

AGENDA FOR THE WEST HAYMARKET
JOINT PUBLIC AGENCY (JPA)
TO BE HELD THURSDAY, September 19, 2013 AT 3:00 P.M.

CITY-COUNTY BUILDING
555 S. 10TH STREET
CITY COUNCIL CHAMBERS ROOM 112
LINCOLN, NE 68508

1. Introductions and Notice of Open Meetings Law Posted by Door (Chair Beutler)
2. Public Comment and Time Limit Notification Announcement (Chair Beutler)
 - *Individuals from the audience will be given a total of 5 minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record.*
3. Approval of the minutes from the JPA meeting held August 22, 2013 (Chair Beutler)
 - (Staff recommendation is for the JPA Board to approve the minutes as presented)
4. Approval of August 2013 Payment Registers (Steve Hubka)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the payment registers)
5. Review of August 2013 Expenditure Reports (Steve Hubka)
 - Public Comment
6. WH 13-82 Resolution approving Change Order No. 2 to the Consultant Agreement for Professional Marketing Services between the West Haymarket Joint Public Agency and Legends Sales and Marketing LLC to adjust the contract sum to reflect the final reconciliation of the contract amount. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)
7. WH 13-83 Resolution approving a Contract with General Excavating to remediate portions of the former JayLynn and Alter Properties near 6th and N Streets consisting of soil and debris excavation, off-site disposal of contaminated soils and debris, backfilling of the JayLynn excavation to design grade, and removal of construction/safety fencing, stormwater and erosion control materials and de-watering equipment from the site. (Frank Uhlarik/Miki Esposito)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

8. WH 13-84 Resolution to approve Change Order No. 1 to the Final Guaranteed Maximum Price Amendment to the Construction Manager at Risk Agreement with Hausmann/Dunn to establish a new contract sum which shall not be exceeded for Precast Parking Decks Nos. 2 and 3. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)
9. Set Next Meeting Date: Friday, October 4, 2013 at 3:00 p.m. in Room 112
10. Motion to Adjourn

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
August 22, 2013

Meeting Began At: 8:03 A.M.

Meeting Ended At: 9:57 A.M.

Members Present: Tim Clare, Chris Beutler, Doug Emery

Item 1 -- Introductions and Notice of Open Meetings Law Posted by Door

Chair Beutler opened the meeting with introduction of the Board members. He advised that the open meetings law posted at the back of the room is in effect.

Item 2 -- Public Comment and Time Limit Notification

Public comment is welcome. Beutler stated that individuals from the audience will be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record and sign in.

Item 3 -- Approval of the minutes from the JPA meeting held July 12, 2013

Beutler asked for corrections or changes to the minutes of the July 26, 2013 meeting. Being none, Emery moved approval of the minutes. Clare seconded the motion. Motion carried 3-0.

Item 4 -- Approval of July 2013 Payment Registers

Steve Hubka, City Finance Director, presented the payment registers for July 2013. Hubka noted that the total is \$10,481,375 including charges from Engineering Services in Public Works. The bulk of the expenditures include \$7.1 million to Mortenson. Another \$3.1 million is to Hawkins Construction for Canopy Street, Phase II Festival Space, and Haymarket Parking Lot. Responding to Clare, Hubka stated we are on budget and are following necessary procedures from an audit perspective.

Being no public comment, Clare moved approval of the payment registers. Emery seconded the motion. Motion carried 3-0.

Item 5 -- Review of July 2013 Expenditure Reports

Hubka presented the July Job Cost Reports and Expenditure Reports for both the Operating Budget and the Capital Budget for Phase I and II. He noted there will be amendments to the Capital Budget involving mostly shifts from contingency dollars to various activities within the budget. Most or all have been previously approved expenditures by the Board, but this will reconcile the budget. Steve anticipates this may be included in the second meeting of September.

Clare asked about an article stating that we were over budget with respect to the bridge. He wanted to clarify that the additional bridge expenditures to fix the girders will be reimbursed by the party found at fault and that these expenses will not be paid for by the City or taxpayers or the JPA. Hubka explained that we will be paying some expenses upfront with the full anticipation of reimbursement. Some of those expenses are showing on the payment register. This is similar to other expenses where they must be shown, even if there is another funding source covering those expenditures.

Jane Kinsey, Lincoln Watchdogs, questioned Hawkins payments. Hawkins is one of the companies who may have some responsibility for the failures, yet we continue to pay them.

Paula Yancey, P.C. Sports, explained that the current payments to Hawkins are for other work items within their contract with the JPA. They are performing work associated with the Core Area Roadway Project, the Canopy Project, and the Festival Space Parking Lot Project. Contractually we have to pay them. We have not continued to pay them on the pedestrian bridge.

Kinsey wanted to know if they would have money to reimburse the City if found responsible. She wondered if anyone had checked to see if Hawkins had a bond. Yancey responded that they were required to have a bond so a portion of the contract total is kept in reserve. Also, for all construction projects, we hold a retainage amount. It is being withheld currently on the pedestrian bridge itself. Kinsey appreciated that and stated that it was important that the taxpayers know there is protection.

Item 6 -- WH 13-76 Resolution to approve Amendment No. 2 to the Contract Agreement between Terracon Consultants Inc. and the West Haymarket Joint Public Agency (JPA) to add Pedestrian Bridge special inspections to the Contract for West Haymarket Arena and Garage Special Inspections.

Paula Yancey, P.C. Sports, introduced this resolution. The \$280,712.72 for this contract will be put in the package for reimbursement when the bridge failure responsibility is determined. Terracon did all the third party testing and inspections associated with the bridge failure for the engineers of record and third party engineers. They do not provide the actual reasoning for the failure.

Clare asked whether the scope or breadth of work had expanded. Yancey explained that they were doing the inspections on the pedestrian ramp and elevated plaza. We then asked them to do the bridge since it was all connected. They are one of several third party inspectors.

Kinsey asked if other people involved in this work are being paid and from which funding source. She also asked about the remaining balance. Yancey listed that we are paying Thorton Tomasetti who is the third party structural engineer of record, Olsson eConstruct Team as the engineer of record, and thirdly Terracon Consultants. Currently we are using funds available within the pedestrian bridge budget, which was within the original budget. Of course, there will be reimbursement requested. She does not anticipate having to increase the budget before this is settled or increase payment to others as believes everything is covered. She will provide the remaining balance to Kinsey.

Clare moved approval of the resolution. Emery seconded the motion. Motion carried 3-0.

Item 7 -- WH 13-77 Resolution to approve Maintenance Contract between the West Haymarket Joint Public Agency and the Downtown Lincoln Association to provide day to day maintenance of the planting areas and sidewalks within the West Haymarket Area.

Dan Marvin, JPA Secretary, came forwarding stating that Terry Uland and George Pinkerton are present and can explain the process of maintaining this area in this interim way. As background, Marvin explained that there is a Business Improvement District (BID) covering much of the downtown area. Business Improvement Districts can charge in a variety of ways and this particular one for maintenance is on a front linear foot basis. We anticipate a district will overlay the West Haymarket area. The problem in initiating a district is that three different votes have to go before the City Council. The first one to form the BID is complete. With that process, a number of people (stakeholders) must determine level of service area and needs which is in the works right now. Then there is a second vote to alert property owners in the area of a potential additional levee on their property. We do not anticipate concerns since stakeholders have been involved in the process from the beginning. Finally, there will be a final vote by the City Council to levee the dollars to pay for the maintenance of this area. We are anticipating that in the December-January timeframe this series of events will have occurred such that the BID will include this area. This leaves a gap between now and approximately January where no maintenance is provided. This resolution provides for a maintenance agreement between the JPA and the Downtown Lincoln Association (DLA) to provide maintenance during that gap.

Terry Uland, Downtown Lincoln Association, explained that they are a 24/7 operation. Currently there is one maintenance bid and two management bids in the downtown district. The maintenance bid takes care of the public right-of-way and the management bids cover specifically a Chamber of Commerce for downtown. The City shares the expenses on the maintenance bid as DLA takes care of the right-of-way and other items the City would have to take care of otherwise. They have 66 block faces currently that they maintain. The interim gap expansion proposed is only on the maintenance side.

George Pinkerton, Downtown Lincoln Association, detailed that they currently take care of everything in the public right-of-way (litter, garbage, sand, gravel, and emptying of trashcans on a daily basis). They also assist with special events, such as the Farmer's Market. They take care of all horticultural beds (irrigation, trees, shrubs, and other plantings). In the winter, they move snow off the handicap ramps and keep the crosswalks clear. In the case of any damage to trees due to storms, they take care of that as well. They are responsible for graffiti removal on a weekly basis. Their recycling program was started a few years ago and has been successful with about 35% of garbage kept out of the landfill. As stated previously they are a 24/7 operation so they are called out regularly.

Clare thanked the DLA for their efforts in keeping the downtown beautiful.

Emery asked if the interim rate is in line with what the final rates would be if the district were approved. Marvin confirmed that was true as they are applying the current standard rate for the downtown area. We are also including some coverage in the double roundabout.

Kinsey asked where the DLA gets their money and where they are housed. Uland responded that administration is housed at 206 South 13th in the Sharpe Building. The shop is at 244 South 19th, which is now Antelope Parkway. The BID is thirty-five years old and is renewed periodically. Half of the money comes from the assessment on the parcel owned by the property owner and the other half is from the City. For the maintenance bid, the cost is approximately \$6 per lineal feet of the parcel. So, the City would pay approximately half that amount. The City does not contribute to the management bids. The maintenance bid is the only one proposed to be extended during this interim period, and they have

mirrored the rates and services proposed for the Haymarket area. The boundaries currently extend approximately from 17th to under the viaduct at 7th Street and from approximately “R” to “K” Streets.

Kinsey asked about payments within the interim agreement. Marvin explained there will be a monthly cost paid by the JPA until the BID is established. Once the BID is established, it picks up the cost for the maintenance in the Haymarket area. The interim agreement is anticipated to be about three months long and will be terminated once the BID is established and taxes are levied to pay for the BID.

Emery moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

Item 8 -- WH 13-78 Resolution to approve Amendment to Pinnacle Bank Arena Private Suite Use Agreement between the West Haymarket Joint Public Agency and the Journal Star Printing Company to establish the value of trade credits for advertising and promotion of events.

Beutler announced this item was pulled from today’s agenda.

Item 9 -- WH 13-79 Resolution to approve the Contract Agreement between the West Haymarket Joint Public Agency and Olsson Associates to provide West Haymarket Parking Decks 2 and 3 special inspections.

Paula Yancey, P.C. Sports, explained this resolution is to approve a special inspections contract with Olsson Associates for Decks 2 and 3 construction materials testing services. This was bid through the City Purchasing Office. There were three responses received. After reviewing the two lowest responses and comparing their test rates versus standard number of tests, Olsson Associates was the low bidder. Olsson also did the inspections on Deck 1 and did a quite a great job. The amount of this contract is for \$60,629.

Emery moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

Item 10 -- WH 13-80 Amendment No. 9 to the Agreement for Environmental Remediation Consulting Services between Alfred Benesch & Company and the West Haymarket Joint Public Agency to extend the contract period to 12/31/2014; install groundwater monitoring wells and monitoring groundwater for the presence of free product in the vicinity of Parking Deck 1, Canopy Lots and Hyatt Place under existing Task 8; prepare a final remedial action completion report for the West Haymarket Redevelopment Site North (WHRSN) under existing Task 9; and to provide sampling and remediation oversight and reporting for the former Alter North Property and JayLynn Property under new Task 28, for an additional amount of \$107,677.46.

Miki Esposito, Director of Public Works & Utilities, and Frank Uhlarik, Environmental Compliance Administrator in Public Works & Utilities, provided background on this resolution. Esposito talked about the monitoring component relative to this amendment. This is a \$21,000 effort. We are monitoring a small amount of diesel free product discovered during the investigation and verification sampling. Free product is product in its natural form – it has not been broken down. Small pockets were found in three areas 15-20’ below ground on the groundwater. This has no significant impact on the arena opening or for what is ahead, because there is no risk to human health or the environment. This is historic railroad property and, for over 100 years, materials were deposited in the soil and groundwater. When we began construction in the area, doing things like installing utilities and auger case pilings, we started moving things around. There was a lot of stability on the site and we started dislodging things from soil that ended up in groundwater. The NDEQ rules are that when you find even

little minuscule amounts of free product you have to go in and monitor these detects, which we are proposing to do. Their general rule is that, when you remove the risk associated with any contamination through excavation (as we did on the big dig), through a 3' soil cap (as we put in place), through prohibition of groundwater use, and prohibition on basements in the area to remove vapor risks, you have eliminated risk to anyone and can proceed with development. This is exactly what we have done under NDEQ rules. It is a risk free rule. NDEQ has taken a stance that, for the integrity of the groundwater, they want the detects monitored regardless of size. If we find nothing after monitoring for four consecutive periods (quarterly samples), we close it out. If additional detects are found, we come in – probably on a Sunday -- with a vac truck and suck it out of the 2.5" diameter well. It is a very passive system that most people will not even be aware is happening. It is part of our due diligence in monitoring the area and is a very unremarkable event. In developing the environmental plan, we knew we would come into some contaminated media and this is part of that expectation.

Uhlarik explained that this amendment is for a total of \$108,000. \$65,000 is for oversight of the cleanup on the Alter and Jaylynn properties. That amount is mostly reimbursable under the EPA Brownfields Grant. Another approximately \$22,000 is for final reporting on all areas north of "O" Street under the Voluntary Cleanup Program. It will document all the soil, all the hard surface covers that were put in place, what soil was removed, and verify that the Remedial Action Plan (put in place in 2012 and approved by the DEQ) was done to their specifications. Lastly, as already mentioned, it will include the monies to install six groundwater monitoring wells and monitor the groundwater for four consecutive quarters for no free product occurrence. As a matter of perspective, in the 1980's BNSF was initially detecting and investigating their free product plume of the groundwater, which covered an area of five acres approaching the Post Office. They were literally sitting on a sea of diesel fuel. They pumped on that for 20 years to the size of the footprint of the big dig executed in 2011. They have vastly addressed the majority of petroleum impacts in that area. Additional soils have been removed and disposed of correctly throughout the core area and utility work if contamination was found. It is not surprising that we may still find small pockets to address. It is predictable and understandable and accounted for in the budget and in the approach to the site.

Beutler asked if this product attenuates naturally over time as well. Esposito confirmed that was true and it has done so for the most part. Uhlarik stated this was not an exact science as there is a lot of variability in the ground and groundwater and pockets can be found in other locations as one is cleaned up.

Regarding the monitoring wells, Clare assumed we are coordinating and communicating with NDEQ and all appropriate environmental agencies on location and depth and the entire effort to make sure we are doing all we can to eliminate all potential issues. Uhlarik confirmed his assumption and listed the locations as one in Deck 1 (western fringe of the big dig), four wells on the north side of Canopy Lofts that will be flat at grade with access points, and one on the southeast corner of Canopy Lofts (actually in the alleyway between Hyatt Place and Canopy Lofts). The developers understand and are in agreement with our approach. Esposito added that NDEQ would actually not allow the development to occur if there were any threat. Clare relayed what he heard earlier that this was not a surprise that some follow up is to be expected in a cleanup of this magnitude, and the important issue is to follow appropriate procedures to get it cleaned up. Clare asked for a brief description of the size and view of the monitoring wells. Uhlarik explained they were going to use what is called a geoprobe. It is smaller, lightweight mobile equipment to move around and place in more wells most efficiently. It is a 2" diameter pipe that goes 15-25' depending on the elevation of the groundwater at the particular location. It will be a flat surface finished at grade with a steel plate, similar to a manhole, to give access.

Emery asked if we tend to see more pockets as we are doing development that moves the soil around and, once that slows down, there will be less. Uhlarik responded that at the surface there will be less as deeper utilities going in place cause more disturbance of soil and groundwater. Emery then asked about the budget. Uhlarik thought the budget was roughly \$7.5 million and there is roughly \$2.5 million left in budget, which is more than enough to complete anticipated remaining work. Emery summarized that what has been found is not a safety risk, this has very little impact on the budget, and is something that we knew was a possibility. Uhlarik confirmed and said that we have suggested to NDEQ that the groundwater is not migrating, that the “plume” is stable, and that there is no vapor risk. They have on occasion allowed free product to remain in place with elevated monitoring. We did not feel that was appropriate so are moving forward with the process.

Kinsey stated that Watchdogs would like to present another opinion. With due respect to those here, there are honorable people who have another opinion about this. The public was not informed that there would be monitoring for diesel plumes after the arena was built. It was up to the taxpayers to decide if this was misinformation or the lack of information was by design. 44% of the taxpayers had concerns about the arena being built at this location and this partially gives their viewpoint some validity – although not the only concern about the arena, this was one of the big concerns. She wanted to know who is saying there is no risk. She would prefer the public is not told that this is a small item, that it is the City’s opinion, and there could be more of this in the future that could lead to problems that are more serious. Some honorable, knowledge people say that is the case. Kinsey is glad to know money is left although about \$5 million has been spent if that was correct. Uhlarik responded that it is in that ballpark, but there are State reimbursements and EPA grant dollars that need to be figured in that budget.

Kinsey went on to inquire as to whom is asking for the monitoring. Uhlarik explained that the DEQ oversees the Petroleum Remediation Program, but the EPA (through the Brownfields Grants starting in 2005) has been there since day one overseeing the broader investigations under the Voluntary Cleanup Program. Anything involved with the Brownfields Grants has had them involved in reviewing and approving. That is the national EPA Region 7 in Kansas City. Kinsey asked if approval of the Brownfields Grants were approved due to this issue, to which Uhlarik responded it was unrelated to the petroleum issues at the site. There is petroleum Brownfields money and there is hazardous substance Brownfields money. We applied for the hazardous substance cleanup funding for the Alter and Jaylynn properties. There was nothing about petroleum cleanup and this generally would be ineligible for EPA monies since State funds have been spent on that property.

Kinsey wanted to know where additional funds would come from for cleanup if these were used up. Beutler stated we were speculating on things that do not exist. If an event does occur, either in environmental or other areas, it is not something we should be speculating on if not needed. He wanted to go on record that this Board has been entirely transparent on all matters relating to West Haymarket, the arena, and associated development. He believes it is less than the highest quality of civil discourse to suggest that unidentified, undisclosed sources who it is implied have some expertise or knowledge are saying that something other than complete transparency is occurring. He asked that she bring the people forward if they have some information that would be useful. Kinsey reminded him that in the “No-to-Arena Campaign” that was brought up as one of the main things. At that time the City did not deny it, they just said they would take care of it. She wanted to know who said there was no risk.

Clare wanted to clarify with Esposito that the cleanup efforts are consisting of best practices at the City level, State level and Federal level. Esposito confirmed that was correct. Clare went on to echo Beutler's comments that, if specific people have specific issues relevant to the cleanup efforts that have been conducted, bring those people forward. He does not believe it is fair to lob negative statements when we are doing everything by City's best practice and everything that the State and Federal government say is appropriate in a cleanup effort. He is pleased with what is happening. When things happen, we will address it and continue to be transparent about it.

Kinsey stated that she does not have an issue with what we are doing, but with the "plumes" being there. Esposito again stated that the State and Federal agencies are not prohibiting development simply because there is no risk to human health. Two points of further clarification. It is not true that the monitoring after the arena was built was never contemplated. The DEQ and EPA will require monitoring for a while and that will be part of our environmental covenants on the property until there are no detections. Monitoring has always been part of the NDEQ process, has been represented in the budgets, and will continue as needed. The no risk determination is actually part of the State's analysis and, if there were risks posed, we could not proceed with any development. So, the fact that they have approved our actions and ability to develop, means that there are no risks. We have eliminated them through our giant excavation effort, through soil capping, and through prohibitions on groundwater use and prohibitions on basements.

Emery said from the very beginning HWS said they believed the remediation would be \$5-7 million. He believed that was an absolute disclaimer they knew remediation would be needed. Also, regarding the budget, that figure is very close compared to meetings he was in where other educated people had various figures upwards of \$50 million.

Kinsey closed by saying that honorable people have different opinions. Particularly within a democracy, this is allowed and encouraged. She wants to present the other side and their hope is that taxpayers will not have to come up with more money in order to take care of any issues.

Emery moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

Item 11 -- WH 13-81 Resolution approving the adoption of the 2013-2014 JPA Operating Budget.

