

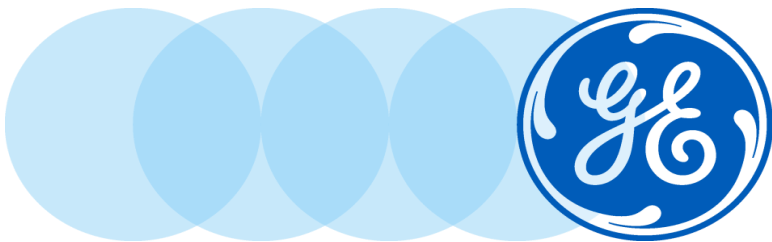


IPL H-5 MI Fall 2022

CITY OF INDEPENDENCE

Site: CITY P&L - BLUE VALLEY & SUBS

Unit Serial: 214427



Prepared By: General Electric International, Inc.

Proposal: 1622430-Rev2

Proposal Date: November 17, 2022



GE Gas Power

To: CITY OF INDEPENDENCE

Proposal: 1622430-Rev2

Serial Number: 214427

Date: November 17, 2022

Offering Type: Time and Material (T&M) Proposal for
Onsite Workscope

Firm Fixed Price for Repair Workscope

General Electric International, Inc. (hereafter referred to as "GE" or "Seller") is pleased to submit this Time and Material proposal through the GE Gas Power business of the General Electric Company to CITY OF INDEPENDENCE, INC., (hereafter referred to as "Buyer") for the site and shop work expected to be needed to troubleshoot the cause of the vibration issues for the IPL H-5 unit.

The site work will include the typical inspections performed during a major inspection, including the removal and reinstallation of the rotor.

The shop work will include disassembly, inspection, and reassembly of the rotor as part of the investigation of the cause for the vibration.

Additional separate quotes (6064699 and 6065521) have been provided for parts that may be required in the shop and at the site, pending the inspection.

The overall estimated price as detailed in Section 4.1 of this Proposal and the separate parts quotes is \$1,999,647.

Thank you for the opportunity to provide these services to CITY OF INDEPENDENCE, INC.

If you have any questions, please do not hesitate to contact me.

Submitted by:

Signature:

Name:

Michelle Williams

Title:

Senior Sales Manager

Address:

14522 S. Outer Forty Suite 300
Saint Louis, Missouri, 63017

Telephone:

(314) 285-9062

Email:

michelle.williams3@ge.com



Table of Contents

1.0	Scope of Supply	4
1.1	On-site Workscope	4
1.1.1	General Works	4
1.1.2	GT Disassembly	4
1.1.3	GT Clean & Inspect - (UNIT # H5)	5
1.1.4	GT Reassembly - (UNIT # H5)	5
1.2	Exclusion of Services	6
1.3	Shop Repair Scope for Unit #H-5 Rotor	7
2.0	Division of Responsibilities	8
3.0	Project Schedule	10
4.0	Commercial Summary	11
4.1	Pricing.....	11
4.1.1	Onsite Services	11
4.1.2	Repair Shop Services	11
4.2	Pricing Basis	11
4.3	Payment Terms.....	11
4.4	Terms and Conditions	11
4.5	COVID-19, GEOPOLITICAL CONFLICTS, AND RESPONDING GOVERNMENT ACTIONS	12
4.6	Extra Work	12
4.7	Proposal Validity	12
4.8	Purchase Order Instructions	12
5.0	Published Rate.....	13
5.1.1	Field Services Rates.....	13
5.1.2	Craft Labor Rates.....	14
	Appendix A: Terms and Conditions	15
	Appendix B: Software License Addendum to the Terms & Conditions in Appendix A	36



1.0 Scope of Supply

1.1 On-site Workscape

1.1.1 General Works

Mobilization

- Move on Site
- Materials on Site
- Tools on Site

1.1.2 GT Disassembly

- Turbine on Turning Gear
- Breaker Open
- Turbine Off Turning Gear

Remove External Electrical & Instrumentation (**Buyer**)

- Remove Instrumentation

Disassemble Enclosures / Ducts

- Remove Inlet Plenum & Duct Components
- Remove Roof & Enclosure Panels
- Remove Exhaust Duct Components
-

Disassemble Load Coupling

- Disassemble Accessory Coupling & Alignment Check
- Disassemble Load Gear Coupling & Alignment Check

Disassemble Piping & Combustion System Hardware

- Remove Turbine Compartment Piping
- Remove Fuel Nozzles & End Covers
- Remove Crossfire Tubes, Liners and Aft Cans
- Disassemble Casings & UH Turbine Components

Disassemble Casings & UH Turbine Components

- Install Casing Support Jacks
- Unbolt & Remove UH Inlet Casing
- Unbolt & Remove UH Compressor Casing
- Unbolt & Remove UH Turbine Casing
- Unbolt & Remove UH Exhaust Casing
- Remove Transition Pieces
- Measure 1st Stage Nozzle Concentricity
- Remove 1st Stage Nozzle (U/H)
- Remove Support Ring (U/H)
- Unbolt & Remove CDC
- Remove Inner Barrel U/H
- Opening Clearance Checks



Opening Clearance Checks

- Verify Opening Clearances

Disassemble Rotor & Bearings

- Remove Bearing 1 and Thrust Bearing
- Remove Bearing 2
- Bearing Clearances
- Remove Rotor
- Disassemble LH Turbine Section Components

1.1.3 GT Clean & Inspect - (UNIT # H5)

Clean & Inspect Casings

- Clean & Visually Inspect Inlet Casing
- Clean & Visually Inspect Compressor Casing
- Clean & Visually Inspect CDC
- Clean & Visually Inspect Exhaust Casing
- Clean & Visually Inspect Turbine Casing

Clean & Inspect Enclosures & Ducts

- Clean & Visually Inspect Inlet Plenum & Duct Components
- Clean & Visually Inspect Exhaust Duct Components
- Clean & Visually Inspect Roof & Enclosures Panel

Clean & Inspect Combustion System Hardware

- Clean & Visually Inspect Fuel Nozzles & End Covers
- Clean & Visually Inspect Crossfire Tubes, Liners, Aft Cans

Clean & Inspect Internal Turbine Section Components

- Clean & Visually Inspect Turbine Components

Clean & Inspect Internal Compressor Section Components

- Clean & Visually Inspect Compressor Components

Clean & Inspect Rotor & Bearings

- Clean & Visually Inspect Accessory Coupling
- Clean & Visually Inspect Load Coupling
- Clean & Visually Inspect Load Gear Coupling
- Clean & Visually Inspect Rotor & Bearings

Clean & Inspect Piping & Pigtails

- Clean & Visually Inspect Turbine Compartment Piping

Clean & Inspect Electrical & Instrumentation (**Buyer**)

- Clean & Visually Inspect Instrumentation

1.1.4 GT Reassembly - (UNIT # H5)

Reassemble Rotor & Bearings

- Install Rotor
- Bearing Clearances
- Install Bearing 2
- Install Load Coupling



- Install Bearing 1 and Thrust Bearing

Reassemble UH Turbine Components & Casings

- Install & Bolt Compressor Casing
- Install & Bolt UH Inlet Casing
- Remove Casing Support Jacks
- Install Inner Barrel
- Install & Bolt CDC
- Install Support Ring U/H)
- Install 1st Stage Nozzle (U/H)
- Install Transition Pieces
- Install & Bolt UH Exhaust Casing
- Install & Bolt UH Turbine Casing

Reassemble Combustion System Hardware & Piping

- Install Crossfire Tubes, Liners and Aft Cans
- Install Fuel Nozzles & End Covers
- Install Turbine Compartment Piping

Closing Clearance Checks

- Verify Closing Clearances

Coupling Alignment / Assembly

- Assemble Accessory Coupling & Alignment Checks
- Assemble Load Coupling & Alignment Checks
- Assemble Load Gear Coupling & Alignment Checks

Reassemble Enclosures / Ducts

- Install Inlet Plenum & Duct Components
- Install Roof & Enclosure Panels
- Install Exhaust Duct Components

Install External Electrical & Instrumentation (**Buyer**)

- Install Instrumentation

1.2 Exclusion of Services

- Activities resulting from fact findings are excluded from the described scope, if not otherwise mentioned or specified in the scope description. Such activities must be agreed separately, as will time and costs.
- Any works and parts beyond the described scope such as:
 - Correction, adjustment and/or advisory assistance for the replacement of GE components against third party components
 - Removal of broken studs and bolts and restoration of threads, if any
 - Correction of distortion and/or rework of joint faces, if any
- Any works and inspections on components not having been delivered by GE
- Asbestos measurements and/or asbestos decontamination, if any
- Training (classroom and/or on-site)
- Modification of existing operation and maintenance manuals
- GE will leave the site clean swept after the inspection. Further cleaning is with the client, if required.



1.3 Shop Repair Scope for Unit #H-5 Rotor

Inspection & Cleaning

- Receive and unload rotor
- Incoming visual and dimensional inspect rotor
- Incoming balance check
- Blast Clean
- NDT unit rotor
- comp blade mapping
- Lathe runouts

Unmarry and remarry compressor from turbine

- Unmarry turbine rotor from compressor rotor.
- Remarry turbine and compressor

Unstack/restack compressor

- Unstretch and unstack compressor rotor
- Comp rotor restack

Unstack/restack turbine rotor

- Turbine Rotor unstack
- Turbine Rotor Stack

Repair Marriage Joint

- Repair marriage joint by machining and spray buildup to restore fit (patch ring will be extra cost, if needed and pricing per each is provided)
- Patch Ring
- HVOF Rabbet Fit

Final Unit Rotor

- Final runouts including final lathe work
- Install buckets and hardware, check dimensions
- Final balance
- Complete Engineering review and final inspection.
- Prepare Unit rotor for return shipment.



2.0 Division of Responsibilities

This Division of Responsibility (DOR) table outlines the responsibilities between GE and Buyer for the field services work.

		GE	Buyer	N/A
Environmental, Health, and Safety				
1	First Aid & Fire Protection	X		
2	Personal Safety Equipment	X		
3	Testing and Monitoring for Hazardous Material (Lead, Asbestos)		X	

Facilities				
1	All Permits, Licenses, Governmental or Public Utility Charges and Inspection Fees	X		
2	Office Space / Trailers for Field Engineers and Crew	X		
3	Wash / Sanitary Facilities	X		
4	Change and Lunch Facilities for Crew	X		
5	Designated Work and Laydown Areas Accessible to Crane and Turbine	X		
6	Machine Shop Facilities, and On-Site Machining	X		
7	Normal Plant Service Required for Maintenance Such as Light, Heat, Water, Compressed Air and Electric Power	X		
8	Receiving, Off-Loading and Proper Storage of All New and Refurbished Parts		X	

Labor				
1	Electrical Tests, Meggering and Necessary Repairs on Electrical Motors or Power Circuits (Including Labor for 2nd Man Requirement)		X	
2	Electricians / Technicians to Lock-Out / Tag-Out Disconnect and Reconnect Wiring & Conduit Necessary to Support Scope of Supply for Disassembly and Reassembly of Components		X	
3	Electricians/Technicians to Disassemble, Reassemble and Calibrate Turbine Instrumentation		X	
4	Isolate and Tag Out (Lockout-Tagout) All Relevant Systems Associated with Work Scope (Chemical, Electrical, Mechanical, Steam & Environmental)		X	
5	Operational Personnel to Perform All Normal Functions of T-G Equipment (Shutdown, Start-up, Drain and Fill Oil Systems, etc)		X	
6	Labor and Material Related to the Removal and Installation of Insulation		X	
7	Crane Operator(s)		X	

Labor + Tooling / Equipment				
------------------------------------	--	--	--	--



GE Gas Power

1	Alignment Technician and equipment	X		
2	Blast cleaning and compressed air for blast cleaning			X
3	Heat Treatment (pre/post weld and/or stress relieving)			X
4	Non-Destructive Test services (NDT/NDE)	X		
5	Scaffolds (including the manpower to erect/disassemble). (Including once per shift inspections, ref. GE EHS-03M, Scaffold Safety.):		X	

Tooling / Equipment				
1	Confined Space: Monitoring, Equipment, and Calibration		X	
2	Fork Lift and Certified Operator		X	
3	Supplementary Lighting - Light Plant		X	
4	Aerial Man-Lift		X	
5	Portable Compressed Air		X	
6	Welding Machine and Leads		X	
7	Supply a Site Truck or Van for Local Job Use		X	
8	Crane Capable of Supporting All Load Lifts Required to Perform the Work		X	
9	Expendable Materials (Rags, Hones, Joint and Bolt Compounds, Solvents, etc.)	X		
10	Fuel for Onsite Equipment (Forklift, Air Compressor, Welding Machine, etc.)		X	
11	Gases - Acetylene, Oxygen, Argon, etc		X	
12	Hex-Chrome (Tooling / Equipment)		X	
13	Ice and Water for GE Personnel	X		
14	Material for Protection of Laydown Surfaces, Protective Coatings and Heaters to Maintain Equipment While Disassembled (i.e. Generator)		X	
15	Normal Maintenance Tools Needed to Perform Workscope	X		
16	Rotor Supports and Cribbing Material for Equipment Requiring Laydown		X	
17	Round-Trip Transportation and Shipping Skid for Components Being Sent to GE Service Center			X
18	Special Tools and Equipment Originally Supplied with the Unit	X		
19	Turbine Oil, Greases and Spare & Renewal Parts Needed to Complete Workscope		X	



3.0 Project Schedule

For the purposes of this proposal, GE is utilizing the Outage dates provided by Buyer.

