereof as aforesaid, then this obligation shall be null and void.

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

Signed and sealed this _ day of _____, 20__.

[SEAL]

[Contractor/Principal]

[Title]

ATTEST:

[Secretary]

[Surety Company]

[SEAL]

By:

[Attorney-in-fact]

By:

[Kansas Agent]

(Accompany this Bond with Attorney-in-Fact's authority from the surety company certified to include the date of the Bond.)

MAINTENANCE BOND

SECTION VIII

CONTRACT AGREEMENT

CITY OF LEAVENWORTH, KANSAS—VENDOR/CONTRACTOR TERMS AND CONDITIONS

Date: _____

Project: _____

Contract No. _____

The following Terms and Conditions shall apply to the Contract between the City of Leavenworth, Kansas ("City") and _____ ("Vendor/Contractor"). As used herein, the term "Contract" or "Contract Documents" shall mean, collectively, the proposal, purchase order, work order, invoice, letter agreement, or other similar documentation attached hereto, including but not limited to that certain *[insert reference to Bid Package # dated _____ and Vendor/Contractor's response dated _____]*, together with these Terms and Conditions.

The Contract Documents are incorporated herein by this reference. All of the Contract Documents are complementary, and what is required by one shall be as binding as if required by all. In the event of duplications or conflicts among the Contract Documents relating to the services or goods to be provided, the most complete, extensive, comprehensive, and thorough services or goods, and those terms most favorable to City, as among the various duplications or conflicts, shall be construed as the requirements, as long as generally consistent with the other Contract Documents.

1. SCOPE AND GENERAL QUALITY. The services or goods to be provided are those described in the Contract Documents, and Vendor/Contractor shall perform all work necessary to complete the services or provide the goods described in or reasonably inferable from the Contract Documents. Vendor/Contractor agrees that, in performing its duties under this Contract Documents, it will use the same care and skill ordinarily used by members of its profession under the same or similar circumstances.

2. CONTRACT SUM. [insert amount and details]

3. LAWS, REGULATIONS, AND PERMITS. Vendor/Contractor shall give all notices required by law and comply with all applicable Federal, State, and local laws, ordinances, rules, and regulations relating to the conduct of the work. Vendor/Contractor shall further provide submissions required for approvals of governmental authorities or others having jurisdiction over the work.

4. OWNERSHIP AND USE OF DOCUMENTS. Upon payment in full to Vendor/Contractor for all services rendered under the Contract Documents, City shall have title to, own, and have the right to use for its purposes, without additional compensation to Vendor/Contractor, all plans, drawings, specifications (at whatever stage of development), reports, logs, data, or notes furnished to City by Vendor/Contractor. Vendor/Contractor will also furnish City, upon request, a complete, revised, and updated set of such documents. Such documents will not contain any reference to Vendor/Contractor. Except on or for its own projects, City agrees that it will not sell, license or otherwise permit the use of such documents or any prints thereof without the written consent of Vendor/Contractor. Vendor/Contractor shall have no responsibility to City incident to City's use of such documents.

5. COMPLIANCE WITH POLICIES. Vendor/Contractor and all subvendors/subcontractors, if any, associated with performing the work shall conduct themselves in accordance with all applicable City policies while on the job site or on City's property. Such policies may include, but may not be limited to, tobacco, drugs, language, weapons, and sexual harassment policies. Failure of a person to so comply will be cause for his or her immediate dismissal from the work.

6. EMPLOYEES AND SUBCONTRACTORS. Vendor/Contractor shall require each of its subvendors/subcontractors, if any, to the extent of the work to be performed by the subvendors/subcontractors, to be bound by the Contract Documents and these Terms and Conditions. All of Vendor/Contractor's employees and subvendors/subcontractors shall be satisfactory to City, and City reserves the right to approve the hiring and/or require the termination or reassignment of such employees or subvendors/subcontractors. Vendor/Contractor shall pay its subvendors/subcontractors within seven (7) business days of receipt of payment from City.

7. VENDOR/CONTRACTOR'S INSURANCE. Unless otherwise agreed by City, Vendor/Contractor will maintain and pay the premiums on commercial general liability, worker's compensation insurance, employer's liability insurance, and property damage insurance policies in such amounts as City may require from time to time. All insurance required hereunder shall be maintained in full force and effect in a company or companies reasonably satisfactory to City and shall be maintained at Vendor/Contractor's expense. The commercial general liability policies required hereunder shall name City, its agents, its employees, and its assigns, as additional insureds and shall contain a clause requiring written notice to City thirty (30) days in advance of the cancellation, non-renewal, or material modification of said insurance. Vendor/Contractor shall provide certificates evidencing such insurance before undertaking any work.

8. INDEMNIFICATION. Vendor/Contractor shall be responsible to City for acts and omissions of Vendor/Contractor's employees, subvendors/subcontractors, and their agents and employees, or other persons or entities performing portions of the

work for or on behalf of Vendor/Contractor or any of its subvendors/subcontractors. Vendor/Contractor shall indemnify and hold harmless City, City's officers, employees, and agents from and against any and all claims, costs, losses, and damages (including reasonable attorneys' fees) caused by the negligent acts or omissions of Vendor/Contractor or Vendor/Contractor's officers, directors, partners, employees, and Vendor/Contractor's subvendors/subcontractors in the performance and furnishing of Vendor/Contractor's services.

9. ANTI-DISCRIMINATION. Vendor/Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and the Kansas Age Discrimination Act (K.S.A. 44-1111 *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. ch. 126 § 12101 *et seq.*) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment of employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the Contract may be cancelled, terminated or suspended, in whole or in part, by the City or the Kansas Department of Administration; (f) if it is determined that the Vendor/Contractor has violated applicable provisions of the ADA, such violation shall constitute a breach of contract and the Contract may be cancelled, terminated or suspended, in whole or in part, by the City or the Kansas Department of Administration; (g) and to comply with the City of Leavenworth Title VI policy adopted October 11, 2016. City and Vendor/Contractor understand that the provisions of this paragraph (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.

10. TIME OF ESSENCE. All times provided for in the Contract Documents, or in any other document executed hereunder, for the performance of any act will be strictly construed, time being of the essence.

11. SCHEDULE FOR WORK. Before commencing any work, Vendor/Contractor shall provide City, for City's approval, a schedule of the work and a date of completion. Vendor/Contractor shall proceed expeditiously with adequate forces and shall complete the work within the agreed time.

12. CHANGES. No alteration in any of the terms, conditions, prices, quality, quantity, specifications, schedules, or completion dates will be effective without the prior written consent of City. If City requests changes to the scope of services, then City and Vendor/Contractor may mutually prepare a change order or mutually agree that changed or additional work shall be performed, or goods provided, according to Vendor/Contractor's current fee schedule.

13. PAYMENT. City shall pay Vendor/Contractor for Vendor/Contractor's services or goods in accordance with the City's standard pay cycle; provided that, payment shall be made by the City not later than forty-five (45) days after City receives an undisputed application for payment.

14. TERMINATION.

(a) By City. City may terminate the Contract Documents and Vendor/Contractor's services if Vendor/Contractor: refuses or fails to properly perform the services or provide proper goods or materials; fails to make payment to subcontractors or vendors for materials or labor; disregards laws, ordinances, or rules, regulations, or orders of any public authority; or otherwise breaches any provision of the Contract Documents (including these Terms and Conditions).

(b) Non-Appropriation of Funds. Vendor/Contractor acknowledges that City's power to enter into the Contract is subject to provisions of the Kansas Cash Basis Law (K.S.A. 10-1101, *et seq.*), the Kansas Budget Law (K.S.A. 79-1935), and other laws of the State of Kansas. City reserves the absolute right, at any time and without cause, to terminate this Contract and Vendor/Contractor's services in order to comply with such laws.

(c) By Vendor/Contractor. Vendor/Contractor may terminate the Contract if City failure to perform its obligations and conditions herein and such failure continues for a period of thirty (30) days after written notice from Vendor/Contractor.

(d) Effect of Termination. Vendor/Contractor shall be paid only for the value of work completed and material supplied as of the date of termination, and Vendor/Contractor shall not be entitled to anticipated profits or anticipated overhead or for other direct, indirect, or consequential damages arising out of or resulting from termination of the Contract, whether by City or Vendor/Contractor.

15. WAIVER. Failure of City to insist on the strict performance of the terms, conditions, and agreements herein contained or any of these shall not constitute or be construed as a waiver or relinquishment of City's right thereafter to enforce strict compliance with any such terms, agreements or conditions, but the same shall continue in full force and effect.

16. ASSIGNMENT. This Contract shall be binding upon the successors and assigns of the parties hereto; provided, however, that the Contract and the services provided hereunder may not be assigned without the prior written consent of City.

17. **PRIORITY.** These Terms and Conditions modify and supersede any terms, conditions, and provisions of the Agreement or any work order or invoice provided by Vendor/Contractor to the extent the same are inconsistent herewith.

18. **ENTIRE AGREEMENT.** The provisions of the Contract Documents between City and Vendor/Contractor, including these Terms and Conditions, constitute the entire agreement between the parties. No modification, addition, or deletion to the Contract Documents or these Terms and Conditions shall be effective unless agreed in writing by all parties hereto.

19. **GOVERNING LAW.** The Contract between City and Vendor/Contractor, including these Terms and Conditions, shall be construed in accordance with, and governed by the laws of the State of Kansas.

ACCEPTED AND AGREED:

CITY OF LEAVENWORTH, KANSAS

By: _____

Name: _____

Title: _____

ATTEST:

By: _____

Name: _____

City Clerk

VENDOR/CONTRACTOR:

[_____]

By: _____

Name: _____

SECTION IX

NOTICE TO PROCEED

Date

Contractor Contact
Contractor Name
Contractor Street Address
Contractor City/Zip

Re: Notice to Proceed –
City of Leavenworth Project No: **XXXX-XX**
Project Name

Dear Mr. :

This letter is your official "Notice to Proceed" for the **Project Name**. The official start date for the project is **<DATE>**. Completion date to be **Number of Days (XX)** calendar days from the date set forth in this letter. The owner (City) must have the ability to occupy and operate the facilities for its intended purpose no later than **<DATE>**. You are hereby granted permission to begin bringing in equipment, etc. as of **<DATE>**.

Your copy of the signed contract agreement between the City of Leavenworth and **<CONTRACTOR>**, a copy of the City's purchase order, and a copy of the Project Exemption Certificate have been previously provided for your file.

If you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

<City Representative>
<Title>
<Contact Information>

SECTION X

SALES TAX EXEMPTION CERTIFICATE

This project is a tax-exempt project.

Upon the award of bid to the successful bidder, the City will apply to the State of Kansas for the Sales Tax Exemption Certificate to be used by the contractor for all material purchases.

The contractor should not purchase any materials prior to receiving a copy of the State of Kansas Sales Tax Exemption Certificate from the City of Leavenworth.

SECTION XI

AFFIRMATIVE ACTION REQUIREMENTS FOR CITY CONTRACTS UP TO \$100,000

AFFIRMATIVE ACTION REQUIREMENTS FOR CITY CONTRACTS UP TO \$100,000

Equal Opportunity in employment is the policy of the City of Leavenworth, Kansas, and the City has particular interest in assuring Equal Opportunity Employment among contractors doing business with the City. In recognition of its interest and concern, the City Commission on April 24, 1984 adopted Resolution B-813 establishing an Affirmative Action Policy for the City of Leavenworth, Kansas.