Beutler announced this item was pulled from today's agenda.

Item 12 -- Set Next Meeting Date

The next meeting date is set for Friday, September 6, 2013 at 3:00 p.m. in City Council Chambers Room 112.

Item 13 -- Motion to Adjourn

Emery made a motion to adjourn the meeting. Clare seconded the motion. The meeting adjourned at 9:57 a.m.

Prepared by: Pam Gadeken, Public Works & Utilities

West Haymarket Joint Public Agency
 Payment Register
 8/1/2013 through 8/31/2013

Vendor Number	Name	Remark	Project	Description	Do Ty	Doc Number	Amount	Payment Date	Payment Number
39781	Davis Design	Deck#3 design to 5/31/13	870206	WH Parking Garage #3 P2	OV	1469486	88,171.19	08/01/13	63604
39781	Davis Design	Deck#3 design to 6/28/13	870206	WH Parking Garage #3 P2	OV	1469488	180,175.15	08/01/13	63604
40310	Commonwealth Electric Co of the Midwe	Fiber work to 7/15/13	870951	WH ITS & Dynamic Message Signs	OV	1469491	9,450.00	08/01/13	63605
53356	Lincoln Electric System	605 N 8th St, Pk Lot Lgh	06095	W Haymarket O & M	PV	1469804	70.35	08/01/13	63615
53356	Lincoln Electric System	605 N 8th St, Pk Lot Lgh	06095	W Haymarket O & M	PV	1469805	74.07	08/01/13	63615
98079	Black Hills Energy	277 Pinnacle Arena Dr	06095	W Haymarket O & M	PV	1469806	24.88	08/01/13	63655
596877	Olsson Associates	Girder failure,6/9-7/6/13	870000	WH General Coordination	OV	1469492	14,859.72	08/01/13	63782
603927	Ontario Riley Manufacturing	#870100 Dasheboard to 6/30	870100	WH Arena	OV	1469485	162,270.00	08/01/13	63810
76881	Windstream	Billing Number 402-477-6387	06095	W Haymarket O & M	PV	1470870	97.51	08/07/13	498882
77921	County/City Property Management	CITY CONTROLLER-JPA	06095	W Haymarket O & M	PV	1470871	62.09	08/07/13	498883
98642	Information Services	06/13 Data Processing	06095	W Haymarket O & M	PV	1470872	165.94	08/07/13	498884
604075	JACOR Contracting	Bridge girder injection	870201	WH HymktPkLot,FestSp&PedGrdStr	PV	1470589	13,943.62	08/07/13	498885
604079	SolutionOne	025-0682951-000	870100	WH Arena	PV	1470596	255.43	08/07/13	498886
38391	Lincoln Journal Star	Cust 60016059	870100	WH Arena	PV	1470592	15.83	08/08/13	63838
38391	Lincoln Journal Star	Cust 60016059	870100	WH Arena	PV	1470593	16.96	08/08/13	63838
53356	Lincoln Electric System	200 N 7th,6/25-7/23/13	870305	WH Core Area Roadway & Utility	PV	1470583	223.54	08/08/13	63850
249308	DLR Group Inc	June,2013 Arena work	870100	WH Arena	OV	1470558	112,500.00	08/08/13	63902
249308	DLR Group Inc	June,2013 Furn Interior wrk	870100	WH Arena	OV	1470560	14,972.00	08/08/13	63902
249308	DLR Group Inc	June,2013 Garage work	870203	WH Arena Parking Garage	OV	1470561	16,207.44	08/08/13	63902
249308	DLR Group Inc	June,2013 Ramp,Plaza work	870100	WH Arena	OV	1470564	656.48	08/08/13	63902
249308	DLR Group Inc	June,2013 Specialty Consult	870100	WH Arena	OV	1470582	11,229.90	08/08/13	63902
320143	Hawkins Construction	#870201,Impr work 6/13-7/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1470552	106,827.54	08/08/13	63907
591846	Marvin Investment Management Co	Program Admin 4/16/13-7/15/13	06095	W Haymarket O & M	PV	1470873	12,000.00	08/08/13	63929
26606	CED - White Electric	Account 43-37110	06095	W Haymarket O & M	PV	1472693	56.09	08/14/13	499315
82368	State of Nebraska	June,2013 monitoring #0637	870602	WH Voluntary Clean-up Program	PV	1471859	4,688.70	08/14/13	499316
125330	NECO Inc	Jul-Sep 13 Alarm Services	06095	W Haymarket O & M	PV	1472696	102.60	08/14/13	499317
131481	Public Works Business Office	City Staff	06095	W Haymarket O & M	PV	1472697	145.93	08/14/13	499318
36863	General Excavating	Conduit Sys work,6/9-7/25	870951	WH ITS & Dynamic Message Signs	OV	1472742	5,860.86	08/15/13	63983
40310	Commonwealth Electric Co of the Midwe	Cust 23845,July Sign work	870951	WH ITS & Dynamic Message Signs	OV	1472735	61,348.86	08/15/13	63992
53356	Lincoln Electric System	277 Pinnacle Arena Drive	06095	W Haymarket O & M	PV	1472694	633.94	08/15/13	63999
83037	AmSan LLC	Account 493701 Order 6852186	06095	W Haymarket O & M	PV	1472695	30.73	08/15/13	64028
320143	Hawkins Construction	Roadway work,7/7-7/20/13	870305	WH Core Area Roadway & Utility	OV	1472748	170,632.01	08/15/13	64094
320143	Hawkins Construction	Canopy work to 7/31/13	870402	WH Canopy Phase II	OV	1472768	212,089.01	08/15/13	64094
320143	Hawkins Construction	#870201,Public space work	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1473096	356,910.89	08/15/13	64094
593485	Thought District Inc	Website Management 07/2013	06095	W Haymarket O & M	PV	1472698	2,000.00	08/15/13	64130
596877	Olsson Associates	Investigate girder,5/5-6/8	870000	WH General Coordination	OV	1472730	87,258.04	08/15/13	64143
598263	PC Sports LLC	July,2013 Program Mgmt	870000	WH General Coordination	OV	1471858	68,050.00	08/15/13	64147
598263	PC Sports LLC	July,2013 Arena Mgmt	870100	WH Arena	OV	1471858	30,450.00	08/15/13	64147
598263	PC Sports LLC	July,2013 Add #2	870001	WH General Coordination P2	OV	1471858	10,000.00	08/15/13	64147
602342	Dimensional Innovations	Bridge design work to 7/31	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1472764	206,508.95	08/15/13	64155
602474	Baring Industries Inc	#111197,Food service equip	870100	WH Arena	OV	1471849	344,900.00	08/15/13	64156
74405	City of Lincoln - Building & Safety	117 S 6th change to 555 R	870202	WH Parking Garage #1	PV	1472707	50.00	08/21/13	499731
76881	Windstream	402-435-1197, 7/25-8/24/13	870202	WH Parking Garage #1	PV	1472722	1,039.67	08/21/13	499732
77921	County/City Property Management	July 2013 Amtrak Station	06095	W Haymarket O & M	PV	1474584	467.80	08/21/13	499733
92718	Valmont Industries		870951	WH ITS & Dynamic Message Signs	PV	1473986	13,471.00	08/21/13	499734
92718	Valmont Industries		870951	WH ITS & Dynamic Message Signs	PV	1473986	10,755.00	08/21/13	499734
97885	Copy Services	Customer 595381	06095	W Haymarket O & M	PV	1474585	18.94	08/21/13	499735
102154	Public Building Commission	Finance- Mark L 08/13	06095	W Haymarket O & M	PV	1474586	52.24	08/21/13	499736
102154	Public Building Commission	Finance- Mark L 08/13	06095	W Haymarket O & M	PV	1474586	204.62	08/21/13	499736
137816	CH Ltd	Elect service,6/24-7/23/13	870100	WH Arena	PV	1474005	306.53	08/21/13	499737
137816	CH Ltd	100 N 8th,Ste 200,1/1/13-10/31	870100	WH Arena	PV	1474006	2,865.00	08/21/13	499737
38391	Lincoln Journal Star	Cust 60016059,Bid 13 248	870205	WH Parking Garage #2 P2	PV	1474007	7.35	08/22/13	64191
38391	Lincoln Journal Star	Cust 60016059,Bid 13 248	870206	WH Parking Garage #3 P2	PV	1474007	7.35	08/22/13	64191

West Haymarket Joint Public Agency
 Payment Register
 8/1/2013 through 8/31/2013

Vendor Number	Name	Remark	Project	Description	Do Ty	Doc Number	Amount	Payment Date	Payment Number
53356	Lincoln Electric System	525 N St, 7/2-7/31/13	870305	WH Core Area Roadway & Utility	PV	1474003	182.18	08/22/13	64199
53356	Lincoln Electric System	601 N St,2, 7/2-7/31/13	870305	WH Core Area Roadway & Utility	PV	1474004	125.78	08/22/13	64199
596608	M A Mortenson Company	July,2013 Arena work	870100	WH Arena	OV	1474002	5,983,630.00	08/22/13	64291
98415	Lincoln Water System	277 Pinnacle Arena Dr	06095	W Haymarket O & M	PV	1476155	95.42	08/28/13	500263
107001	Schelde North America LLC	WH441,Basketball goals	870100	WH Arena	PV	1475019	38,676.00	08/28/13	500264
120272	City of Lincoln - Accounting Dept	Reimb Sal/Ben 6/6/13-8/14/13	06095	W Haymarket O & M	PV	1476157	74,248.25	08/28/13	500265
169359	TMCO Inc	WH448,Suite tables	870100	WH Arena	PV	1475022	45,688.65	08/28/13	500266
604227	Radiant Systems Inc	WH442,Misc. Hardware	870100	WH Arena	OV	1475039	176,264.74	08/28/13	500267
604227	Radiant Systems Inc	6/7-6/29 Site visit	870100	WH Arena	OV	1475041	1,936.40	08/28/13	500267
604227	Radiant Systems Inc	6/21 Site visit	870100	WH Arena	OV	1475043	736.65	08/28/13	500267
604227	Radiant Systems Inc	6/16-6/25 site visit	870100	WH Arena	OV	1475044	1,074.81	08/28/13	500267
604227	Radiant Systems Inc	7/7-7/10 live day support	870100	WH Arena	OV	1475045	2,458.60	08/28/13	500267
604227	Radiant Systems Inc	Site installations	870100	WH Arena	OV	1475046	11,371.10	08/28/13	500267
604227	Radiant Systems Inc	5/1 site visit	870100	WH Arena	OV	1475047	9.25	08/28/13	500267
604227	Radiant Systems Inc	7/7-7/10/13 site visit	870100	WH Arena	OV	1475048	855.11	08/28/13	500267
604227	Radiant Systems Inc	4/26-4/29 site visit	870100	WH Arena	OV	1475049	677.70	08/28/13	500267
604228	Robbins Inc	WH440,Basketball floor	870100	WH Arena	PV	1475016	107,159.68	08/28/13	500268
39781	Davis Design	Deck #3 work to 7/31/13	870206	WH Parking Garage #3 P2	OV	1476327	30,667.92	08/29/13	64339
41507	Sampson Construction	Streetscape work to 7/31/13	870307	WH Streetscape	OV	1475061	175,449.00	08/29/13	64342
196867	Terracon Consultants Inc	Inspections to 6/29/13	870100	WH Arena	OV	1475050	57,130.38	08/29/13	64409
320143	Hawkins Construction	7/28-8/10/13 Public spaces	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1475051	297,675.87	08/29/13	64420
320143	Hawkins Construction	7/21-8/3/13 Core Improvs	870305	WH Core Area Roadway & Utility	OV	1475052	121,366.70	08/29/13	64420
596877	Olsson Associates	Design work,6/9-7/6/13	870307	WH Streetscape	OV	1475067	840.00	08/29/13	64459
596877	Olsson Associates	Design work,6/9-7/6/13	870000	WH General Coordination	OV	1475067	16,852.20	08/29/13	64459
596877	Olsson Associates	Design work,6/9-7/6/13	870951	WH ITS & Dynamic Message Signs	OV	1475067	2,196.31	08/29/13	64459
596877	Olsson Associates	Design work,6/9-7/6/13	870202	WH Parking Garage #1	OV	1475067	284.03	08/29/13	64459
596877	Olsson Associates	Design work,6/9-7/6/13	870305	WH Core Area Roadway & Utility	OV	1475067	76,884.83	08/29/13	64459
596877	Olsson Associates	Design work,6/9-7/6/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1475067	45,800.58	08/29/13	64459
602078	Hausmann-Dunn, a Joint Venture	Deck 1 work to 7/31/13	870202	WH Parking Garage #1	OV	1476323	1,207,753.00	08/29/13	64466
Grand total							10,813,272.89		

West Haymarket Joint Public Agency
 Public Works Engineering Costs
 8/1/2013 through 8/31/2013

Description	Fund	Project	Description	Do Ty	Document Number	Object	Sub	Amount	G/L Date
Design Engineering	00951	870000	WH General Coordination	EU	372028	6153	130	738.34	08/08/13
Design Engineering	00951	870305	WH Core Area Roadway & Utility	EU	372028	6153	130	301.45	08/08/13
Design Engineering	00951	870000	WH General Coordination	EU	373178	6153	130	361.75	08/22/13
Design Engineering	00951	870201	WH HymktPkLot, FestSp&PedGrdStr	EU	373178	6153	130	180.86	08/22/13
Design Engineering	00951	870305	WH Core Area Roadway & Utility	EU	373178	6153	130	120.59	08/22/13
Grand total								1,702.99	

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Job Cost Report
 As of August 31, 2013

		Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal

00951	West Haymarket Capital Proj						
70090	West Haymarket Park						
	870000 WH General Coordination	6,674,522	6,210,724	355,876	107,922		107,922

70090	West Haymarket Park	6,674,522	6,210,724	355,876	107,922		107,922
70091	Arena						
	870100 WH Arena	178,079,903	172,225,828	9,521,947	3,667,872-		3,667,872-
	870101 WH Arena Contingency	6,643,925			6,643,925		6,643,925
	870203 WH Arena Parking Garage	726,438	693,379	32,415	644		644

70091	Arena	185,450,266	172,919,207	9,554,362	2,976,697		2,976,697
70092	Parking						
	870201 WH HymktPkLot, FestSp&PedGrdStr	14,983,049	10,462,402	4,640,409	119,762-		119,762-
	870202 WH Parking Garage #1	14,234,442	13,321,209	701,612	211,621		211,621
	870204 WH Parking Garage #2	207,036	203,219	3,817			

70092	Parking	29,424,527	23,986,830	5,345,838	91,859		91,859
70093	Roads						
	870301 WH Charleston Bridge/Roadway	258,985	252,015		6,970		6,970
	870302 WH "M"&"N" St, 7th to 10th St	3,432,807	3,436,497	962	4,652-		4,652-
	870303 WH USPS Parking Lot Reconstctn	698,178	696,054		2,124		2,124
	870304 WH 10th & Salt Creek Road Impr	3,444,647	3,436,721		7,926		7,926
	870305 WH Core Area Roadway & Utility	15,914,406	12,718,036	2,442,978	753,392		753,392
	870306 WH Traffic Analysis	78,170	72,352		5,818		5,818
	870307 WH Streetscape	425,638	716,957	1,379,696	1,671,015-		1,671,015-
	870308 WH Sun Valley Blvd & West "O"	29,370	23,682	5,689	1-		1-

70093	Roads	24,282,201	21,352,314	3,829,325	899,438-		899,438-

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Job Cost Report
 As of August 31, 2013

		Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal

00951	West Haymarket Capital Proj						
70094	Pedestrian Ways						
	870401 WH Plaza						
	870402 WH Canopy Phase II	1,424,060	1,154,893	186,511	82,656		82,656

70094	Pedestrian Ways	1,424,060	1,154,893	186,511	82,656		82,656

70095	Utilities						
	870501 WH Sanitary Sewer Relocation	1,492,905	1,492,905				
	870502 WH Fiber Optic Comm & Other	506,035	506,035				

70095	Utilities	1,998,940	1,998,940				

70096	Environmental						
	870601 WH NDEQ T-200	2,413,851	1,599,461	4,942	809,448		809,448
	870602 WH Voluntary Clean-up Program	1,157,029	1,051,012	205,078	99,061-		99,061-
	870603 WH Environmental Contngy Pln	2,315,878	1,309,930	36,522	969,426		969,426
	870604 WH Other/Miscellaneous	926,292	684,287	5,130	236,875		236,875
	870605 WH Canopy Phase I-Lead Abatemt						

70096	Environmental	6,813,050	4,644,690	251,672	1,916,688		1,916,688

70097	Dirt Moving						
	870701 WH Stmwtr Mtgtn-Sth&WstOf BNSF						
	870703 WH Initial Haymarket Site Prep	6,063,449	6,087,617	8,314	32,482-		32,482-
	870704 WH Other Stormwater Mitigation						

70097	Dirt Moving	6,063,449	6,087,617	8,314	32,482-		32,482-

70098	TIF Improvements						
	870800 WH TIF Improvements						

70098	TIF Improvements						

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Job Cost Report
 As of August 31, 2013

		Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal

70099	Site Purchase						
	870901 WH BNSF Land Acquisition	1,060,419	1,060,419				
	870902 WH Alter Site Purchase	4,846,286	4,544,985		301,301		301,301
	870903 WH Jaylynn Site Purchase	1,700,176	1,700,218		42-		42-
	870904 WH UP Site Purchase	1,326,248	1,326,248				
	870905 WH BNSF Const, Rehab, Reloc	47,695,867	47,671,699		24,168		24,168
	870906 WH Amtrak Station	2,367,186	2,369,425		2,239-		2,239-
	870907 WH UP Track Mod West of Bridge	1,225,232	1,225,232				
	870908 WH Other Private Prop Acqstns	2,264,241	2,214,347		49,894		49,894

70099	Site Purchase	62,485,655	62,112,573		373,082		373,082

70100	Other Costs						
	870951 WH ITS & Dynamic Message Signs	1,826,827	572,484	452,849	801,494		801,494
	870952 WH Community Space & Civic Art	1,500,000	370,115	13,670	1,116,215		1,116,215

70100	Other Costs	3,326,827	942,599	466,519	1,917,709		1,917,709

70105	Bond Related Costs						
	870975 WH Miscellaneous	528,317			528,317		528,317
	870976 WH Line of Credit	53,227	53,227				
	870977 WH Series 1 JPA Debt	1,535,168	1,535,168				
	870978 WH Series 2 JPA Debt	1,221,802	1,221,802				
	870979 WH Series 3 JPA Debt	577,661	577,661				
	870980 WH Series 4 JPA Debt	1,243,825	1,243,825				

70105	Bond Related Costs	5,160,000	4,631,683		528,317		528,317

00951	West Haymarket Capital Proj	333,103,497	306,042,070	19,998,417	7,063,010		7,063,010

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Job Cost Report-Phase II
 As of August 31, 2013

		Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal

00951	West Haymarket Capital Proj						
70090	West Haymarket Park						
	870001 WH General Coordination P2	360,000	70,000	290,000			

70090	West Haymarket Park	360,000	70,000	290,000			

70092	Parking						
	870205 WH Parking Garage #2 P2	12,365,000	7	680,984	11,684,009		11,684,009
	870206 WH Parking Garage #3 P2	14,570,000	345,024	421,689	13,803,287		13,803,287

70092	Parking	26,935,000	345,031	1,102,673	25,487,296		25,487,296

70105	Bond Related Costs						
	870981 WH Series 5 JPA Debt P2	422,598			422,598		422,598

70105	Bond Related Costs	422,598			422,598		422,598

00951	West Haymarket Capital Proj	27,717,598	415,031	1,392,673	25,909,894		25,909,894

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Operating Expenditure Report
 As of August 31, 2013