Outage start date: 12/1/2022 (Estimated)

Outage end date: 6/15/2023 (Estimated)

The main focus of the proposed on-site work relating to the scope of supply indicated in Section 1 shall be performed working the following schedule:

Schedule	Turbine
Hours per shift	10
Shifts per day	1
Days per week	6

1. The shifts may be adjusted during the outage as the workload activities dictate.
2. Crew size and composition will be set by GE's discretion to best assure the outage schedules are met. GE crew available to start after 11/28/2022
3. This proposal is based on the proposed Outage Schedules in this section. Changes in the Outage Schedules or repair scope changes that require demobilization/remobilization or expedited work will be addressed as Extra Work.
4. Weather delays may impact the schedule and will be billed as Extra Work
5. A final detailed work scope activity schedule will be agreed upon between GE and Buyer after award and acceptance of contract
6. Site disassembly is expected to be completed in 3 weeks. Following disassembly, the crew will demobilize, and the rotor will be shipped to the shop. The estimated cycle at the shop is 20 weeks. The crew will then remobilize to the site for reassembly. The expected site duration for reassembly is 3 weeks. Any additional repairs resulting from discovery items could extend these durations and is considered extra-work.



4.0 Commercial Summary

4.1 Pricing

4.1.1 Onsite Services

GE is pleased to provide the work scope as indicated in the Section 1.0 and in Section 2.0 per the Estimated Time and Material (T&M) Pricing of:

Item	Description	Estimated T&M Price (\$USD)
1	H-5 Major Inspection Site Services as detailed in Section 1.1 and Section 1.2	\$1,019,369

4.1.2 Repair Shop Services

GE is pleased to provide the repair scope as detailed in Section 1.4 on a Fixed Firm Pricing of:

Item	Description	Price (\$USD)
1	Inspection & Cleaning	\$78,805
2	Unmarry and remarry compressor from turbine	\$59,316
3	Unstack/restack compressor	\$311,406
4	Unstack/restack turbine rotor	\$146,917
5	Repair Marriage Joint	\$78,656
6	Final Unit Rotor	\$80,500
7	Patch Rings (5 QTY), if required	\$7,500
8	Rotor Transportation (Estimated; actual charges will be invoiced at cost + 25%)	\$50,000
Total		\$813,100

4.2 Pricing Basis

- Prices quoted are per the Terms and Conditions stated herein and the offering quoted price is per Section 1.0, Section 2.0, and Section 3.0
- Prices do not include applicable sales, excise, value added, use or similar taxes
- Offering subject to prior sale
- Time and Material work will be performed at GE rates current at the time the work is performed, less a 10% discount for Field Engineering. GE's current rate sheet, at the time of this quotation, is included Section 5.0 of this proposal. Per diem shall be \$250/day for Field Engineering. The craft labor rates in Section 5.0 already include the 10% discount.
- Transportation price will be invoiced based on Cost plus 25%.

4.3 Payment Terms

Payment terms is due within thirty (30) days from the invoice date.

4.4 Terms and Conditions

Unless otherwise stated, this Proposal shall be subject to the Terms and Conditions as described in Appendix A and B.



4.5 COVID-19, GEOPOLITICAL CONFLICTS, AND RESPONDING GOVERNMENT ACTIONS

The parties acknowledge that the ongoing COVID-19 pandemic, geopolitical conflicts, and government actions in response thereto are affecting and will continue to affect Seller's ability to deliver goods and services around the world, including, but not limited to, impacts arising from materials shortages, transportation shortages and delays, sanctions preventing receipt or delivery of materials, etc. (an "**ONGOING IMPACT**"). In the event that an ONGOING IMPACT affects Seller's ability to deliver on time or at the bid price, Seller shall be entitled to an equitable adjustment in schedule and price as appropriate, subject to Seller's obligation to work in good faith with Buyer to mitigate the impact on schedule and/or cost.

4.6 Extra Work

Out-of-scope work (extra work) is defined as any work not specifically called for in GE's quotation and will be formally agreed to by Buyer and GE before it is performed.

In the event extra work is necessary during the performance of the workscope, the extra work can be performed on a lump-sum, firm-price basis, for which a quote will be provided as needed, or on a time-and-material basis (rates included in this proposal). Time and Material work will be performed at GE rates current at the time the work is performed. GE's current rate sheet, at the time of this quotation, is included in Section 5.

In the event extra work requires the skills of a specialist, craftsman, or technician for which extra work rates are not included in this quote, the extra work hourly rates are included in Section 5.

No extra work will be performed without prior authorization of the designated Buyer representative. Extra work authorization will be in written format prior to start of any extra work. Buyer will delegate personnel responsible for authorizing extra work.

4.7 Proposal Validity

This proposal document, together with the price contained herein, is valid for 90 days from date of issuance and assumes execution of service by December 2022. Upon expiration of this proposal document, or for service execution beyond the above date, a new proposal will be provided upon request and escalation should be assumed. For each quarter of service execution beyond the above date and / or for each quarter this document is revised beyond original proposal issuance, the proposal price shall be escalated at a minimum of 1.5%.

4.8 Purchase Order Instructions

Upon Buyer's decision to submit a purchase order, please address the Purchase Order to:

Attn: Michelle Williams
Address: 14522 S. Outer Forty Suite 300
City: Saint Louis
State: Missouri
Zip Code: 63017
Fax#: (314) 285-9062
Country: United States
Email: michelle.williams3@ge.com



5.0 Published Rate

Time and Material work will be performed at GE rates current at the time the work is performed. GE's current rate sheet, at the time of this quotation, is included below.

5.1.1 Field Services Rates

GE Gas Power

North America
United States

Field Services Outage Rates

Effective: 16-JUN-2022
Through: 31-DEC-2022

Technical Field Advisors

	Curr. Hourly*
Mechanical Field Engineer	USD 435
Specialty Field Engineer ****	USD 590
Startup Specialist	USD 640
Borescope Specialist	USD 435
Onsite Project Manager	USD 650
Offsite Project Scheduler	USD 380
HRSG Field Engineer	USD 310

Power Engineering Requests (ER)

ER Pricing per Case	USD 5,125
---------------------	-----------

i. Rates include Standard Personal Protective Equipment (PPE). Standard PPE includes: steel toe capped boots; hard hat; safety glasses; ear defenders; standard coveralls & gloves. Any non-standard PPE issued will be billed at cost plus 30% administration fee.

ii. Purchased labor and materials will be billed at cost plus 30% Administration fee.

iii. Foregoing mentioned rates are exclusive of: special security arrangements, high cost living areas, cost of accommodation during local events creating shortages, client-required drug and health-related testing, quarantining, safety orientations, and security clearances.

Technical Field Advisor Service

Technical Advisory Service is defined as technical advice and counsel from field personnel based on engineering and operational practices as applicable to the equipment. TFA Services do not include supervision or management of purchaser's employees, agents or other contractors.

Onsite Project Manager

This service includes all outage manager responsibilities including planning, organizing, integrating and monitoring of resources such as labor, supervisors, tools and technical assistants.

Offsite Project Scheduler

Personnel utilized to support schedule-related activities.

Power Engineering Requests

The Gas Power Engineering Request ("ER") will provide technical support for customer questions. The customer will be charged for ER responses to one question on one topic (such as, historical records, fleet data, and unit specific data). For each follow-up question, responses and/or telephone call, GE will charge the customer at the rate listed above. GE will determine at its discretion whether any question warrants a funded engineering study. Any such engineering study will be quoted based on the customer's specifications.



* Standard Rate

** Travel & Living

*** Per Diem

**** Specialty FE's include, but are not limited to, Controls, Generator, and excitation specialists...etc.

Rate Terms

Normal	1.00X	Standard Rate
Overtime 1 (OT1)	1.50X	Standard Rate
Overtime 2 (OT2)	2.00X	Standard Rate
Peak	1.20X	Standard Rate
< 48 Hours Notice	1.30X	Standard Rate

A. The normal workday and normal workweek are defined as 8 consecutive hours and 5 consecutive normal workdays, respectively, excluding any holidays or weekends.

B. The OT1 rate above applies to billable hours on first weekend day and normal workday hours greater than 8 but less than 12 consecutive hours.

C. The OT2 rate above applies to billable hours on second weekend day, holidays and normal workday hours more than 12 consecutive hours.

D. Peak multiplier applies to billable hours at the applicable rate from March 1st to May 15th and October 1st to November 30th. When committed 60 days or earlier before start of peak period (date), the peak adder can be waived.

E. Travel time will be charged at the applicable hourly rate (i.e., standard rate times applicable multiplier(s) as set forth) on a round trip basis with point of departure.

F. Minimum billing of 8 hours daily for all services provided, including standby time. Minimum standby time is 8 hours daily at the standard rate (weekdays and weekends).

G. On completion of jobs, nightshift workers allowed 8 hours sleep / laying in time which is billable.

H. T&L** expenses will be billed for all days during the assignment including weekends, standby, and travel days by the GE representative providing the service.

I. T&L** expenses will be billed at USD 400 per person daily or consult with your local GE Gas Power representative for PD*** rate.

J. Consult with your local GE Gas Power representative to determine any applicable charges for special tooling and/or test equipment or any taxes, fees or VAT that may be applicable in addition to the above rates.

K. These published rates are conditioned upon an agreement under which GE's standard terms and conditions of sale apply (e.g., PSTC latest rev.).

© 2022 - Rev.1



5.1.2 Craft Labor Rates

	ST	OT	DT	*Per Diem
Superintendent	\$147.50	\$218.75	\$268.75	\$237
Millwright Subject Matter Expert	\$96.41	\$129.93	\$163.39	\$130
Millwright Certified Mechanic	\$93.38	\$125.36	\$157.33	\$130
Millwright Journeyman	\$90.33	\$120.80	\$151.26	\$130

*Per Diem is charged seven days per week.

Note: GE reserves the right to change the above rates due to changes in Craft Labor Agreement rates and/or changes in payroll taxes or insurance. Any change would be retroactive to the date of change. Notice of any change will be given to City of Independence on an as-soon-as-possible basis.

