



HUNT MIDWEST REAL ESTATE DEVELOPMENT, INC.

1881 MAIN STREET, SUITE 200

KANSAS CITY, MISSOURI 64108

BIDDING DOCUMENTS MANUAL

for

**KCI 29 LOGISTICS PARK**

**PUBLIC WATERMAIN EXTENSION PACKAGE**

**June 9, 2023**

## INSTRUCTIONS TO BIDDERS

### ARTICLE 1 – DEFINED TERMS

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1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the Contract as contained in this Bidding Documents Manual. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both singular and plural thereof:

- A. *Bid* – The offer or proposal of a bidder submitted on the prescribed Bid form contained in the Bidding Documents Manual setting forth the Contract Price for the Work to be performed.
- B. *Bidder* – The entity who submits a Bid for the Work described in the Contract.
- C. *Bidding Documents* – The Bidding Requirements and the proposed Contract (including without limitation all Drawings, Specifications and Addenda issued prior to receipt of Bids).
- D. *Bidding Documents Manual* – KCI 29 Logistic Park Public Watermain Extension Bidding Documents Manual dated June 9, 2023.
- E. *Bidding Requirements* – The Invitation to Bid, these Instructions to Bidders and the Bid Form and required attachments, as set forth in the Bidding Documents Manual.
- F. *Design Professional/Representative* – Olsson Engineering, 1301 Burlington Street, North Kansas City, Missouri 64116; (816) 361-1177; [nheiser@olsson.com](mailto:nheiser@olsson.com)
- G. *Developer* – Hunt Midwest Real Estate Development, Inc. and Port Authority of Kansas City, collectively.
- H. *Hunt Midwest* – Hunt Midwest Real Estate Development, Inc., a corporation organized and existing under the laws of the State of Missouri with a business address of 1881 Main Street, Suite 200, Kansas City, Missouri 64108.
- I. *Port KC* – Port Authority of Kansas City, Missouri, a political subdivision of the State of Missouri formed pursuant to Chapter 68, RSMo.
- J. *Project Representative* – Aaron Young, Director of Development for Hunt Midwest.

### ARTICLE 2– COPIES OF BIDDING DOCUMENTS

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2.01 Complete sets of Bidding Documents may be obtained from the following link.

[https://drive.google.com/drive/folders/1pQSxrVzYEiPFhk\\_jWslxqzRs6ik4sZ4P?usp=drive\\_link](https://drive.google.com/drive/folders/1pQSxrVzYEiPFhk_jWslxqzRs6ik4sZ4P?usp=drive_link)

2.02 Complete sets of Bidding Documents must be used in preparing Bids; neither Hunt Midwest, Port KC, nor Design Professional/Representative assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

2.03 Hunt Midwest, Port KC and Design Professional/Representative in making copies of the Bidding Documents available on the above terms do so only for the purpose of obtaining Bids for the Work and do not confer a license or grant for any other use.

## ARTICLE 3 – QUALIFICATIONS OF BIDDERS

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3.01 To demonstrate Bidder's qualifications to perform the Work, Bidder shall fully complete and submit with its Bid AIA Form A305 – Contractor's Qualification Statement.

## ARTICLE 4 – EXAMINATION OF BIDDING DOCUMENTS AND SITE

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4.01 It is the responsibility of each Bidder, before submitting a Bid, to (a) thoroughly examine the Bidding Documents, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance, or furnishing of the Work, (c) consider federal, state, and local laws and regulations that may affect cost, progress, performance, or furnishing of the Work, (d) study and carefully correlate Bidder's observations with the Bidding Documents, and (e) notify Design Professional/Representative in writing of all conflicts, errors, or discrepancies discovered by Bidder in the Bidding Documents.

4.02 Bidder must carefully study all reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site which have been made available to Bidder, but Bidder shall not be entitled to rely upon the accuracy or completeness of such reports or tests. Such reports and drawings are not part of the Contract and may not be complete for Bidder's purposes. Design Professional/Representative does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bidding Documents with respect to subsurface conditions, physical conditions or underground facilities at or contiguous to the site. Bidder must obtain and carefully study, and assume responsibility for all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions, including, but not limited to, surface, subsurface, and underground facilities, at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto, as Bidder deems necessary. Any discrepancies between the reports and drawings made available to the Bidder and the information revealed in the Bidder's own examinations, tests, studies, explorations or investigations of any type shall be immediately reported in writing by the Bidder to Design Professional/Representative.

4.03 Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders on subsurface conditions, underground facilities, and other physical conditions appear in Article 4 of the General Conditions.