	ORIGINAL BUDGET	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE
00950 West Haymarket Revenue					
06095 W Haymarket O & M					
11 Materials & Supplies					
5221 Office Supplies	250		250	92	158
5261 Postage	2,000		2,000	965	1,035
5323 Bldg Maint Supplies	560		560	311	249
11 Materials & Supplies	2,810		2,810	1,368	1,442
12 Other Services & Charges					
5621 Misc Contractual Services	454,945		454,945	420,572	34,373
5624 Auditing Service	15,500		15,500	16,543	1,043-
5631 Data Processing Service	6,992		6,992	1,991	5,001
5633 Software	1,100		1,100		1,100
5643 Management Services	53,000		53,000	44,000	9,000
5683.04 Snow Removal				2,014	2,014-
5683.05 Fire Alarm Monitor	500		500	410	90
5762 Photocopying	500		500	372	128
5763 Printing	500		500	241	259
5794 Public Officials	27,000		27,000		27,000
5821 Electricity - Bldg & Grnds	4,000		4,000	6,145	2,145-
5825 Natural Gas				1,831	1,831-
5829 Telephone	1,200		1,200	1,129	71
5830 Water	6,000		6,000	626	5,374
5856 City Share Linc Center Main				1,087	1,087-
5862 Grounds Maintenance				2,367	2,367-
5870 Other Bldg Maintenance	4,000		4,000	5,342	1,342-
5928 Rent of Co/City Bldg Space	2,456		2,456	2,455	1
5931 Parking Rent Bldg Comm	627		627	627	
5952 Advertising/Media Serv	2,850		2,850	1,174	1,676
5993 Fees Paid to State of NE				20	20-
12 Other Services & Charges	581,170		581,170	508,946	72,224
06095 W Haymarket O & M	583,980		583,980	510,314	73,666

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Operating Expenditure Report
 As of August 31, 2013

	ORIGINAL BUDGET	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE
00950 West Haymarket Revenue					
195011 JPA 2010A Debt Servic					
15 Debt Service					
6233 Bd Trustee Pmt-Serv Chg	524		524	524	
6235 Bd Trustee Pmt-Interest	4,651,510		4,651,510	4,651,508	2
15 Debt Service	4,652,034		4,652,034	4,652,032	2
195011 JPA 2010A Debt Servic	4,652,034		4,652,034	4,652,032	2
195021 JPA 2010B/C Debt Serv					
15 Debt Service					
6233 Bd Trustee Pmt-Serv Chg	1,048		1,048	848	200
6235 Bd Trustee Pmt-Interest	5,874,322		5,874,322	5,874,321	1
15 Debt Service	5,875,370		5,875,370	5,875,169	201
195021 JPA 2010B/C Debt Serv	5,875,370		5,875,370	5,875,169	201
195031 JPA 2011 Debt Service					
15 Debt Service					
6233 Bd Trustee Pmt-Serv Chg	424		424		424
6235 Bd Trustee Pmt-Interest	4,591,688		4,591,688	4,591,685	3
15 Debt Service	4,592,112		4,592,112	4,591,685	427
195031 JPA 2011 Debt Service	4,592,112		4,592,112	4,591,685	427
00950 West Haymarket Revenue	15,703,496		15,703,496	15,629,200	74,296

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public
2 Agency:

3 That the attached Change Order No. 2 to the Consultant Agreement for Professional
4 Marketing Services between the West Haymarket Joint Public Agency and Legends Sales and
5 Marketing LLC to adjust the contract sum to reflect the final reconciliation of the contract
6 amount, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency
7 Board of Representatives is hereby authorized to execute said Change Order No. 2 on behalf of the
8 West Haymarket Joint Public Agency. This Change Order reduces the original contract sum from
9 \$1,138,918.00 to \$808,017.16 (a decrease of \$330,900.84).

10 The City Clerk is directed to return one fully executed copy of Change Order No. 2 and a
11 copy of this Resolution to Rick Peo, Chief Assistant City Attorney, for transmittal to Legends Sales
12 and Marketing LLC.

13 Adopted this _____ day of _____, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Eugene Carroll

West Haymarket Joint Public Agency

CONTRACT AMENDMENT / CHANGE ORDER							
PROJECT: Pinnacle Bank Arena Sponsorships	CHANGE ORDER NO.: <u>Two (2)</u>						
PROJECT ID #: 870100	CHANGE ORDER DATE: <u>August 15, 2013</u>						
CONTRACTOR: Legends (formerly CSL Marketing) 7200 Bishop Road, Suite 220 Plano, TX 75024	CONTRACT DATE: <u>October 19, 2010</u>						
<p>You are directed to make the following changes to the contract:</p> <table style="width: 100%; margin-top: 20px;"> <tr> <td style="text-align: center;">Final Reconciliation of Contract Amount</td> <td style="text-align: right;">(\$330,900.84)</td> </tr> <tr> <td colspan="2" style="height: 100px;"> </td> </tr> <tr> <td style="text-align: right; font-weight: bold;">Total</td> <td style="text-align: right; font-weight: bold;">(\$330,900.84)</td> </tr> </table>		Final Reconciliation of Contract Amount	(\$330,900.84)			Total	(\$330,900.84)
Final Reconciliation of Contract Amount	(\$330,900.84)						
Total	(\$330,900.84)						
The Original Contract Sum:	\$ 1,523,918.00						
Net Change by Previously Authorized Change Order:	\$ (385,000.00)						
The Contract Sum prior to this Change Order:	\$ 1,138,918.00						
The Contract Sum will be (increased)(decreased)(unchanged):	\$ (330,900.84)						
The New Contract Sum including this Change Order:	\$ 808,017.16						
The Contract Time will be (increased)(decreased)(unchanged):	0 days						

Reviewed / Approved:

Paula Hancey
PC Sports
Date: 8/15/13

Cliff
Legends
Date: 8/15/13

If over \$25,000 and under \$99,999.99

Mayor Beutler
Date: _____

If over \$100,000

JPA Approval
Date: _____

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public
2 Agency:

3 That the attached Contract Agreement between the West Haymarket Joint Public Agency
4 and General Excavating, Inc. to remediate portions of the former JayLynn and Alter Properties
5 near 6th and N Streets consisting of soil and debris excavation, off-site disposal of contaminated
6 soils and debris, backfilling of the JayLynn excavation to design grade, and removal of
7 construction/safety fencing, stormwater and erosion control materials and de-watering equipment
8 from the site, pursuant to Bid No. 13-278, is hereby approved and the Chairperson of the West
9 Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said
10 Contract Agreement on behalf of the West Haymarket Joint Public Agency.

11 The City Clerk is directed to return a copy of this Resolution and the Contract Agreement
12 to Rick Peo, Chief Assistant City Attorney for transmittal to General Excavating.

13 Adopted this ____ day of _____, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Doug Emery

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)

CONTRACT AGREEMENT

Bid No. 13-278

THIS JPA CONTRACT AGREEMENT ("Contract") is made and entered into as of the ____ day of _____, 2013, by and between **GENERAL EXCAVATING, INC.**, hereinafter called Contractor, and the **WEST HAYMARKET JOINT PUBLIC AGENCY**, hereinafter called JPA.

RECITALS

WHEREAS, JPA has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published a Notice to Bidders advertisement for and in connection with said Work, to wit:

N Street North Brownfields Remediation Project –
Jaylynn and Alter Sites
VCP # RAP 36-336-4943

WHEREAS, the Contractor, in response to such advertisement, has submitted to the JPA, in the manner and at the time specified, a sealed Bid in accordance with the terms of said advertisement.

WHEREAS, JPA, in the manner prescribed by law, has publicly advertised, opened, examined, and canvassed the Bids submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest and best bidder for the said Work for the sum of Four Hundred Seventy Thousand Two Hundred Fifty-Seven and 10/100ths Dollars (\$470,257.10). Copies of the Bid Opportunity Detail; Notice to Bidders; Instructions to Bidders; Special Provisions to the City of Lincoln Standard Specifications; Addendums 1 and 2; and the Supplier Response (collectively "Bid Documents") are attached hereto as Exhibit A.

WHEREAS, Contractor understands and acknowledges that American Recovery and Reinvestment Act (ARRA) tax-favored bonds will fund all or a portion of the Work and therefore this Contract is subject to the Davis-Bacon Act; and that the Contractor is required to comply with the Contract clauses in 29 C.F.R. §5.5(a) which are made part of this Contract.

WHEREAS, Contractor understands and acknowledges that the Contractor is required to pay Davis-Bacon Act prevailing wages in accordance with Heavy Construction General Wage Decision NE130050 dated 03/29/2013 ("NE50 Wage Decision").

Approved by Law
9-10-13

WHEREAS, the NE50 Wage Decision is hereinafter referred to as the "Effective Wage Decision."

WHEREAS, the use of the term "Contracting Officer" in 29 C.F.R. parts 1, 3 and 5 shall be deemed to refer to the JPA.

WHEREAS, Contractor possesses certain skills, experience, education and competency to perform the Work on behalf of the JPA and the JPA desires to engage Contractor for such services on the terms and conditions provided herein.

WHEREAS, Contractor is willing and able to perform the Work in accordance with this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties contained herein and incorporating all of the above Recitals into this Contract as if fully set forth herein, the Contractor and JPA have agreed and hereby agree as follows:

PERFORMANCE OF WORK - The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete Work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute, construct, and complete all Work included in and covered by JPA's official award of this Contract to the Contractor, such award being based on the acceptance by JPA of the Contractor's Bid as set forth in Exhibit A.

CHANGE IN SCOPE OF SERVICES. If an additive or subtractive change in scope is encountered on the site or requested by the JPA, a detailed Proposed Change Order request is to be provided by the Contractor. This must include a breakout of the estimated labor, materials, tools, and equipment required to complete the actual work. The maximum markup for all other items not associated with the work shall be ten percent (10%). This is to include all onsite and offsite overhead, all general conditions, profit, and any other costs not associated with the actual performance of the work.

COMPENSATION - JPA agrees to pay to the Contractor for the performance of the Work embraced in this Contract, and the Contractor agrees to accept as full compensation therefore, the sums and prices for all Work covered by and included in the Contractor's Bid awarded by the JPA to the Contractor award, payment thereof to be made in the manner provided in Article VIII of the City of Lincoln Standard Specifications for Municipal Construction (2011 Edition).

COMPLETION DATE - The Contractor agrees that the Work in this Contract shall begin as soon after the Notice to Proceed as is necessary for the Contractor to complete the Work within the number of calendar days allowed and prior to the stated completion date.

INDEMNIFICATION - The following Indemnification provisions are in addition to and not in lieu of the Assumption of Liability and Indemnification provision in Article VI.B. of the City of Lincoln Standard Specifications for Municipal Construction (2011 Edition).

A. **INDEMNIFICATION OF JPA.** Contractor agrees to defend, indemnify and hold harmless JPA to the same extent and under the same terms and conditions as required by the Indemnification of JPA in the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts included as part of the Other Attached Contract Documents attached hereto as Exhibit D.

INSURANCE – The following insurance requirements are in lieu of the Insurance Requirements for all City Contracts found in Article X.B. of the City of Lincoln Standard Specifications for Municipal Construction (2011 Edition).

A. **JPA Insurance Requirements.** Contractor shall at all times during the term of this Agreement purchase and maintain in place insurance coverage as required by the Insurance Requirements for All West Haymarket Joint Public Agency Contracts included as part of the Other Attached Contract Documents attached hereto as Exhibit D.

DAVIS-BACON ACT – Contractor agrees to comply with the Davis-Bacon Act. Contractor further agrees to comply with contract clauses set forth in 29 C.F.R. §5.5(a) included as part of the Other Attached Contract Documents (Exhibit D) which provide in part that Contractor shall:

- On a weekly basis pay all laborers and mechanics not less than the federal prevailing wages listed in the wage determinations included in the contract;
- Submit weekly certified payroll records to the JPA; and
- Post the applicable Davis-Bacon wage determinations with the Davis Bacon poster (WH-1321) on the job site in a prominent and accessible place where they can be easily seen by the Contractor’s workers.

Contractor further agrees to pay the prevailing wages set forth in the Effective Wage Decision. Said Effective Wage Decision is included in the Other Attached Contract Documents (Exhibit D). Contractor agrees to attach the Effective Wage Decision and include and/or incorporate the 29 C.F.R. §5.5(a) contract clauses in any subcontract in connection with the Work. Contractor shall also include a clause in any subcontract that the subcontractor shall attach the Effective Wage Decision and include and/or incorporate the 29 C.F.R. §5.5(a) contract clauses in any lower tier subcontract. Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 C.F.R. §5.5(a) and payment of prevailing wages in accordance with the Effective Wage Decision.

NEB. REV. STAT. § 77-1323 CERTIFIED STATEMENT – Contractor, pursuant to the requirements of Neb. Rev. Stat. § 77-1323, has executed the Certified Statement attached hereto as part of Exhibit D certifying that all equipment to be used in performance of the Work, except that acquired since the assessment date has been assessed for the current year. Contractor understands and acknowledges that under Neb. Rev. Stat. §77-1324, any person, partnership,

limited liability company, association, or corporation falsifying any statement required by Neb. Rev. Stat. § 77-1323 shall be guilty of a Class IV misdemeanor.

CONTRACT DOCUMENTS - The Contract Documents comprise the Contract, and consist of the following, whether or not attached hereto:

1. Bid Documents (Exhibit A).
2. Exhibit B – Intentionally Omitted.
3. Exhibit C – Intentionally Omitted.
4. Other Attached Contract Documents (Exhibit D).
 - a. Commentary to Accompany Construction Bonds.
 - b. Construction Performance Bond.
 - c. Construction Payment Bond.
 - d. Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved August 2013).
 - e. Executive Order No 83319.
 - f. 29 C.F.R. § 5.5(a) Contract Provisions.
 - g. Effective Wage Decision.
 - h. Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323
5. Other Non-Attached Contract Documents.
 - a. City of Lincoln Standard Specifications for Municipal Construction (2011 Edition). References to City in the Standard Specifications shall mean JPA, references to City Project Manager shall mean PC Sports. Notwithstanding any provisions to the contrary in the Standard Specifications, Change Orders shall be approved in accordance with the JPA’s Change Order Process adopted by JPA Resolution No. WH00195.
 - b. Lincoln Standard Plans 2010.
 - c. Any executed Addenda or Change Orders.
 - d. Sales Tax Exempt Forms (to be provided upon award of the Special Purchase).
 - i. Form of Nebraska Resale or Exempt Sales Certificate.
 - ii. Form of Purchasing Agent Appointment.

Note: Any portion of this project used for providing water service, such as pipe for water mains, are not tax exempt and are subject to sales and use tax.

Note: The remainder of this project, including items exclusively used for providing fire protection, such as fire hydrants, is exempt from sales and use tax.
 - e. Requirements in 29 C.F.R. parts 1, 3 and 5.
 - f. Figures 1 through 5, Attachment A – Stormwater Pollution.
 - g. Prevention Plan for Core Area Roadway Improvements.
 - h. Attachment B – Dewatering Permit Correspondence
 - i. Attachment C – Alter North Remedial Action Plan and Jaylynn Report of Exploratory Test Pits and Interim Remedial Action.

- j. Attachment D – LLCHD Special Waste Authorization Bluff Road Landfill Only.
- k. Any other Bid Documents and/or Bid Attachments listed in the Bid Opportunity Detail not attached as part of Exhibit A or listed in the above list of other Non-Attached Contract Documents

This Contract, together with the other Contract Documents herein above mentioned, form this Contract and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and JPA hereby agree that all the terms and conditions of this Contract shall, by these presents, be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and JPA do hereby execute this Contract.

CONTRACTOR:

GENERAL EXCAVATING, INC.

By: _____
 Title: _____

JPA:

WEST HAYMARKET JOINT PUBLIC AGENCY

By: _____
 Chris Beutler, Chairperson of the West Haymarket Joint Public Agency Board of Representatives

EXHIBIT A
Bid Documents

Approved by Law
9-10-13



Return to Login • Supplier Registration

Bid Opportunity Detail

Bid Number 13-278 Addendum 2 ("N" Street North Brownfields Remediation Project, Jaylynn and Alter Sites (JPA))

Close Date & Time 9/9/2013 12:00:00 PM Central

Bid Duration 16 days 23 hours 20 minutes 4 seconds

Bid Information

Bid Type Bid
Issue Date & Time 8/23/2013 12:39:55 PM Central
Close Date & Time 9/9/2013 12:00:00 PM Central
Bid Status Unsealed
Bid Notes

Contact Information

Contact Name Vince Mejer Purchasing Agent
Address Purchasing
 440 S. 8th St.
 Lincoln, NE 68516 USA
Department Purchasing
Floor/Room Suite 200
Contact Phone 1 (402) 441-8314
Contact Fax 1 (402) 441-6513
Contact Email vmejer@lincoln.ne.gov

Bid Documents

Document	Format	Description
Invitation Document	Acrobat (PDF)	PDF Invitation to Bid
Bid Tabulation by Supplier Spreadsheet	Excel 2007 (XLS)	Bid Tabulation by Supplier Spreadsheet
Bid Tabulation by Line Item Spreadsheet	Excel 2007 (XLS)	Bid Tabulation by Line Item Spreadsheet

Bid Attachments

Location File Name	Description
Header 13-278 City Clerk.pdf (8KB)	Notice to Bidders
Header Instructions to Bidders- JPA - B 12-10.pdf (84KB)	Instructions to Bidders
Header 13-278 spe.pdf (70KB)	Special Provisions
Header 13-278 figure.pdf (1KB)	Figures 1 through 5
Header 13-278 A Core Area.pdf (4.82MB)	Attachment A - Stormwater Pollution Prevention Plan for Core Area Roadway Improvements
Header 13-278 B Dewatering.pdf (1.80MB)	Attachment B - Dewatering Permit Correspondence
Header 13-278 C Alter North RAP .pdf (1KB)	Attachment C - Alter North Remedial Action Plan and Jaylynn Report of Exploratory Test Pits and Interim Remedial Action
Header 13-278 D Special Waste.pdf (1.26MB)	Attachment D - LLCHD Special Waste Authorization Bluff Road Landfill Only
Header 29CFR.pdf (1KB)	29 C.F.R. 5.5(a) Contract Provisions
Header Ex D -WageDec-Heavy-NE50 03-29-13.pdf (61KB)	Davis Bacon Rates
Header 13-278 samp cont.pdf (75KB)	Sample Contract
Header Bond - JPA.pdf (28KB)	Bonding
Header Empl_Class_Act_EO.pdf (288KB)	Employee Classification Act, Executive Order 83319

Header	Empl_Class_Act_Aff.pdf (1KB)	Employee Classification Act Affidavit
Header	13-278 ad1.pdf (8KB)	Addendum No. 1
Header	13-278 Soil Data.pdf (1KB)	Soil Report (per Addendum No. 1)
Header	13-278 ad2.pdf (6KB)	Addendum No. 2
Header	IndemnANDInsRequirementsForAll JPAContracts-August 2013.pdf (78KB)	Insurance Requirements (per Addendum No. 2)
Line 1	13-278 N Street North Brownfields Remediation Project, Jaylynn & Alter Bid Proposal.XLS (189KB)	Itemized Pricing (per Addendum No. 1)

Event Activities

Activity Date	Title	Description
8/28/2013 3:00:00 PM CT	Pre-Bid	A pre-bid conference will be held Wednesday, August 28, 2013 at 3:00 p.m. in the Purchasing Office, 440 So. 8th St., Lower Conference room, Lincoln, NE. All interested contractors are strongly encouraged to attend.

Advertise 1 time
August 24, 2013

Purchasing Division
NOTICE TO BIDDERS

Sealed bids will be received by the Purchasing Agent of the West Haymarket JPA, Nebraska BY ELECTRONIC BID PROCESS until: 12:00 pm, Monday September 9, 2013 for the following construction project:

**West Haymarket JPA
Soil Excavation, Screening, and Stockpiling
at Jaylynn and Alter Sites
Bid No. 13-278**

A non-mandatory pre-bid conference will be held August 28, 2013, at 3:00 p.m. in the Purchasing Conference Room located at 440 South 8th, Lincoln, NE. Bidders are strongly encouraged to attend the pre-bid conference.

This construction project is being funded by a grant and as such any or all bids may be rejected if there is sound documented reason to do so.

DAVIS BACON ACT WAGE DETERMINATIONS. Contractors and subcontractors on USEPA federally assisted construction projects are required to pay their laborers and mechanics not less than those established by the U.S. Department of Labor. A current wage decision containing the appropriate building and/or heavy type rates is included in the specifications for bidding purposes.

DEBARMENT AND SUSPENSION. The prospective participants must certify by submittal of Federal Environmental Protection Agency (EPA) Form 5700-49, Certification Regarding Debarment, Suspension and Other Responsibility Matters, that to the best of its knowledge and belief that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

NONDISCRIMINATION IN EMPLOYMENT. Bidders on this Work will be required to comply with the President's Executive Order Number 11246, as amended. Requirements for Bidders and Contractors under this order are explained in the Federal and State Assurances provisions included in the project Contract Documents.