SITECHARGES

- Turbine tool kit at \$600 per day.
- Tooling can be off-rented for 10 days for standby. After 10 days, rental rate shall be \$300 per day. Full rental rate resumes after 30 days.
- Transportation and set up of tooling is firm priced at cost + 25%
- Any incidental material, rented equipment or third party services shall be invoiced at GEII cost plus
 - **25%.** In the event City of Independence provides the material, rental equipment or services, the mark up is not applicable.



Appendix A: Terms and Conditions

The product and/or services set forth in this proposal are provided to IPL subject only to the Terms and Conditions below:

GEII NOTE: These provisions include GEII Modifications from through the most recent contract 2013, 2009 - 11., and reflects the modifications shown below. No other General Provisions shall apply.

IPL CONTRACT GENERAL PROVISIONS

SEC. 20.13.001. GENERAL.

This Article governs general provisions for all contracts entered into between the IPL Power & Light Department (also referred to as Owner) and contractors for the construction of public works contracts bid by the IPL Power & Light Department, except those contracts or agreements excluded by the Purchasing Manual and Professional Services agreement.

SEC. 20.13.002. CONTRACT DOCUMENTS.

The Contract Documents, sometimes referred to as, "The Contract", include the Invitation to Bid, the Instructions to Bidders, the Contract Agreement, the Payment, Performance and/or Maintenance Bond, the Specifications, the Contract General Provisions, the Contract Special Provisions, addenda as may be issued, the Proposal (Bid Form) and the plans or contract drawings. All the Contract Documents are intended to be cooperative and to describe and provide for a complete work. A requirement occurring in one is as binding as though occurring in all. Should there be any lack of accord in the various documents, the Special Provisions prevail over the Specifications and the Specifications prevail over the plans. Addenda or modifications of any nature agreed to by both parties will take precedence over original provisions. If there is a conflict among Specifications, the City will determine which Specification best meets the intent of the design. Conflicts between Drawings or Specifications and applicable codes and standards will be referred to City for a decision thereon.

SEC. 20.13.003. GENERAL INTENT.

The general intent of the Contract Documents and provisions thereof is that the Contractor shall, for the compensation set forth, furnish all plant, equipment, tools, labor, materials, superintendence, in accordance with the Specification; shall begin promptly and proceed expeditiously and continuously without cessation or shutdown of work unless specifically approved in writing by the Owner; shall construct, complete and ready for its intended purposes, within accordance with the Contract Documents; that the prices proposed and bid by the Contractor and accepted by the Owner are agreed to be fair, full and complete compensation;.

SEC. 20.13.004. CONTRACTOR'S RESPONSIBILITY.

A. It is expressly understood that the Contractor is in all respects an independent contractor for this work and is in no respect an agent, servant or employee of the Owner. The Contractor specifically represents that in performing work covered by this agreement that, within the meaning of all federal and state unemployment compensation, insurance or other laws and all State Worker's Compensation Acts, the Contractor's employees and the employees of all subcontractors are not employees of the Owner, for any purpose whatsoever; also that the Contractor accepts exclusive liability for all contributions, taxes, interest and penalties necessarily paid by the Owner under unemployment compensation, insurance or other laws on account of all persons employed by the Contractor or any subcontractors hereunder, and the Contractor hereby agrees to reimburse the Owner for all contributions, taxes, interest, penalties, if any, necessarily paid by the Owner under unemployment compensation, insurance or other laws covering employees of the Contractor or any subcontractors.



C. The Contractor shall require any subcontractors deemed a transient employer as defined by State law to show proof of having filed a financial assurance instrument with the State Director of Revenue and to show proof that the subcontractor holds a current valid certificate of insurance for worker's compensation coverage in Missouri prior to the subcontractor performing any work under the Contract. If required by the State Director of Revenue or the State Director of the Division of Worker's Compensation, the Contractor will withhold all or any part of payment to the subcontractor to satisfy State law.

D. The Contractor agrees to comply in all respects with the requirements of law relating to furnishing reports and statements, or as may be reasonably required by the Owner.

E. It shall be the responsibility of the Contractor to examine the site of the work to determine the amount of work to be done in connection with the construction herein specified, the quantities of material required, and the construction equipment and labor necessary for the performance of the contract. By submission of a proposal for this work, the Contractor represents that he or she has investigated the character of the work and conditions which may be encountered, and the quantities and types of related work not covered by unit prices, and agrees that the data furnished herein is merely informative and represents the best information available at the time of advertising for bids. The Contractor understands that such information or data is furnished to the Contractor without guarantee of its accuracy and that variations from the indicated amounts or types of work, other than that covered by contract unit prices, required to complete the contract will not entitle the Owner to any credits or the Contractor to any extra payment.

SEC. 20.13.005. APPLICABLE CODES AND STANDARDS.

A. Reference to standard specifications of any technical society, organization or association, or to codes of local or state authorities, shall mean the latest such standard, code, specification or tentative specification adopted and published at the date of taking of bids, unless specifically otherwise stated. Applicable codes and standards referred to in these specifications shall establish minimum requirements for equipment, materials and construction and shall be superseded by more stringent requirements of drawings and specifications when and where they occur.

B. All construction methods and tools shall meet all State of Missouri safety requirements.

SEC. 20.13.006. COMPLIANCE WITH LAWS, PERMITS, LICENSES AND TAXES.

A. The Contractor shall conform to and comply with all applicable laws, bylaws, regulations and ordinances with regard to all and every action and operation and shall require conformity and compliance of all subcontractors and employees. Fees for required City permits for work within the construction limits will be waived.

B. The City is exempt from sales tax. This includes purchases by contractors for City projects. The City will provide a certificate to contractors for their use in obtaining the sales tax exemption. Contractors are to prepare their bids for City projects without including sales tax.

C. Contractor shall be responsible for and pay directly, all corporate and individual taxes measured by net income or profit imposed by any governmental authority on Contractor, its employees or subcontractors due to the execution of any agreement or the performance of or payment for work hereunder ("Contractor Taxes"). Owner shall be responsible for and pay directly when due and payable all taxes, duties, fees, or other charges of any nature (including, but not limited to, ad valorem, consumption, excise, franchise, import, license, property, sales, stamp, storage, transfer, turnover, use, or value-added taxes, and any and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto), other than Contractor Taxes, imposed by any governmental authority on Contractor or its employees or subcontractors



due to the execution of any agreement or the performance of or payment for work hereunder ("Owner Taxes"). All payments due and payable by Owner to Contractor hereunder shall be made in the full amount of the Contract price, free and clear of all deductions and withholding for Owner Taxes. If Owner deducts or withholds Owner Taxes, Owner shall pay additional amounts to Contractor to cause the amounts Contractor receives, net of deducted or withheld Owner Taxes, to equal the full Contract price. Owner shall provide to Contractor within one month accurate official receipts from the appropriate governmental authority for deducted or withheld taxes.

SEC. 20.13.007. PATENTS.

A. Subject to the terms of the Contract, Contractor shall indemnify the City against any damages, costs and expenses arising out of any suit, claim, or proceeding (a "Claim") alleging that Products or Services infringe a patent in effect in the U.S., an EU member state or country of delivery (provided there is a corresponding patent issued by the U.S. or an EU member state), or U.S. copyright or copyright registered in the country of delivery; provided that: (a) the City promptly notifies Contractor in writing of any such Claim; (b) the City makes no admission of liability and gives Contractor sole authority, at Contractor's expense, to direct and control all defense, settlement, and compromise negotiations; and (c) the City provides Contractor with full disclosure and assistance that may be reasonably required to defend any such Claim.

B. Contractor shall have no obligation or liability with respect to any Claim based upon: (a) any Products or Services that have been altered, modified, or revised; (b) the combination, operation, or use of any Products or Services with other products when such combination is part of any allegedly infringing process; (c) failure of the City to implement any update provided by Contractor that would have prevented the Claim; (d) unauthorized use of Products or Services, including, without limitation, a breach of the provisions of the Contract; or (e) Products or Services made or performed to the City's specifications.

C. Should any Product or Service, or any portion thereof, become the subject of a Claim, Contractor may at its option (a) procure for the City the right to continue using the Product or Service, or portion thereof, (b) modify or replace it in whole or in part to make it non-infringing, or (c) failing (a) or (b), take back Products or Services and refund any fees received by Contractor attributable to the infringing Product or Service.

D. This states Contractor's entire liability for indemnification for patent, trademark, copyright, and trade secret infringement for Products and Services.

E. Notwithstanding the foregoing, with respect to any Products or Services, or portions thereof, which are not manufactured/developed by Contractor, only the indemnity of the manufacturer/developer, if any, shall apply.

SEC. 20.13.008. SUPERVISION AND INSPECTION.

A. The work herein considered is to be constructed in accordance with the Contract Documents. Wherever the words "directed, permitted, approved, acceptable, satisfactory," or words or phrases of similar import occur in the Contract Documents, they shall be understood to be functions of the Engineer and to be exercised at the Engineer's discretion.

B. Methods of construction and procedure shall be of the Contractor's own selection, provided no requirement of the Contract Documents is violated and the work is completed within the time allowed. Approval of the Engineer of any construction device or method, or absence of disapproval, shall not relieve the Contractor of full responsibility for any failure thereof and shall not connote and is not intended to connote that the Owner will direct the manner in which the work is to be performed under the contract.



C. All materials and every process of manufacture and construction shall be subject to inspection at all times and the Engineer or any representative shall have free access to all operations, provided that such inspection shall not delay the Contractor's work. The Contractor shall provide necessary facilities for the visual inspection of workmanship and testing of materials. Omission of inspection shall not relieve the Contractor of any obligation to produce work required by plans and specifications.

D. Rejected materials shall be removed promptly from the vicinity of the work and the Contractor shall promptly remove, reconstruct, replace and make good as may be directed, any defective work. Oversight or error of judgment of inspectors, or previous acceptance, shall not relieve the Contractor from the obligation to make good defects whenever discovered. If the Contractor does not make corrections of such condemned work and remove rejected materials within a reasonable time, as fixed by written notice, the Owner may make removals and corrections.

E. The Contractor shall furnish to the Engineer any information concerning the nature or source of any material or equipment or part thereof, which the Contractor proposes to use. Tests may be conducted where, in the opinion of the Owner or Engineer, such are necessary. Where the Contractor desires to propose for use in the work any material or product as an alternative or equivalent to a material or product specified herein, the Contractor will be required to submit samples to a testing bureau designated by the Engineer, to determine the suitability of such materials and products.

SEC. 20.13.009. PERSONAL LIABILITIES.

In carrying out any of the provisions of a contract or in exercising any power or authority granted to them thereby, there shall be no personal liability upon any member, agent or representative of the Owner for failure to act on (i) the part of the Engineer or any agent of the Owner, (ii) payment for the work in whole or in part, (iii) extension of time or possession taken of the work., No act or failure to act for (i), (ii), (iii) above shall operate as a waiver of any right to damages therein provided for; nor shall waiver or breach of contract be held to be a waiver of any other or subsequent breach.

SEC. 20.13.010. SUBLETTING OR ASSIGNING CONTRACT.

A. Contractor may assign or novate its rights and obligations under the Contract, in part or in whole, to any of its affiliates without Owner's consent, and may subcontract portions of the work, so long as Contractor remains responsible for it. Owner agrees to execute any documents that may be necessary to effect Contractor ~~Seller's~~ assignment or novation. The delegation or assignment by Buyer of any or all of its duties or rights under the Contract without ~~Owner's~~ Contractor's prior written consent shall be void.

B. No subcontracts or transfer of contract shall in any case release the Contractor of his or her liability under the contract and bonds.

SEC. 20.13.011. COOPERATION WITH OTHERS.

The Contractor and subcontractors will be expected to cooperate with forces of the City, utility companies or other contractors who may be working in the area. The Contractor shall, as far as possible, arrange work schedules and dispose of materials so as not to interfere with the operations of other contractors or others engaged upon the project or nearby. The Contractor shall also join his or her work to that of others in a proper manner, in accordance with the spirit and intent of the Contract Documents and perform his or her work in proper sequence in relation to that of other contracts.