“Any proposal in the amount of up to \$100,000 shall be accompanied by a written certification that during the performance of said contract the Contractor agrees not to discriminate against any employee or applicant for employment with such Contractor. In addition, every Contractor shall include a similar provision in all subcontracts under his or her contracts with the City of Leavenworth. Said written certification shall include a statement that the Contractor is an equal employment opportunity employer, and agrees not to discriminate against any employee on the basis of race, sex, color, religion, disability, age, national origin, or ancestry.”

EXHIBIT I
(Suggested format only)

(Date)

It is the employment policy and practice of _____ to recruit and to hire employees without discrimination because of race, sex, color, religion, age, disability, national origin or ancestry, and to treat all employees equally with respect to compensation, and opportunities for advancement including upgrading, promotion and transfer; and all other terms and conditions of employment.

In furtherance of these policies and practices, this company has designed and agreed to implement an Affirmative Action Program in accordance with the provisions of Resolution B-813 of the City of Leavenworth, Kansas.

This company has agreed to assert leadership with the community and put forth the maximum effort to achieve full employment plus the utilization and development of the capabilities and productivity of all our citizens.

This company will implement this Affirmative Action Program in a positive and aggressive manner and will make known our commitment to this effort. We will solicit and encourage all persons to seek opportunities with this company, and to take advantage of all advancement possibilities.

(Signature)
(Title)
(Company)

SECTION XII

MINORITY BUSINESS ENTERPRISE UTILIZATION PLAN

PROPOSED CITY OF LEAVENWORTH MINORITY BUSINESS ENTERPRISE UTILIZATION PLAN

1. INTRODUCTION

It is the policy of the City of Leavenworth to encourage increased participation of minority business enterprises (M.B.E.) and employment of minorities in Federally Funded Community Development Block Grant contracts and sub-agreements awarded by the City.

In addition, the City also desires to reaffirm its previous commitment to actively seek and encourage the utilization of minority vendors and subcontractors in all City purchases and contracts let by incorporation of Resolution B-813 by reference which is attached hereto and is hereby made a part of this plan.

It is the City's desire to encourage employment opportunities and promote the development of new minority firms through a variety of business arrangements.

The goal of the City is to implement a fair and effective remedy to the employment of minorities and the utilization of M.B.E.'s.

2. DEFINITIONS

a. Minority Business Enterprise (M.B.E.)

A business where at least 51% is owned and controlled by minority group members. The minority ownership must exercise actual day-to-day management.

b. Minority

A person who is a member of one or more of the following groups: Black Americans, Hispanic Americans, Asian Americans, American Indians, American Eskimos and American Aleuts.

c. Minority Participation

The involvement through employment and/or contracting of minority persons and/or minority business enterprises in construction contracts, construction related contracts or contracts for services, etc.

d. Positive Efforts

The good-faith affirmative action's to include, assure, permit, encourage and utilize minorities and minority businesses in construction contracts.

3. RATIONALE

The City is establishing a goal-oriented system to increase minority participation (M.P.) in Federally Funded Community Development Block Grant contracts awarded by the City.

4. GOAL FOR GENERAL CONTRACTORS

- a. Per City policy, minority businesses shall have the maximum feasibility opportunity to participate in the performance of federally funded Community Development Block Grant contracts.
- b. The bidder agrees to use its best efforts to carry out this minority participation policy to the fullest extent consistent with the efficient performance of this contract.
- c. Bidder agrees to take positive good-faith efforts to subcontract at least 15% of the total value of contract to minority business. Failure to attain this percentage may lead to rejection of bids.
 - (1) For the purpose of this program, the term "subcontract: includes all construction, modification and service work contracted for by the bidder in the execution of the work under this contract. Although, it is not made a requirement herein for City approval of a contract that a bidder in fact meets or exceeds these goals in its contracting, it is a requirement for contract approval that a bidder objectively demonstrate to the City that it has exerted positive efforts to meet these goals.
 - (2) Notwithstanding the fact that a bidder may have the capability to complete the total project with its own work force and without the use of subcontractors, each bidder will still be required to take positive efforts to subcontract to minority firms a share of the work consistent with the goals.

5. IMPLEMENTATION PLAN

Responsibilities of the City

The City shall continue to take positive efforts to use minority-owned and controlled contractors on projects funded by Federal Community Development Block Grant funds. These positive steps include, at a minimum the following:

1. Include M.B.E.'s and M.B.E. associations and organizations on solicitation lists and make specifications for prospective work available to M.B.E.'s in sufficient time for review.
2. Encourage the formation of joint ventures among M.B.E.'s and/or between minority and majority contractors and consultants.

3. Divide total project requirements into smaller tasks where economically feasible to permit maximum M.B.E. participation.
4. Inform prospective contractors of the City's policy concerning minority participation.
5. Upon request, provide a source list of M.B.E. contractors.
6. Maintain records showing M.B.E.'s contracted and awards to M.B.E.'s.
7. Review participation of M.B.E.'s in all sub-agreements.
8. Ensure that all requirements of the M.P. Policy are complied with prior to the award of any contracts.
9. Notify the minority associations within the general bidding area of the work to be solicited and the time frame for submission of bids or proposals.
10. Make a list of plan holders of record for City Community Development Block Grant Construction Projects available on request.

Responsibilities of Prime Contractors

All prime contractors are expected to take positive efforts to use M.B.E.'s. These positive efforts include, at a minimum, the following:

1. Extend opportunities for subcontractors, joint arrangements and purchasing to minority-owned and controlled firms.
2. Implement the goal-oriented system as stated by the City.
3. Identify the M.B.E. firms to be used with contract dollar amount or if less than the contract goal will be used, provide sufficient documentation to demonstrate good faith efforts.
4. Maintain records of M.B.E.'s contacted including negotiation efforts to reach competitive price levels and awards to M.B.E.'s
5. Require subcontractors under the contract to comply with the minority participation policy and this implementation program.
6. Maintain records showing procedures, which have been adopted to comply with minority participation and M.B.E. policy.
7. Keep the City informed of all M.B.E. sub-agreements awarded or changes in plans to award subcontracts previously proposed to be awarded to M.B.E.'s
8. Report all suspected instances of companies fraudulently claiming to be M.B.E.'s in order to unjustly benefit from requirements of the program.

9. The apparent low bidder must submit the required M.B.E. documentation to the City within ten (10) working days after bid opening and/or prior to contract award.
10. Within fifteen (15) working days after contract award, contractor must execute and submit to the City copies of all M.B.E. related sub-agreements.

6. ACCEPTABLE METHODS OF CONFORMANCE TO POLICY

Requirements for positive efforts for minority owned subcontract participation may be satisfied by the following methods (other equivalent methods proposed by a bidder which are described in detail prior to award may also be approved).

a. Joint Venture

Bidder may utilize minority firm(s) and bid jointly with such firm(s) for construction services required in the plans and specifications.

b. Negotiated Subcontract

The bidder may utilize minority firms on a negotiated subcontract basis.

c. Competitive Bid Method

The bidder using this method must establish the scope of work in sufficient detail consistent with the capability of minority firms. Most minority contractors are small with limited resources, experience and bonding capacity and cannot be expected to compete with the more experienced and specialized non-minority subcontractors. Therefore, all bidders are requested to secure minority participation by attempting the first and second methods described above prior to attempting this method.

d. The bidder shall cooperate with the City in studies and surveys of the bidder's minority business procedures and practices.

e. The bidder shall maintain records showing:

- (1) Awards to minority businesses.
- (2) Specific efforts to identify and award subcontractors to minority businesses.

7. EVALUATION OF POSITIVE EFFORTS

The bidder shall be deemed to be in compliance with the requirements, terms and conditions of the City of Leavenworth Minority Participation Policy and Implementation Program if it meets or exceeds its commitment to the goals for minority business participation expressed herein.

No bidder shall be found to be in noncompliance solely on account of failure to meet the M.B.E. goal. The bidder shall be given the opportunity to objectively demonstrate to the City that it has instituted all the specific affirmative action steps specified in the Implementation Plan and that every good faith effort to make these steps work toward the attainment of the designated goals. Bidders failing to achieve the goal and execute the good faith effort steps may have their bids rejected as non-responsible. Bidders who fail to achieve their commitments to the goals for minority participation must demonstrate their good faith efforts by documentation, which includes at least the following:

- a. Documentation of announcement in minority trade association newsletters and/or minority-owned media no less than seven (7) working days before bids are due for specific subcontracting opportunities at least equal to the percentage goal for M.B.E. utilization specified for the contract.
- b. Documentation showing that the work to be subcontracted was segmented to the extent consistent with the size and capability of minority-owned firms in order to provide reasonable subcontracting opportunities.
- c. Documentation showing that minority contractor associations were notified in writing no less than seven (7) working days before bids were due of the availability of specific subcontracting opportunities.
- d. Copies of solicitation letters inviting quotes or proposals from minority business enterprises segmenting portions of the work and specifically describing as accurately as possible the portion of the work for which quotes or proposals are solicited. Letters that are general and do not describe specific portion of work for which quotes or proposals are desired are not acceptable as such letters generally do not bring responses. Such letters will be sent in a timely manner so as to allow minority firms sufficient opportunity to develop quotes or proposals for the work described. In general, such solicitation letters should be postmarked no later than seven (7) working days before bids are due.
- e. Documentation of good faith negotiations with those M.B.E.'s from whom proposals were received in an effort to reach a mutually acceptable price. Where the M.B.E. negotiation was unsuccessful due to failure to agree on price, the bidder must document that the subcontractor selected for the work segment was significantly lower than the M.B.E. and not a reduced portion thereof.
- f. Documentation of competitive bid efforts. Where this method is used, the bidder must show any other good faith attempts to solicit minority participation. The names of the minority firms contacted and of those being used or the reasons for no-use of any others must be provided.

The foregoing documentation must be submitted to the City by the apparent low bidder within ten (10) working days after the bid opening date.

8. POST BID COMPLIANCE

a. Notice of Deficiency

Where the City determines that any deficiency is correctable, the City of what actions must be taken by the prospective contractor to correct the deficiency will advise the prospective contractor.

b. Failure to Comply

In the event a bidder fails to objectively demonstrate positive efforts to meet the stated goal requirement, the City shall request in writing that the bidder provide, within a reasonable time as stated, the necessary evidence of positive efforts or be held non-responsive.

c. Sanctions

Where the bidder fails to objectively demonstrate the required positive efforts or to explain to the satisfaction of the City why corrective action cannot be taken, it may result in a finding that the bidder is non-responsive and may be grounds for rejection of the bid.

9. WAIVER

In limited situations, approval of a contract may be justified where a bidder has not demonstrated positive efforts; for example, where delay incident to re-solicitation will cause substantial harm to the City. The City may approve the award where the contract includes:

- a. Specific and defined positive efforts for minority participation during contract performance; and,
- b. A penalty such as termination or agreed upon liquidated damages for failure to undertake and complete the efforts; or,
- c. Withholding of progress payments until such time as the positive effort requirement have been complied with to the satisfaction of the City.

10. ADMINISTRATION OF PLAN

The primary responsibility for the administration of the plan will be with the City Manager. Additionally, the Black Business Council is encouraged to appoint two of its members to meet quarterly with the Community Development Director and the Community Development Advisory Board for the purpose of reviewing the progress made toward achieving the Plan goals.