DISADVANTAGED BUSINESS ENTERPRISE (DBE). Each bidder must fully comply with the requirements, terms and conditions of the U.S. Environmental Protection Agency (USEPA), Disadvantaged Business Enterprise (DBE) requirements, including the fair share objectives for disadvantaged business participation during the performance of this contract. The bidder commits itself to the fair share objective for disadvantaged business participation contained herein and all other requirements, terms and conditions of these bid conditions by submitting a properly signed bid.

Bidders must be registered on the City/County's E-Bid site in order to respond to the above Bid. To Register go to: www.lincoln.ne.gov (type: e-bid - in search box, then click "Supplier Registration").

All communications and questions concerning this bid process shall be directed to City/County Purchasing at (402) 441-7416 or (402) 441-7417 or purchasing@lincoln.ne.gov

INSTRUCTIONS TO BIDDERS

WEST HAYMARKET JOINT PUBLIC AGENCY

E-Bid

1. BIDDING PROCEDURE

- 1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8th St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the West Haymarket Joint Public Agency, hereinafter referred to as "JPA", the materials, supplies, equipment or services shown in the electronic bid request.
- 1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields.
- 1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.
- 1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.5 Bids received after the time and date established for receiving bids will be rejected.
- 1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.
- 1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2006 shall apply.
 - 1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.
 - 1.7.2 Said document can be reviewed at Design Engineering or at the office of the Purchasing Division.
 - 1.7.3 Said document is available on the web site.
<http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm>

2. BID SECURITY

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bid bond, may be required to be submitted with this bidding document, as indicated on the bid.
 - 2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Division at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8th St., Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.
 - 2.1.2 If bid security is not received in the office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.
- 2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful Bidder(s) as follows:
 - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by JPA.
 - 2.4.2 For all other contracts: upon approval by JPA of the executed contract and bonds.
- 2.5 JPA shall have the right to retain the bid security of Bidders to whom an award is being considered until either:
 - 2.5.1 A contract has been executed and bonds have been furnished.
 - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
 - 2.5.3 All bids have been rejected.
- 2.6 Bid security will be forfeited to JPA as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this bidding document:
 - 2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided JPA, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this bidding document.

3. BIDDER'S REPRESENTATION

- 3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the bidding documents, and the bid has been made in accordance therewith.
- 3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bidding documents.

4. CLARIFICATION OF BIDDING DOCUMENTS

- 4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents.
- 4.2 Bidders desiring clarification or interpretation of the bidding documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.
- 4.3 Changes made to the bidding documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.
- 4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on JPA; and Bidders shall not rely upon such interpretations or changes.

5. ADDENDA

- 5.1 Addenda are instruments issued by JPA prior to the date for receipt of bids which modify or interpret the bidding document by addition, deletion, clarification or correction.
- 5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.
- 5.3 No formal addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

6. INDEPENDENT PRICE DETERMINATION

- 6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. ANTI-LOBBYING PROVISION

- 7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with the Mayor, any member of the City Council, or JPA Board and staff except in the course of JPA sponsored inquiries, briefings, interviews, or presentations, unless requested by JPA.

8. BRAND NAMES

- 8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of JPA that said item is equal to, or better than, the product specified.
- 8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.
- 8.4 The Bidder must indicate any variances by item number from the bidding document no matter how slight.
- 8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with JPA's bidding documents.

9. DEMONSTRATIONS/SAMPLES

- 9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from JPA.
- 9.2 Such demonstration can be at the JPA delivery location or a surrounding community.
- 9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by JPA of acceptable goods. The Bidder must indicate how samples are to be returned.

10. DELIVERY (Non-Construction)

- 10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.
- 10.2 JPA reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.
- 10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. to JPA at the location specified by JPA, with all transportation charges paid.
- 10.4 At the time of delivery, a designated JPA employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

11. WARRANTIES, GUARANTEES AND MAINTENANCE

- 11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:
 - 11.1.1 Manufacturer's warranties and/or guarantees.
 - 11.1.2 Bidder's maintenance policies and associated costs.
- 11.2 As a minimum requirement of JPA, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to JPA. Replacement parts of defective components shall be shipped at no cost to JPA. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

12. ACCEPTANCE OF MATERIAL

- 12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 12.2 Material delivered under this proposal shall remain the property of the Bidder until:
 - 12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to JPA; and
 - 12.2.2 Material is determined to be in full compliance with the bidding documents and accepted bid.
- 12.3 In the event the delivered material is found to be defective or does not conform to the bidding documents and accepted bid, JPA reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.
- 12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of JPA, as required by the bidding documents or purchase orders.
- 12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

13. BID EVALUATION AND AWARD

- 13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by JPA of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.
- 13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to JPA, and as JPA deems will best serve the requirements and interests of JPA.
- 13.5 JPA reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of JPA.
- 13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by JPA. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.
- 13.7 JPA reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the bid incomplete, indefinite or ambiguous.
- 13.8 Any governmental agency may piggyback on any contract entered into from this bid.

14. INDEMNIFICATION

- 14.1 The Bidder shall indemnify and hold harmless JPA from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless JPA for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of JPA.
- 14.2 In any and all claims against JPA or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

15. TERMS OF PAYMENT

- 15.1 Unless stated otherwise, JPA will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

16. LAWS

- 16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this bid and any contract reached as a result of this process.
- 16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

17. EQUIPMENT TAX ASSESSMENT

- 17.1 Any bid for public improvement shall comply with Nebraska Revised Statute Sections 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

18. AFFIRMATIVE ACTION

- 18.1 The City of Lincoln provides equal opportunity for all Bidders and encourages minority businesses, women's businesses and locally owned business enterprises to participate in our bidding process.

19. LIVING WAGE

- 19.1 The Bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

20. INSURANCE

- 20.1 All Bidders shall take special notice of the insurance provisions required for all JPA contracts (see *Insurance Requirements for All JPA Contracts*).

21. EXECUTION OF AGREEMENT

- 21.1 Depending on the type of service provided, one of the following methods will be employed. The method applicable to this contract will be checked below:

- a. **PURCHASE ORDER**, unless otherwise noted.
1. A copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents.
- b. **CONTRACT**, unless otherwise noted.
1. JPA will furnish copies of the Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance (as required), surety bonds properly executed (as required), and Contract signed and dated.
2. The prepared documents shall be returned to the Purchasing Office within 10 days (unless otherwise noted).
3. JPA will sign and date the Contract.
4. Upon approval and signature, the JPA will return one copy to the successful Bidder.

22. TAXES AND TAX EXEMPTION CERTIFICATE

- 22.1 JPA is generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

23. AUDIT ADVISORY BOARD

- 23.1 All parties of any JPA agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make Available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

24. E-VERIFY

- 24.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

**SPECIAL PROVISIONS
TO THE
CITY OF LINCOLN
STANDARD SPECIFICATIONS**

**SOIL EXCAVATION, SCREENING, AND STOCKPILING
JAYLYNN AND ALTER SITES
VCP # RAP 36-336-4943**

Joint Public Agency Project No. _____

These Special Provisions amend or supplement the City of Lincoln Standard Specifications for Municipal Construction, 2011 Edition (Standard Specifications) and other provisions of the Contract Documents as indicated herein. All provisions that are not so amended or supplemented remain in full force and effect

In case of a discrepancy:

1. Special Provisions shall govern over the City of Lincoln Standard Specifications for Municipal Construction.
2. The Special Provisions shall govern over the Plans.

The CONTRACTOR shall not take advantage of any apparent error or omission in the plans or specifications. Upon discovery of such an error or omission, the CONTRACTOR shall notify the Engineer immediately. The Engineer will then make such corrections or interpretations as necessary to fulfill the intent of the plans and specifications.

Materials or work described in words which, so applied, have known technical or trade meaning shall be held to refer to such recognized standards.

Figured dimensions on the plans shall be taken as correct but shall be checked by the CONTRACTOR before starting construction. Any errors, omissions, or discrepancies shall be brought to the attention of the Engineer and the Engineer's decision thereon shall be final. Correction of errors or omissions on the drawings or specifications may be made by the Engineer when such correction is necessary for the proper execution of the work.

BACKGROUND INFORMATION

As part of the West Haymarket Redevelopment project in Lincoln, Nebraska, the City of Lincoln/Joint Public Agency (JPA) is coordinating with the Nebraska Department of Environmental Quality (NDEQ) to remediate portions of the former JayLynn and Alter properties near 6th & N Streets (see Figure 1). Soil and groundwater testing, as well as test pit explorations, have documented elevated levels of petroleum hydrocarbons and polynuclear aromatic hydrocarbons (PAHs) on the former JayLynn property, including localized pockets of phase-separated product. On the former Alter property, elevated levels of metals, polychlorinated biphenyls (PCBs) and localized PAHs have been found. Contaminated soils will be excavated as described in later sections of this document, to achieve benchmarks set by the Environmental Protection Agency (EPA) and/or the Nebraska Department of Environmental Quality (NDEQ). Cleanup verification sampling will be conducted on the Alter parcel after excavation is complete (prior to backfilling by others) to document that cleanup benchmarks have been achieved. CONTRACTOR will be responsible for all soil and debris excavation and removal or stockpiling at the site as further described herein. Backfilling of the Alter parcel will be performed by others. CONTRACTOR will complete backfilling of the JayLynn parcel.

PRE-BID MEETING

A pre-bid meeting has been scheduled for _____ at _____. Representatives of the City of Lincoln, PC Sports, Benesch and Olsson Associates will be available to discuss the project and answer questions.

CONTRACT TIME

It is anticipated that notice to proceed for this project will be given on or about September 15, 2013. Substantial completion of the project shall include completion of all soil and debris excavation, off-site disposal of contaminated soils and debris, backfilling of the JayLynn excavation to design grade, and removal of construction/safety fencing, storm water and erosion control materials and dewatering equipment from the site. Some fencing and storm water and erosion control materials may be retained by the JPA to support completion of the backfilling activity at the Alter site by others. Substantial completion shall be on or before October 15, 2013.

SCHEDULE

Time is of the essence in the completion of the work and the CONTRACTOR should sequence and execute the work to minimize delays. The prospective CONTRACTOR is required to submit his/her project schedule at the time of bid submittal. The proposed project schedule may be a factor in award decision.

SEQUENCE OF WORK

Work must first be completed on the JayLynn parcel (excavation and backfilling) followed by excavation of the Alter parcel.

HOURS OF WORK

Due to the expedient nature of the project, no hours of work limitations are applied at this time.

BONDING PERIOD

The City of Lincoln General Provisions and Requirements have been amended as follows:

Proposal Requirements and Conditions

Construction Performance and Construction Payment Bonds

Within five (5) days after the acceptance of the bid, the CONTRACTOR shall furnish, on a form acceptable by the City, a construction performance and construction payment bond, in a sum not less than the Contract Sum, executed by the CONTRACTOR and a corporate surety company authorized to transact business in the State of Nebraska. Such Bond shall be conditioned upon the faithful performance of all the terms and conditions of the Contract Documents, including the holding harmless of the Joint Public Agency (JPA or "OWNER") from failure to do so, and including the making good of any and all guarantees that the Contract Documents may require. The Bond shall be further conditioned upon the payment of all laborers and material suppliers used in the performance of the Contract, including Insurance premiums and interest.

Failure to Execute the Contract

It is agreed by the Bidder that upon a failure to enter into the Contract and furnish the necessary Construction Performance and Construction Payment Bond, within five (5) calendar days, the amount of the Bidder's security may, at the discretion of the JPA, become the property of the JPA and will be retained, as damages to the JPA. The award of the Contract may then, at the discretion of the JPA, be made to the next lowest responsible bidder, or the Work may be rebid, or may be constructed by the JPA in any legal manner.

Add the following to Article VI, Section G (Compliance with Laws), in City of Lincoln Standard Specifications:

Health and Safety

The CONTRACTOR shall implement and manage a site specific Health and Safety Plan (HSP) in compliance with all requirements of the Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120/121 for activities at hazardous waste sites. The CONTRACTOR's HSP shall be submitted to the OWNER before any work at the site can be initiated, but not for review or approval.

- All CONTRACTOR Personnel working on site that are directly involved in the excavation of contaminated soils shall have received safety training commensurate with the duties they are responsible for performing in accordance with 29 CFR 1910.120/121.
- The CONTRACTOR’s HSP shall require the presence of a qualified, full-time Site Safety Officer (SSO). The SSO shall be responsible for implementing and monitoring the requirements and procedures contained in the HSP. The SSO shall not have other project related responsibilities that may compromise the SSO’s ability to be objective in carrying out the HSP.

SAFETY FENCING

In lieu of construction fencing, safety fencing shall be installed and maintained along the perimeter of the site as portrayed in Figure 2 to prohibit pedestrian and vehicular encroachment upon open excavations. Fencing shall be high visibility minimum four (4) ft. effective height installed with temporary stakes.

Maintenance

Maintain safety fencing in good condition, removing/re-installing as needed to accommodate construction activity ensuring a completely enclosed excavation at the end of each work day.

Removal

Remove fencing upon completion of the excavation and compaction work.

Installation, maintenance and removal shall be measured and paid for at the contract unit price bid per linear foot for “Safety Fencing”. This price shall be full compensation for furnishing, preparing, transporting, delivering, installing, and moving the fence for phasing and for all labor, tools, equipment and incidentals necessary to complete the installation work, maintenance and removal.

TRAFFIC CONTROL

The CONTRACTOR shall be responsible for providing the necessary traffic control devices and signs along the adjacent roadways to alert users of construction traffic and access points to the site. CONTRACTOR shall coordinate this work with the City of Lincoln Traffic Operations personnel and provide all necessary submittals for review and approval as outlined in the City of Lincoln Standard Specifications for Municipal Construction. Payment for Traffic Control including all devices, signs, equipment and submittals will be paid on a lump sum price bid “Traffic Control”. CONTRACTOR shall provide a Traffic Control Plan for JPA and Benesch review and approval prior to mobilization or placement of any traffic control devices, signs or equipment. Lane closures will not be allowed during Arena or Nebraska Football events during the period of the contract.

STATUS OF PERMITS

Add the following to Article VI, Section M. (Permits and Licenses):

The OWNER has or will arrange for provision of the following permits:

- 1) NPDES Permit
- 2) Dewatering Permit

The CONTRACTOR shall be responsible for complying with the requirements of all permits including those acquired by the OWNER.

In addition to permits acquired by OWNER, the CONTRACTOR shall acquire all other permits required by Laws or Regulations, including, without limitation, the following specific permits (if applicable):

- 1) Certificates and permits are required for uses such as, but not limited to:

- a) Fuel burning equipment
 - b) Gasoline and petroleum distillate storage containers
 - c) Land disturbing activities
 - d) Odors
- 2) All associated building demolition permits
 - 3) City, State, and County Transportation Encroachment permits
 - 4) Permit-Required Confined Space - The workplace in which the WORK is to be performed may contain permit-required confined spaces (permit spaces) as defined 29 CFR 1910.146 and, if so, permit space entry is allowed only through compliance with a confined space entry program meeting the requirements of 29 CFR 1910.146. CONTRACTOR shall submit a confined space entry program or submit in writing that compliance with the City of Lincoln's program will be made.
 - 5) Fugitive Dust Control Permit

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

The NDEQ has authorized discharge of stormwater from a broader area encompassing the site under an NPDES permit authorization number NER113154. The CONTRACTOR shall understand the terms and conditions of the general NPDES permit that authorizes the storm water discharges associated with construction at the site. Additionally, the CONTRACTOR, as evidenced by their signature on this proposal, agrees and understands that, if awarded the contract on this project, he/she:

- 1. Shall read and understand the Storm Water Pollution Prevention Plan (SWPPP) that is developed for this project. The CONTRACTOR must sign a certification form located in the SWPPP, to certify that they will follow the requirements of the NPDES permit;
- 2. Is legally bound to comply with the Clean Water Act to ensure compliance with the terms and conditions of the SWPPP as developed under the NPDES permit and the terms of the NPDES permit; and will hold OWNER harmless for damages and fines arising as a result of noncompliance with the terms of the storm water permits and authorizations associated with the work on this project;
- 4. Shall be responsible for the maintenance of sediment control materials and other measures specified in the SWPPP; Erosion control fencing (silt fence) shall be installed prior to conducting any excavation Work. The CONTRACTOR shall install silt fence ditch checks and silt fence barriers and comply with other best management practices (BMPs) as described in the SWPPP included as Attachment A. Construction entrance surfacing shall be applied as necessary to minimize sediment drag out onto adjacent roadways and shall conform to material specifications, placement, proper installation methods, and inspection and maintenance details provided in the site specific SWPPP.
- 5. Shall complete permanent or temporary stabilization within seven (7) calendar days of soil disturbance to the surface of all perimeter controls, soil and debris stockpiles, and any other disturbed or graded areas on the project site which are not being used for material storage, or on which actual earth moving activities are not being performed; and
- 6. Shall complete the approved inspection forms and inspect/maintain all sediment or erosion control materials required under this contract at least once every seven (7) calendar days and after any storm event of greater than 0.5 inches of precipitation, on the site, during any 24-hour period; any necessary repairs or cleanup to maintain the effectiveness of the best management practices shall be made by CONTRACTOR immediately.

A copy of the NPDES Permit Authorization and SWPPP is included as Attachment A.

Measurement and payment will be based on the unit rate bid prices for “Synthetic Fabric Silt Fence Installation”, “Synthetic Fabric Silt Fence Maintenance and Removal[FEUI]”, “Construction Entrance Surfacing” and “SWPPP Inspections and Documentation”.

DEWATERING

Dewatering will be required on the JayLynn parcel to facilitate removal of sub-grade structures and placement of controlled backfill. All dewatering activities associated with earthwork on this project shall be completed in such a manner to meet the discharge limitations as set forth in the NPDES General Permit for Excavation Dewatering and Hydrostatic Testing Discharges, NPDES Number NEG671000 (Area bounded by 2nd Street, Salt Creek Roadway, 8th Street and J Street, Lincoln, NE) as modified by the Nebraska Department of Environmental Quality per letter to City of Lincoln dated February 18, 2011, attached and incorporated as if fully set forth herein or the discharge limitations of the Lincoln Wastewater Department for discharge into the sanitary sewer. Note that the Dewatering permit applies only to dewatering of groundwater or mixtures of storm water with groundwater at the site. The JPA has secured the permit and the CONTRACTOR will be required to be a co-permittee on the NDEQ dewatering permit for this project.

The CONTRACTOR shall provide and maintain pumps, wells, piping and all other equipment and materials needed to conduct dewatering for the construction activity. Furthermore, the CONTRACTOR shall provide for complete containerization of all groundwater and mixtures of groundwater with storm water collected from the dewatering operations. The CONTRACTOR shall coordinate with the OWNER’s representative (Benesch) prior to startup of dewatering activities and present their schedule and their dewatering methods. Benesch will be responsible for the collection of representative samples of the water and the laboratory analysis of the dewatering effluent. Based on the laboratory results, Benesch will advise the CONTRACTOR on the acceptable disposal methods for the effluent from the dewatering operations. No effluent from the dewatering operations shall be discharged from the construction site until the laboratory testing has been completed and the proper method of disposal has been determined by Benesch. The CONTRACTOR shall allow five (5) work days to receive discharge instructions for each container tested.

The CONTRACTOR will be required to furnish Dewatering Containers on-site for temporary storage of the dewatering effluent until testing has been completed and the method of disposal determined. The on-site containers shall be a Baker Frac Tank as manufactured by Baker Corporation (1-800-225-3712, www.bakercorp.com) or an Engineer approved equal tank that will provide the required storage and settling characteristics for the stored water similar to the specified Baker Frac Tank. Each tank shall have an approximate storage volume of 20,000 gallons per tank (minimum volume of 18,900 gallons). The tanks shall also have fixed axles or other means that will allow the tanks to be moved to different locations on the site as necessary to support the various dewatering operations for the project.