SEC. 20.13.012. PLANS (CONTRACT DRAWINGS).

A. Certain plans prepared on behalf of the Owner, and elsewhere described and named to accompany and supplement these provisions, constitute a part of the Contract Documents. Such plans are agreed to be



constructively attached to the Contract Documents, although convenience may preclude physical attachment.

B. The Owner shall have the right to modify details of these plans to provide final, or checked, plans in lieu of any preliminary or unchecked plans, as the work proceeds, all of which shall be considered as plans accompanying the Contract Documents. The Contractor shall not take advantage of any errors or discrepancies discovered in the plans, but shall report same, and the Engineer will make or approve the necessary corrections. If contractor incurs additional expenses while Owner is altering or modifying details of the plans while the Work is in progress, Owner shall be liable for incremental expenses and will be billed accordingly at the conclusion of Work outlined in SEC. 20.13.017B. GENERAL PROVISIONS CONCERNING TIME.

SEC. 20.13.013. NOTICE TO PROCEED.

A. Upon receipt of Contract Documents fully executed by the Owner, the Contractor shall immediately proceed with activities pertaining to the work, such as specified coordination submittals and required conferences. The Contractor shall not move onto the site until the Owner has issued a written Notice to Proceed.

B. The Notice to Proceed will be issued upon completion of (a) receipt of acceptable copies of insurance certificates, (b) acceptance of specified coordination submittals, i.e., Program of Construction, Schedule of Values, etc., and (c) the conclusion of initial coordinating conferences. The date of Notice to Proceed shall be that on which the Contractor may move onto the site, unless otherwise set forth in the said notice. The completion time of contract shall be the number of calendar days as stated in the Contract beginning with the date stated in the Notice to Proceed,

SEC. 20.13.014. PROGRAM OF CONSTRUCTION AND PROGRESS CONTROL.

A. Within ten days after signing the Contract Agreement, the Contractor shall furnish the Engineer a schedule and progress report form showing construction schedule on the form.

B. The Engineer will review the schedule submitted and promptly request any revisions or changes required so that the Contractor's work will not delay or interfere with other crews that might be working in the area, so far as may be known. The Engineer will furnish the Contractor three prints of the schedule without prior approval from the Engineer in writing.

C. Should it become evident at any time during the construction that operations will, or may, fall behind, the schedule of the approved program of construction, the Contractor shall promptly submit revised written schedules setting out changes in operations, methods, equipment, added amount of labor or of working shifts, night work, etc., by which lost time shall be made up and shall confer with the Engineer until an approved modification of the original program is secured. Should operations actually fall behind to an extent that the completion of the work within the fixed time would appear doubtful, the Owner may request the Contractor to add equipment and construction forces or to increase the working hours per week. No payments on any estimates shall be made after such a request is made until an approved modification of the program has been provided by the Contractor. Execution of the work according to the accepted program of construction, or approved modifications thereof shall be an obligation of the Contractor at all times during the life of the contract.

SEC. 20.13.016. CONSTRUCTION PROCEDURE.



- A. The Engineer and the Contractor shall discuss and follow mutually agreed methods and procedures. Practices shall be as established in the industry and best modern methods in accordance with the contract requirements as set forth herein.
- B. All workers, mechanics, tradesmen, artisan and other employees engaged on the work by the Contractor shall be trained and skilled in their various occupations. All plant, tools and equipment of every kind shall be suitable in character and ample in quantity and capacity to carry out and complete the work of the contract in the required times and according to approved program of construction. The Contractor shall supply all materials and work incidental to the construction included under the contract, notwithstanding minor omissions in the plans and specifications. Materials and workmanship of every kind shall conform to all the requirements of these specifications and wherever not explicitly described shall conform to best current practices.
- C. The Contractor shall perform the contracted work in proper sequence relative to the work of other contractors and to the acts or operations of the Owner. No deviation from the plans or specifications will be permitted, unless authorized in writing by the Engineer.

SEC. 20.13.017. GENERAL PROVISIONS CONCERNING TIME.

- A. The construction herein provided for is to be completed within certain times as set forth in the Contract Documents. Extensions of time for completion will be granted under the following conditions:
1. If the Owner should, in writing, direct deferment of the beginning of work beyond the formal date to begin work, or if the Owner should order the work closed down or temporarily discontinued, corresponding extensions of time would be granted with due consideration for changed working conditions incident to seasons and weather.
 2. The Contractor is requested to bring to the attention of the Engineer, by letter, during the progress of the work, the occurrence of events which the Contractor considers may warrant extension of time under the conditions of the contract. If the contract is not completed within the time stipulated, the Contractor shall, at the conclusion of the work, present a written statement to the Engineer concerning all matters of time extensions.
 3. The amount of all extensions of time, for whatever reason granted, shall be determined by the Engineer with due consideration of working seasons and working conditions. In general, only actual and not constructive or hypothetical days of delay will be considered. The Owner shall have authority to grant additional extensions of time as the Owner may deem advisable and justifiable.
 4. **EXCUSABLE DELAYS:** Contractor shall not be liable nor in breach or default of its obligations under the Contract to the extent performance of such obligations is delayed or prevented, directly or indirectly, due to causes beyond its reasonable control, including, but not limited to, acts of God, fire, terrorism, war (declared or undeclared), epidemics, material shortages, insurrection, acts (or omissions) of the City or the City's suppliers or agents, any act (or omission) by any governmental authority, strikes, labor disputes, transportation shortages, or vendor non-performance. The delivery or performance date shall be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay.
 5. If the Contractor fails to complete the work within the time fixed by the contract or extensions thereof, and if the Owner shall nevertheless permit the Contractor to continue and complete the same, such permission shall neither modify nor waive any liability of the Contractor for



damages arising from non-compliance of the work within the said time, but all liabilities shall continue in full force against the Contractor.

B. If Contractor is delayed by any acts (or omissions) of the City, or by the prerequisite work of the City's other contractors or suppliers, Contractor shall be entitled to an equitable price and performance adjustment.

C. With only the exceptions outlined herein, all work under any contract shall be completed and ready for operation within the time listed in the Proposal after the issuance of Notice to Proceed.

SEC. 20.13.018. LIQUIDATED DAMAGES.

LIQUIDATED DAMAGES NOT APPLICABLE TO THE SCOPE OF SUPPLY

SEC. 20.13.019. BOND

A. The Contractor shall provide a bond for faithful performance of the contract and for persons performing labor or furnishing materials in connection therewith, with sureties satisfactory to the Owner and in the form provided. This performance bond shall be in the full amount of the contract and shall have as surety thereon a company authorized to do business in the State of Missouri, qualified as acceptable surety for United States government deposits, and acceptable to the Owner.

SEC. 20.13.020. TAKING OVER WORK AND WITHHOLDING PAYMENTS.

A. If the Contractor shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or if it should become evident to the Engineer that the Contractor is not making proper progress to insure completion within the specified time, or is prosecuting the work with insufficient, inadequate or unsuitable plant and equipment, or has failed to make good rejected work or materials, the Owner shall have the right, without violation of contract, after giving the Contractor seven days' notice in writing, to undertake itself either by administration or by letting contract(s) to other parties, the completion of the said work which is being thus neglected, or to supplement the Contractor's work and operations by supplying additional plant, equipment, materials or labor.

B. Should the Owner's work cost less than the Contractor would have been paid, the difference shall be paid to the Contractor. However, should it cost more, the difference shall be payable by the Contractor and the Contractor shall, on demand, pay the amount of excess to the Owner. Under these circumstances and for these purposes, the Owner shall have the right to enter upon and take temporary possession of the plant or any part thereof.

C. The Owner shall not be obligated to take any such action and the failure of the Owner to act under this and similar clauses of the specifications shall not relieve the Contractor from any responsibilities, obligations or liabilities resulting from failure to complete the contract within the times prescribed.

SEC. 20.13.021. USE OF COMPLETED WORK.

The Owner may, prior to the completion of all the work performed by the Contractor, or acceptance thereof by the Owner, enter upon and use any portion of said work. Such taking possession and use shall be deemed as acceptance of the work so taken and used and the warranty period on such work shall commence.

SEC. 20.13.024. SALVAGE OF MATERIALS REMOVED.

The Contractor shall carefully remove all materials designated to be salvaged and reused in a manner to prevent damage. ~~Any material damaged by Contractor will be replaced at the Contractor's expense, if so~~



~~designated.~~ Materials shall be protected and stored on site until ready for reuse as approved by the Engineer.

SEC. 20.13.025. FACILITIES AT SITE.

A. The Contractor shall have at all times copies of the plans and specifications at the work site and shall require each foreman to have at the work site a copy of that part of the plans and specifications which pertain to the work when the construction is in progress, to confer with the Engineer or any representatives, and to receive such directions or approvals as the Engineer may desire to give.

B. Water for and in connection with the work, including testing of pipe, drinking, or for any other use as may be required for the proper completion of the work to be performed, shall be provided by the Owner.

~~C. The Contractor shall provide, maintain and enforce the use of approved sanitary facilities for employees. Toilets shall be of the chemically treated type to comply with the City Health Department and with City ordinances. To the extent possible, toilet shall be obscured from public view. The Contractor shall maintain these temporary facilities in a neat and sanitary condition and supply with toilet paper. The Contractor shall be responsible for the removal of such temporary toilet facilities when the work is completed and shall be constrained to commit no public or private nuisance.~~ The City to supply approved sanitary facilities for Contractor employees

D. Care shall be exercised to protect all equipment and material during the storage period at work site, during and after installation, and prior to acceptance. Right-of-way for existing streets and highways shall not be used for storage areas. Cooperation with the Owner and other contractors or utilities to maintain the project site in a well-ordered condition shall be required. The Contractor shall coordinate delivery of materials and supplies with the program of construction so that an undue amount of storage space is not required on site.

E. Compensation for all facilities at the site shall be covered by the amounts paid for completed construction as provided under the bid items in the Proposal.

FI. The Contractor's signs shall be placed in locations so as not to interfere with or obstruct the view of traffic or operations of construction; placement shall comply with directions of the Engineer. Signs shall be removed promptly upon completion of the project, or as the need for them is ended.

GJ. Upon completion of the work of construction, and before acceptance, all surplus material, temporary structures and debris shall be removed, and the premises left in a sightly condition. No separate payment shall be made for final cleaning up but shall be included in amounts paid for the completed work as bid.

SEC. 20.13.026. SAFETY PRACTICES AND ACCIDENT PREVENTION.

A. In the performance of the contract, the Contractor and subcontractors shall comply with and observe all of the requirements of the Federal Occupational Safety and Health Act (OSHA), and all rules and regulations published in connection therewith. The Contractor shall provide equipment and medical facilities as are necessary to supply first aid to anyone who may be injured in connection with the project. Provisions must also be made for the immediate removal and hospitalization in case of emergency. Anyone acting in a supervisory capacity should have authority to order such emergency action.

B. Precaution shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws, building and construction codes and the like shall be observed. Machinery and equipment and other hazards shall be guarded in accordance with the safety provisions of the Manual of Accident



Prevention in Construction, published by the Associated General Contractors of America, to the extent that such provisions are consistent with applicable law or regulation.

C. The Contractor shall provide, erect and maintain all necessary barricades, suitable and sufficient red or yellow lights, danger signals, warning and closure signs and shall provide watchers and take all necessary precautions for the protection of the work and the safety of the public.

SEC. 20.13.029. LIABILITIES, DAMAGES AND ACCIDENTS.