11. QUARTERLY TIMETABLE

January through March:	1.5%
April through June:	3.0%
July through September	9.0%
October through December	1.5%
Total	15%

This plan, or any portion thereof, which may be in conflict with any Federal or State law, rule, regulation or case decision shall be null and void.

SECTION XIII

GENERAL CONDITIONS

GENERAL CONDITIONS

1. CONTRACT DOCUMENTS

It is understood and agreed that the Notice to Contractors, Instructions to Bidders, Proposal, Performance and Statutory Bonds, Contract Agreement, Non-Collusion Affidavit, General Conditions, Specifications, Plans, Addenda and engineering data, which may be furnished by the contractor and approved by the owner, are each and all included in this contract and the work shall be done in accordance therewith.

2. DEFINITIONS

Words, phrases or other expressions used in these contract documents and defined in this paragraph shall have the meaning herein given:

“Contract” or **“Contract Documents”** shall include all documents enumerated in the foregoing paragraph 1.

“Owner” shall mean the City of Leavenworth, 100 N. Fifth Street, Leavenworth, Kansas 66048, in the Contract Agreement and for whom the work covered by this Contract is to be performed acting through its Governing Body and their duly authorized agents.

“Contractor” shall mean the corporation, partnership or individual named in the Contract Agreement who has entered into this contract for the performance of the work covered thereby, and its, his or their duly authorized agents and other legal representatives.

“Subcontractor” shall mean and refer only to a corporation, partnership or individual having a direct contract with the Contractor for:

Performing a portion of the contract work, or

Furnishing material worked to a special design according to the Contract Plans or Specifications; it does not, however, include one who merely furnishes material not so worked.

“Engineer” shall mean the engineer or engineers who have been designated, appointed or otherwise employed or delegated by the Owner for this work, or their duly authorized agents, such agents acting within the scope of the particular duties entrusted to them in each case.

“Inspector” shall mean the engineering or technical inspector or inspectors duly authorized by the Owner or Engineer limited, in each case, to the particular duties entrusted to him or them.

“Date of Contract”, or words equivalent thereto, shall mean the date written in the Contract Agreement.

“Day” or **“Days”**, unless herein otherwise expressly defined, shall mean a calendar day or days of twenty-four (24) hours each.

“The Work” shall mean the work to be done and the equipment, supplies, materials and services to be furnished under the Contract unless some other meaning is indicated by the context.

“Plans” or **“Drawings”** shall mean and include all:

Drawings prepared by the Owner as a basis for proposals.

All supplementary drawings furnished by the Engineer as and when required to make clear and to define in greater detail the intent of the Contract Plan and Specifications.

Drawings submitted by the successful bidder with their proposal and by the Contractor to the Owner when, and as, approved by the Engineer.

Drawings submitted by the Owner to the Contractor during the progress of the work as provided herein.

Whenever in these Contract Documents the words **“as ordered”**, **“as directed”**, **“as required”**, **“as permitted”**, **“as allowed”** and words or phrases of like import are used, it shall be understood that the order, direction, requirement, permission or allowance of the Owner and Engineer is intended.

Similarly, the words **“approved”**, **“reasonable”**, **“suitable”**, **“acceptable”**, **“properly”**, **“satisfactory”** or words of like effect and import, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper or satisfactory in the judgment of the Owner and Engineer.

Whenever any statement is made in the Contract Documents containing the expression **“it is understood and agreed”** or an expression of like import, such expression means the mutual understanding and agreement of the parties executing the Contract Agreement of which these General Conditions are a part.

3. VERBAL STATEMENTS NOT BINDING

It is understood and agreed that the written items and provisions of this agreement shall supersede all prior verbal statements of any and every official and/or other representative of the Owner and such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any way whatsoever the written agreement.

4. INTENT OF PLANS AND SPECIFICATIONS

Certain plans prepared by the Engineer on behalf of the Owner and elsewhere described and named accompany and supplement these specifications and constitute a part of the Contract Documents. Such plans are agreed to be constructively attached to these specifications although convenience may prevent physical attachment.

The Owner shall have the right to modify minor details of these plans, to provide final or checked plans in lieu of any preliminary or unchecked plans, and to supplement these plans with additional plans or with additional information as the work proceeds, all of which shall be considered as plans accompanying these specifications. In case of discrepancy between Plans and Specifications, the specifications shall be deemed to take precedence but the Engineer may be called upon for an interpretation.

The Contractor shall not take advantage of any errors or discrepancies he may discover in the plans but shall report same and the Engineer will make or approve the necessary corrections. The contractor shall not be responsible for the adequacy of the Engineer's design.

Six (6) copies of the specifications, in addition to those constituting signed contracts and six (6) diazo print copies of the plans, and of each corrected or supplementary plan, will be supplied to the Contractor without charge. The Contractor may order at his own expense as many additional copies of prints as he may desire.

5. FIGURED DIMENSIONS TO GOVERN

Dimensions and elevations shown on the plans shall be accurately followed, even though they differ from scaled measurements. No work shown on the plans, the dimensions of which are not indicated, shall be executed until dimensions have been obtained from the Engineer.

6. DRAWINGS TO BE FURNISHED BY CONTRACTOR

The Contractor shall prepare whatever detailed working drawings are necessary to enable him to fabricate, install and construct all parts of the work in conformity with the plans and specifications.

For general construction, including sheeting and bracing, forms, falsework and other temporary structures and for plant and equipment layout and for features for which the plans and specifications permit choice and selection by the Contractor, working drawings shall show in detail, or by written description, the methods and structures selected by the Contractor in sufficient detail so that their strengths, adequacies, sufficiency's and their conformity to the plans and specifications can be checked and verified.

It is requested that tracings of all working drawings shall have a suitable enclosure block in which is indicated "Leavenworth City Engineer" with a notation of approval date and space for similar approval dates of any revisions. After approval of working drawings by the Engineers, no changes shall be made without resubmission and all changes or revisions later made shall be clearly marked and dated. Working prints of drawings shall not be issued for use until after the drawing has been approved and the date of approval

is noted on the tracing as stated. No work shall be done until the drawings have been approved.

Payment for all working drawings, for revisions thereof and for copies furnished shall be included in the amounts bid for material and work.

7. LINES AND GRADES

All work shall be done to the lines, grades and elevations shown on the drawings. Basic horizontal and vertical control points will be established or designated by the Engineer. These points shall be used as datum for work under this contract. All construction staking, additional survey layout and measurement work shall be performed by the Contractor as a part of the work under this contract; unless otherwise designated by the Engineer.

8. CONTRACTOR TO FURNISH STAKES AND HELP

The Contractor shall provide an experienced instrument man, competent assistants and such instruments, tools, stakes and other materials required to complete the survey, layout and measurement work. In addition, the Contractor shall furnish, without charge, competent men from his force and such tools, stakes and other materials as the Engineer may require in establishing or designating control points, in establishing construction easement boundaries or in checking survey, layout and measurement work performed by the Contractor. The Contractor shall keep the Engineer informed, a reasonable time in advance, of the times and places at which he wishes to work so that horizontal and vertical control points may be established and any checking deemed necessary by the Engineer may be done with a minimum inconvenience to the Engineer and minimum delay to the Contractor.

9. WORK DONE WITHOUT LINES OR GRADES

Any work done without being properly located and work established by base lines, offset stakes, bench marks or other basic reference points not located, established or checked by the Engineer may be ordered removed and replaced at the Contractor's cost and expense.

10. PRESERVATION OF MONUMENTS AND STAKES

The Contractor shall carefully preserve all monuments, bench marks, reference points and stakes, and, in case of willful or careless destruction of the same, will be charged with the resulting expense of replacement and shall be responsible for any mistake or loss of time that may be caused by their unnecessary loss or disturbance. In the event that the stakes and marks placed by the Engineer are destroyed through carelessness on the part of the Contractor and that the destruction of those stakes and marks cause a delay in the work, the Contractor shall have no claims for damages or extensions of time. In the case of any permanent monuments or benchmarks, which must of necessity be removed or disturbed in the construction of the work, the Contractor shall carefully protect and preserve the same until they can be properly referenced for relocation. The Contractor shall furnish at his own expense such materials and assistance as are

necessary for the proper replacement of monuments or bench marks that have been moved or destroyed.

11. LEGAL ADDRESSES

Both the business address of the Contractor given in the Proposal upon which this Contract is founded and the Contractor's office in the vicinity of the work are hereby designated as the places to which all notices, letters and other communications to the Contractor may be mailed or delivered. The business address of the Owner appearing on the first page of these General Conditions, in subparagraph "b" of the paragraph entitled "Definitions" is hereby designated as the place to which all notices; letters and other communications to the Owner may be mailed or delivered. The delivery by one party to the other party at an address so designated or the depositing in any mail box regularly maintained by the Post Office or any notice, letter or other communication addressed to such address, postage prepaid, registered or certified mail, with return receipt requested, shall be deemed sufficient service thereof and the date of said service shall be the date of such delivery of mailing. Either party may change the said address or addresses at any time by an instrument in writing delivered to the Engineer and to the other party. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter or communication upon either party personally.

12. RESPONSIBILITY OF CONTRACTOR

The contractor shall:

Furnish all transportation, tools, equipment, machinery and plan and all suitable appliances, requisite for the execution of the Contractor and be solely answerable for the safe, proper and lawful construction, maintenance and use thereof.

Cover and protect his work from damage; he shall make all injury thereto before the completion and acceptance of this Contract good.

Be solely answerable for all damages to the Owner or property of the Owner, to other contractors or employees of the Owner, to the neighboring premises or to any private or personal property due to improper, illegal or negligent conduct of himself or his subcontractors, employees or agents in or about said work, or in the performance of the work covered by this contract or any extra work undertake as herein provided, or to any defect in, or the improper use of, any scaffolding, shoring apparatus, ways, works, machinery or plant.

13. PATENTS

It is mutually agreed by and between the parties to this Contract that all royalties and fees for and in connection with patents or equipment (as distinguished from processes) used in or for the work, shall be included in the contract amount and the Contractor shall satisfy all demands that may be made at any time for such; and he shall be liable for any damages or claims for patent infringements. The Contractor shall, at his own cost and expense, defend any and all suits or proceedings that may be instituted at any time patents involved in the work and in the case of an award of damages, the said

Contractor shall pay such award. Final payment to the Contractor by the Owner will not be made for which any such suit or claim remains unsettled. The contractor, however, shall not be liable for the defense of any suit or other proceedings, nor for the payment of any damages or other costs in connection therewith, for the infringement or alleged infringement of any patented process required by the Owner in the design of the work to be done under this Contract or by the Specifications therefore.

14. INDEPENDENT CONTRACTOR

The right of general supervision by the Owner shall not make the Contractor an agent of the Owner and the liability of the Contractor for all damages to persons, firms and corporations, arising from the Contractor's execution of the work shall not be lessened because of such general supervisions; but, as to all such persons, firms and corporations, and, the damages, if any, to them or their property, the Contractor herein is an independent contractor in respect to the work.

15. RELATIONS WITH OTHER CONTRACTORS

The Contractor shall cooperate with all other contractors who may be performing work on behalf of the Owner and workmen who may be employed by the Owner, on any work in the vicinity of the work to be done under the Contract, and he shall so conduct his operations as to interfere to the least possible extent with the work of such contractors or workmen. He shall promptly make good, at his own expense, any injury of damage that may be sustained by other contractors or employees of the Owner at his hands. Any difference or conflict, which may arise between the Contractor and other contractors, or, between the Contractor and the workmen of the Owner in regard to their work, shall be adjusted and determined by the Engineer. If the work of the Contractor is delayed because of any acts or omissions of any other contractor or contractors, the Contractor shall have no claim against the Owner on that account other than for an extension of time.