The work associated with the dewatering for this project will be measured and paid for directly as shown below based upon the proposed construction activities:

<u>Construction Activity</u>	<u>Measurement and Payment</u>
Furnish Dewatering Container	Each
Dewatering Container Usage	Calendar Day

Dewatering that may be required for earthwork on the JayLynn parcel shall be measured for payment based upon providing the required container and for each calendar day the dewatering is required and the Contractor is actively engaged in completing work that requires dewatering. If it is determined that the dewatering effluent cannot be discharged directly to the City of Lincoln storm sewer and that it will need to be discharged to the sanitary sewer, then the fees required by Lincoln Wastewater Department for discharge into the sanitary sewer shall be paid directly by the JPA. The Contractor shall be paid for the work associated with containerizing the dewatering effluent and subsequent disposal to the storm sewer or sanitary sewer in accordance with the contract price bid per each for the pay item “Furnish Dewatering Container” and per calendar day that each Dewatering Container is on-site and is available to support the dewatering activities in accordance with the contract unit price bid for the item “Dewatering Container Usage”. Such payments shall be full compensation for furnishing the number of containers shown in the proposal for the duration of the dewatering activities including all labor, tools, equipment, materials and incidentals required to containerize and temporarily store the effluent until tested and to discharge the water into an adjacent storm sewer or sanitary sewer as directed by Benesch.

The CONTRACTOR shall base their bid on disposal of the dewatering effluent into the City of Lincoln existing storm sewer system or sanitary sewer system. If Benesch determines that the effluent cannot be discharged to the existing City of Lincoln storm sewer system or sanitary sewer system, then additional compensation for disposal of the effluent based upon the required method for disposal as determined by Benesch will be considered on an “Extra Work” basis. Additional payment for filtering or other devices required to maintain the discharged effluent below the maximum total suspended solids limits shown in the NDEQ General Permit NEG670000 shall not be made. The CONTRACTOR will be required to sign a Certification of Compliance to abide by the requirements of the Dewatering Permit for the Project. The “Contractor Certification of Compliance NPDES Dewatering Discharge Permit No. NEG671000” document is provided as Attachment B along with a copy of the Dewatering permit and associated NDEQ correspondence. The CONTRACTOR shall abide by all requirements included in the project Dewatering permit as supplemented by the project specific requirements outlined in the attached NDEQ correspondence.

RECOVERED PRODUCT/WASTE DISPOSAL

CONTRACTOR will be responsible for properly removing all recovered free product, residues and sludge from the dewatering system equipment. Measurement and payment for recovered product and waste removal will be based on a per gallon unit bid price for the pay item “Recovered Product/Waste Disposal” and shall include all fees for transportation and recycling/disposal of specified product/wastes and any applicable cleanout charges for tanks used to store dewatering fluids.

PROJECT COORDINATION – STATUS OF UTILITIES

The CONTRACTOR is responsible for contacting local utility providers and the local utility locating service (as applicable) to identify overhead and buried utilities at the project site. The CONTRACTOR is responsible for protecting the utilities located within and adjacent to the excavation areas, if needed, to facilitate the site excavation process. The CONTRACTOR shall repair any marked utilities damaged as a result of excavating. The CONTRACTOR shall observe all overhead utility lines and cables, taking care not to damage these utilities as a result of Work performed.

The following information is current as of August 16, 2013. The CONTRACTOR shall request a utility status update at the project pre-construction conference, and/or prior to starting work. The CONTRACTOR shall coordinate all construction activities with affected utilities. To arrange for utilities to locate and flag their underground facilities, contact The Diggers Hotline of Nebraska at 1-800-331-5666.

Utilities Known In the Project Area

Utilities are shown on Figure 2. Water and electrical lines occur along N Street. Electrical and telecom lines occur along 6th Street^[FEU2].

EXCAVATION

There are two primary areas of soil contamination to be excavated and backfilled. One – referred to as the former Alter Trading Corporation North Yard (Alter North Yard) and the second – the former JayLynn, LLC – site of a former manufactured gas plant (FMGP) operation referred to as JayLynn – both collectively referred to as “the site”. Several site investigations have been conducted at this site to delineate the extent of impacts to soil and groundwater. Selected narratives and figures of the “Alter North Parcel Investigation and Remedial Action Plan” and “Report of Exploratory Test Pit and Interim Remedial Action” are provided as Attachment C. The total volume of soil and concrete/debris to be excavated is estimated in Table 1. Areas to be excavated are shown in Figure 2. Soils that are contaminated with PCBs, heavy metals and/or PAHs will be directly loaded and transported off-site for disposal at a permitted disposal facility. At the Alter site – 8 inch thick concrete caps (reinforced with #5 rebar set on one ft. centers) covering approximately 13,500 sf will be part of the soil and debris profile to be removed. The depths of

excavation at the site are detailed on Figure 3. The OWNER’s representative (Benesch) will provide field direction on the limits of excavation and make determinations as to whether soils must be disposed of off-site or can be stockpiled and reused on site. In general, no soils or debris will be re-used from the Alter site and from three to five ft. of clean overburden from the JayLynn site will be stockpiled on site and reused in the controlled fill.

The condition of a limited amount of soils at or near the water table in the JayLynn excavation may require CONTRACTOR to mix wet soils with dry soils (or by addition of lime or fly ash) where needed to avoid hauling or disposing of material with free liquids. Soils that could be reused as backfill materials within the open excavation(s) if determined to be structurally suitable will be stockpiled separately for re-use (including primarily the approximately 3 to 5 ft. of the upper soil profile at the JayLynn excavation). All of the soil quantities are estimated and the actual volume could be more or less depending on site conditions.

The excavation boundaries are shown in Figure 2. Tentatively defined access to JayLynn is from the south along “N” Street and to Alter is from the east along 6th Street (accessed off of “N” Street). The excavation areas are as shown on Figure 2. The depth of the excavation at JayLynn is expected to be approximately 15 feet below ground surface; at Alter, the excavation is 2 feet below ground surface, although that may be increased based upon sampling results.

**Table 1
Summary of Excavated Areas**

<u>Property</u>	<u>Area</u>	<u>Dimensions</u>	<u>Estimated Total Excavated Quantity (CY)</u>	<u>Remarks</u>
JayLynn	Small Gas Holder and Retort Room	150’ x 60’ x 15’ deep	5000	Approximately 4 feet of clean soil cover to be removed/stockpiled for backfill. Brick and concrete debris at depth.
Alter North	Cells 1-21	250’ x 125’ x 2’ deep	2400	Surface 2 foot soil/debris to be removed includes 13,500 sf of 8 inch thick reinforced concrete. Additional excavating may be done based on sampling results.

CONSTRUCTION STAKING/SURVEY

Prior to excavation, CONTRACTOR shall complete initial construction staking of the proposed limits of the excavations based on coordinates provided by the OWNER and field verified by CONTRACTOR by survey. Payment for initial construction staking and survey will be paid on a lump sum price bid “Initial Construction Staking/Survey”.

SOIL AND DEBRIS EXCAVATION

The areas and depths of excavation for the Alter North and JayLynn parcels are included as Figures 2 and 3, respectively. Excavated soil and debris will be inspected by a Benesch representative on site and loaded either directly onto trucks for hauling to a permitted off-site disposal facility or stockpiled on site for future backfilling by others. If excessive moisture/contamination conditions of soils to be disposed of off-site are apparent, mixing in place with dry soil or applying amendments to accelerate drying of the soil is allowable to make the soil suitable for off-site transport and acceptance at the selected disposal facility. Concrete, brick and other debris removal is expected, particularly near the base of the excavations at the JayLynn property where the foundations of the former gas holder and retort rooms are to be removed as well as the concrete caps in place at the Alter North parcel.

Measurement and payment for the volume of soil and debris excavated will be based on pre-excavation staking/survey and post excavation survey of the completed excavations to be completed by CONTRACTOR and will be paid on a unit rate price bid “Soil and Debris Excavation”. Off-site disposal records for soil and debris may be referenced by OWNER to assist in verifying survey data.

STOCKPILING SOILS

Clean overburden soils will be stockpiled on site at location(s) near the excavation area as specified by the OWNER and Benesch. Tentative locations for stockpiling are identified on Figure 2.

SOIL AND DEBRIS DISPOSAL

The CONTRACTOR shall secure a special waste permit prior to hauling contaminated soil and/or debris to a permitted disposal facility. A current Special Waste Authorization is in place for soils/debris impacted by PCBs at less than 50 ppm and/or PAH (Attachment D) if the soils/debris are to be disposed of at the City of Lincoln's Bluff Road facility. This authorization is provided as information only and in no way reflects OWNER's choice of the permitted disposal facility to be used by CONTRACTOR. If another landfill will be used for disposal, bidder shall identify the facility, unit rates for disposal and a listing of applicable permits/authorizations for the facility demonstrating its ability to accept the material in accordance with State and local requirements. Measurement and payment for the volume/weight of soil and debris disposed off-site by CONTRACTOR will be paid on a unit rate price bid "Soil and Debris Disposal" and will be based on landfill load tickets or other certified scale tickets and will include all costs for transportation under the unit rate price including payment of any applicable taxes or fees.

HAULING

An adequate number of trucks shall be used to efficiently conduct the Work. Trucks should be capable of transporting contaminated soils and debris from the excavation to off-site disposal facilities in an efficient manner and in compliance with all federal, state and local regulations for hauling of "Special Waste". Short hauling to on-site stockpile locations for clean overburden shall be conducted in a manner that prohibits hauling of contaminated soil and clean overburden soil with the same equipment unless such equipment hauling contaminated soil/debris are first certified by CONTRACTOR to be suitable for hauling of clean overburden soils. This can be complied with by first conducting all clean overburden removal at the JayLynn site prior to any further site work, by washout certification or other proposed means of ensuring contaminated soil residues are isolated from clean overburden soils.

Truck loads for off-site hauling must be covered with tarps. Dust control will be provided by the CONTRACTOR to ensure compliance with NDEQ and Lincoln/Lancaster County Health Department Air Quality regulations pertaining to fugitive emissions from hauling operations.

POST EXCAVATION TESTING

At the completion of excavation to the desired plan grades on the Alter parcel, Benesch will require up to five (5) working days to complete post-excavation testing and analysis of site soils. Backfilling by others on the Alter parcel will not be initiated until Benesch clears the site for backfilling. Some incremental soil removal and off-site disposal and subsequent re-testing by Benesch may be required by CONTRACTOR during this period. Incremental soil excavation and off-site disposal will be paid commensurate with the contract rates for "Soil and Debris Excavation" and "Soil and Debris Disposal", respectively. No additional fees for re-mobilization will be allowed during this period.

POST EXCAVATION SURVEYS

Upon completion of the JayLynn parcel excavation, CONTRACTOR will complete a post – excavation survey of the JayLynn parcel prior to backfilling to determine volumes of soil and debris excavated at the JayLynn parcel. After verification by Benesch that soil sampling at the Alter parcel indicates excavation is complete, CONTRACTOR shall survey the Alter parcel excavation for purposes of determining volumes of soil and debris excavated. Payment for this task will be a lump sum item "Post – Excavation Survey" and will include survey of both excavations (whether in one deployment or two).

EMBANKMENT

Backfilling of the JayLynn parcel excavation shall commence when directed by Benesch. It is anticipated that backfilling will commence within 24 hours of completion of the excavation and post-excavation survey. Dewatering operations may need to continue in order to maintain stability of the excavation and support the placement of controlled fill. Final grade at the JayLynn site shall be met by compacting lifts to a dry density at least equal to 95% of the soil’s maximum dry density. If determined by CONTRACTOR with concurrence by Benesch that the soil compaction specifications cannot be met at the base of the excavation without further stabilization due to groundwater conditions, CONTRACTOR shall proceed with placement of clean crushed rock (1 to 3 inch nominal diameter) underlain and covered by a suitable geotextile fabric. CONTRACTOR will be responsible for obtaining geotechnical tests to verify achievement of the compaction specifications and factor such tests into the unit rate for “Soil Placement and Compaction – On-Site Soils”. Adequate volumes of soil are anticipated to be available on-site to complete the backfilling to the design grade. Should additional imported soil be required to achieve the final design grade, CONTRACTOR shall provide such soil under the unit rate for “Soil Placement and Compaction – Imported Soil”. Unit rates shall include all labor, equipment, transportation and materials required to complete the required backfilling to design grade.

Estimated quantities of soil required for backfilling are provided in the table below:

**Table 2
Summary of Backfill Areas**

<u>Property</u>	<u>Area</u>	<u>Dimensions</u>	<u>Estimated Total Excavated Quantity (CY)</u>	<u>Remarks</u>
JayLynn	Small Gas Holder and Retort Room	150’ x 60’ x 15’ deep	5000	
Alter North	Cells 1-21			To be completed by others

HISTORIC PRESERVATION

The existing project area may have remnants of previous historical significance, archeological articles and other items of cultural significance that may need to be preserved. Should the CONTRACTOR encounter any fossils, Native American relics, or other articles of historical, geological or cultural interest then the CONTRACTOR shall immediately suspend work in the area and notify Benesch for direction on how to proceed. Benesch shall consult with the appropriate historical and cultural resource agencies to determine a course of action and to make arrangement for removal and preservation of the articles if necessary. All such articles shall become the property of the JPA.

WAGES

Davis Bacon labor rate wages shall be paid for applicable crafts employed on this project.

FIGURES

ATTACHMENT A
STORMWATER POLLUTION PREVENTION PLAN FOR CORE AREA ROADWAY
IMPROVEMENTS

ATTACHMENT B
DEWATERING PERMIT CORRESPONDENCE

ATTACHMENT C

**ALTER NORTH REMEDIAL ACTION PLAN AND JAYLYNN REPORT OF EXPLORATORY TEST
PITS AND INTERIM REMEDIAL ACTION**

ATTACHMENT D

**LLCHD SPECIAL WASTE AUTHORIZATION
BLUFF ROAD LANDFILL ONLY!**

ADDENDUM NO. 1
Issue Date: 09/03/13

**“N” Street North Brownfields Remediation Project,
Jaylynn and Alter Sites
JPA
Bid No. 13-278**

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

THE BID OPENING DATE SHALL REMAIN MONDAY, SEPTEMBER 9, 2013 AT
12:00 NOON

ITEM 1: Availability of soil compaction data relative to stockpiled soils.
RESPONSE: Included as attachment to this Addendum.

ITEM 2: Not originally included in the Specification is the requirement to place a high visibility barrier at the base of the Alter North parcel excavation after confirmation sampling has confirmed no further excavation is required. Barrier shall consist of high visibility (bright orange, yellow or green) synthetic (non bio-degradable) mesh sufficient to cover approximately 40,000 SF. Construction safety fencing material may be reused. If construction safety fencing material is reused and such material was included in Bid Item no. 8, material shall only be paid for once. Two bid items are added – “High Visibility Barrier” to include materials only and “High Visibility Barrier Installation” to include all labor and equipment necessary to secure such barrier prior to backfilling by others. A revised pricing sheet has been added to the Line Item section of the bid.

ITEM 3: For purposes of Davis Bacon Wages, Heavy Construction Wage Classification shall be used.

ITEM 4: For purposes of compliance with HAZWOPER training requirements, truck drivers will not require 40 hour certification in accordance with 29 CFR 1910.120/121. Per the Special Provisions, all personnel involved in the excavation of contaminated soils shall have such training/certification. The JPA interprets this to include the Site Supervisor and operators of excavation equipment.

Addendum No. 1
Bid No. 13-278
Page 2

ITEM 5: Schedule Considerations. Due to public notification requirements under the Nebraska Department of Environmental Quality's (NDEQ's) Voluntary Cleanup Program (VCP), active excavation of the Alter North parcel cannot proceed until Tuesday, October 8th. All other tasks related to the project including mobilization, surveying/staking, SWPPP controls, excavation/backfilling of the JayLynn parcel, etc. may proceed prior to that date.

ITEM 6: Notice to Proceed shall be provided on or about Thursday, September 19th after contract approval by the JPA.

All other terms and conditions shall remain unchanged.
Dated this 3rd day of September, 2013.

Vince M. Mejer
Purchasing Agent

End of Addendum No. 1

ADDENDUM NO. 2
Issue Date: 09/04/13

**“N” Street North Brownfields Remediation Project,
Jaylynn and Alter Sites
JPA
Bid No. 13-278**

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

THE BID OPENING DATE SHALL REMAIN MONDAY, SEPTEMBER 9, 2013 AT
12:00 NOON

**Attachment No. 3 - Insurance Requirements have been removed and replaced with
Attachment No. 18 - Insurance Requirements (per Addendum No. 2).**

All other terms and conditions shall remain unchanged.

Dated this 4th day of September, 2013.

Vince M. Mejer
Purchasing Agent

End of Addendum No. 2

City of Lincoln/Lancaster County (Lincoln Purchasing) Supplier Response

Bid Information		Contact Information		Ship to Information	
Bid Creator	Vince Mejer Purchasing Agent	Address	Purchasing 440 S. 8th St. Lincoln, NE 68516	Address	JPA 555 S. 10th St. Lincoln, NE 68508
Email	vmejer@lincoln.ne.gov	Contact	Vince Mejer Purchasing Agent	Contact	
Phone	1 (402) 441-8314	Department	Purchasing	Department	Building
Fax	1 (402) 441-6513	Building	Suite 200	Floor/Room	Telephone
Bid Number	13-278 Addendum 2	Floor/Room		Fax	
Title	"N" Street North Brownfields Remediation Project, Jaylynn and Alter Sites (JPA)	Telephone	1 (402) 441-8314	Email	
Bid Type	Bid	Fax	1 (402) 441-6513		
Issue Date	08/23/2013	Email	vmejer@lincoln.ne.gov		
Close Date	9/9/2013 12:00:00 PM CT				
Need by Date					

Supplier Information

Company General Excavating
 Address 6701 Cornhusker Hwy
 Lincoln, NE 68507

Contact
 Department
 Building
 Floor/Room
 Telephone 1 (402) 467 1627
 Fax 1 (402) 467 2084
 Email
 Submitted 9/9/2013 11:41:53 AM CT
 Total \$470,257.48

Signature _____

Supplier Notes _____

Bid Notes _____

Bid Activities

Date	Name	Description
8/28/2013 3:00:00 PM	Pre-Bid	A pre-bid conference will be held Wednesday, August 28, 2013 at 3:00 p.m. in the Purchasing Office, 440 So. 8th St., Lower Conference room, Lincoln, NE. All interested contractors are strongly encouraged to attend.

Bid Messages _____

Please review the following and respond where necessary

#	Name	Note	Response
1	City = JPA	I acknowledge that wherever the City of Lincoln is referenced in this bid, it shall mean the West Haymarket Joint Public Agency (JPA).	Yes
2	Standard Specifications for Municipal Construction	I acknowledge reading and understanding the current City of Lincoln Standard Specifications for Municipal Construction and Lincoln Standard Plans (including General Provisions and Requirements, and Material and Construction Specifications) View at: http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspeg/index.htm	Yes
3	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
4	Insurance Requirements	I acknowledge reading and understanding the Insurance Requirements.	Yes
5	Specifications	I acknowledge reading and understanding the Special Provisions, Figures and Attachments.	Yes
6	Unit Pricing Rules	I acknowledge the Excel spreadsheet is attached to this bid in the Response Attachment Section. The unit price of the Excel Spreadsheet takes precedence over the total submitted in Line Items.	Yes
7	Bid Bond Submission - City	I acknowledge and understand that my bid will not be considered unless a bid bond or certified check in the sum of five percent (5%) of the total amount of the bid is made payable to the order of the City Treasurer as a guarantee of good faith prior to the bid opening. The bid security may be scanned and attached to the 'Response Attachments' section of your response or faxed to the Purchasing Office (402)441-6513. The original bond/check must then be received in the Purchasing Office, 440 S. 8th Street, Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing. YOU MUST INDICATE YOUR METHOD OF BID BOND SUBMISSION IN BOX TO RIGHT!	I have scanned and attached my bid bond.
8	Contract	I acknowledge reading and understanding the Contract Agreement Forms.	Yes
9	Bonds	I acknowledge that a Performance Bond and a Payment Bond each in the amount of 100% of the Contract amount will be required with the signed contract upon award of this job.	Yes
10	Tax Exempt Forms	Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents. (Note: State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby Water projects are taxable.)	Yes
11	Employee Class Act EO	I acknowledge reading and understanding the Employee Classification Act, Executive Order 83319.	Yes
12	Employee Class Act Affidavit	I acknowledge if awarded the contract I will abide by the law, notarize and attach the Employee Classification Act Affidavit to my contract.	Yes

- | | | | |
|----|-----------------------------|--|-------------|
| 13 | Davis Bacon | I acknowledge reading and understanding the Davis Bacon documents. | Yes |
| 14 | 29 C.F.R. | I acknowledge reading and understanding the 29 C.F.R. | Yes |
| 15 | Contact | Name of person submitting this bid: | Ken Imig |
| 16 | Electronic Signature | Please check here for your electronic signature. | Yes |
| 17 | DUNS Requirement | A DUNS (Data Universal Numbering System) Number is required to award a Federal Grant contract. Please list your DUNS number in the space provided.