A. Contractor agrees to indemnify and hold harmless Owner from and against any loss or expense by reason of physical damage to the property of third parties or bodily injury, including death, of persons to the extent such damage or injury results directly from the negligence of Contractor or its subcontractors while engaged in the performance of this Agreement. Owner shall likewise indemnify and hold harmless Contractor from and against any loss or expense by reason of physical damage to the property of third parties or bodily injury, including death, of persons to the extent such damage or injury results directly from the negligence of Owner or its other contractors. In the event such damage or injury is caused by the joint or concurrent negligence of Owner (or its contractors) and Contractor (or its subcontractors), the loss or expense shall be borne by each Party in proportion to its degree of negligence or the degree of negligence of its contractors/subcontractors. For purposes of Contractor's indemnity responsibility under this Article, no portion of the Covered Unit (s), Facility or the Site is considered third party property.

SEC.20.13. 030.INSURANCE REQUIREMENTS.

The Contractor shall not commence work under this contract until he or she has obtained all insurance required under this section and elsewhere in the Contract Documents, such as exceptional insurance requirements outlined in the Contract Special Provisions, and such insurance has been verified by the Owner. Any and all certificates of insurance must be approved and on file with the City Clerk before work commences under this contract. The following are the required insurance coverages:

A. Worker's Compensation Insurance.

The Contractor shall comply with the Worker's Compensation laws of the state, including the site of construction, and furnish to the Owner a certificate of evidence that he or she has complied with all such laws.

In the event that any class of employees engaged in hazardous work at the site of the project under this contract does not come under the protection of the Worker's Compensation Act of the state, including the site of construction, the Contractor shall provide and shall cause each subcontractor to provide adequate insurance coverage for the protection of such employees. The Contractor shall be required to carry Employer's Liability Insurance.

B. Public Liability.

The Contractor shall have in force throughout the life of this contract insurance for both General Public Liability with Excess Coverage and Umbrella and Broadform property damage and Automotive Liability to at least the following limits:

Bodily Injury	- \$300,000.00 per person
	- \$2,000,000.00 per occurrence
Property Damage	- \$2,000,000.00 per occurrence

~~C. Transportation Insurance:~~



~~Contractor shall secure and maintain transit insurance to insure and protect Contractor and City from all insurable risks of physical loss or damage to equipment and materials not otherwise covered under policies, during transit from point of origin to the point of delivery specified.~~

- ~~a. — It shall be endorsed to include the so-called "all risks" coverage endorsement with coverage designed for the circumstances which may occur in the particular work included in this Contract.~~
- ~~b. — Coverage shall be for an amount not less than the manufactured or fabricated value of items exposed to risk in transit at any one time.~~
- ~~c. — The Contractor shall submit a copy of the transportation insurance policy to the City at least thirty (30) days before the scheduled shipping date. The policy shall quote the insuring agreement and all exclusions.~~

SEC. 20.13.032. CHANGE IN AMOUNTS OF WORK.

The Owner shall have the right to increase or diminish the quantity, to change the order, or to dispense with portions of the work at any time without impairing the contract and without changing the unit prices to be paid.

The Owner shall have the right to eliminate from the contract at the bid price minor items on which bids may appear to the Engineer unreasonably unbalanced and to provide for the construction by unclassified work, or otherwise. A minor item shall be one involving not more than approximately 2% of the total of the contract, or for which probable quantities cannot be estimated in advance.

In case of increase in amount of work, payment for such increase at the unit price bid for the work of the classes so increased shall be full compensation for the work done. When changes to work not covered in the Contract Documents and involving added cost occur, they will be performed only on a written change order signed by the Contractor and duly processed by the Owner. All costs and indirect costs, including overhead, bond and profit shall be submitted as a maximum cost figure on this change order. The Contractor shall not proceed with any work under a change order requiring additional materials or costs until written approval is given by the Engineer.

The Owner may at or prior to contract award appropriate up to ten percent more than the contract value to be reserved for change orders to the project. Administrative change orders may be processed for the contract up to appropriation amounts. Administrative change orders may be for unit price extensions, cost plus additions or negotiated prices, and are to be in written form approved by the City Manager and attested by the City Clerk. All other change orders require approval by the City Council.

SEC. 20.13.033. NEW ITEMS.

A. The Owner shall have the right to require the Contractor to perform work or supply materials essential to the completion of the work, of a class or type not provided for in the Contract Documents, or not included and covered under classifications for which price payments are provided in the contract. This work shall be added as a new line item.

B. When a new item is ordered, it shall be paid for as the Owner may elect, either by a lump sum or by unit prices mutually agreed upon by the Owner and the Contractor in writing.

C. The Contractor shall not begin any work for which new items are provided in the contract without written approval from the Engineer.

SEC. 20.13.034. NOTICE OF CLAIMS FOR EXTRA COMPENSATION.

Should any conditions arise which in the Contractor's opinion will require any claims or demands for extra or additional compensation above that fixed by the contract, or on which he



or she contemplates bringing claims for such extra compensation, the Contractor shall promptly and before incurring any expenses, notify the Owner in writing of the conditions and circumstances and that such claims are anticipated. The Contractor agrees that any claims made without such advance notice, and not presented in such a way as to enable the Owner to observe conditions as they occur and to verify expenses as they occur and to determine with certainty the correctness of such claims and of the expenses involved, are waived and shall be null and void. The Contractor shall not proceed with any work requiring added compensation until written approval is given by the Owner.

SEC. 20.13.036. ACCEPTANCE OF WORK.

No part of the construction will be finally accepted until the entire contract shall have been completed. Upon final completion of the work, the Engineer will make final inspection and when it is found that the Contractor has completed the entire contract in accordance with the Contract Documents, the Owner will thereupon issue a formal order of acceptance.

SEC. 20.13.037. METHODS OF PAYMENT.

A. Lump Sum Payment: When so indicated in the Contract Special Provisions under the section entitled "Measurement and Payment," payment will be made for the entire contract in cash or by check by the IPL, Missouri, upon completion, final inspection, approval of as-built record plans and acceptance of the work.

B. Partial (Progress) Payments: Except as otherwise agreed to by Contractor in writing, and upon approved credit, the following payment terms apply:

B.1 The City shall pay Contractor all invoiced amounts in U.S. dollars, without right of set-off, within thirty (30) days from date of invoice. Contractor shall be entitled to payment of all charges associated with Contractor's performance of Services as the Services are performed. For each Product with a price of U.S.\$500,000 or more, partial payments of the contract price shall be made as invoiced starting upon order placement, such that 80% of the Contract price is received before scheduled shipment.

B.2 If at any time Contractor reasonably determines that the City's financial condition does not justify the continuation of Contractor's performance, Contractor may require full or partial payment in advance or shall be entitled to suspend or terminate the Contract.

As directed in writing by the Engineer, adjustments may be made in the estimates for quantities shown under each bid item at the unit prices named in the Proposal, so long as these adjustments do not result in an excess of the total contract amount. All other variations must be made as provided under Section 20.13.032, Change in Amounts of Work.

~~It is agreed by the Contractor that any payments or advancements of funds to be made to the Contractor under provisions of this agreement shall not be assigned or pledged by Contractor unless consent in writing is first obtained from the Owner.~~

C. Force Account may be applied for additional work under the following conditions:

1. Force account work will be paid per Contractor's service rate schedule attached thereto.

D. Late Payment Clause: If the Owner fails to make a monthly pay estimate thirty (30) days after approval by the Engineer, in addition to other remedies available to the Contractor, then interest shall be added to each payment at the maximum legal rate, commencing on first day after said payment is due and continuing until the payment is received by the Contractor. The legal rate of interest shall be as specified in R.S.Mo 34.057.



SEC. 20.13.038. ACCEPTANCE AND FINAL PAYMENT.

Upon completion of all work in accordance with the contract, the Owner will accept the project as such by an approved Letter of Acceptance.

When the work has been so completed and certified by the Owner, an Application and Certificate for Payment (SF-1) will be executed within fifteen (15) days and submitted, which will provide payment to the Contractor for the entire sum due as set forth in the Contract Documents, including all amounts previously retained by the Owner. All prior partial estimates and payments shall be subject to correction by the Owner in this final estimate and payment.

Payments for the work will be made by check by the IPL, Missouri, as herein specified.

SEC. 20.13.039. LIMITATION OF LIABILITY

A. The total liability of Contractor for all claims arising out of or relating to the performance or breach of the Contract or use of any Products or Services or any order shall not exceed (a) the Contract price or (b) if this Contract is in the form of a frame or master agreement under which the City places an order with Contractor for the Products and Services to be purchased,

(i) the final price of the particular order under which the specific Products or Services giving rise to the claim are supplied or performed or (ii) ten thousand US dollars (US\$10,000) if the claim is not part of any particular order. Contractor's liability shall terminate upon the expiration of the applicable warranty period, provided that the City may enforce a claim that accrued prior to that date by commencing an action or filing an arbitration, as applicable under the dispute resolution clause, before the expiration of the applicable statute of limitations or repose, but not later than one year after the expiration of such warranty period.

B. Contractor shall not be liable for loss of profit or revenues, loss of product, loss of use of Products or Services or any associated equipment, interruption of business, cost of capital, cost of cover, downtime costs, increased operating costs, claims of the City's customers for such damages, or for any special, consequential, incidental, indirect, punitive or exemplary damages.

C. If the City is supplying Contractor's Products or Services to a third party, the City shall require the third party to agree to be bound by this Article. If the City does not obtain this agreement for Contractor's benefit, the City shall indemnify, defend and hold Contractor harmless from and against any and all claims made by the third party in excess of the limitations and exclusions of this Article.

D. Contractor shall not be liable for any advice or assistance that is not required under the Contract.

E. For the purposes of this Article, the term "Contractor" shall mean Contractor, its affiliates, subcontractors and suppliers of any tier, and their agents and employees, individually or collectively.

F. The limitations and exclusions in this Article shall apply regardless of whether a claim is based in contract, warranty, indemnity, tort/extracontractual liability (including negligence), strict liability or otherwise.

G. The City's and Contractor's rights, obligations and remedies arising out of or relating to the Products or Services are limited to those rights, obligations and remedies described in this Contract. This Article shall prevail over any conflicting or inconsistent terms in the Contract, except to the extent that such terms further restrict Contractor's liability.



SEC. 20.13.040. HEALTH AND SAFETY MATTERS.

A. The City shall take all necessary precautions, at all times, for the health and safety of Contractor personnel at the Site. These include, but are not limited to: providing to Contractor for review, and instructing Contractor's personnel regarding, the City's safety practices; proper and safe handling of, and protection of Contractor's personnel from exposure to, Hazardous Materials; energization and de-energization of all power systems (electrical, mechanical and hydraulic) using safe and effective lock-out/tag-out procedures; and conducting periodic safety meetings.

B. Contractor may, from time to time, conduct safety audits to ensure the existence of safe site and working conditions and make recommendations to the City concerning them. Whether or not Contractor conducts safety audits or makes recommendations, the City will remain responsible for providing a work environment that is safe and that complies with all applicable legal requirements. The City will make its local medical facilities and resources available to Contractor personnel who need medical attention, for the duration of their needs. Under no circumstance will Contractor personnel be required to work more than any maximum time periods allowed by applicable law.

C. If, in Contractor's reasonable opinion, the safe execution of the Contract at the Site is, or is apt to be, imperiled by security concerns, local conditions, war (declared or undeclared), armed conflict or threatened conflict, civil unrest, terrorist acts or threats, threat to safety or well-being of the Site or personnel or Contractor's persons or interests, the presence of or threat of exposure to Hazardous Materials, or unsafe working conditions, Contractor may, in addition to other rights or remedies available to it, evacuate some or all of its personnel from the Site, suspend performance of all or any part of the Contract, and/or transfer such performance and supervise it at a location solely determined by Contractor. The City shall assist in any evacuation. Any delay that results shall be considered excusable.

D. Before issuing its purchase order, the City shall advise Contractor in writing of all applicable Site-specific rules, regulations, safety codes, and laws that apply to Products and Services.