When two or more contracts are being executed at one time in such manner that the work of one contract may interfere with that of another, the Engineer shall decide which contractor shall cease work and which shall continue, or whether the work of both contracts shall progress at the same time and in what manner.

When the territory of one contract is the necessary or convenient means of access for the transportation or movement of men, materials or appliances required for the execution of another contract, such privileges of access or any other reasonable privilege may be granted by the Engineer to the Contractor so desiring, to the extent and amount, in the manner and at the time which may be reasonably necessary.

16. METHODS OF OPERATION

The Contractor shall give to the Engineer full information, in advance, as to his plans for carrying on any part of the work. If at any time prior to the start or during the progress of the work, any part of the Contractor's plant or equipment or any of his methods of executing the work appear to the Engineer to be unsafe, inefficient, or inadequate to ensure the required quality or rate of progress of the work, he may order the Contractor to increase or improve his facilities or methods and the Contractor shall promptly comply

with such orders; but neither compliance with such orders, nor failure of the Engineer to issue such orders, shall relieve the Contractor from his obligation to secure the degrees of safety, the quality of work and the rate of progress required by this Contract. The Contractor alone shall be responsible for safety, adequacy and efficiency of his plant, equipment and methods.

The approval by the Engineer of the plan or method of work proposed by the contractor shall not relieve the Contractor of any responsibility therefore and such approval shall not be considered as an assumption by the Owner, or any officer, agent or employee thereof, and any risk or liability, and the Contractor shall have no claim under this Contract on account of the failure or inefficiency of any plan or method so approved. Such approval shall mean only that the Engineer has no objection to the adoption or use by the Contractor of such plan or method at the Contractor's own risk and responsibility.

17. SUGGESTIONS TO CONTRACT ADOPTED AT HIS OWN RISK

Any plan or method of work suggested by the Engineer, or other representative of the Owner, to the Contractor, but not specified or required, if adopted or followed by the Contractor, in whole or in part, shall be used at the risk and responsibility of the contractor, and, the Engineer and the Owner will assume no responsibility therefore.

18. AUTHORITY AND DUTY OF THE ENGINEER

It is mutually agreed, by and between the parties of this Contract, that the Engineer shall inspect all work included herein. In order to prevent delays and disputes and to discourage litigation, it is further agreed by and between the parties of this Contract that the Engineer shall in all cases determine the amounts and quantities of the several kinds of work which are to be paid for under the contract that he shall determine all questions in relation to said work and the construction thereof; that he shall in all cases decide every question that may arise relative to the execution of the Contract on the part of the Contractor; that his decisions and findings shall be the conditions precedent to the right, of the parties hereto, to arbitration or to any action on the Contract, and to the rights of the Contractor to receive any money under this Contract. Provided, however, that should the Engineer render any decision or to give any direction which, in the opinion of either party hereto, is not in accordance with the meaning and intent of this contract, either party may file with the Engineer, within thirty (30) days, a written objection to the decisions or direction so rendered. It is the intent of this agreement that there shall be no delay in the execution of the work and the decision or directions of the Engineer as rendered shall be promptly carried out.

19. INSPECTION

It is agreed by the Contractor that the Owner shall be and is hereby authorized to appoint or employ (either directly or through the Engineer) such inspectors as the Owner may deem proper to inspect the materials furnished and the work performed under this Contract, to see that the said materials are furnished, and the said work is performed in accordance with the Plans and Specifications therefore. The Contractor shall furnish all reasonable aid and assistance required by the Engineer, or by the inspectors, for the proper inspection and examination of the work and all parts thereof.

The Contractor shall regard and obey the directions and instructions of the Engineer, or any inspector so appointed, when the same is consistent with the obligations of this contract. Should the Contractor object to any order given by any subordinate engineer or inspector, the Contractor may make written appeal to the Engineer for his decision.

Inspectors and other properly authorized representatives of the Owner or Engineer shall be free at all times to perform their duties and, any intimidation or attempted intimidation of any one of them by the Contractor or by any of his employees shall be sufficient reasons if the Owner so decides to annul the Contract.

The Engineer shall have the right to select suitable samples of materials for testing or examination, which the Contractor shall supply without charge. In case such samples must be shipped to some other point for inspection or testing, the Contractor shall box or crate samples as necessary and shall deliver them to points designated for shipment without charge. Where tests of materials are to be made after delivery at the site of the structure, the materials shall be delivered with time enough in advance of need to allow amply for inspection, testing and replacement, if necessary.

Where the Contractor desires to propose for use in the structure any material or product as an alternate or equivalent to a material or product specified herein, he will be required to submit samples to a testing bureau designated by the Engineer and shall pay the cost of such testing and analysis as may be required to determine the suitability of such materials and products.

Such inspection shall not relieve the Contractor from any obligation to perform said work strictly in accordance with the Plans and Specifications or any modification thereof as herein provided, and work not so constructed shall be removed and made good by the Contractor at his own expense, and free of all expense to the Owner, whenever so ordered by the Engineer, without reference to any previous oversight or error in inspection. Rejected materials shall be removed promptly from the vicinity of the work. If the Contractor does not correct such condemned work and remove rejected materials within a reasonable time fixed by written notice; the Owner may make removals and corrections and charge the expense to the Contractor.

20. NO WAIVER OF RIGHTS

Neither the inspection by the Owner or any of the Owner's officials, employees or agents, nor any order by the Owner for payment of money, or any payment for, or acceptance of, the whole or any part of the work by the Owner or Engineer, nor any extension of time, nor any possession taken by the Owner or its employees, shall operate as a waiver of any provisions of this Contract or of any power herein reserved to the Owner or any right to damages herein provided, nor shall any waiver of any breach in this Contract be held to be a waiver of any other or subsequent breach.

21. SUPERINTENDENCE OF WORK

The Contractor shall provide and maintain, continually on the site of the work during its progress, adequate and competent superintendence of all operations for and in connection with the work being performed under this Contract, either personally or by a duly authorized superintendent or representative.

The superintendent or other representative of the Contractor on the work, and who has charge thereof, shall be fully authorized to act for the Contractor and to receive whatever orders as may be given for the proper prosecution of the work or notices in connection therewith.

22. ORDERS TO CONTRACTOR'S AGENT

Whenever the Contractor is not present on any part of the work where it may be desired to give directions, orders may be given by the Engineer or his representatives to, and shall be received and obeyed by, the superintendent or foreman who may have charge of the particular part of the work in reference to which such orders are given.

23. PROTECTION OF PROPERTY AND PUBLIC LIABILITY

The Contractor shall assume full responsibility for the protection of all public and private property, structures, sewers and utilities, both above and below ground, along, beneath, above, across or near the site or sites of work being performed under this Contract, or which are in any manner affected by the prosecution of the work or the transportation of men or materials in connection therewith.

Barriers shall be kept placed at all times to protect persons other than those engaged on or about the work from accident, and, the Contractor will be held responsible for all accidents to persons or property through any negligence of himself or his employees. Contractor shall also provide a copy of procedures required per its insurer in regard to claims initiated by citizens.

The Contractor shall give reasonable notice to the Owner or owners of public or private property and utilities when such property is liable to injury or damage through the performance of the work, and shall make all necessary arrangements with such Owner or owners relative to the removal and replacement or protection of such property or utilities.

All permits and licenses required in the prosecution of any and all parts of the work shall be obtained and paid for by the Contractor.

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

24. DEFENSE OF SUITS

In case of any action at law or suit in equity is brought against the Owner or any officer or agent thereof, for or on account of the failure, omission or neglect of the Contractor to do and perform any of the covenants, acts, matters or things by this Contract undertaken to be done or performed or for the injury or damage caused by the negligence or alleged negligence of the Contractor or his subcontractors of his or their agents, or in connection with any claim or claims based on the lawful demands of subcontractors, workmen,

material men or suppliers of machinery and parts thereof, equipment, power tools and supplies incurred in the fulfillment of this Contract, the Contractor shall indemnify and save harmless the Owner and officers and agents of the Owner, of and from all losses, damages, costs, expenses, judgments, decrees and attorney fees whatever arising out of such action or suit that may be brought as aforesaid naming the Owner as a party.

25. INSURANCE

The Contractor shall secure and maintain such insurance as will insure the performance by the Contractor of its obligations to protect, defend, indemnify and hold harmless Owner and officers and agents of the Owner and Contractor respectively, as provided herein, and will protect them from claims under Worker's Compensation Acts; automobile liability for bodily injury(including death) or property damage; and general liability for bodily injury(including death) or property damage which may arise from and during operations under this contract, whether such operations be by itself or anyone directly or indirectly employed by it.

The Contractor shall purchase and maintain in full force and effect during the term of this contract, insurance in a company or companies satisfactory to the Owner, but regardless of such approval, it shall be the responsibility of the Contractor to maintain such coverage and shall not relieve Contractor of any contractual responsibility or obligation. Insurance of the following types and with the following limits are required:

General Liability:

The minimum limits of liability for commercial general liability insurance shall be:

\$1,000,000 each occurrence for bodily injury or property damage;
\$2,000,000 general aggregate with a per-project endorsement; and
\$1,000,000 products/completed operations aggregate.

Each such policy shall include comprehensive fortes, contractual liability, independent Contractors, products/completed operations, inherently dangerous activities, premises-operations, broad form property damage, and personal injury coverage.

General Liability coverage shall name Owner as an Additional Insured on a primary basis, per the CG 2010 11/85 or it's equivalent, or a combination of CG 2010 10-01 and CG 2037 10-31 (including products and completed operations).

These coverage's shall provide protection for the Contractor and the Owner against liability from damages because of injuries, including death, suffered by any person and liability from damages to property, arising from or growing out of the Contractor's operations in connection with the performance of this contract. All insurance required by this contract shall remain in force until all work required to be performed under the terms of the contract is satisfactorily completed as evidenced by its formal acceptance. Each policy shall also contain a severability of interest conditions and the insurance afforded by the Contractor shall be primary insurance.

The Contractor shall provide the Owner with a Certificate of Insurance, specifying Contractor's insurance coverage and limits before any work is performed under this

contract. A Certificate of Insurance shall also be provided upon each policy renewal. Certificates of Insurance shall be sent to Owner at the address stated herein. Such proof of insurance shall provide for ten (10) days prior written notice to the Owner before cancellation, termination or material change or modification of such insurance, unless longer advance notice is required by the Owner. Such notice shall be given to Owner at the address above noted. Consulting Engineer shall be listed as an additional insured on the liability insurance policies. Upon request Contractor shall furnish certified copies of any insurance policies listed in the Certificate of Insurance.

If Contractor shall subcontract any of this work to a third party, Contractor shall see to it that such third party maintains such insurance and shall furnish evidence thereof to Contractor and Owner. Subcontractor shall cause all such policies of insurance to name Contractor and Owner as additional insured's and provide indemnification for Contractor and Owner against liability upon the risks insured thereby to the amount of the coverage specified therein for Contractor.

If the Contractor has a policy or policies of insurance with aggregate limits of liability Owner must be notified in writing any time the aggregate limit is diminished materially below the coverage required by this contract.