If you do not have a DUNS number go to http://fedgov.dnb.com/webform/CCRSearch.do

Failure to obtain a DUNS number may result in the rejection of your bid. | 18-059-3303 |
| 18 | SAM Requirement | Vendors must be registered with the System for Award Management (SAM) system to be eligible for award on this bid due to the use of Federal Grant funds. Are you registered with SAM? YES or NO

IF NO, YOUR BID MAY BE REJECTED

To register in the SAM system go to www.sam.gov - Click: Create User Account. | Yes |
| 19 | Agreement to Addendum No. 1 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 1 and revised pricing sheet. | Yes |
| 20 | Agreement to Addendum No. 2 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 2. | Yes |

Line Items

#	Qty	UOM	Description	Response
1	1	Lump Sum	"N" Street North Brownfields Remediation Project, Jaylynn and Alter Sites - Lump Sum Bid	\$470,257.48

Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' above. Enter the total amount of bid in the Unit price box to the right. The itemized prices on the spread sheet will take precedence.

Supplier Notes:

Response Total: \$470,257.48

13-278 N Street North Brownfields Remediation Project, Jaylynn & Alter GENERAL EXCAVATING, INC.

Item No.	N/A	Task Description	Units	UOM	Rate	Total
1		Mobilization	1	LS	\$37,605.00	\$37,605.00
2		Initial Construction Staking/Survey	1	LS	\$3,300.00	\$3,300.00
3		Traffic Control	1	LS	\$1,000.00	\$1,000.00
4		SWPPP Insp. & Doc.	4	Day	\$50.00	\$200.00
5		Synthetic Fabric Silt Fence Installation	800	LF	\$2.80	\$2,240.00
6		Synthetic Fabric Silt Fence Mtc. & Removal	30	Day	\$58.50	\$1,755.00
7		Construction Entrance Surfacing	100	TON	\$30.50	\$3,050.00
8		Safety Fencing - 48 in.	800	LF	\$2.00	\$1,600.00
9		Temporary Shoring	125	LF	\$704.00	\$88,000.00
10		Soil and Debris Excavation	7050	CY	\$2.80	\$19,740.00
11		Soil and Debris Disposal - Reflects reuse of 1000 CY clean overburden	\$9,922.50	TON	\$24.20	\$240,124.50
12		Furnish Dewatering Container	1	Each	\$2,750.00	\$2,750.00
13		Dewatering Container Use	10	Day	\$99.00	\$990.00
14		Recovered Product/Waste Disposal	1000	Gal.	\$2.70	\$2,700.00
15		Odor Control	1	LS	\$1,330.00	\$1,330.00
16		Soil Placement and Compaction - On-site soils	3500	CY	\$7.90	\$27,650.00
17		Soil Placement and Compaction - Imported soils	1	CY	\$43.60	\$43.60
18		Crushed Rock for Stabilization of Excavation	750	TON	\$31.30	\$23,475.00
19		Filter Fabric for Crushed Rock Stabilization	2000	SY	\$1.40	\$2,800.00
20		Final Excavation Surveys	1	LS	\$2,750.00	\$2,750.00
21		High Visibility Barrier	40000	SF	\$0.10	\$4,000.00
22		High Visibility Barrier Installation	1	LS	\$3,154.00	\$3,154.00
Total Amount						\$470,257.10

EXHIBIT B

Intentionally Omitted

EXHIBIT C

Intentionally Omitted

EXHIBIT D

Other Contract Documents

COMMENTARY TO ACCOMPANY CONSTRUCTION BONDS

A. GENERAL INFORMATION

There are two types of construction bonds that are required by statutes for public work in many jurisdictions and are widely used for other projects as well.

Construction Performance Bond
Construction Payment Bond

The Construction Performance Bond is an instrument that is used to assure the availability of funds to complete the construction.

The Construction Payment Bond is an instrument that is used to assure the availability of sufficient funds to pay for labor, materials and equipment used in the construction. For public work the Construction Payment Bond provides rights of recovery for workers and suppliers similar to their rights under the mechanics lien laws applying to private work.

The objective underlying the re-writing of construction bond forms was to make them more understandable to provide guidance to users. The intention was to define the rights and responsibilities of the parties, without changing the traditional rights and responsibilities that have been decided by the courts. The new bond forms provide helpful guidance regarding time periods for various notices and actions and clarify the extent of available remedies.

The concept of pre-default meeting has been incorporated into the Construction Performance Bond. All of the participants favored early and informal resolution of the problems that may precipitate a default, but some Surety companies were reluctant to participate in pre-default settings absent specific authorization in the bond form.

The responsibilities of the Owner and the options available to the Surety when a default occurs are set forth in the Construction Performance Bond. Procedures for making a claim under the Construction Payment Bond are set forth in the form.

EJCDC recommends the use of two separate bonds rather than a combined form. Normally the amount of each bond is 100 percent of the contract amount. The bonds have different purposes and are separate and distinct obligations of the Surety. The Surety Association reports that the usual practice is to charge a single premium for both bonds and there is no reduction in premium for using a combined form or for issuing one bond without the other.

B. COMPLETING THE FORMS

Bonds have important legal consequences; consultation with an attorney and a bond specialist is encouraged with respect to federal, state and local laws applicable to bonds and with respect to completing or modifying the bond forms.

Both bond forms have a similar format and the information to be filled in is ordinarily the same on both bonds. If modification is necessary, the modifications may be different.

The bond forms are prepared for execution by the Contractor and the Surety. Evidence of authority to bind the Surety is usually provided in the form of a power of attorney designating the agent who is authorized to sign on behalf of the Surety. The power of attorney should be filed with the signed bonds.

Each bond must be executed separately since they cover separate and distinct obligations.

Preferably the bond date should be the same date as the contract, but in no case should the bond date precede the date of the contract.

CONSTRUCTION PERFORMANCE BOND

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

CONTRACTOR (Name and Address):

SURETY (Name and Principal
Place of Business):

Owner (Name and Address):
West Haymarket Joint Public Agency
555 South 10th St.
Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:
Amount:

Description (Name and Location):
For all labor, material and equipment necessary for (Bid Name and Number)

BOND
Date:
Amount:
Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL
Company:

(Corp. Seal) SURETY
Company:

(Corp. Seal)

Signature: _____
Name and Title: Name and Title:

Signature: _____

EJCDC NO. 1910-28a (1984 Edition)
Prepared through the joint efforts of The Surety Assoc. of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default and
 - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Sub-paragraph 3.1; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract, or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors: or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default, or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to the Owner and as soon as practicable after the amount is determined tender payment therefore to the Owner; or
 2. Deny liability in whole or in part and notify the Owner citing reasons therefore.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4 and the Owner refuses payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
 - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related sub-contracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
 - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
 - 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

CONSTRUCTION PAYMENT BOND

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

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place
Of Business):

Owner (Name and Address):
West Haymarket Joint Public Agency
555 South 10th St.
Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:
Amount:

Description (Name and Location):
For all labor, material and equipment necessary for (Bid Name and Number)

BOND
Date:
Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL
Company: (Corp. Seal)

SURETY
Company: (Corp. Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title:

EJCDC NO. 1910-28B (1984 Edition)
Prepared through the joint efforts of The Surety Assoc. of America, Engineers' Joint Contract Documents Committee, The Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
2. With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who do not have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof to the Owner, stating that a claim is being made under this Bond and with substantial accuracy the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with the Contractor:
 1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed, and
 2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly, and
 3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond.

- By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to the funds for the completion of the work.
9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
 11. No suite or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.1 (iii), or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
 12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.
 14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
 15. DEFINITIONS
 - 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
 - 15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY - NAME, ADDRESS AND TELEPHONE)
AGENT OR BROKER: OWNER'S REPRESENTATIVE (ARCHITECT, ENGINEER OR OTHER PARTY)

Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323

§ 77-1323 Every person, partnership, limited liability company, association, or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall furnish a certified statement to be attached to the contract that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

Pursuant to Neb. Rev. Stat. § 77-1323, I, _____, do hereby certify that all equipment to be used on City Project/Bid No. _____, except that equipment acquired since the assessment date, has been assessed for taxation for the current year, in _____ County, Nebraska.

DATED this ____ day of _____, 2011.

By: _____

Title: _____

STATE OF NEBRASKA)
)ss.
COUNTY OF _____)

On _____, 2011, before me, the undersigned Notary Public duly commissioned for and qualified in said County, personally came _____, to me known to be the identical person, whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.

Notary Public

(SEAL)

**INDEMNIFICATION AND INSURANCE REQUIREMENTS
FOR ALL WEST HAYMARKET JOINT
PUBLIC AGENCY CONTRACTS**

1. INDEMNIFICATION

A. Indemnification of JPA

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS JPA AND JPA'S MEMBERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) (COLLECTIVELY, "LIABILITIES") ARISING OUT OF, RESULTING FROM OR CAUSALLY RELATED TO (IN WHOLE OR IN PART):

- (i) ANY RIGHTS OR INTERESTS GRANTED TO CONTRACTOR PURSUANT TO THIS CONTRACT;
- (ii) THE USE, OCCUPANCY OR PRESENCE OF CONTRACTOR AND CONTRACTOR PARTIES (DEFINED BELOW) IN, ON, OR ABOUT THE WORK AREA;
- (iii) CONTRACTOR'S BREACH OF THE TERMS AND CONDITIONS OF THIS CONTRACT; OR
- (iv) ANY ACT OR OMISSION OF CONTRACTOR OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR SUBCONTRACTORS (SUCH OFFICERS, AGENTS, INVITEES, EMPLOYEES AND SUBCONTRACTORS BEING REFERRED TO HEREIN INDIVIDUALLY AS A "CONTRACTOR PARTY" AND COLLECTIVELY, "CONTRACTOR PARTIES"), OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER.

Such indemnification shall include and extend to any expenses incurred, including additional investigations, testing, inspections, and compensation for outside engineers, architects and other consultant services needed in order to correct work rejected by the JPA or failing to conform to the requirements of the Contract Documents.

Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

- B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against JPA, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.

- C. The obligations of indemnification herein shall not include or extend to:
 - (1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to JPA and related to the Contract; and
 - (2) Any claims wholly caused by the JPA's sole negligence and excluding claims to the extent such claims are caused by the willful misconduct or gross negligence of the JPA.
- D. This indemnification obligation shall apply until the claim is established by final judgment to have been caused by the sole negligence, willful misconduct, or gross negligence of the JPA.
- E. In the event of any litigation of any such claims shall be commenced against JPA, Contractor shall defend the same at Contractor's sole expense upon notice thereof from JPA. Contractor shall notify the insuring company that JPA reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of JPA without the express written consent of the JPA.

2. INSURANCE GENERAL PROVISIONS

- A. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and JPA, its officers, agents, employees, volunteers and consultants from and against all liabilities and hazards as provided in these insurance requirements throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under Section 2. below and such insurance has been approved by the City Attorney for JPA, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
- B. **Occurrence Basis Coverage.** All insurance shall be provided on an occurrence basis and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.
- C. **Authorized and Rated Insurers Required.** All insurance coverage is to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.
- D. **Certificates Showing Coverage.** Prior to commencing the Work, Contractor must furnish to JPA adequate written documentation including certificate(s) of insurance, which have the original signature of the authorized representative, declaration pages or other acceptable policy information evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify JPA in writing at least 30 days prior to any cancellation, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

West Haymarket Joint Public Agency
c/o City Attorney
City of Lincoln, Nebraska
555 South 10th Street
Lincoln, NE 68508

Certificates of insurance may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show JPA as additional insured except for applicable Worker's Compensation coverage, to include all work performed for JPA and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The inclusion of JPA as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for JPA, whether on an excess, contributory or other basis regardless of any other insurance coverage available to JPA, including by specific endorsement where necessary, as indicated in the following requirements.

- E. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)
- F. **Other Requirements.** Contractor agrees to waive its right of recovery against JPA for all claims and suits against JPA, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against JPA for all claims and suits, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence of willful misconduct, of JPA. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against JPA for loss of its owned or leased property or property under Contractor's care, custody or control, except for the right of recovery or right of subrogation arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA.

Contractor is not allowed to self-insure without the prior written consent of JPA. If granted by JPA, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by Contractor in lieu of insurance. Any and all JPA liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Upon notification to JPA of cancellation, non-removal, substitution or material alteration of any such policy(ies), JPA shall have the option to (i) if feasible, pay, on behalf of the Contractor, any and all such premiums, penalties, fees for expenses necessary to keep such policy(ies) in full force and effect; or (ii) in the event that such policy(ies) cannot be kept in full force and effect, enter into the open market to procure such policy(ies) of insurance on behalf of Contractor as required by this Agreement at the then current market rate. Upon any of the above occurrences, JPA shall invoice the Contractor for reimbursement of such premiums, penalties, fees, or expenses advanced on the JPA's behalf plus an additional fifteen percent (15%) of such advanced amounts as remuneration for JPA's overhead. Such amounts advanced by JPA shall be paid by the Contractor within thirty (30) days after delivery of a statement for such expense.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by

this Agreement. Allocated Loss Expense must be in addition to all policy limits for coverages referenced above.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that its subcontractors provide and maintain the insurance coverages set forth herein, naming JPA as an additional insured, and requiring that the subcontractors release, defend and indemnify JPA to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify JPA herein.

Failure to provide evidence as required by Section 2, will entitle, but not require, JPA to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by JPA will not be limited by the amount of the required insurance coverage.

3. INSURANCE REQUIREMENTS

A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of the Contract such insurance in the forms and minimum amounts as specified in this Section and as will protect Contractor and JPA from the following claims arising out of or resulting from or in connection with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims under workers' compensation, disability benefit, or other employee benefit acts;
- (2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;
- (3) Claims customarily covered under personal injury liability coverage;
- (4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;
- (5) Claims arising out of ownership, maintenance or use of any motor vehicle;
- (6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. **Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of JPA."

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	Listing	Min Amt	Notes
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

C. Commercial General Liability Insurance.

- (1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing broad form contractual liability no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below.

Coverage	Min Amt	Notes
General	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Products and Completed Operations	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Personal and Advertising Injury	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Fire Damage Limit	\$ 100,000	any one fire
Medical Damage Limit	\$ 10,000	any one person

- (2) The required Commercial General Liability Insurance shall also include coverage for the following:

- Bodily injury and property damage.
- Fire legal liability
- Coverage for all premises and operations.
- Personal and advertising injury.
- Operations by independent contractors.
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted.
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.

- Liability coverage which shall include contractually assumed defense costs in addition to any policy limits.
 - Contractual liability coverage.
- (3) This policy shall also include the following endorsements which shall be indicated on the Certificate of Insurance.
- The definition of insured contract shall be amended to remove any exclusion or other limitation for work being done within 50 feet of railroad property.
 - Endorsement to provide the general aggregate per project endorsement.
 - Endorsement to provide waiver of subrogation in favor of and acceptable to JPA.
 - Endorsement to provide that the policy shall be primary and non-contributory with respect to any insurance carried by the JPA.
 - Separation of insureds.
 - Additional insured endorsement in favor of and acceptable to the JPA.
- (4) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer). The definition of insured contract shall be amended to remove any exclusion or other limitation for any work done within fifty (50) feet of railroad property.

D. Vehicle liability insurance coverage.

The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to JPA.
- Additional insured endorsement in favor or and acceptable to JPA.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by JPA.
- Endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. Umbrella/Excess Insurance. At the Contractor's option, the Commercial General Liability Insurance coverage limits specified in Section 3.C. above may be satisfied with a combination of primary and Umbrella/Excess Insurance.

F. Railroad Protective Liability. If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$5,000,000 per occurrence, \$10,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to

any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following endorsements:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.

No other endorsements restricting coverage may be added. The original policy must be provided to Railroad prior to performing any work or services under this C&M Agreement.

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in ANY RAILROAD'S Blanket Railroad Protective Liability Insurance Policy available to JPA and JPA Contractors.

- G. **Special Provision.** At the JPA's option, the minimum insurance requirements specified above may be increased or decreased by special provision in a JPA contract.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

- A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.
- B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against JPA.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

- A. The Contractor shall promptly notify JPA in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to JPA shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.
- B. In the event JPA receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, JPA shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however JPA shall have no duty to inspect the project to obtain such knowledge, and provided further that JPA's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

- A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until JPA completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of JPA, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be \$5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.

- B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for JPA's related costs and expenses (as owner) including labor required as a result of such loss.
- C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.
- D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by JPA.

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7-26-10/law/tb



**CITY OF LINCOLN
EXECUTIVE ORDER**

NO. 083319

WHEREAS, there is concern over the inappropriate competitive advantages in the public bidding process for local publicly funded construction and delivery service contracts resulting from the misclassification of individuals performing construction labor services as "independent contractors" rather than "employees"; such "independent contractors" are commonly referred to as "1099 workers" due to the IRS form they receive rather than a W-4 which an employee receives;

WHEREAS, this misclassification of such individuals as "independent contractors" rather than as "employees" eliminates any obligation to pay these individuals legally required minimum or overtime wages, to provide legally required workers' compensation insurance, to make unemployment insurance payments, to pay legally required employment and payroll taxes, and to provide any other health, pension, or benefit such individuals would typically receive if properly classified as employees;

WHEREAS, this misclassification of individuals performing construction labor services for the contractor as "independent contractors" rather than "employees" is a violation of federal and state law, but is difficult to enforce once public construction or delivery service contracts have been bid, awarded, and entered into;

WHEREAS, the use of public funds to compensate contractors who unlawfully avoid their obligation to pay legally required minimum or overtime wages, to provide legally required workers' compensation insurance, to make unemployment insurance payments, to pay legally required employment and payroll taxes, and to provide any other health, pension, or benefit is not in the public interest; and

WHEREAS, the Employee Classification Act, Neb. Rev. Stat. §§ 48-2901 to 48-2912 (effective July 15, 2010) provides that any contract entered into between a political subdivision and a contractor shall require that each contractor who performs construction or delivery service pursuant to the contract submit to the political subdivision an affidavit attesting that (1) each individual performing services for such contractor is properly classified under the Employee Classification Act, (2) such contractor has completed a federal I-9 immigration form and has such form on file for each employee performing services, (3) such contractor has complied with Neb. Rev. Stat. § 4-114 requirements that the contractor register and use a federal immigration employment verification system to determine the work eligibility status of new employees physically performing services in the State of Nebraska, (4) such contractor has no reasonable basis to believe that any individual performing services for such contractor is an undocumented worker, and (5) as of the time of the contract, such contractor is not barred from contracting with the state or any political subdivision pursuant to § 48-2912 of the Employee Classification Act.

NOW, THEREFORE, BY VIRTUE OF THE AUTHORITY VESTED IN ME by the Charter of the City of Lincoln, I hereby establish the following policy as to the bid and award of contracts to contractors for construction and delivery services with the City of Lincoln:

The Purchasing Agent shall immediately include in the City of Lincoln's notice to bidders for construction contracts that all contractors submitting bids in response to the notice shall affirmatively certify to the Purchasing Agent that all individuals hired to perform construction or delivery labor services for the contractor under the contract shall be properly classified as employees and not as independent contractors if the individual does not meet the requirements of an independent contractor under federal and state law (including the requirements of the State of Nebraska Employee Classification Act), and that the contractor will comply with all legal obligations with respect to these employees (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes). The

notice to bidders shall further provide that contractors may use affidavits required pursuant to the Employee Classification Act for this purpose, but that a failure to make the affirmative certification to the Purchasing Agent shall render the bidder ineligible for award of the contract.

The Purchasing Agent shall immediately include the following provisions in contracts for construction or delivery services:

(1) Contractor agrees that each individual performing services for the contractor shall be properly classified as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and that contractor shall comply with all legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes).