E. Operation of the City's equipment is the responsibility of the City. If the City requires or permits Contractor's personnel to operate the City's equipment at the Site, the City shall indemnify and save Contractor, its employees and agents, harmless from expense and liability (including reasonable attorneys' fees) incurred by or imposed upon Contractor, its employees and agents, based upon exposure to Hazardous Materials, injury to persons (including death) or damage to property resulting from operation of equipment at the Site by Contractor personnel. The City shall not require Contractor personnel to work on other projects or equipment during the term of the Contract.

SEC. 20.13.041. Site Access and Conditions; Hazardous Materials.

A. The City shall provide Contractor access to the Site and any other facilities free of charge, including the operating and development environment and information, as necessary for Contractor's performance of the Contract. Prior to Contractor starting any work at the Site, the City will (i) provide documentation that identifies any existing Hazardous Materials on or about the Site, and (ii) allow Contractor, at its option, access to the Site to perform or have performed a Site evaluation, including without limitation, a review of applicable documents and visual examination of the Site. Whether or not Contractor conducts any evaluation, Contractor will have no responsibility or liability for existing Site conditions.

B. Contractor shall promptly, and, if feasible, before such conditions are disturbed, notify the City in writing of: (i) subsurface, latent physical or other conditions at the Site, including but not limited to the City's health and safety requirements, differing materially from those indicated in the Contract or otherwise disclosed by the City, and (ii) previously unknown physical conditions at the Site, including archeological remains, differing materially from those ordinarily encountered and generally recognized as inherent in work of the



character provided for in the Contract. The City shall promptly investigate those conditions. If it is determined that any conditions do materially differ and cause an increase in Contractor's cost of, or the time required for, performance of any part of the work under the Contract, the parties shall make an equitable adjustment in price and schedule and modify the Contract in writing accordingly.

C. If, at the Site, Contractor encounters Hazardous Materials that require special handling or disposal, the City shall immediately take whatever precautions are required to eliminate legally the hazardous conditions so that the work under the Contract may safely proceed. Contractor shall not be obligated to commence or continue work until the City causes the hazardous conditions to be removed. If any such Hazardous Materials cause an increase in Contractor's cost of or time required for performance of any part of the work, the parties shall make an equitable adjustment to the price and schedule and modify the Contract in writing accordingly. The City agrees to properly store, transport and dispose of all Hazardous Materials introduced, produced or generated in the course of Contractor's work at the Site.

D. The City shall indemnify and hold Contractor harmless for any and all claims, damages, losses, causes of action, demands, judgments and expenses arising out of or relating to any Hazardous Materials which are or were (i) present on or about the Site prior to the commencement of Contractor's work, (ii) improperly handled or disposed of by the City or the City's employees, agents, contractors or subcontractors, or (iii) brought, generated, produced or released on the Site by parties other than Contractor.

SEC. 20.13.042. DELIVERY; TITLE TRANSFER; RISK OF LOSS; STORAGE

A. Contractor shall deliver Products to the City EXW Contractor's facility, place of manufacture or warehouse (Incoterms 2010). The City shall pay all delivery costs and charges or reimburse Contractor for shipping charges plus 25%. Except for those obligations that are consistent with Incoterms 2010 specifically stated above, Contractor shall not be liable in any claim asserted by the City with respect to delivery. Partial deliveries will be permitted. "Products" means all equipment, parts, materials, supplies, software, and other goods ~~Contractor~~ Seller has agreed to supply to ~~The City Buyer~~ under the Contract, including Leased Equipment and Refurbished Parts.

B. Title to Products shall pass to the City when Products are made available for shipment from the manufacturer's factory or the storage facility utilized by Contractor. Title to Services shall pass to the City as performed.

C. Notwithstanding Section 20.13.042.1 above, in all events risk of loss shall transfer to the City upon title passage.

D. If any Products cannot be shipped to or received by the City when ready due to any cause not attributable to Contractor, Contractor will notify the City and then may ship Products to a storage facility, including a facility within the place of manufacture, or to an agreed freight forwarder. If Contractor places Products in storage or if Products are detained at any port, the following conditions shall apply: (i) title and all risk of loss or damage shall immediately pass to the City if they had not already passed; (ii) any amounts otherwise payable to Contractor upon delivery or shipment shall be payable upon presentation of Contractor's invoices; (iii) all expenses and charges incurred by Contractor, such as for preparation for and placement into storage, handling, inspection, preservation, insurance, storage, demurrage, removal and any taxes shall be payable by the City upon submission of Contractor's invoices; and (iv) when conditions permit and upon payment of all amounts due hereunder, Contractor shall resume delivery of Products to the originally agreed point of delivery.

E. The City shall bear the sole risk of loss for the City's equipment during the term of the Contract, whether at the Site, the Contractor's facility or in transit from the Contractor's facility. If repair Services are to be



performed on the City's equipment at Contractor's facility, the City shall be responsible for transporting the equipment to and from Contractor's facility. The City shall reimburse Contractor at Contractor's then current storage rate if the equipment remains at Contractor's facility beyond 10 days after notification that the Services have been completed.

SEC. 20.13.043. WARRANTY.

A. Contractor warrants to the City that (i) the Products shall be shipped free from defects in material, workmanship and title and (ii) the Services shall be performed in a competent, diligent manner in accordance with any mutually agreed specifications. Unless Contractor expressly agrees otherwise in writing, any items not manufactured by Contractor (including incidental materials and consumables used in the Services) shall carry only the warranty that the original manufacturers provide, and Contractor gives no warranty on behalf of the manufacturers of such items. Furthermore, used Products other than Refurbished Parts shall be sold "as is."

B. Unless otherwise stated in the Contract, the warranty period for Products shall be one year from first use or 18 months from delivery, whichever occurs first, except that software are warranted for 90 days from delivery. If Services include installation or direction of installation of heavy duty gas and steam turbine parts, the warranty period for each such part shall be one year after completion of installation or four years from the date of delivery, whichever occurs first. Unless otherwise stated in the Contract, the warranty period for Services shall be one year from completion, except for baghouses, precipitators and other particulate collection equipment related Services, which shall be 30 days from completion, software related Services, which shall have a warranty period of 90 days from completion, and repair Services, which shall have warranty periods as follows: centrifuges and underground mine equipment – 30 days; pumps, compressors, instrumentation, communication, x-ray and control devices – 90 days; and other mechanical equipment – 180 days.

C. If Products or Services do not meet the above warranties, the City shall promptly notify Contractor in writing within the warranty period. Contractor shall thereupon (i) at Contractor's option, repair or replace the defective Products or (ii) re-perform the defective Services. If in Contractor's reasonable judgment the Product cannot be repaired or replaced or the Services cannot be re-performed, Contractor shall refund or credit monies paid by the City for that portion of Products or Services that do not meet the above warranties. Any repair, replacement or reperformance by Contractor hereunder shall not extend the applicable warranty period. The parties shall mutually agree on the specifications of any test to determine the presence of a defect.

D. The City shall bear the costs of access (including removal and replacement of systems, structures or other parts of the City's facility), de-installation, decontamination, re-installation and transportation of Products to Contractor and back to the City.

E. These warranties and remedies are conditioned upon (a) the proper storage, installation, operation, and maintenance of the Products and conformance with the proper operation instruction manuals provided by Contractor or its suppliers or subcontractors, (b) the City keeping proper records of operation and maintenance during the warranty period and providing Contractor access to those records, and (c) modification or repair of the Products or Services only as authorized by Contractor. Contractor does not warrant the Products or any repaired or replacement parts against normal wear and tear or damage caused by misuse, accident, or use against the advice of Contractor. Any modification or repair of any of the Products or Services not authorized by Contractor shall render the warranty null and void.

F. This Article provides the exclusive remedies for all claims based on failure of or defect in Products or Services, whether the failure or defect arises before or during the applicable warranty period and whether a



claim, however described, is based on contract, warranty, indemnity, tort/extracontractual liability (including negligence), strict liability or otherwise. The warranties provided in this Article are exclusive and are in lieu of all other warranties and guarantees whether written, oral, implied or statutory. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES.

SEC. 20.13.044. SOFTWARE, LEASED EQUIPMENT, REMOTE ENVIRONMENTAL SERVICES, REMOTE DIAGNOSTIC SERVICES, PCB SERVICES, EPC SERVICES

A. If Contractor provides any software to the City, the terms of this Contract shall apply including the Software License Addendum. If Contractor leases any of Contractor's equipment or provides related Services to the City, including placing Contractor's equipment at the City's site to provide remote Services, the terms of this Contract shall apply including the Lease Agreement Addendum. If Contractor provides any remote environmental Services to the City, the terms of this Contract shall apply including the Remote Environmental Services Addendum. If Contractor provides any remote diagnostic services to the City, the terms of this Contract shall apply including the Remote Diagnostic Services Addendum. If Contractor provides any PCB Services to the City, the terms of this Contract shall apply including the PCB Services Addendum. If Contractor provides any EPC Services to the City, the terms of this Contract shall apply including the EPC Services Addendum. If there is any conflict between these terms and the terms of any applicable addendum, the terms of the addendum shall prevail.

B. If Contractor performs Services related to Contractor's own proprietary software, the City agrees that Contractor owns all proprietary rights, including, but not limited to any patent, copyright, trade secret, trademark and other proprietary rights, in and to that software and any work derived from that software ("Derivative Work"). "Derivative Work" is (i) any work that is based upon one or more pre-existing work, such as a revision, enhancement, modification, translation, abridgement, condensation, expansion, extension or any other form in which such pre-existing work may be recast, transformed, or adapted, and that, if prepared without the authorization of the owner of the copyright to such pre-existing work, would constitute a copyright infringement and (ii) any compilation that incorporates such a pre-existing work. the City shall have only a "right to use" license to a Derivative Work for internal business purposes and shall not disclose, sell, lease, distribute, or otherwise transfer the Derivative Work to any third party except as may be permitted by these terms or as approved in writing by Contractor.

C. For the purposes of this Article, "Contractor" means Contractor, its affiliates, and their successors or assigns.

SEC. 20.13.045. DISPUTE RESOLUTION, GOVERNING LAW

A. Any dispute arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, shall be resolved in accordance with this paragraph and will be settled, if possible, by negotiation of the parties. If a dispute is not resolved by negotiations, either party may, by giving written notice, refer the dispute to a meeting of appropriate higher management of each party, to be held within twenty (20) business days after giving notice. If the dispute is not resolved within thirty (30) business days after the date of the meeting of higher management, or any later date to which the parties may agree, either party may submit to litigation through the court system as follows:

Any claim, legal action or proceeding (including without limitation claims for set-off or counterclaim) regarding the dispute shall be brought in the U.S. District Court for the Western District of Missouri, or in the event that court lacks jurisdiction to hear the claim, in the 16th Judicial Circuit for the City of Kansas City, Missouri, and the parties irrevocably consent to the exclusive jurisdiction of those courts for such claims. Each party submits to and accepts generally and unconditionally the jurisdiction of those courts with respect to its person and property, and irrevocably consents to the service of process in connection with any such action or



proceeding by personal delivery to the party or by registered or certified mail, postage prepaid, to its address for notice under the Contract.

B. Notwithstanding the terms above, each party has the right at any time, at its option and where legally available, to commence an action or proceeding in a court of competent jurisdiction to apply for interim or conservatory measures, but not monetary damages.

C. The validity, performance and all matters relating to the interpretation and effect of the Contract and all further documents executed pursuant to it shall be construed and interpreted in accordance with the laws, excluding the rules on the conflict or choice of laws, of the State of Missouri, U.S.A.

SEC. 20.13.046. GENERAL CLAUSES

A. Products and Services sold by Contractor are not intended for use in connection with any nuclear facility or activity without the written consent of Contractor. The City warrants that it shall not use or permit others to use Products or Services for such purposes, unless Contractor agrees to the use in writing. If, in breach of this, any such use occurs, Contractor (and its parent, affiliates, suppliers and subcontractors) disclaims all liability for any nuclear or other damages, injury or contamination, and in addition to any other legal or equitable rights of Contractor, the City shall indemnify and hold Contractor (and its parent, affiliates, suppliers and subcontractors) harmless against any such liability. If Contractor agrees in writing to any such use, the parties shall agree upon special terms and conditions that provide Contractor protections against nuclear liability and which are acceptable to Contractor under the then current laws that apply.