Contractor shall notify Owner in writing 10 days after it receives notice or knowledge of any demand, claim, cause of action, lawsuit, or action arising out of the work performed under this contract. Contractor shall notify Owner as soon as possible after any bodily injury or property damage occurrence that could potentially lead to any lawsuit.

All liability insurance shall be occurrence policies in a form acceptable to Owner. Claims-made policies are not acceptable.

Automobile Liability:

Contractor shall obtain automobile liability insurance, which provides coverage for its owned, non-owned, and hired vehicles of every type and description, which are used in the contract work. The minimum limits of liability for such insurance shall be:

\$1,000,000 combined single limit for bodily injury and property damage

Workers Compensation:

Statutory

Employers' Liability:

\$100,000/\$500,000/\$100,000(each accident/disease-policy limit/disease-each employee)

Builders Risk/Installation (if required by Owner):

For direct physical loss or damage to covered property while under construction at the premises described in the declaration of the policy and per specifications. Limit of

coverage is the contract bid to be in force for the duration of the project and until the project is accepted by the Owner. The Owner will be named additional insured.

Umbrella Coverage (if required by Owner):

An umbrella coverage will be required if the project costs are over \$2 million.

Waiver of Subrogation:

Contractor waives any and all subrogation claims, including such claims arising out of injuries to Contractor's employees, against Owner, Engineer, and Consulting Engineer and their respective officers, directors, partners, employees and agents.

26. ESTIMATED QUANTITIES

Any and all estimated quantities stipulated in the Proposal under unit price items are approximate and are to be used only:

As a basis for estimating the probable cost of the work and for the purpose of comparing the proposals submitted for the work.

It is understood and agreed that the actual amounts of work done and materials furnished under unit price items may differ from such estimated quantities and that the basis of payment for such work and materials shall be the actual amount of work done and materials furnished in each case. The Contractor agrees that he will make no claim for damages, anticipated profits, or otherwise on account of any difference between the amounts of work actually performed and materials actually furnished and the amounts estimated therefore in the Proposal or other Contract Documents.

27. MODIFICATIONS AND ALTERATIONS

The Contractor agrees that the Owner shall have the right to make modifications, changes and alterations in the arrangement or extent of the work without affecting the validity of the Contract and Contract Bond thereunder. If the modification or alteration increases the amount of work to be done and the added work or any part thereof is of a type and character which can be properly and fairly classified under one or more unit price items of the Proposal, then such added work or part thereof shall be paid for according to the amount actually done and at the applicable unit price or prices therefore. Otherwise, such work shall be paid for as herein provided under "Extra Work". If the modification or alteration decreases the amount of work to be done, such decrease shall not constitute the basis for a claim for damages or anticipated profits on work affected by such decrease. Where the value of omitted work is not covered by applicable unit prices; the Engineer shall determine on an equitable basis the amount of:

Credit due the Owner for contract work not done as a result of an authorized change.

Allowance to the Contractor for any actual loss incurred in connection with the purchase, delivery and subsequent disposal of materials or equipment required for use on the work as planned and which could not be used in any part of the work as actually built.

Any other adjustment of the contract amount where the method to be used in making such adjustment is not clearly defined in the Contract Documents.

Except for minor changes or adjustment which involve no contract price adjustment or other monetary consideration and with the exception of adjustments of estimated quantities for unit price work or materials to conform to actual pay quantities therefore as hereinbefore provided under "Estimated Quantities", all changes and alterations in the terms or scope of the Contract shall be made under the authority of duly executed change orders issued and signed by the Owner and accepted and signed by the Owner and accepted and signed by the Contractor.

28. EXTRA WORK

The term "Extra Work" as used in this Contract shall be understood to mean and include all work that may be required by the Owner or Engineer to be done by the Contractor to accomplish any change or alteration in or addition to the work shown by the Plans or reasonably implied by the Specifications and not covered by contract proposal items and which is not otherwise provided under "Modifications and Alterations".

It is agreed that the Contractor shall perform all work under the direction of the Engineer when and as so ordered in writing by the Engineer subject, however, to the right of the Contractor to require a written confirmation by the Owner of such extra work ordered. It is further agreed that the compensation to be paid the Contractor for performing extra work shall be determined by one or more of the following methods:

Method A: By agreed unit prices.

Method B: By agreed lump sum.

Method C: If neither Method A nor Method B can be agreed upon before the extra work is started, the Contractor shall be paid his actual field cost of the work plus fifteen percent (15%) for the work which he performs with his own forces and/or the Contractor shall be paid the subcontractor's actual field cost of the work plus twenty percent (20%) for work which is performed by his subcontractor or subcontractors.

Where extra work is performed under Method C, the term actual field cost of such extra work is hereby defined to be and shall include:

The payroll cost for all workmen, such as foremen, mechanics, craftsmen, and laborers.

The cost of all materials and supplies not furnished by the Owner.

Rental for all power-driven equipment at agreed-upon rates for the time actually employed or used in the performance of the extra work.

Transportation charges necessarily incurred in connection with any equipment authorized by the Engineer for use on said extra work and which is not already on the job.

All power, fuel, lubricants, water and similar operating expense.

All incidental expenses incurred as a direct result of such extra work, including sales or use taxes on materials, payroll taxes and the additional premiums for construction bonds, workmen's compensation, public liability and property damage and other insurance required by the Contract where the premiums therefore are based on payroll and material costs.

The Engineer may direct the form in which actual field costs shall be kept, and may also specify in writing before the work commences the method of doing the work and the type and kind of machinery and equipment, if required, which shall be used in the performance of extra work under Method C. If machinery or heavy construction equipment is required for extra work, the authorization and basis of payment for the use thereof shall be stipulated in the written extra work order. The applicable "plus" percentage (15% or 20%) of the actual field cost to be allowed and paid to the Contractor shall constitute full compensation for profit, overhead, superintendence, field office expense and all other elements of cost not embraced within the actual field cost as herein defined.

No claim for extra work of any kind will be allowed unless ordered in writing by the Engineer or Owner. In case any orders or instructions, either oral or written, appear to the Contractor to involve extra work for which he should receive compensation, he shall make a written request to the Engineer for a written order authorizing such extra work. Should a difference of opinion arise as to what does or does not constitute extra work, or concerning the payment thereof, and the Engineer insists on its performance, the Contractor shall proceed with the work after making a written request for a written extra work order and shall keep an accurate account of the actual field cost thereof as provided for Method C in the foregoing paragraph.

29. EXTRA WORK A PART OF CONTRACT

If extra work is performed in accordance with the provisions of this Contract, such extra work shall be considered a part hereof and subject to each and all terms and conditions of said Contract.

30. ARBITRATION OF ENGINEER'S DECISIONS

The decision of the Engineer shall control in the interpretation of Plans, Specifications and other Contract Documents.

If either the Owner or the Contractor considers himself aggrieved by an interpreting decision of the Engineer, he may require the dispute to be finally and conclusively settled by the decision of arbitrators, one to be appointed by the Owner and a second by the contractor. In case the two arbitrators thus chosen fail to agree, the two arbitrators shall appoint a third arbitrator. By the decision of these arbitrators, or by that of the majority of them, both parties to this agreement shall be finally bound.

Arbitrators shall be capable by training and experience to understand and pass upon the problems to be considered and such qualifications shall be subject to approval by the Engineer. No one shall serve as arbitrator who has or has had any financial or

pecuniary interest with either party or who is or ever has been employed by either party. No arbitrator shall be an advocate or foe to either party.

Compensation to each arbitrator shall be the same and shall be paid equally by both parties. The party calling for arbitration shall pay all other expenses of arbitration. Arbitrators shall have no detailed pre-knowledge of the fact but shall sit as judges and jury to consider the intention of the Contract and Specifications, such facts as may be presented by the parties, such as may be determined upon personal observation of the arbitrators subsequent to their appointment and data and information presented by the Engineer. Arbitrators shall have the right to call upon any officer or employee of either party for testimony and shall have access to the records, books, accounts and correspondence of both parties.

31. PROVISIONS FOR EMERGENCIES

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

32. ASSIGNMENT AND SUBLETTING OF CONTRACT

The Contractor shall not assign or submit the work, or any part thereof, without the previous written consent of the Owner, nor shall he assign, by power of attorney or otherwise, any of the money payable under this contract unless by and with the like consent of the Owner to be signified in like manner. No right under this Contract, nor to any money due or to become due hereunder, shall be asserted in any manner against said Owner, or persons acting for the Owner, by reason of any so-called assignment of this Contract or any part thereof, unless such assignment shall have been authorized by the written consent of the Owner. In case the Contractor assigns all, or any part of, any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to the Contractor shall be subject to all prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Contract.

Should any subcontractor fail to perform in a satisfactory manner the work undertaken by him, the Contractor upon notice from the Owner shall immediately terminate his subcontract. The Contractor shall be as fully responsible for the Owner for the acts and

omissions of his subcontractors and of persons either directly or indirectly employed by him. Nothing contained in this Contract shall create any contractual relation between any subcontractor and the Owner.

33. RIGHT OF OWNER TO TERMINATE CONTRACT

If the work to be done under this Contract shall be abandoned by the Contractor; or if this Contract shall be assigned by him otherwise than as herein provided; or if the Contractor should be adjudged bankrupt, or if a general assignment of his assets be made for the benefit of his creditors, or if a receiver should be appointed for the Contractor or any of his property; or if at any time the Engineer shall certify in writing to the Owner that the performance of the work under this Contract is being unnecessarily delayed, or that the Contractor is violating any of the conditions or covenants of this Contract or the Specifications therefore, or that he is executing the same in bad faith or otherwise not in accordance with the terms of said Contract; or if the work be not substantially completed within the time named for its completion or within the time to which such completion date may be extended; then the Owner may serve written notice upon the Contractor and his surety of said Owner's intention to terminate this Contract and, unless within five (5) days after the serving of such notices upon the Contractor, a satisfactory arrangement be made for the continuance thereof, this Contract shall cease and terminate. In the event of such termination, the Owner shall immediately serve notice thereof upon the surety and the Contractor, and the surety shall have the right to take over and complete the work; provided, however, that if the surety does not commence performance thereof within thirty (30) days from the date of said notice of termination, the Owner may take over the work and prosecute same to completion, by contract or otherwise, for the account and at the expense of the Contractor, and that the Contractor and his surety shall be liable to the Owner by reason of such prosecution and completion; and in such event, the Owner may take possession of, and utilize in completing the work, all such materials, equipment, tools and plant as may be on the site of the work and necessary therefore.

34. SUSPENSION OF WORK

The Contractor shall delay or suspend the progress of the work or any part thereof for such period of time as required in each case, whenever he shall be so directed by written order of the Owner or Engineer. Any such order of the Owner or Engineer shall not invalidate or otherwise modify any provision of this Contract. If the progress of work or any part thereof is delayed as a result of such suspension, the Owner shall pay the time for completion of the work so delayed to the Contractor.

35. LOSSES FROM NATURAL CAUSES

All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water or from any unusual obstruction or difficulty or any other natural or existing circumstance either known or unforeseen, which may be encountered in the prosecution of the said work, shall be sustained and borne by the Contractor at his own cost and expense.

36. LAWS AND ORDINANCES

The Contractor shall at all times observe and comply with all ordinances, laws and regulations and shall protect and indemnify the Owner and the Owner's officers and agents against any claim or liability arising from or based on any violation of the same.