(2) Contractor understands and agrees that failure to classify each individual hired to perform services under the contract as an employee rather than as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or failure to comply with legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes) shall be considered a breach of the contract and is a grounds for rescission of the contract by the City.

(3) Contractor additionally agrees to include the following provisions in each subcontract entered into with a subcontractor as part of the contractor's contract with the City:

(a) Subcontractor agrees that each individual performing services for the subcontractor shall be properly classified as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and that subcontractor shall comply with all legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay,

workers' compensation, unemployment compensation, and payment of federal and state payroll taxes).

(b) Subcontractor understands and agrees that subcontractor's failure to properly classify individuals hired to perform services under the subcontract as employees and not as independent contractors if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or failure to comply with legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes) shall be considered a breach of the contract and is a grounds for rescission of the subcontract by the contractor.

(4) Contractor agrees that if subcontractor fails to or is suspected of failing to properly classify each individual hired pursuant to the subcontract as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or fails to comply with legal obligations with respect to the subcontractor's employee, the contractor shall take appropriate corrective action including, but not limited to, reporting the suspected violation of the State of Nebraska Employee Classification Act to the Nebraska Department of Labor or rescission of the subcontract by the contractor. Written notification of the corrective action shall be submitted to the City of Lincoln Purchasing Department. Contractor understands and agrees that contractor's failure to take appropriate corrective action shall be considered a breach of the contractor's contract with the City of Lincoln and is a grounds for rescission of the contract by the City.

(5) The City of Lincoln shall notify the Nebraska Department of Labor of any contractor or subcontractor it has determined is in breach of contract due to the terms of this order.

(6) Any contractor or subcontractor who shall have been determined by the Nebraska Department of Labor to have knowingly provided a false affidavit to the City of Lincoln

under the State of Nebraska's Employee Classification Act shall be referred to the Purchasing Agent of the City who shall determine whether to declare such contractor or subcontractor an irresponsible bidder who shall be disqualified from receiving any business from the municipality for a stated period of time, in accordance with Lincoln Municipal Code § 2.18.030(n)(1) or (2).

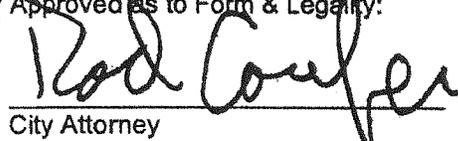
(7) This policy does not prohibit a contractor or subcontractor from hiring individuals to perform construction labor services as independent contractors, provided that the contractor's or subcontractor's use of such individuals as an independent contractor complies with the criteria found in subdivision 5 of Neb. Rev. Stat. § 48-604 and is otherwise valid under federal and state law and is not intended to circumvent lawful obligations under federal and state law or city contractual requirements.

The City Clerk is directed to send a copy of this Executive Order to Vince Mejer, City Purchasing Agent, for his record.

Dated this 28 day of July, 2010.


Chris Beutler, Mayor of Lincoln

Approved as to Form & Legality:


City Attorney

EMPLOYEE CLASSIFICATION ACT AFFIDAVIT

For the purposes of complying with THE NEBRASKA EMPLOYEE CLASSIFICATION ACT, I, _____, herein below known as the Contractor, state under oath and swear as follows:

- 1. Each individual performing services for the Contractor is properly classified under the Employee Classification Act.
- 2. The Contractor has completed a federal I-9 immigration form and has such form on file for each employee performing services.
- 3. The Contractor has complied with Neb Rev Stat 4-114.
- 4. The Contractor has no reasonable basis to believe that any individual performing services for the Contractor is an undocumented worker.
- 5. The Contractor is not barred from contracting with the state or any political subdivision pursuant to section 12 of this Act.
- 6. As the Contractor I understand that pursuant to the Employee Classification Act a violation of the Act by a contractor is grounds for rescission of the contract by the City. I understand that pursuant to the Act any contractor who knowingly provides a false affidavit may be subject to criminal penalties and upon a second or subsequent violation shall be barred from contracting with the City for a period of three years after the date of discovery of the falsehood.

I hereby affirm and swear that the statements and information provided on this affidavit are true, complete and accurate. The undersigned person does hereby agree and represent that he or she is legally capable to sign this affidavit and to lawfully bind the Contractor to this affidavit.

PRINT NAME: _____
(First, Middle, Last)

SIGNATURE: _____

TITLE: _____

State of Nebraska)
) ss.
County of _____)

This affidavit was signed and sworn to before me, the undersigned Notary Public, on this _____ day of _____, 20__.

Notary Public

29 C.F.R. § 5.5

Code of Federal Regulations Currentness

Title 29. Labor

Subtitle A. Office of the Secretary of Labor

Part 5. Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

Subpart A. Davis-Bacon and Related Acts Provisions and Procedures

§ 5.5 Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when

the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) **Withholding.** The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract,

the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency

recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the

name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(The information collection, recordkeeping, and reporting requirements contained in the following paragraphs of this section were approved by the Office of Management and Budget:

Paragraph	OMB Control Number
(a)(1)(ii)(B)	1215-0140
(a)(1)(ii)(C)	1215-0140
(a)(1)(iv)	1215-0140
(a)(3)(i)	1215-0140, 1215-0040
(a)(3)(ii)(A)	1215-0140
(c)	1215-0140, 1215-0040

[29 FR 100, Jan. 4, 1964, as amended at 29 FR 13463, Sept. 30, 1964; 30 FR 13136, Oct. 15, 1965; 36 FR 19304, Oct. 2, 1971; 40 FR 30481, July 21, 1975; 41 FR 10063, March 9, 1976; 47 FR 145, Jan. 5, 1982; 51 FR 12265, April 9, 1986; 54 FR 4243, Jan. 27, 1989; 55 FR 50150, Dec. 4, 1990; 57 FR 28776, June 26, 1992; 58 FR 58955, Nov. 5, 1993; 61 FR 40716, Aug. 5, 1996; 61 FR 68641, Dec. 30, 1996; 65 FR 69693, Nov. 20, 2000; 73 FR 77511, Dec. 19, 2008; 74 FR 2862, Jan. 16, 2009]

SOURCE: 48 FR 19541, April 29, 1983; 51 FR 12265, April 9, 1986; 61 FR 40716, Aug. 5, 1996; 65 FR 80278, Dec. 20, 2000; 73 FR 77511, Dec. 19, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 40 U.S.C. 3141 et seq.; 40 U.S.C. 3145; 40 U.S.C. 3148; 40 U.S.C. 3701 et seq.; and the laws listed in 5.1(a) of this part; Secretary's Order 01-2008; and Employment Standards Order No. 2001-01.; 40 U.S.C. 276a-276a-7; 40 U.S.C. 276c; 40 U.S.C. 327-332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

NOTES OF DECISIONS

29 C. F. R. § 5.5, 29 CFR § 5.5

Current through December 15, 2011; 76 FR 77913.

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END OF DOCUMENT

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>

General Decision Number: NE130050 03/29/2013 NE50

Superseded General Decision Number: NE20120057

State: Nebraska

Construction Type: Heavy

County: Lancaster County in Nebraska.

HEAVY CONSTRUCTION PROJECTS

Modification Number	Publication Date
0	01/04/2013
1	03/29/2013

* ELEC0265-006 09/01/2012

	Rates	Fringes
Electricians:		
Zone 1.....	\$ 25.77	9.96
Zone 2.....	\$ 26.07	9.96
Zone 3.....	\$ 26.37	9.96
Zone 4.....	\$ 26.77	9.96

ZONE DEFINITIONS [Mileage from main Post Office in Lincoln]

- Zone 1: 0 to 35 miles
- Zone 2: 36 to 50 miles
- Zone 3: 51 to 75 miles
- Zone 4: 76 miles and over

FOOTNOTE:

Work on scaffolds, hanging scaffolds, boatswains chairs or ladders, etc., in any area where the worker is in a position to fall 40 ft. or more, or where objects above the worker can fall 40 ft. or more: to be paid one and one-half times the straight- time rate of pay.

* SUNE2011-017 08/31/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 16.72	0.00
FORM WORKER.....	\$ 17.48	5.74
LABORER: Common or General.....	\$ 13.11	3.23
LABORER: Pipelayer.....	\$ 16.33	5.60
OPERATOR: Backhoe/Excavator.....	\$ 19.43	3.59
OPERATOR: Crane.....	\$ 24.00	5.56
OPERATOR: Loader.....	\$ 17.67	2.98

TRUCK DRIVER, Includes Dump

and Tandem Truck.....	\$ 13.62	2.60
TRUCK DRIVER: Lowboy Truck.....	\$ 21.49	7.40

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates,

LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint

2 Public Agency:

3 That the attached Change Order No. 1 to the Guaranteed Maximum Price Amendment
4 to the Agreement between the West Haymarket Joint Public Agency and Hausmann/Dunn, a joint
5 venture, to establish \$10,750,896 and \$13,241,774 as the amount the Contract Sum shall not
6 exceed for Precast Parking Deck Nos. 2 and 3, respectively, is hereby approved and the
7 Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby
8 authorized to execute said Change Order on behalf of the West Haymarket Joint Public Agency.

9 The City Clerk is directed to return a copy of this Resolution and Change Order No. 1
10 to Hausmann Construction, c/o Chad Wiles, 8545 Executive Woods Drive, Suite 1, Lincoln, NE
11 68512 and to J.E. Dunn Construction, c/o Brett Chapman, 8420 West Dodge Road, Suite 303,
12 Omaha, NE 68114.

13 Adopted this _____ day of _____, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Doug Emery

West Haymarket Joint Public Agency

CHANGE ORDER	
PROJECT: West Haymarket Parking Decks #2 & #3 WH00502	CHANGE ORDER NO.: <u>1</u>
PROJECT ID #: 80205 & 870206	CHANGE ORDER DATE: <u>September 19, 2013</u>
CONTRACTOR: Hausmann/Dunn a Joint Venture Decks #2 & #3 Final GMP	CONTRACT DATE: <u>May 3, 2013</u>

You are directed to make the following changes to the contract:

1. Change current contract GMP number for Parking Deck #3 to reflect changes due to actual bid prices and set Final GMP number. \$ (57,470.00)

2. Change current partial GMP number for Parking Deck #2 to set Final GMP number based on 65% drawings. \$ 4,879,384.00

3. Substitute Attachment A for Attachment A attached to the Guaranteed Maximum Price Amendment

The Original Contract Sum:	\$	19,170,756.00
Net Change by Previously Authorized Change Order:	\$	-
The Contract Sum prior to this Change Order:	\$	19,170,756.00
The Contract Sum will be (increased)(decreased)(unchanged):	\$	4,821,914.00
The New Contract Sum including this Change Order:	\$	23,992,670.00
The Contract Time will be (increased)(decreased)(unchanged):		0 days

Reviewed / Approved:

If over \$25,000 and under \$99,999.99

PC Sports
Date: _____

Mayor Beutler
Date: _____

Architect / Engineer of Record
Date: _____

If over \$100,000

Contractor
Date: _____

JPA Approval
Date: _____

West Haymarket Parking Garage Deck 2 and 3
 Lincoln, NE
 September 9, 2013



New Garage Deck 2 & 3
 Total SF Area: 536,060

GMP Summary - 100 % Deck 3 and 65% Deck 2

Description	Deck 3	Deck 2	Budget / Bid	Budget / Bid
	Budget / Bid Total	Budget / Bid Total	Total	Cost/SF
Preconstruction	\$ 15,587	\$ 15,586	\$ 31,173	\$ 0.06
General Conditions	\$ 299,306	\$ 274,123	\$ 573,429	\$ 1.07
Subcontractor General Liability	\$ 26,623	\$ 48,008	\$ 74,632	\$ 0.14
Building Permit	\$ 75,000	\$ 65,000	\$ 140,000	\$ 0.26
Submittal Exchange	\$ 5,696	\$ 5,696	\$ 11,392	\$ 0.02
Performance & Payment Bonds	\$ 73,532	\$ 41,583	\$ 115,115	\$ 0.21
General Liability	\$ 96,525	\$ 51,975	\$ 148,500	\$ 0.28
Excavation & Grading	\$ 334,806	\$ 267,000	\$ 601,806	\$ 1.12
Site Utilities	\$ -	\$ -	\$ -	\$ -
Auger Cast Piles	\$ 986,600	\$ 642,540	\$ 1,629,140	\$ 3.04
Concrete Foundations	\$ 667,700	\$ 592,000	\$ 1,259,700	\$ 2.35
Sheet Piling	\$ 75,900	\$ -	\$ 75,900	\$ 0.14
Concrete SOG & Topping Slabs	\$ 1,197,273	\$ 992,420	\$ 2,189,693	\$ 4.08
Masonry	\$ 101,500	\$ 49,573	\$ 151,073	\$ 0.28
Precast Material	\$ 5,011,200	\$ 3,942,700	\$ 8,953,900	\$ 16.70
Precast Erection	\$ 939,188	\$ 714,312	\$ 1,653,500	\$ 3.08
Structural & Misc Steel	\$ 528,350	\$ 446,637	\$ 974,987	\$ 1.82
Rough Carpentry & Casework	\$ 40,500	\$ 30,586	\$ 71,086	\$ 0.13
Roofing & Sheet Metal	\$ 30,408	\$ 38,336	\$ 68,744	\$ 0.13
Caulking & Sealants	\$ 150,800	\$ 150,634	\$ 301,434	\$ 0.56
Doors, Frames & Hardware	\$ 33,666	\$ 26,250	\$ 59,916	\$ 0.11
Overhead Door	\$ 2,975	\$ 3,475	\$ 6,450	\$ 0.01
Glass & Glazing	\$ 242,875	\$ 244,859	\$ 487,734	\$ 0.91
Drywall & Ceiling	\$ 68,450	\$ 49,612	\$ 118,062	\$ 0.22
Flooring & Tile	\$ 21,270	\$ 24,584	\$ 45,854	\$ 0.09
Painting	\$ 40,000	\$ 37,691	\$ 77,691	\$ 0.14
Specialties	\$ 12,562	\$ 14,585	\$ 27,147	\$ 0.05
Elevators	\$ 537,274	\$ 537,274	\$ 1,074,548	\$ 2.00
Fire Protection	\$ 53,600	\$ 40,330	\$ 93,930	\$ 0.18
Plumbing & HVAC	\$ 312,500	\$ 249,410	\$ 561,910	\$ 1.05
Electrical	\$ 605,000	\$ 554,300	\$ 1,159,300	\$ 2.16
Contaminated Soils Allowance	\$ 10,000	\$ 30,000	\$ 40,000	\$ 0.07
Winter Protection Allowance	\$ 100,000	\$ 100,000	\$ 200,000	\$ 0.37
Additional Auger Piles Allowance	\$ 15,000	\$ -	\$ 15,000	\$ 0.03
Precast Material for Completion of Design Allowance	\$ -	\$ 50,000	\$ 50,000	\$ 0.09
Sheet Piling Allowance	\$ -	\$ 12,000	\$ 12,000	
Delete One Elevator per Garage (Target Reduction)	\$ (120,000)	\$ (120,000)	\$ (240,000)	\$ (0.45)
Subtotal	\$12,591,666	\$10,223,079	\$22,814,745	\$ 42.56
Construction Contingency 3.0%	\$ 377,750	\$ 306,692	\$ 684,442	\$ 1.28
Subtotal	\$12,969,416	\$10,529,771	\$23,499,187	\$ 43.84
Fee 2.1%	\$ 272,358	\$ 221,125	\$ 493,483	\$ 0.92
GMP Total	\$13,241,774	\$10,750,896	\$23,992,670	\$ 44.76

Alternates

N/A



**West Haymarket Parking Decks No.2 and 3
Project Documents and Clarifications**



Contract Documents:

1. This proposal is based on the following Contract Documents:
2. AIA A133 – 2009 Contract between Owner and Construction Manager as modified.
3. General Conditions – AIA Documents A201-2007 of the Contract for Construction as modified.
4. Specifications including specification sections prepared by Davis Design, Inc. and their Consultants.
 - Bid Package No. 1 – N/A
 - Bid Package No. 2 dated May 15, 2013
 - Bid Package No. 3 dated June 10, 2013
 - Bid Package No. 4 dated July 10, 2013
 - Bid Package No. 5 dated August 7, 2013
5. Drawings as follows:

Bid Package No. 1		
Number:	Title:	Revision Date:
	Deck No. 3 – Preliminary Drawings	
A-201	Elevations	04/26/13
C-104	Existing Grades / Proposed Easement Grades	04/26/13
S-501	Details	04/26/13
Bid Package No. 2		
	Deck No. 2 – Preliminary Drawings	
A-101	First Floor, Typical Floor Plan Levels 2 Thru 5	12/15/11
A-102	Sixth Level Floor Plan, Cross Over Plan	12/15/11
A-103	Enlarged Plans	12/01/11
A-201	Exterior Elevations	12/15/11
A-301	Building Sections	12/15/11
	Deck No. 3 – 35% Drawings	
General		
G-101	Cover Page	05/15/13



**West Haymarket Parking Decks No.2 and 3
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Civil		
C-101	Vicinity Plan	04/26/13
C-104	Existing Grades/Proposed Easement Grades	04/26/13
Structural		
S-102	Footing/Foundation Plan	04/26/13
S-201	Level 1 Framing Plan	04/26/13
S-202	Level 2 Framing Plan	04/26/13
S-203	Level 3 Framing Plan	04/26/13
S-204	Level 4 Framing Plan	04/26/13
S-205	Level 5 Framing Plan	04/26/13
S-206	Level 6 Framing Plan	04/26/13
S-207	Penthouse Framing Plan	04/26/13
Architectural		
A-101	Level 1 and 2 Floor Plans	05/15/13
A-102	Level 3 and 4 Floor Plans	04/26/13
A-103	Level 5, 6 and Penthouse Floor Plan	05/15/13
A-104	Enlarged Elevator/Stair Plans	05/15/13
A-106	Level 1 and Levels 2 Thru 5 Drainage Plans	04/26/13
A-107	Level 2 Traffic Topping and Level 6 Drainage Plan	05/15/13
A-201	Elevations	05/15/13
A-202	Elevations Showing Precast Panels	05/15/13
A-203	Precast Concrete Panel Legend	05/15/13
A-204	Precast Concrete Panel Legend	05/15/13
A-205	Precast Concrete Panel Legend	05/15/13
A-206	Precast Concrete Panel Legend	05/15/13
A-207	Precast Concrete Panel Legend	05/15/13
A-208	Precast Concrete Panel Legend	05/15/13
A-209	Stair Tower Precast Concrete Panel Legend	05/15/13
A-210	Stair Tower Precast Concrete Panel Legend	05/15/13
A-301	Building Sections	05/15/13
A-302	Building Sections	05/15/13
A-303	Building Sections	05/15/13
A-304	Building Sections	05/15/13
A-305	Building Sections	05/15/13
A-401	Wall Sections	04/26/13



**West Haymarket Parking Decks No.2 and 3
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Parking		
AG-101	Grade & Second Level Striping Layouts	May 14, 2013
AG-102	Third & Fourth Level Striping Layouts	May 14, 2013
AG-103	Fifth & Sixth Level Striping Layout	May 14, 2013
AG-401	Enlarged Entry/Exit Plans	May 14, 2013
	Bid Package No. 3	
	Deck No. 2 – Preliminary Drawings	
A-101	First Floor, Typical Floor Plan Levels 2 Thru 5	12/15/11
A-102	Sixth Level Floor Plan, Cross Over Plan	12/15/11
A-103	Enlarged Plans	12/01/11
A-201	Exterior Elevations	12/15/11
A-301	Building Sections	12/15/11
	Deck No. 3 – 65% Drawings	
General		
G-101	Cover Page	06/07/13
Utilities		
U-101	Utilities Site Plan	06/07/13
Civil		
C-101	Vicinity Plan	06/07/13
C-102	Site Plan Showing Street/ROW Grades	06/07/13
C-103	Existing Grades / Proposed Easement Grades	06/07/13
C-104	Miscellaneous Site Details	06/07/13
C-105	Miscellaneous Site Details	06/07/13
Structural		
S-001	General Notes	06/07/13
S-101	Auger Cast Pile Layout Plan	06/07/13
S-102	Footing/Foundation Plan	06/07/13
S-201	Level 1 Framing Plan	06/07/13
S-202	Level 2 Framing Plan	06/07/13
S-203	Level 3 Framing Plan	06/07/13
S-204	Level 4 Framing Plan	06/07/13
S-205	Level 5 Framing Plan	06/07/13
S-206	Level 6 Framing Plan	06/07/13
S-207	Penthouse Framing Plan	06/07/13