B. If any provision of the Contract is found to be void or unenforceable, the remainder of the Contract shall not be affected. The parties will replace any such void or unenforceable provision with a new provision that achieves substantially the same practical or economic effect and is valid and enforceable.

C. The following Articles shall survive termination or cancellation of the Contract:
20.13.006, 20.13.037, 20.13.039, 20.13.041, 20.13.042, 20.13.043, 20.13.044, 20.13.045,
20.13.046.

D. The Contract represents the entire agreement between the parties. No modification, amendment, rescission or waiver shall be binding on either party unless agreed in writing by the parties' authorized representatives.

E. For direct and indirect U.S. government contracts only, all Products and Services provided by Contractor shall be considered "commercial items" as defined in FAR Part 2, 2.101 and in accordance with FAR 52.244-6. If the reasonableness of the price cannot be established, if cost or pricing data is required for any other reason, or if the Products or Services cannot be considered "commercial items," Contractor may cancel the Contract without liability.

F. This Contract may be executed in multiple counterparts that together shall constitute one agreement.

G. Except as provided in the Article entitled "Limitation of Liability," and in 20.13.039.1 above regarding nuclear use, this Contract is for the benefit of the parties and not for any third party.

SEC. 20.13.047. TERMINATION AND SUSPENSION.

1. Buyer may terminate the Contract (or any portion thereof) for cause if Contractor: (i) substantially breaches a material obligation which does not otherwise have a specified contractual remedy, provided that: (a) Buyer shall first provide Contractor with detailed written notice of the breach and of Buyer's



intention to terminate the Contract, and (b) Contractor shall have failed, within 30 days after receipt of the notice (or such extended period as is considered reasonable by the parties), to either (1) commence and diligently pursue cure of the breach, or (2) provide reasonable evidence that the breach has not occurred; or (ii) becomes insolvent, makes an assignment for the benefit of its creditors, has a receiver or trustee appointed for the benefit of its creditors, or files for protection from creditors under any bankruptcy or insolvency laws. If Buyer terminates the Contract as provided in this Section: (a) Buyer shall pay to Contractor all portions of the Contract price allocable to work performed (for example, the price for Products completed or partially completed before the termination), Lease Fees incurred, and all Services performed at the Contractor's then-current standard time and material rates; and (b) Contractor shall pay Buyer the difference between that portion of the Contract Price allocable to the terminated scope and the actual amounts reasonably paid by Buyer to another supplier for that scope.

2. Contractor shall have the right to suspend or terminate the Contract (or any portion thereof) immediately for cause if: (i) Buyer becomes insolvent, makes an assignment for the benefit of its creditors, has a receiver or trustee appointed for the benefit of its creditors, or files for protection from creditors under any bankruptcy or insolvency laws; (ii) there is an excusable delay (as per Section 20.13.017.A.5 above) lasting longer than 120 days; (iii) any representation or warranty made by Buyer herein or in any document or certificate furnished by Buyer in connection herewith proves to be incorrect in any material respect; or (iv) Buyer materially fails to comply with any terms of the Contract, including but not limited to, failure to make any payment when due or to fulfill any payment conditions.

3. If the Contract (or any portion thereof) is terminated for any reason other than those set forth in Section 1 above, Buyer shall pay Contractor for all Products completed or partially completed, Lease Fees incurred, and Services performed before the effective date of termination, plus a cancellation charge equal to 15% of the Contract price allocable to the uncompleted Products, unfinished Lease Term and unperformed Services. The following shall apply when determining the amount due from Buyer for Services performed before the date of termination: (i) for Services performed under time and material pricing, Buyer shall pay for all hours performed at Contractor's then-current standard time and material rates and (ii) for Services performed under a firm fixed price, Buyer shall pay (a) the applicable price for all milestones achieved and (b) for any milestone not yet achieved, all hours performed in connection with the unachieved milestone(s) at Contractor's then-current standard time and material rates.

4. Buyer shall pay any reasonable expenses incurred by Contractor in connection with a suspension or termination, including expenses for repossession, fee collection, demobilization/remobilization or costs of storage during suspension upon submission of Contractor's invoice(s). Performance of Contractor's obligations shall be extended for a period of time reasonably necessary to overcome the effects of any suspension.

Upon any such termination, the City shall pay Contractor as provided by Section 3 above.

GEII NOTE: The Special Provisions below shall apply to proposal 1018609. These provisions include GEII Modifications through the most recent contract 2013, and reflects the modifications shown below.

CONTRACT SPECIAL PROVISIONS

A. LOCATION:

CITY OF INDEPENDENCE
Proposal No: 1622430-Rev2



Blue Valley Power Plant
21500 East Truman Road
Independence MO 64056

ANTICIPATED SCHEDULE: Anticipated start date of ~~November 7th, 2011~~ INSERT APPROPRIATE DATE.
Completed date shall be per Seller's proposed schedule or per agreed schedule determined at kickoff meeting.

C. PRELIMINARY MATTERS

1. Execution of Agreement:

- a. The City will furnish five (5) copies of the Bid Documents to the Contractor, who shall prepare the five (5) counterpart copies, each containing an exact copy of the Bid Form as submitted, Surety Bonds properly executed, and Certificate of Insurance.
- b. Five (5) prepared counterpart copies shall be returned to the City for execution by the City, and one (1) executed copy shall be returned to the Contractor.

D. CONTRACTOR'S RESPONSIBILITIES AND RIGHTS

Nondiscrimination in Employment:

1. By the submission of its Bid, each Contractor acknowledges an understanding and agrees to be bound by the equal opportunity requirements of Executive Order 11246 of September 24, 1965, and Title VII of the Civil Rights Act of 1964, which shall be applicable throughout the performance of work under any contract awarded pursuant to this solicitation. The Contractor agrees that if awarded a contract, it will similarly bind, contractually, each subcontractor. In implementation of the foregoing policies, the Contractor further understands and agrees that if awarded a contract, it must engage in affirmative action directed at promoting and ensuring equal employment opportunity in the work force used under the contract (and that it must require contractually the same effort of all subcontractors whose subcontracts exceed \$10,000.00).
2. The Contractor understands and agrees that "affirmative action" as used herein shall constitute a good-faith effort to achieve and maintain the amount of minority employment in the on-site work force used on the project, which corresponds for each trade used to the minority population in the serving labor market area, from which workers are reasonably available for hire for the project.

E. TERMINATION AND SUSPENSION.

(LIQUIDATED DAMAGES SHALL NOT APPLY FOR HGP PROPOSAL)

F. SPECIAL INSTRUCTIONS TO CONTRACTOR

1. Identification of Correspondence, Drawings, Data and Materials:
 - a. Identify all correspondence, drawings, data and materials, packing slips, and other items associated with Contract No., ~~(09-08)~~ INSERT APPROPRIATE REFERENCE Blue Valley Power



GE Gas Power

Plant, IPL Power & Light Department - Power Production Improvement Projects, Control Room HVAC System, followed by more specific terms defining the item or subject involved.

2. Representatives and Addresses:
 - a. Address all correspondence to the City: IPL

Power & Light Department
P.O. Box 1019
21500 E. Truman Road
Independence, Missouri 64051
Attention: Mr. Randy Peters

3. Shipping:

If required by the Specification, arrange, pay for, and be responsible for shipping and handling of all materials and equipment furnished under the Contract to be redeemed by Owner to Bidder at cost plus 15% upon Work completion

4. Construction Utilities:

- a. All temporary utilities shall be in accordance with local law and regulations.

5. Uniform System of Accounts:

- a. The accounting system used by the City's Accounting Department is based on Federal Energy Regulatory Commission's "Uniform System of Accounts".
 - b. Within ten (10) days from the date of delivery of a Notice of Award to Apparent Low Bidder, furnish an accounting of the Bid broken down into Units of Property specified by the City.
 - c. The City will be available to instruct and assist in proper accounting procedure.
 - d. Prorate overhead, profit, and items not directly chargeable to a specific plant account as directed by the City.
 - e. Account for all Change Orders authorized under the Contract at the time of their approval.
 - f. No separate payment will be made for cost accounting work performed in accordance with Paragraph 6.a. Include the cost in and distribute the cost among the various Units of Property.

- G. WAGE RATES

1. General:
 - a. This Contract shall be based upon payment by the Contractor and his subcontractors of wage rates not less than the prevailing hourly wage rate for each craft or classification of workmen engaged on the work as determined by the Industrial Commission of Missouri, on behalf of the Department of Labor and Industrial Relations.



- b. The Contractor shall comply with all requirements of the Prevailing Wage Law of Missouri, Revised Statutes of Missouri, Sections 290.210 through 290.340, including the latest amendments thereto (see Appendix).
- c. The Prevailing Wage Law does not prohibit payment of more than the prevailing rate of wages, nor does it limit the hours of work, which may be performed by any workman in any particular period.

2. Records:

The Contractor and each subcontractor shall keep an accurate record showing the names, occupations, and crafts of all workmen employed, together with the number of hours worked by each workman and the actual wage paid to each workman. At all reasonable hours, such wage records shall be open to inspection by the representative of the Industrial Commission of Missouri and the City.

3. Notices:

Throughout the life of this Contract, a copy of the wage determination and the rules promulgated by the Industrial Commission of Missouri shall be displayed in at least four (4) conspicuous places on the project under a heading of NOTICE with the heading in letters at least 1-inch high.

4. Affidavit of Compliance:

After completion of the work and before final payment can be made under this Contract, the Contractor and each subcontractor must file with the City an affidavit stating that he has fully complied with the provisions and requirements of the prevailing wage law of Missouri, Sections 290.210 to 290.340 RSMo.

5. Wage Determination:

During the life of this Contract, the prevailing hourly rate of wages of contracted Craft Labor is subject to change by the Department of Labor and Industrial Relations or by court decision, as provided by law. Any such change shall not be the basis of any claim by the Contractor against the City, nor will deductions be made by the City against sums due the Contractor by reason of any such change.

H. CONTRACTOR PERSONNEL

1. The Contractor shall cause the construction work and services on the Project to receive constant supervision by a competent superintendent (hereinafter called the "Superintendent") who shall be present at all times during working hours where construction work and services are being carried out. Directions and instructions given to the Superintendent shall be binding upon the Contractor.

The City reserves the right to require the removal from the Project of any employees of the Contractor if, in the judgement of the City, such removal shall be necessary in order to protect the interest of the City. The City or the Engineer shall have the right to require the Contractor to increase the number of its employees, and to increase or change the amount or kind of materials, supplies, tools, and equipment if, at any time, the progress of the work and services shall be unsatisfactory to the City; but the failure of the City or Engineer to give any such directions shall not relieve the Contractor of its obligations to complete the work and services within the time and in the manner specified in this Proposal.



Appendix B: Software License Addendum to the Terms & Conditions in Appendix A

NOTICE: This Addendum incorporates by reference the TERMS AND CONDITIONS IN APPENDIX A and includes the following additional provisions. In the event of any conflict between this Addendum and the TERMS AND CONDITIONS IN APPENDIX A, the Addendum shall take precedence.

1. Definitions.

"Derivative Works" includes: (a) any work based upon one or more pre-existing works, such as a revision, enhancement, modification, translation, abridgement, condensation, expansion, extension or any other form in which such pre-existing works may be published, recast, transformed, or adapted, and that, if prepared without the authorization of the owner of the copyright or other intellectual property right to such pre-existing works, would constitute an infringement of such copyright or other intellectual property right, and/or (b) any compilation that incorporates such pre-existing works. For Software, Documentation, and Third-Party Software (as defined below), Derivative Works also includes any and all corrections, bug fixes, and updates to the Software, Documentation, Third-Party Software, and Derivative Works, but does not include any Licensee or Licensee-funded third party developments, provided such developments only make "calls" of the Software, Third-Party Software or Derivative Works thereof or "object requests" that reference or cause execution of the base Software, Third-Party Software, and/or Derivative Works thereof.