37. SANITARY REGULATIONS

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

The Contractor shall provide at least one (1) chemically treated portable toilet unit on site during all active phases of construction. The Contractor shall enforce the use of the facilities by all personnel at the site. The unit(s) shall be obscured from public view to the greatest extent practicable.

38. CHARACTER OF WORKMEN

The Contractor shall employ only workmen who are competent to perform the work assigned to them and in the case of skilled labor who are adequately trained and experienced in their respective trades and who do satisfactory work.

Whenever the Engineer shall notify the Contractor that any man on the work is, in his opinion, incompetent, unfaithful or disorderly or who uses threatening or abusive language to any person representing the Owner when on the work, such man shall be immediately discharged from the work and shall not be re-employed thereon except with the consent of the Engineer.

39. SATURDAY, SUNDAY, HOLIDAY AND NIGHT WORK

Except in connection with the care, maintenance or protection of equipment, or of work already done, no work shall be done between the hours of 6:00 p.m. and 7:00 a.m., or on Saturdays, Sundays or legal holidays, without the written consent of the Engineer. Clean up and non-critical work may be performed on Saturday.

Night work may be established by the Contractor, as a regular procedure, with the written permission of the Engineer; such permission, however, may be revoked at any time by the Engineer if the Contractor fails to maintain at night adequate equipment for the proper execution and control of the work and all operations performed thereunder.

40. UNFAVORABLE CONSTRUCTION CONDITIONS

During unfavorable weather, wet ground or other unsuitable construction conditions, the Contractor shall confine his operations to that which will not be affected adversely thereby. No portion of the work shall be constructed under conditions, which would affect adversely the quality or efficiency thereof, unless special means or precautions are taken by the Contractor to perform the work in a proper and satisfactory manner as approved by the Engineer.

41. PROSECUTION AND PROGRESS

Special attention will be given to the scheduling of work and work methods. “Notice to Proceed” will be issued within ten (10) working days after Award of the Contract. Construction shall start within ten (10) days after “Notice to Proceed” unless mutually agreed otherwise and the rate of progress shall be such that the work shall have been completed in accordance with the terms of the Contract on or before the termination of the construction period named in the Proposal, subject to any extension or extensions of such time made as hereinafter provided.

The Contractor shall place orders for aggregates, asphaltic materials, reinforcing steel, cement and all other principal materials within ten (10) days after award of the Contract and within delivery dates, in writing, from the suppliers of each of these materials. One copy of each order for the primary materials in the Contract together with one copy of the suppliers' reply stating the date of delivery shall be furnished to the Engineer prior to the payment of the first partial monthly estimate. Estimates shall not be processed until these provisions have been complied with to the full satisfaction of the Engineer.

Should special conditions arise from war, strikes or other reasonable emergencies wherein restrictions may prevent or delay the acquirement, delivery or use of materials and be the direct cause of specific delays, extensions of time will be granted. In such an event, the Contractor shall file with the Engineer copies of documentary evidence to substantiate the causes and amount of resultant delays at the time they are in occurrence. This evidence together with the original material orders and written delivery dates will be used by the Engineer to determine the amount of extension of time to be made on account of delays. In determining extensions of time, revised delivery dates for primary materials will be computed by extending the original date the actual number of days, which elapses during any emergency.

The Contractor is requested to bring to the attention of the engineer, by letter, during the progress of the work, the occurrence of events, which the Contractor considers, may warrant extensions of time under the conditions of the Contract. If the Contract is not completed within the time stipulated, the Contractor shall, at the conclusion of the work, present to the Engineer a written statement presenting his view upon all matters of time extensions.

The amount of all extensions of time for whatever reason granted shall be determined by the Engineer with due consideration given to working seasons and working conditions. In general, only actual and not construction or hypothetical days of delay will be considered. The Owner shall have the authority to grant additional extensions of time as the Owner may deem advisable and justifiable.

Promptly after the award of the Contract, the Contractor shall submit for approval to the Engineer a written program of construction outlining the proposed operations and the order of completion of the various parts in sufficient detail to demonstrate to the Engineer the adequacy of the progress to complete the construction within the time provided. No payment shall be made to the contractor on any estimate until such program has been submitted and approved.

Should it become evident at any time during construction that construction operations will or may fall behind the schedule of this first program of construction, the Contractor

shall upon request promptly submit revised written schedules setting out operations, methods and equipment, added amount of labor, or of working shifts, night work, etc., by which lost time shall be made up and shall confer with the Engineer until an approved modification of the original program shall have been secured. No payments on any estimates shall be made to the contractor after such request is made until the Contractor has provided an approved modified program. Execution of the work according to accepted program of construction, or approved modifications thereof, shall be an obligation of the Contract.

Should the Contractor fail to complete the work within the required number of working days as stipulated in the Proposal or within such extra time as may have been allowed by extensions, the Engineer will deduct from any monies due or coming due to the Contractor, the amount indicated in the Proposal for each working day the work shall remain uncompleted. This sum shall be considered and treated not as a penalty but as fixed, agreed and liquidated damages due the Owner from the Contractor by reason of interference with business, inconvenience to the public, added cost of engineering, administration, inspection, maintenance of detours and other items which have caused an expenditure of public funds resulting from his failure to complete the work within the time specified in the Contract.

Permitting the Contractor to continue and finish the work, or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, shall in no way operate as a waiver on the part of the Owner of any of its rights under the Contract.

Neither by the act of taking over the work nor by the annulment of the Contract nor by requiring the surety to complete the Contract shall the Owner forfeit the right to recover liquidated damages from the Contractor or his surety for failure to complete the Contract within the specified time.

42. HINDRANCES AND DELAYS

In executing the Contract Agreement, the Contractor expressly covenants and agrees that, in undertaking to complete the work within the time therein fixed, he has taken into consideration and made allowances for all hindrances and delays incident to such work, whether growing out of delays in securing materials or workmen or otherwise. No charge shall be made by the Contractor for hindrances or delays from any cause during the progress of the work, or any portion thereof, embraced in this Contract, except as provided in the paragraph: "Suspension of Work" of these General Conditions.

43. MATERIALS AND EQUIPMENT

Unless specifically provided otherwise in each case, all materials and equipment furnished for permanent installation in the work shall be new, unused and undamaged when installed or otherwise incorporated in the work. No such material or equipment shall be used by the Contractor for any purpose other than that intended or specified, unless such use is specifically authorized by the Engineer in each case.

All required tests for or in connection with the approval of materials and/or installation methods shall be made, at the Contractor's expense, by a properly

equipped laboratory of established reputation whose work and testing facilities are acceptable to the Owner and approved by the Engineer. Any change in origin of method of preparation or manufacture of a material being routinely tested will require new tests and approval thereof. Reports of all tests shall be furnished to the Engineer or Owner in as many copies as may be required.

44. EQUAL PRODUCTS

When the words "or equal" are used in connection with a specification for a particular item of material, quality or trade name, they will be construed to mean that such specified item will be used as a basis of comparison and all makes of similar items or alternate materials or methods will be considered for approval, provided they have equal or better qualifications for the intended use. Wherever the words "or equal" do not follow a brand or trade name used in these Specifications, they are implied.

45. TESTING OF COMPLETED WORK

Before final acceptance, all parts of the work shall be tested and each part shall be in good condition and working order, or shall be placed in such condition and order at the expense of the Contractor. All tests of completed work required under this contract shall be made, under the direction of the Engineer, by and at the expense of the Contractor who shall repair at his own expense all damage resulting from such tests.

46. PLACING WORK IN SERVICE

If desired by the Owner, portions of the work may be placed in service when completed and the Contractor shall give proper access to the work for this purpose; but such use and operation shall not constitute an acceptance of the work and the Contractor shall be liable for defects due to faulty construction until the entire work under this Contract is fully accepted and for a year thereafter as stipulated under paragraph: "Defective Workmanship and Materials".

47. DISPOSAL OF TRASH AND DEBRIS

The Contractor shall not allow the site of the work to become littered with trash and waste material but shall maintain the same in a neat and orderly condition throughout the construction period. The Engineer shall have the right to determine what are waste material or rubbish and the manner and place of disposal. On or before the completion of the work the Contractor shall, without charge therefore, tear down and remove all temporary structures built by him, and shall remove all trash or debris of every kind from the tracts or grounds which he has occupied and shall leave them in first class condition.

48. DEFECTIVE WORKMANSHIP AND MATERIALS

During a period of **two (2) years** from and after the date of the final acceptance by the Owner of the work embraced by the Contract, the Contractor shall make all needed repairs arising out of defective workmanship or materials, or both, which, in the judgment of the Owner, shall become necessary during such period. If within ten (10) days after the mailing of a notice in writing to the Contractor, or his agent, the said contractor shall neglect to make, or undertake with due diligence to make the aforesaid repairs, the Owner is hereby authorized to make such repairs at the Contractor's expense; providing, however, that in case of an emergency where, in the judgment of the Owner, delay would cause serious loss or damage, repairs may be made without notice being sent to the Contractor and the Contractor shall pay the cost thereof.

49. CLAIMS FOR LABOR AND MATERIALS

The Contractor shall indemnify and save harmless the Owner from all claims for labor and materials furnished under this Contract, or any alterations or modifications thereof. When requested by the Owner, the contractor shall submit satisfactory evidence that all persons, firms or corporations, who have done work or furnished materials under this contract, for which the Owner may become liable under the laws of the state, have been fully paid or satisfactorily secured. In case such evidence is not furnished or is not satisfactory, an amount shall be retained from monies due the Contractor which, in addition to any other sums that may be retained, will be sufficient, in the opinion of the Owner, to meet all claims of the persons, firms and corporations as aforesaid are fully discharged or satisfactorily secured.

50. CONTRACT BONDS

The Performance, Statutory, and Maintenance Bonds executed by the Contractor shall be a guarantee:

For the faithful performance and completion of the work in strict accordance with the terms of the Contract, and each and every covenant, condition, and part thereof, according to the true intent and meaning of the Contract Documents as herein defined, and

For the repair, or replacement where required, or the cost thereof, of all work performed under the terms of the Contract, where such repair or replacement of defective equipment or parts thereof, within a period of **two (2) years** after the date of acceptance by the Owner of the work.

The Owner agrees to mail notice to the Contractor, calling his attention to any failure to comply with the requirements of the bond, not less than ten (10) days before notifying his surety of such failure.

51. MONTHLY ESTIMATES AND PAYMENTS

The Contractor shall provide monthly payment estimates to the City Engineer for the value of work done in conformity with the Plans and Specifications and for unused materials delivered for and stored on the site of the work.

The Contractor shall furnish to the Engineer such detailed information as he may request to aid as a guide in the preparation of monthly estimates. After each such estimate shall have been approved by the Owner, the Owner shall pay to the Contractor ninety percent (90%) of such estimated sum.

It shall be understood that payments made by the Owner for materials stored on the site shall be based only upon the actual cost of such materials to the Contractor and shall not include any overhead or profit to the Contractor.

52. COMPLETION AND ACCEPTANCE OF WORK

On completion of the work, the Engineer shall:

Satisfy himself, by examination and test, that the work has been fully and finally completed in accordance with the Plans, Specifications and Contract, and report such completion to the Owner.

Before final acceptance by the Owner of the work, the Contractor shall submit to the Engineer a notarized affidavit, stating under oath that all subcontractors, vendors and other persons or firms who have performed labor or furnished materials for the work have been fully paid or satisfactorily secured.