West Haymarket Parking Decks No.2 and 3
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S-301	Details	06/07/13
S-302	Details	06/07/13
S-303	Details	06/07/13
S-304	Auger Cast Pile Schedule	06/07/13
Architectural		
A-101	Level 1 and 2 Floor Plans	06/07/13
A-102	Level 3 and 4 Floor Plans	06/07/13
A-103	Level 5, 6 and Penthouse Floor Plans	06/07/13
A-104	Enlarged Elevator/Stair Plans	06/07/13
A-105	Enlarged Floor Plans	06/07/13
A-106	Level 1 and Levels 2 Thru 5 Drainage Plan	06/07/13
A-107	Level 2 Traffic Topping and Level 6 Drainage Plan	06/07/13
A-108	Level 1 and 2 Reflected Ceiling Plans	06/07/13
A-109	Level 3 and 4 Reflected Ceiling Plans	06/07/13
A-110	Level 5 and 6 and Penthouse Reflected Ceiling Plans	06/07/13
A-111	Enlarged Reflected Ceiling Plans	06/07/13
A-112	Enlarged Reflected Ceiling Plans / Roof Plans	06/07/13
A-201	Elevations	06/07/13
A-202	Elevations Showing Precast Panels	06/07/13
A-203	Precast Concrete Panel Legend	06/07/13
A-204	Precast Concrete Panel Legend	06/07/13
A-205	Precast Concrete Panel Legend	06/07/13
A-206	Precast Concrete Panel Legend	06/07/13
A-207	Precast Concrete Panel Legend	06/07/13
A-208	Precast Concrete Panel Legend	06/07/13
A-209	Stair Tower Precast Concrete Panel Legend	06/07/13
A-210	Stair Tower Precast Concrete Panel Legend	06/07/13
A-211	Interior Elevations	06/07/13
A-212	Interior Elevations	06/07/13
A-213	Stair Tower Interior Elevations	06/07/13
A-214	Stair Tower Interior Elevations	06/07/13
A-215	Stair Tower Interior Elevations	06/07/13
A-301	Building Sections	06/07/13
A-302	Building Sections	06/07/13
A-303	Building Sections	06/07/13
A-304	Building Sections	06/07/13



West Haymarket Parking Decks No.2 and 3
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A-305	Building Sections	06/07/13
A-306	Building Sections, Office Details	06/07/13
A-401	Wall Sections	06/07/13
A-402	Wall Sections	06/07/13
A-403	Wall Sections	06/07/13
A-404	Canopy Details	06/07/13
A-405	Stair Lobby / Elevator Sections	06/07/13
A-406	Wall Sections	06/07/13
A-407	Wall Sections	06/07/13
A-408	Wall Sections	06/07/13
A-409	Miscellaneous Sections	06/07/13
A-501	Enlarged Details	06/07/13
A-502	Miscellaneous Details	06/07/13
A-503	Miscellaneous Details	06/07/13
A-504	Miscellaneous Details	06/07/13
A-505	Miscellaneous Details, Typical Precast Joints	06/07/13
A-506	Miscellaneous Details	06/07/13
Parking		
AG-101	Grade & Second Level Striping Layouts	06/07/13
AG-102	Third & Fourth Level Striping Layouts	06/07/13
AG-103	Fifth & Sixth Level Striping Layouts	06/07/13
AG-401	Enlarged Entry / Exit Plans	06/07/13
AG-601	Signage Schedule and Details	06/07/13
AG-602	Signage Details	06/07/13
AG-701	Sign Mounting Details	06/07/13
Mechanical		
M-101	First Floor Mechanical Plans	06/07/13
M-102	2 nd thru 5 th and 6 th Level Mechanical Plans	06/07/13
M-301	Sections	06/07/13
M-401	Enlarged Plumbing Plans	06/07/13
M-402	Enlarged Mechanical Plans	06/07/13
M-501	Mechanical Schedules and Details	06/07/13
M-601	Fire Protection Piping Isometric	06/07/13
M-602	Storm Drainage Isometric	06/07/13
M-603	Waste, Vent and Domestic Water Isometric	06/07/13



**West Haymarket Parking Decks No.2 and 3
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Electrical		
E-101	Level 1 & 2 Electrical Plans	06/07/13
E-102	Level 3 & 4 Electrical Plans	06/07/13
E-103	Level 5 & Roof Electrical Plans	06/07/13
E-401	Enlarged Electrical Plans	06/07/13
E-501	Electrical Details	06/07/13
E-502	Electrical Details	06/07/13
E-601	Electrical Riser, Symbol Legend & Schedules	06/07/13
	Bid Package No. 4	
	Deck No. 3 – 100% Architectural and Structural Dwgs	
General		
G-101	Cover Page	07/10/13
Utilities		
U-101	Site Utilities Plan	07/10/13
Civil		
C-101	Vicinity Plan	07/10/13
C-102	Site Plan Showing Street/ROW Grades	07/10/13
C-103	Existing Grades / Proposed Easement Grades	07/10/13
C-104	Miscellaneous Site Details	07/10/13
C-105	Miscellaneous Site Details	07/10/13
C-201	Site Plan	07/10/13
C-301	Erosion and Sediment Control Plan	07/10/13
C-302	Erosion and Sediment Control Details	07/10/13
C-401	Site Utility Plan	07/10/13
Structural		
S-001	General Notes	07/10/13
S-101	Auger Cast Pile Layout Plan	07/10/13
S-102	Footing/Foundation Plan	07/10/13
S-201	Level 1 Framing Plan	07/10/13
S-202	Level 2 Framing Plan	07/10/13
S-203	Level 3 Framing Plan	07/10/13
S-204	Level 4 Framing Plan	07/10/13
S-205	Level 5 Framing Plan	07/10/13
S-206	Level 6 Framing Plan	07/10/13
S-207	Penthouse Framing Plan	07/10/13



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S-301	Details	07/10/13
S-302	Details	07/10/13
S-303	Details	07/10/13
S-304	Auger Cast Pile Schedule	07/10/13
Architectural		
A-101	Level 1 and 2 Floor Plans	07/10/13
A-102	Level 3 and 4 Floor Plans	07/10/13
A-103	Level 5, 6 and Penthouse Floor Plans	07/10/13
A-104	Enlarged Elevator/Stair Plans	07/10/13
A-105	Enlarged Floor Plans	07/10/13
A-106	Level 1 and Levels 2 Thru 5 Drainage Plans	07/10/13
A-107	Level 2 Traffic Topping and Level 6 Drainage Plan	07/10/13
A-108	Level 1 and 2 Reflected Ceiling Plans	07/10/13
A-109	Level 3 and 4 Reflected Ceiling Plans	07/10/13
A-110	Level 5 and 6 and Penthouse Reflected Ceiling Plans	07/10/13
A-111	Enlarged Reflected Ceiling Plans	07/10/13
A-112	Enlarged Reflected Ceiling Plans / Roof Plans	07/10/13
A-201	Elevations	07/10/13
A-202	Elevations Showing Precast Panels	07/10/13
A-203	Precast Concrete Panel Legend	07/10/13
A-204	Precast Concrete Panel Legend	07/10/13
A-205	Precast Concrete Panel Legend	07/10/13
A-206	Precast Concrete Panel Legend	07/10/13
A-207	Precast Concrete Panel Legend	07/10/13
A-208	Precast Concrete Panel Legend	07/10/13
A-209	Stair Tower Precast Concrete Panel Legend	07/10/13
A-210	Stair Tower Precast Concrete Panel Legend	07/10/13
A-211	Interior Elevations	07/10/13
A-212	Interior Elevations	07/10/13
A-213	Stair Tower Interior Elevations	07/10/13
A-214	Stair Tower Interior Elevations	07/10/13
A-215	Stair Tower Interior Elevations	07/10/13
A-301	Building Sections	07/10/13
A-302	Building Sections	07/10/13
A-303	Building Sections	07/10/13
A-304	Building Sections	07/10/13



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A-305	Building Sections	07/10/13
A-306	Building Sections, Office Details	07/10/13
A-401	Wall Sections	07/10/13
A-402	Wall Sections	07/10/13
A-403	Wall Sections	07/10/13
A-404	Canopy Details	07/10/13
A-405	Stair Lobby / Elevator Sections	07/10/13
A-406	Wall Sections	07/10/13
A-407	Wall Sections	07/10/13
A-408	Wall Sections	07/10/13
A-409	Miscellaneous Sections	07/10/13
A-501	Enlarged Details	07/10/13
A-502	Miscellaneous Details	07/10/13
A-503	Miscellaneous Details	07/10/13
A-504	Miscellaneous Details	07/10/13
A-505	Miscellaneous Details, Typical Precast Joints	07/10/13
A-506	Miscellaneous Details	07/10/13
A-601	Schedules	07/10/13
A-602	Curtain Wall / Window Legend	07/10/13
Parking		
AG-101	Grade & Second Level Striping Layouts	07/10/13
AG-102	Third & Fourth Level Striping Layouts	07/10/13
AG-103	Fifth & Sixth Level Striping Layouts	07/10/13
AG-401	Enlarged Entry/Exit Plans	07/10/13
AG-402	Fourth Level Reserved Parking Access	07/10/13
AG-601	Signage Schedule & Details	07/10/13
AG-602	Signage Details	07/10/13
AG-701	Sign Mounting Details	07/10/13
Mechanical		
M-101	First Floor Mechanical Plans	07/10/13
Bid Package No. 5		
Deck No. 2 – 65% Drawings		
General		
G-101	Cover Page	08/07/13



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Utilities		
U-101	Site Utilities Plan	08/07/13
Civil		
C-101	Vicinity Plan	08/07/13
C-102	Site Plan Showing Street Elevations	08/07/13
C-201	Site Plan	08/07/13
C-301	Erosion and Sediment Control Plan and Details	08/07/13
C-401	Site Utility Plan	08/07/13
Structural		
S-001	General Notes and Details	08/07/13
S-101	Auger Cast Pile Layout Plan	08/07/13
S-102	Footing / Foundation Plan	08/07/13
S-103	First Floor Plan	08/07/13
S-201	Typical Framing Plan 2-5	08/07/13
S-202	Typical Framing Plan 6	08/07/13
S-301	Structural Details	08/07/13
S-302	Structural Details	08/07/13
S-303	Structural Details	08/07/13
S-304	Auger Cast Pile Schedule	08/07/13
Architectural		
A-101	Lower Level and Level 1 Floor Plans	08/07/13
A-102	Level 2 and 3 Floor Plans	08/07/13
A-103	Level 4 and 5 Floor Plans	08/07/13
A-104	Level 6 and Cross Over Plan	08/07/13
A-105	Enlarged Plans	08/07/13
A-201	Exterior Elevations	08/07/13
A-202	Elevations Showing Precast Panels	08/07/13
A-203	Precast Concrete Panel Legend	08/07/13
A-204	Precast Concrete Panel Legend	08/07/13
A-205	Precast Concrete Panel Legend	08/07/13
A-206	Precast Concrete Panel Legend	08/07/13
A-207	Precast Concrete Panel Legend	08/07/13
A-208	Precast Concrete Panel Legend	08/07/13
A-209	Precast Concrete Panel Legend	08/07/13
A-210	Precast Concrete Panel Legend	08/07/13
A-211	Precast Concrete Panel Legend	08/07/13



**West Haymarket Parking Decks No.2 and 3
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A-301	Building Sections	08/07/13
A-302	Building Sections	08/07/13
A-401	Wall Sections	08/07/13
Parking		
AG-101	Levels 1, 2, 3 and 4 Striping Plans	08/07/13
AG-102	Levels 5, 6 and Crossover Level Striping Plans	08/07/13
General		
G-102	Cover Page	08/07/13
Mechanical		
M-101	Lower Levels Mechanical Plumbing Plans	08/07/13
M-102	Levels 2-6 Mechanical Plumbing Plan	08/07/13
M-103	Mechanical Plans HVAC	08/07/13
M-301	Enlarged Plumbing Plans and Sections	08/07/13
M-302	Enlarged Mechanical Plans – HVAC	08/07/13
M-501	Mechanical Schedules and Details	08/07/13
M-601	Plumbing Isometrics	08/07/13
M-602	Plumbing Isometrics	08/07/13
Electrical		
E-101	Level 1 & 2 Electrical Plans	08/07/13
E-102	Level 3 & 4 Electrical Plans	08/07/13
E-103	Level 5 & 6 Electrical Plans	08/07/13
E-401	Enlarged Electrical Plans	08/07/13
E-501	Electrical Details	08/07/13
E-502	Electrical Details	08/07/13
E-601	Electrical Riser, Symbol Legend & Schedules	08/07/13
Deck No. 3 – 100% Mechanical and Electrical Drawings		
General		
G-102	Cover Page	08/07/13
Mechanical		
M-101	First Floor Mechanical Plans	08/07/13
M-102	2 nd Thru 5 th and 6 th Level Mechanical Plans	08/07/13
M-301	Mechanical Sections	08/07/13
M-401	Enlarged Plumbing Plans	08/07/13
M-402	Enlarged Mechanical Plans	08/07/13
M-501	Mechanical Schedules and Details	08/07/13



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M-601	Fire Protection Piping Isometric	08/07/13
M-602	Storm Drainage Isometric	08/07/13
M-603	Waste, Vent and Domestic Water Isometric	08/07/13
Electrical		
E-101	Level 1 & 2 Electrical Plans	08/07/13
E-102	Level 3 & 4 Electrical Plans	08/07/13
E-103	Level 5 & 6 Electrical Plans	08/07/13
E-401	Enlarged Electrical Plans	08/07/13
E-501	Electrical Details	08/07/13
E-502	Electrical Details	08/07/13
E-601	Electrical Riser, Symbol Legend & Schedules	08/07/13

6. Bidding Requirements:

- Bid Package No. 1 dated April 26, 2013
- Bid Package No. 2 dated May 20, 2013
- Bid Package No. 3 dated June 10, 2013
- Bid Package No. 4 dated July 10, 2013
- Bid Package No. 5 dated August 7, 2013

7. Addenda:

- Bid Package No. 1 – Addendum No. 1 dated April 30, 2013 – Bidding Requirements
- Bid Package No. 2 – Addendum No. 1 dated May 24, 2013 – Bidding Requirements
- Bid Package No. 2 – Addendum No. 2 dated June 3, 2013 – Bidding Requirements
- Bid Package No. 4 – Addendum No. 1 dated August 1, 2013 – Bidding Requirements
- Bid Package No. 4 – Addendum No. 2 dated August 5, 2013 – Bidding Requirements
- Bid Package No. 4 – Addendum No. 3 dated August 12, 2013 – Bidding Requirements
- Bid Package No. 4 – Addendum No. 1 dated July 19, 2013 – Drawings & Specifications
- Bid Package No. 4 – Addendum No. 2 dated August 8, 2013 – Drawings & Specifications
- Bid Package No. 5 – Addendum No. 1 dated August 21, 2013 – Bidding Requirements
- Bid Package No. 5 – Addendum No. 2 dated August 28, 2013 – Drawings & Specifications
- Bid Package No. 5 – Addendum No. 3 dated August 30, 2013 – Drawings & Specifications

Inclusions and General Clarifications:

1. This proposal provides for a complete project scope for Deck No. 2 and Deck No. 3, based on the 65% plans and specifications issued for Deck No. 2 and 100% plans and specifications for Deck No. 3. To ensure the validity of the estimate, we have made some assumptions to ensure a complete and functional project scope. Throughout the design process, we intend to work closely with the Project Team to maintain the design concept, program scope, and budget.



**West Haymarket Parking Decks No.2 and 3
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2. This proposal includes some scopes of work for Deck No. 2 which have been bid with Bid Package Nos. 1-5 to date.
3. This proposal is based upon acceptance of the revised Guaranteed Maximum Price by September 19, 2013. We will need approval to release the Auger Pile Subcontractor to start the test pile installation on Deck 2 by September 19, 2013.
4. This proposal is based upon site access to Deck 2 on September 13, 2013. The Substantial Completion date will be July 15, 2014 for Deck No. 3 and September 1, 2014 for Deck No. 2.
5. This proposal is based on an access road to the site being provided by others during construction operations.
6. Cost associated with delays resulting from adjacent project operations and infrastructure work which is not a part of, or under the control of this project team, is not included in this proposal.
7. Site will be prepared by others.
8. Performance and payment bonds.
9. Builder's risk insurance.
10. Building permit.
11. Subcontractor bonding.
12. Davis-Bacon prevailing wage rates.
13. Use taxes.
14. We have included a \$40,000 allowance for removal of contaminated soils for Deck No. 2 and 3. Removal will be to the designated site set aside in the Contract Documents. All other soil from structural excavation is assumed to not be contaminated.
15. We have included a \$100,000 allowance for winter protection for Deck No. 3.
16. We have included a \$100,000 allowance for winter protection for Deck No. 2.
17. We have not included an allowance for shared site access road maintenance for Deck No. 2 and 3. Roads to the site and adjacent to the site are by others. Access roads, staging area, and parking area for the building pad and DEC staging area are included under Excavation and Grading.
18. We have included a \$12,000 allowance for sheet piles on the Deck No. 2 southeast stair tower due to utilities.
19. We have included a \$50,000 allowance for precast connections to the DEC Building footings and changes from the Deck 2 Preliminary Drawings to 65% Drawings. The Precast Supply Subcontractor's bid is based upon the Bid Package No. 2 – Deck No. 2 Preliminary Drawings.
20. We have included a \$15,000 allowance for additional auger piles for Deck No. 3.
21. We have included a target cost reduction item of (\$120,000) to delete one (1) elevator from Deck No. 3 and a target cost reduction item of (\$120,000) to delete one (1) elevator from Deck No. 2. The Elevator Subcontractor bid four (4) elevators per garage. The target reduction is for reducing from four (4) to three (3) elevators for each garage. We will confirm pricing with the Elevator Subcontractor for reducing one (1) elevator per garage.
22. Precast materials and erection are included for both Deck No. 3 and Deck No. 2.
23. Escalation for Deck No. 2 and 3 until December 1, 2013.



**West Haymarket Parking Decks No.2 and 3
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24. LED lighting as shown on the 65% construction documents for Deck No. 2 and 100% Drawings for Deck 3.
25. Temporary utility consumption costs during construction.
26. Site concrete and curb and gutter for drives entering the garage up to the edge of the street only. The sidewalks, landscaping, curb and gutter, and concrete surrounding the garage are excluded.
27. We reserve the right to utilize the new elevators for material and personnel hoisting and mechanical and electrical systems for temporary heating and cooling as required. Ductwork cleanliness will be per SMACNA guidelines.
28. This proposal includes a construction contingency to be utilized by the Contractor as needed during the construction process and as defined in the Agreement between the Owner and Construction Manager.
29. Warranties will begin upon the date of Substantial Completion.

Exclusions:

1. Fireproofing including spray-on or intumescent painting.
2. Parking equipment including entry gates, booths, ticket dispensers, detection loops, coiling doors at entries.
3. Graphics and Signage.
4. Security systems including code blue stations, cameras, monitors, and cabling. Raceway for security system and cameras is included.
5. Owner soft costs.
6. Architect, engineer or consultant's fees.
7. Sales tax.
8. Development fees, City impact fees, or special assessments. Utility tap fees will be included with the Site Utilities.
9. Financing costs.
10. Moving expenses.
11. Owner's project contingency or contingency for time extensions.
12. Utility company charges for distribution system extensions or relocations.
13. Off-site improvements.
14. Abatement of unforeseen asbestos, lead, or hazardous materials.
15. Monitoring or testing of hazardous materials.
16. Moisture remediation system and moisture barrier for floor coverings.
17. Third Party special inspections and testing.
18. Soil borings and investigation expense.
19. Removal and replacement of unsuitable materials, hidden structures, or obstructions from site.
20. Soil stabilization or rock excavation.
21. Guard services or security services.
22. Artwork, furnishings, or displays.
23. Televisions, computers, business equipment, and accessories.
24. Third Party commissioning of mechanical and electrical systems.



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25. Purchasing of CAD drawings from A/E.
26. MEP coordination drawings.
27. Vibration monitoring.
28. Any items listed as “N.I.C.”, “Future”, “By Owner”, or “By Others”.