"Documentation" means all material, including all printed material and on-line or electronic documentation (excluding training materials), referencing the Software and/or Third-Party Software provided under this License.

"License" means this Software License Addendum to Terms and Conditions together with any modifications or additional provisions specifically stated in Licensor's final quotation or specifically agreed upon by Licensor in writing.

"Licensee" means Buyer as that term is defined in the Terms and Conditions.

"Licensor" means Seller as that term is defined in the Terms and Conditions.

"Site" means the License premises for which Licensor is providing Software, Documentation and/or Third-Party Software.

"Software" means Licensor's proprietary computer software and software security devices owned and provided by Licensor under this License.

"Terms and Conditions" means Licensor's Products and/or Services Terms and Conditions to which this License is attached.

"Third-Party Software" means any proprietary computer software owned by a third party that Licensor may provide to Licensee under this License.

2. License Grant. 2.1 Subject to the terms of this License, Licensor hereby grants to Licensee a limited, personal non-transferrable and non-exclusive license to use Software (in object code) and Documentation, including upgraded, modified or enhanced versions provided by Licensor, and to use Third-Party Software (in object code), all for Licensee's internal business purposes only.

2.2 Licensee has no right to (i) lease, rent, transfer, distribute, sublicense, timeshare, or allow third parties to access Software, Documentation, or Third-Party Software, nor assign any rights hereunder to a third party without Licensor's prior written agreement; (ii) prepare Derivative Works from, alter, modify, disassemble, decompile, reverse engineer, or otherwise attempt to reconstruct or discover the object or source code of the Software or Third-Party Software; (iii) pledge Software, Documentation or Third-Party Software either as a stand-alone product or embedded in any hardware, software, equipment, machines or the like, as collateral or otherwise, or encumber such Software, Documentation or Third-Party Software with any lien or security interest; or (iv) remove any product identification, copyright, trademark, or other notice from Software, Documentation or Third-Party Software. If Licensee believes that it is entitled to reverse engineer Software as a matter of local law (e.g., the Council Directive of May 14, 1991, of the Council of the European Communities, as amended), Licensee agrees that it shall first inform Licensor about such intent and request technical information from Licensor. Licensee shall use any technical information delivered by Licensor only for purposes of ensuring "interoperability" and compatibility and shall treat such technical information as Proprietary Information (defined below). Any reverse engineering of Software shall void any warranties or indemnification obligations of Licensor and shall automatically release Licensor from any obligation to provide support services under this License or any separate agreement.

2.3 Certain components of the Software Licensor provides to Licensee may contain Third-Party Software, including "open source" software. Use of Third-Party Software and its source code may be governed by separate copyright notices and license provisions, which may be found or identified in Documentation or on the media delivered with Software and which are incorporated by reference into this License. Licensee shall not modify or combine Software and/or any Third-Party Software in any manner that could cause, or could be interpreted or asserted to cause, Software or any such combination or modifications thereto to become subject to the terms of any license applicable to software of third parties (including Third-Party Software). Licensee agrees that it is solely responsible for ensuring and confirming that any of its Software combinations and/or modifications are not subject to the terms of any Third-Party Software licenses. All Third-Party Software provided hereunder is bundled with Products and licensed for use with Products only.

2.4 Unless otherwise agreed to by Licensor in writing or specified in an Exhibit attached hereto, Licensee may only install and use/run a single copy of Software and Third-Party Software on a single computer workstation for use by a single user.

2.5 Licensee may make one (1) copy of Software, Documentation, and Third-Party Software for backup purposes only. Licensee must reproduce and include all proprietary rights and copyright notices on any backup copies. Except as authorized under this License, no copies of Software, Documentation, or Third-Party Software may be made by Licensee or any third party; provided, however, Licensee may print on-line Software Documentation for its own internal use, provided the maximum number of copies printed may not exceed the number of users licensed hereunder (if the License is provided based on number of users).

3. Support Services; Upgrades. This License does not obligate Licensor to provide maintenance or support on any Software or Third-Party Software licensed hereunder. Support services are available under separate agreement. If Software is an upgrade of a previous

version (provided such upgrade was obtained under a separate support services agreement with Licensor or a Licensor authorized distributor), Licensee may use the upgraded Software only in accordance with this License.

4. Verification. During the term of this License and for three years thereafter, Licensor may upon reasonable notice require that an independent audit of the use of Software and Third-Party Software be conducted during Licensee's normal business hours. Upon such notice, Licensee shall provide Licensor's independent auditor site access and the right to inspect relevant portions of Licensee's computer system on which Software and Third-Party Software resides. Licensee agrees to pay promptly: (a) all underpaid license fees and (b) if the underpayment is more than 5% of the license fees paid before audit, all audit costs and expenses.

5. Term and Termination. 5.1 Software, Documentation, and Third-Party Software shall be considered accepted by Licensee upon receipt.

5.2 This License is effective until terminated. Licensor may terminate this License immediately if Licensee fails to comply with any of the terms and conditions herein. The license for any Software or Third-Party Software provided with leased equipment shall terminate concurrently with termination of the lease. Upon termination, Licensee shall (a) cease using Software, Documentation, and Third-Party Software and (b) certify to Licensor within 14 days of the termination that Licensee has destroyed or returned to Licensor Software, Documentation, and Third-Party Software, and all copies thereof.

6. Ownership. 6.1 All Software, Documentation, and Third-Party Software are licensed and not sold. Licensee agrees that Licensor and/or its suppliers own or have rights to all proprietary rights, including any patent, copyright, trade secret, trademark, and other proprietary rights, in and to Software, Documentation, and Third-Party Software, including any Derivative Works thereof regardless of the source of development, including cases where Licensee engages a third party to perform such development, and any corrections, bug fixes, and updates to such Software, Documentation, Third-Party Software, or Derivative Works.

6.2 To the extent that any Derivative Works of Licensor's proprietary Software or of Third-Party Software supplied by Licensor are developed, Licensee hereby (a) agrees that the intellectual property rights to such Derivative Works are automatically vested in Licensor (or its affiliates, in Licensor's sole discretion) or in the owner of Third-Party Software, as applicable, and may be used by Licensor (or the owner of any Third-Party Software Derivative Works) without limitation and without any obligation to Licensee on behalf of Licensor and/or such other relevant owner; (b) irrevocably transfers and assigns to Licensor (or its affiliates) or to the owner of Third-Party Software, as applicable, all intellectual property rights, moral rights, title, and interest throughout the world in and to any such Derivative Works, including all rights in and to any inventions and designs embodied in such Derivative Works or its associated technology and to those Derivative Works described in subparagraph 6.2(a) that are not automatically vested in Licensor (or its affiliates) or the owner of Third-Party Software, as applicable, for the entire duration of protection of such intellectual property rights; (c) agrees and forever waives any right to assert any claim contrary to (a) and (b) in this Article 6.2; and (d) agrees to take all steps necessary to fulfill the requirements as set forth in this Article 6.2 for any such Derivative Works whether developed by Licensee or by any third party under Licensee's direction. If, by operation of law, such rights are not automatically transferred and assigned as provided above, Licensee shall timely execute and deliver such instruments and take such other action as may be requested by Licensor to perfect and protect Licensor's (or Third-Party Software owner's) rights in any Derivative Works and to carry out, at no cost to GE, the assignments effected by this Article 6 to the maximum extent permitted by applicable law.

6.3 Notwithstanding the foregoing, Licensor grants Licensee a limited "right to use" license to any Derivative Works for Licensee's internal business purposes only subject to the same terms and conditions that apply to Software, Documentation, or Third-Party Software under Article 2 herein.

6.4 For the purposes of Article 6, the term "Licensor" shall mean Licensor, its affiliates, and their successors or assigns.

7. Warranties. 7.1 Licensor warrants, for Licensee's benefit alone, that under normal use, the media in which Software is embedded shall be free from defects in material and workmanship, for a period of ninety (90) days from the date of delivery of the original Software ("Warranty Period"). Licensor also warrants, for Licensee's benefit alone, that during the Warranty Period, Software will perform substantially in accordance with its Documentation.

7.2 If, during the Warranty Period, an Error occurs (where "Error" is defined as a problem caused by an incorrect operation of the unmodified computer code in Software or an incorrect statement or diagram in Documentation that produces incorrect results), Licensor will use commercially reasonable efforts to correct such Error, provided Licensee furnishes Licensor with the following: (a) written notice of the Error, including a description of the failure to perform in accordance with Documentation and a specific description of the operating conditions (including the specific software/hardware configuration) under which the Error occurred, and (b) to the extent feasible, a representative sample of inputs for repeating and analyzing the Error. Licensor will correct the Error or, if, after commercially reasonable efforts, Licensor is unable to correct the Error, Licensee's sole remedy shall be termination of this License and a refund of the license fees allocable to the specific non-conforming Software that have been paid by Licensee to Licensor hereunder.

7.3 Article 7 provides the exclusive remedies for all claims based upon any failure of, or error or defect in, Software and Documentation, whether the claim is based in contract, negligence, statute, or any tortious/extra-contractual liability theory, strict liability, or otherwise. The warranties provided in this Article 7 are exclusive and are in lieu of all other warranties, conditions, and guarantees whether written, oral, implied or statutory. NO IMPLIED OR STATUTORY WARRANTY, OR WARRANTY OR CONDITION OF MERCHANTABILITY, QUALITY OR



FITNESS FOR A PARTICULAR PURPOSE APPLIES. Without limiting the foregoing, Licensor does not warrant that the Software or Documentation (or Licensee's use thereof) will be free from all errors or its use will be uninterrupted.

7.4 Any remedial steps taken by Licensor hereunder shall not extend or renew the applicable Warranty Period.

7.5 Except as expressly authorized by Licensor in writing, all Third-Party Software shall carry only the warranties provided by the owners thereof and Licensor gives no warranties for such Third-Party Software.

8. Proprietary Information; Equitable Relief. 8.1 All information concerning or embedded in Software (including source code, object code and training materials), Documentation, and Third-Party Software is the property of Licensor (or its suppliers) and will constitute Licensor's (or its suppliers') proprietary information ("Proprietary Information") without any additional designation. Proprietary Information includes commercially valuable, substantial trade secrets, the design and development of which reflect the effort of skilled development experts and investment of considerable amounts of time and money.

8.2 Licensee acknowledges: (a) any use of Software, Documentation, or Third-Party Software in a manner inconsistent with this License or (b) any other misuse of Proprietary Information of Licensor (or its suppliers), will cause immediate irreparable harm to Licensor (or its suppliers) for which there is no adequate remedy at law. Licensee agrees that Licensor (or its

suppliers) shall be entitled to immediate and permanent injunctive relief from a court of competent jurisdiction for any such misuse or threatened misuse by Licensee. The parties agree and stipulate that Licensor shall be entitled to such injunctive relief without posting of a bond or other security.

8.3 The confidentiality obligations set forth in the Terms and Conditions with respect to items of Confidential Information shall expire, with respect to Software and Documentation, five years after termination of this License.

8.4 Notwithstanding anything to the contrary, Licensee hereby grants to Licensor a non-terminable, non-exclusive, perpetual, royalty-free, worldwide right and license to access, collect, store and use all data and information concerning parts, power generation and balance of plant equipment and Site operation and performance (the "Data") so long as Licensor does not disclose to any party not a Licensor affiliate the identification of Licensee in connection with a particular item of Data. For purposes of clarity, such use may be for research and development purposes, in the aggregate, for statistical and other analysis for commercial use, or for other lawful purposes. Licensor's rights under this Section 8.4 include the right to interface directly to the Licensee's facility distributed control system and to utilize a dedicated network or internet connection or telephone line.