53. FINAL ESTIMATE AND PAYMENT

After official approval and acceptance of the work by the Owner, the Engineer shall be authorized to prepare a final estimate of the work done under this Contract and the value thereof. Such final estimate shall be submitted to the Owner within ten (10) days after its preparation has been authorized as aforesaid; and the Owner shall, within thirty (30) days after said final estimate is made and certified, pay the entire sum so found to be due hereunder, after deducting all amounts to be kept and retained under any provision of this Contract. All prior estimates and payments shall be subject to correction in the final estimate and payment; but in the absence of error or manifest mistake, it is agreed that all estimates, when approved by the Owner, shall be conclusive evidence of the work done and material furnished.

54. RELEASE OF LIABILITY

The acceptance by the Contractor of the last payment shall operate as, and shall be, a release to the Owner and every officer and agent thereof, from all claims and liability hereunder for anything done or furnished for, or relating to the work, or for any act or neglect of the Owner or of any person relating to or affecting the work.

55. PRE-CONSTRUCTION CONFERENCE

After the bid opening, and after the verification of Contractor's current eligibility, a time and place for a meeting will be set which shall be attended by: The Contractor and representatives of the Office of the City Engineer. The primary purpose of this conference will be discussion of scheduling and coordination of the work under this Contract.

56. DAMAGE TO EXISTING STRUCTURES, EQUIPMENT AND SIGNS

The Contractor will be held responsible for damage to existing structures, sidewalks, streets or signs, because of his operations and shall repair or replace any such damaged structures, streets, walks or signs to the satisfaction of and at no additional cost to the City of Leavenworth.

57. WORK COMMENCEMENT

The work embraced in this Contract shall begin within ten (10) days after written "Notice to Proceed" shall have been given to the Contractor by the City Engineer and carried on regularly and uninterruptedly thereafter (unless expressly directed otherwise and in writing by the City Engineer) with such force as to ensure full completion within **Ninety (90) calendar days** thereafter. If the Contractor shall fail to complete the work in the time specified, the City shall have the right to deduct from the total compensation otherwise due Contractor as Liquidated Damages, fixed and agreed to in advance, according to the schedule set forth in Table 1 below:

TABLE 1

CONTRACT AMOUNT		LIQUIDATED DAMAGES
0	to	\$25,000.00
\$250.00		\$250.00
\$25,001.00	to	\$50,000.00
\$500.00		\$500.00
\$50,001.00	to	\$100,000.00
\$750.00		\$750.00
\$100,001.00	to	\$500,000.00
\$1,000.00		\$1,000.00
\$500,001.00	to	\$1,000,000.00
\$1,250.00		\$1,250.00
\$1,000,001.00	to	\$2,000,000.00
\$1,500.00		\$1,500.00
\$2,000,001.00	to	\$5,000,000.00
\$2,000.00		\$2,000.00
\$5,000,001.00	to	\$10,000,000.00
\$2,500.00		\$2,500.00
\$10,000,001.00	and	up
		\$3,000.00

58. WORKING DAYS

Working days shall be considered one (1) per calendar day.

59. TRAFFIC CONTROL AND BARRICADE

The Contractor shall at his expense and without further or other order provide, erect and maintain at all times during the progress or temporary suspension of the work suitable barricades, fences, signs or other adequate protection installations and shall provide, keep and maintain such danger lights, signals and watchmen as may be necessary or as may be ordered by the connection with the work.

All barricades and obstructions shall be illuminated at night by torches and approved signal lights suitably distributed so as to serve the intended purpose.

All traffic control shall meet those requirements as outlined in the most current edition of "The Manual for Uniform Traffic Control Devices" (MUTCD).

60. GENERAL

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

SECTION XIV

SPECIAL CONDITIONS

SPECIAL PROVISIONS

1. **It is required that the contractor submit his Affirmative Action Program prior to the bid date to ensure that the program is acceptable to the City.**
 - a. **Any contractor who does not have a current approved Affirmative Action Program on file in the office of the City Manager and does NOT submit the “Affirmative Action Approval Letter” with the bid, shall have their bid rejected and will not be considered.**
2. Please note: Layout for the asphalt trail will be field verified at the pre-bid meeting on January 11, 2023 @ 1:00 p.m. Asphalt trail will tie in to existing trail in the park and follow old existing roadbed 1,100 linear feet.
3. Grade existing dirt trail/old roadbed to a depth of six (6) inches. Leave soil removed along sides for backfilling of trail to be done by owner.
4. Install four (4) inch layer of AB-3 rock. Must meet 90% compaction. Compaction testing may be required if felt applicable, at which then must be included with documentation from approved testing firm.
5. 5' Wide surface trail with four (4) inches asphaltic concrete commercial surface mix, worked to a uniform surface and roll compacted.
6. Asphalt trail will maintain current terrain as close as possible.
7. Any areas requiring additional drainage attention will be addressed by the City of Leavenworth. Additional rock bedding and/or drainage piping needed will be installed by the City prior to construction of the trail. Any of these areas are to be field verified with the City prior to construction thru the affected area.
8. Prior to construction contractor is to field verify with City representatives all truck and equipment access onto the grounds. Access location will be covered at the mandatory pre-bid meeting.
9. Contractor shall have a port-a-potty on site during construction.
10. A no cost building permit and no cost land disturbance permit are required for this project.

11. All questions shall be submitted to Brian Bailey, Parks Superintendent, at 913-758-6610, bbailey@firstcity.org or Steve Grant, Director of Parks & Recreation, at 913-651-2203, sgrant@firstcity.org.
12. For all questions regarding the Affirmative Action and MBE/WBE requirements, contact Arianne Burgoon at 913-680-2604.
13. There are no MBE/WBE goals for this project.
14. The successful bidder shall be required to submit a list of major subcontractors and suppliers, all company personnel involved with the project, a project schedule, and a schedule of values at the project pre-construction meeting. The list of major subcontractors, suppliers, and company personnel shall include all 24-hour contact information for use during the project and in case of emergencies.
15. The contractor shall identify any spoils disposal site to be utilized within the City of Leavenworth and obtain a separate "NO COST" fill permit for said site.
16. Contractor shall contact police dispatch at 913-651-2260 prior to any lane or street closures.

SECTION XI

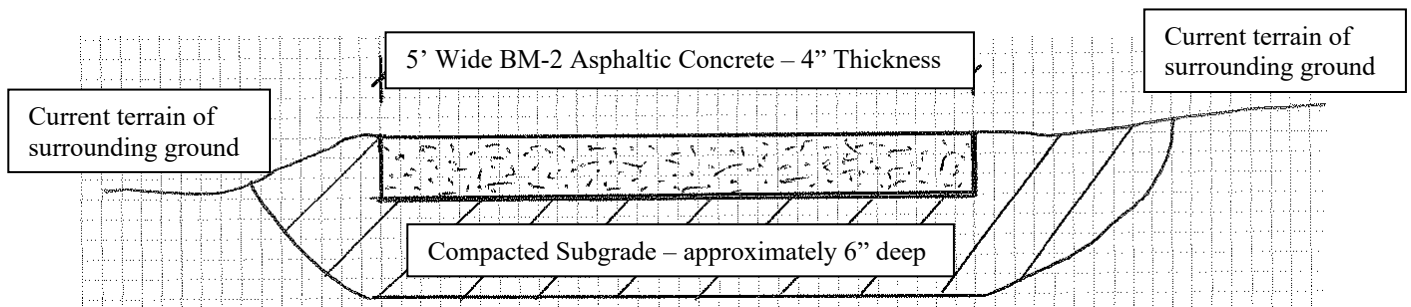
TECHNICAL SPECIFICATIONS

TECHNICAL SPECIFICATIONS

ASPHALT TRAIL CONSTRUCTION: This work shall consist of excavating, placing base compacted AB-3 rock, placing compacted surface mix asphalt, and other items necessary to install a complete asphalt trail.

1. The subgrade shall be uniformly compacted to 90% and evenly graded to the required subgrade elevation. All loose or extraneous material shall be removed from the subgrade and soft spots shall be uniformly compacted prior to placement of AB-3 base. The Contractor shall have available adequate hand or mechanical compaction equipment to accomplish the compaction as set forth in these specifications.
2. The dimensions of the new asphalt trail construction shall be a minimum width of 5'. The minimum allowable asphalt thickness shall be 4". Asphalt trail will maintain current terrain as close as possible.
3. Any areas requiring additional drainage attention will be addressed by the City of Leavenworth. Additional rock bedding and/or drainage piping needed will be installed by the City prior to construction of the trail. Any of these areas are to be field verified with the City prior to construction thru the affected area.
4. Asphalt mix design is to be submitted prior to construction.
5. Asphalt shall not be placed on frozen subgrade.
6. The standard cross slope for a trail shall be $\frac{1}{4}$ " per foot (20mm per meter).

TRAIL CROSS SECTION – Not to Scale



SECTION 1300 - ASPHALTIC CONCRETE PAVEMENT

1301 SCOPE. This section covers asphaltic concrete (AC) pavement for the trail.

1302 GENERAL. Pavement shall be constructed to the lines, grades, dimensions, and details as shown on the plans. Allowable mixes for AC pavements shall be the following:

- Surface Course Mix.....BM-2
- Base Course Mix.....BM-2B or BM-2 (Contractor's Option)
- Leveling Course Mix.....BM-1

Alternative mix designs may be used only where approved by the Engineer prior to bidding a project.

Materials.

A. Asphalt cement shall conform to the Performance Graded (PG) system. The asphalt oil used for residential, and collector streets shall be PG 64-22 for all types of AC mixes. The asphalt oil used for base courses greater than 2 inches below the pavement surface on arterial streets may also use PG 64-22 oil. The asphalt surface mixes on industrial and arterial streets shall be a PG 70-22, polymer modified oil. PG 64-22 and 70-22 oils shall also meet the additional testing requirements:

	PG 64-22	PG 70-22
Separation Test (AASHTO PP-5)	≤ 10	≤ 10
Elastic Recovery Test (ASTM D6084)	≥ 45	≥ 55

B. The quality of individual aggregates and mineral filler supplements shall meet the requirements of the current KDOT Standards for aggregates for hot mix asphalt.

C. Recycled asphalt pavement (RAP) shall be processed such that 100% will pass the 1-1/2 inch sieve and shall be free of debris and foreign material.

D. Tack oil shall be SS-1, SS-1H, CSS-1 or CSS-1H grade oil. Alternative materials must be submitted for approval by the Engineer prior to submitting a bid on a project. Certification shall be submitted to Engineer.

Composition of Mix. Immediately prior to the addition of the asphalt, the combined virgin aggregate shall meet the following requirements:

SIEVE SIZE	PERCENT MASTER GRADING LIMITS (PERCENT RETAINED)			RETAINED DESIGN JOB-MIX TOLERANCES		
	BM-2	BM-2B	BM-1	BM-2	BM-2B	BM-1
1"	0	0				
3/4"	0	0-5				
1/2"						
3/8"	8-30	10-30	0-8	+/-6	+/-6	
4			18-39	+/-6	+/-6	+/-5
8	42-72	42-72	35-53	+/-6	+/-6	+/-5
16			50-68	+/-5	+/-5	+/-5
30	64-88	64-88	60-80	+/-5	+/-5	+/-5
50			70-90	+/-4	+/-4	+/-4
100			82-95	+/-4	+/-4	+/-3
200 (wash & Scr)	92-98	92-98	92-98	+/-2	+/-2	+/-2

Plastic Index = 6 Max.

Moisture in Final Mix = 0.5% max.

In addition, there shall not be less than three (3%) percent nor more than twenty-three (23%) percent material between any two of the following successive sieves: Numbers 4, 8, 16, 30, and 50.

The asphalt content for each mix shall be the optimum content plus or minus one-half (1/2%) percent, based on the approved mix design for the project. Mix design shall be submitted to the Engineer by the Contractor a minimum of ten (10) days in advance of the paving operation.

The Contractor may use virgin materials or a blend of virgin materials in combination with a maximum of 20% reclaimed asphalt pavement (RAP) in the surface course and 30% in the base course. No RAP will be allowed in the leveling course mix.

1303 SUBGRADE PREPARATION. Subgrade preparation for pavement shall be as specified herein. Asphalt is to be placed on compacted subgrade, and approved by the engineer prior to any placement.

Beneath Multi-Use Paths (Trails). The top six (6") inches of the subgrade for sidewalks and recreational paths (trails) shall be compacted such that no further consolidation is evident after additional rolling or tamping.

1304 TRANSPORTATION OF MIX. The mix shall be transported to the jobsite in vehicles cleaned of all foreign material including asphalt left from previous loads. The inside of the truck

beds shall be lubricated with a thin non-petroleum based oil to prevent the mix from adhering to the bed, but an excess of lubricant will not be permitted. Vehicles shall be provided with covers of sufficient size and design to protect the load and to prevent cooling of the mix during transportation to the site. The Contractor shall provide a sufficient number of haul vehicles of the proper size, speed, and condition to ensure an orderly and continuous nonstop paving operation. Contractor must have a minimum of 3 loaded trucks onsite before paving will be allowed to commence.

No diesel or petroleum base solvents will be permitted on tools or on equipment that comes in contact with asphalt, or to clean equipment on the job site.

1305 PLACING REQUIREMENTS. The bituminous mixture shall be spread and finished true to crown and grade by a mechanical, self-propelled paving machine. AC mixture may be spread and finished by other methods only where machine methods are impractical as determined by the Engineer.

All construction activities shall be completed during daylight hours. **Nighttime work on projects will not be permitted unless approved in advance by the Engineer.**

All AC mixtures shall be delivered to the paver at a temperature between 250°F and 325°F. Delivery of the material to the paver shall be at a continuous rate and in an amount well within the capacity of the paving and compacting equipment. If asphalt plant or trucks cannot keep up with the paver, the speed of the laydown operation shall be reduced to match the supply of material to the job site and avoid “stop-and-start” operations.

The maximum depth of any individual lift shall be four (4) inches.

When AC pavement is being placed, the surface of all structures, driveways, entrances, curb and gutters, and other roadway appurtenances shall be protected in a satisfactory manner to prevent them from being splattered with paving materials or marred by equipment operation. In the event that any appurtenances become splattered or marred, the Contractor shall, at his own expense, remove all traces of material and repair all damage, and leave the appurtenances in the same condition as before the work began and to the satisfaction of the Engineer.

Pavement may be placed only when either the ambient air temperature or the road surface temperature is equal to or greater than the temperatures in the table below. No pavement shall be placed when there is frost in the subgrade, on wet subgrade, or at any other time when weather conditions are unsuitable without the expressed consent of the Engineer.

Paving Course	Thickness (inches)	Air Temperature (Degrees F)	Road Surface Temperature (Degrees F)
Surface	All	50	55
Base	Less than 3	40	45
Base	3 or more	30	35

When the ambient temperature falls below 55°F, precautions shall be taken to compact the mix before it cools below 175°F to obtain the required density. In no case shall successive lifts of asphalt be placed until the previous lift has cooled to 150°F or less.

During placement, excess material raked from the surface shall not be placed back onto the new pavement surface prior to rolling.

1306 MECHANICAL PAVING MACHINES. Mechanical pavers shall be capable of spreading the mix, within the specified tolerances, true to the line, grade, and crown indicated on the contract drawings.

Pavers shall be equipped with quick and efficient steering devices and shall be capable of traveling both forward and in reverse. They shall be equipped with hoppers and distributing screws, which place the mix evenly in front of adjustable screeds. They shall be equipped with a vibrating screed.

The screed shall include any strike-off device operated by cutting, crowding, or other action which is effective on mixes at workable temperatures without tearing, shoving, or gouging them and which produces a finished surface of an even and uniform texture. The screed shall be adjustable as to height and crown and shall be equipped with a controlled heating device for use when required.

Pavers shall be capable of spreading mixes without segregation or tearing. They shall also be capable of placing courses in varying thicknesses and widths.

1307 COMPACTION REQUIREMENTS. Compacting equipment shall conform to the requirements of the KDOT Standards. Rollers and other compaction devices shall be operated by competent and experienced roller personnel and shall be kept in operation continuously so that all parts of the pavement will receive substantially equal compaction. The Engineer shall order the paver to cease operations at any time proper rolling is not being performed.

After spreading and strike-off and as soon as the temperature and mix conditions permit the compacting to be performed without excessive shoving or tearing, the mixture shall be thoroughly and uniformly compacted.

The selection of the type of roller to be utilized in breakdown rolling may be varied to suit mix characteristics and shall be acceptable to the Engineer. The final rolling of the top or surface course shall be accomplished with a steel roller unless otherwise approved by the Engineer. In the event a vibratory roller is used for finish rolling, it shall be operated with the vibratory unit in its off position.

During rolling, the roller wheels shall be kept moist with only sufficient water to avoid picking up the material.

The line of rolling shall not be changed suddenly or the direction of rolling reversed suddenly. If rolling causes displacement of the material, the affected areas shall be loosened at once with

lutes or shovels and restored to the original grade of the loose material before being re-rolled. Rollers shall not be permitted to stand on the finished surface before it has been compacted and has thoroughly cooled.

In laying a surface mix adjacent to any finished area, it shall be placed sufficiently high so that, when compacted, the finished surface will be true and uniform and match the existing surface.

Any mixture that does not comply in all respects with the requirements set forth herein, shall be removed, replaced with suitable material, and finished, by and at the expense of the Contractor, in accordance with these specifications.

1308 TACK COAT. Tack coat shall be placed on all contact surfaces such as existing or previously placed pavement, curb and/or gutter, manholes, and other structures. Contact surfaces shall be adequately coated so as to ensure a thorough and continuous bond between the existing surface and the new AC mixture.

Prior to the distribution of the tack coat, the Contractor shall remove all debris, trash and loose materials from the surface by means of approved enclosed mechanical sweepers, hand brooms and/or other equipment as required, until it is as free from dust and other foreign materials as is practicable.

Tack coat shall be placed on only one lane of the roadway at a time. Place tack coat just enough in advance of paving operations to allow the tack to cure before overlying pavement is placed. No traffic shall be allowed on tacked surfaces.

The tack coat shall be applied to areas to be surfaced at the rate of from 0.05 to 0.15 gallons/square yard at application temperature. It shall be applied by means of approved pressure distributors operated by skilled workmen. The spray nozzles and spray bar shall be so adjusted and frequently checked that uniform distribution is ensured. The distribution shall cease immediately upon any clogging or interference of any nozzle and corrective measures taken before distribution is resumed. Hand sprays shall be used only in tacking small patches or inaccessible areas that have been missed by the distributor.

The tack coat shall be entirely fogged over the surface to be paved and require no sand blot. If, however, it has not been uniformly distributed, sufficient sand shall be spread over the surface to blot up the excess asphalt and prevent it from picking up. Prior to laying an intermediate or surface course, all loose or excess sand shall be swept from the base.

The Contractor shall maintain the tack coat and the surface to be paved intact until it has been covered by the overlying course. Areas that have been damaged shall be repaired and shall receive additional applications of tack coat material in compliance with these specifications. The maintenance and repair of the tack coat shall be at the Contractor's expense.

1309 DENSITY AND SURFACE REQUIREMENTS. Both density and thickness shall be carefully controlled during construction and shall be in full compliance with plans and specifications. During compaction, 4-inch diameter cores will typically be taken to determine in-place densities and as an aid for verifying thickness. Contractor shall obtain cores by means approved by the Engineer. Core locations shall be repaired using epoxy concrete, high-strength non-shrink grout, or other approved product.

Unless otherwise specified, the completed asphaltic concrete pavement shall have a density greater than or equal to ninety-two (92%) percent of Theoretical Maximum Specific Gravity. Upon request by the Engineer, representative samples of the compacted asphalt paving shall be obtained by the Contractor under the supervision of the Engineer and shall be tested by a suitable independent or municipal testing laboratory as necessary to verify compliance with respective density requirements.

The testing laboratory shall be selected and compensated by the Owner, unless otherwise specified. The Engineer will establish the number, timing, location and testing procedures for the representative samples. Copies of each report covering the details and results of the tests shall be provided to the Contractor.

The surface of the final course shall be of a uniform texture, without segregation, and conform to lines and grades shown on the plans. It shall not vary from a ten (10') foot straight edge, applied parallel to the centerline, by more than one-fourth (1/4") inch. Segregation checks, in accordance with KDOT procedures, may be run in areas that appear to be segregated.

Correct all surface irregularities exceeding the specified tolerances using equipment and methods approved by the Engineer. Method for correction shall be approved by the Engineer and may include:

- Diamond grinding
- Remove and replace the entire pavement thickness
- Mill the surface and replace the specified surface course
- Other methods proposed by the Contractor as approved by the Engineer.

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When specified densities are not achieved payment for the material will be reduced, or the pavement shall be removed and replaced, as follows:

<u>% GMM</u>	<u>% of Payment</u>
≥ 92	100
90-91.9	98
88-89.9	96
86-87.9	94
< 86	50 OR remove & replace at Contractors option

Reduced payment will apply only to the amount of material represented by each test but no more than 500 tons. If a test indicates a density below the minimum required,

additional tests will be performed to better define the extent of the area subject to reduced payment. No more than one test per 150 tons will be performed.

1310 PROTECTION OF PAVEMENT. The Contractor shall protect all sections of newly compacted base and surface courses from traffic until they have hardened properly, or as directed by the Engineer.

1311 ROLLING PROCEDURE. At the option of the Engineer, the effectiveness of the rolling procedure will be verified using a nuclear density-moisture measuring device. The Contractor shall revise the rolling procedure as necessary to obtain the specified density.

1312 CLEANUP. Cleanup shall follow the work progressively and final cleanup shall follow immediately behind the finishing. The contractor shall remove from the site of work all equipment, tools, discarded material, and other construction items. The entire right-of-way shall be left in a finished and neat condition. Clean up shall be considered a subsidiary obligation.

Check List

These items listed below must be must met or turned in with bid or bid will not be read!!!!

* **Mandatory** Pre-Bid Meeting at 1:00 p.m. on the 11th day of January 2023, at the site, Leavenworth, Kansas. We will meet in Havens Park, 2201 Ottawa St., LV, KS, 66048. Follow roadway into park off Ottawa to meet at the gated trail head in the interior of the park. All firms wishing to bid on this project **MUST ATTEND** this meeting.

*Affirmative Action Letter (could take up to 48 hours to receive)

*Non-Collusion Affidavit

* Sealed proposals will be received by the Governing Body of Leavenworth, Kansas at the office of the City Clerk, City Hall, Leavenworth, Kansas until **10:00 a.m. on the 3rd day of February 2023**, for the construction of **Project No. 23HV-TRAIL, "Havens Park Trail Construction"**