4.04 Before submitting a Bid, each Bidder will be responsible to make or obtain such explorations, tests, and data concerning physical conditions, surface, subsurface, and underground facilities at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract. On reasonable notice, Hunt Midwest will provide each Bidder access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a Bid. Bidder shall fill all holes, clean up, and restore the site to its former condition upon completion of such explorations. Each Bidder wishing to inspect the site and any existing facilities shall contact Design Professional/Representative.

4.05 The lands upon which the Work is to be performed and access thereto, and other lands designated for use by Hunt Midwest in performing the Work are identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities or storage of materials and equipment are to be provided by Hunt Midwest.

4.06 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with the provisions of Section 4 of the Instructions to Bidders, that without exception the Bid is premised upon performing and furnishing the Work required by the Contract, that Bidder has given Design Professional/Representative written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Design Professional/Representative are

acceptable to Bidder, and that the Bidding Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

#### ARTICLE 5 – SITE

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5.01 The site is identified in the Bidding Documents. All additional lands and access thereto required for temporary construction facilities, construction equipment, or storage of materials and equipment to be incorporated in the Work are to be obtained and paid for by Hunt Midwest.

#### ARTICLE 6 – INTERPRETATIONS AND ADDENDA

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6.01 All questions about the meaning or intent of the Bidding Documents are to be directed to Design Professional/Representative.

6.02 Interpretations or clarifications considered necessary by Design Professional/Representative in response to such questions will be issued by Addenda. Questions received less than four (4) days prior to the date for the receipt of Bids may not be answered. Only answers issued by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. Addenda may also be issued to modify the Bidding Documents as deemed advisable by Design Professional/Representative. Such Addenda must also be in writing in order to be binding.

#### ARTICLE 7 – CONTRACT TIMES

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7.01 The Contract Times for the Project are set forth in Section 4 of the Contract.

#### ARTICLE 8 – SUBCONTRACTORS, SUPPLIERS, AND OTHERS

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8.01 As part of its Bid, Bidder shall provide to Design Professional/Representative and Hunt Midwest a list of its proposed subcontractors, suppliers and other persons and organizations including those who are to furnish the principal items of material and equipment for the Project. Such list shall be accompanied by a Qualification Statement for each subcontractor, supplier, person and organization listed, which Qualification Statement shall be substantially in the same form as the form of Contractor's Qualification Statement included in the Bidding Documents Manual.

#### ARTICLE 9 – BID FORM

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9.01 The Bid Form is provided in the Bidding Documents Manual. Bid Forms must be completed in ink and include all required attachments. The Bidder should complete ONLY those line items on the Contractor Pricing Form associated with scopes of work for which the Bidder intends to submit a Bid.

9.02 Bids by corporations must be executed in the corporate name by the president or vice-president (or other corporate officer accompanied by evidence of authority to sign), and, if applicable, the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The state of incorporation shall be shown below the corporate name. Bids by limited liability companies must be executed in the company name by the manager (or other authorized officer or representative accompanied by evidence of authority to sign). The state of organization shall be shown below the company name. Bids by partnerships must be executed in the partnership name and signed by a partner (accompanied by evidence of authority to sign) and the official address of the partnership must be shown below the signature. Bids by joint ventures shall be signed by each participant in the joint venture or by an authorized agent of each participant.

9.03 The names of all persons signing must also be legibly printed below the signature. A Bid by a person who affixes to his signature the word “president”, “manager”, “secretary”, “agent”, or other designation without disclosing his or her principal may be held to be the bid of the individual signing.

9.04 All blank spaces in the Bid Form shall be filled.

9.05 The Bid shall contain an acknowledgment of receipt of all Bidding Documents.

#### ARTICLE 10 – BID PRICE

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10.01 Bidders shall submit a Bid on a unit price basis for the basic Bid and include a separate price for any alternates described in the Bidding Documents, as provided in the Bid Form in the Bidding Documents Manual.

#### ARTICLE 11 – SUBMISSION OF BIDS

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11.01 Bids shall be submitted no later than the date and time prescribed in the Invitation to Bidders, or the modified time and place indicated by Addendum. Bids shall be submitted to the Project Representative at [ayoung@huntmidwest.com](mailto:ayoung@huntmidwest.com). The Bid Form is to be completed and accompanied by all other required documents.

11.02 Bids shall be marked with the name and address of the Bidder and shall be accompanied by all other required documents. No Bidder may submit more than one Bid. Multiple Bids under different names will not be accepted from one entity, firm or association.

#### ARTICLE 12 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

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12.01 All Bids will remain subject to acceptance for ninety (90) days after the last day that bids are to be submitted. Any extension of the commencement date for Work as specified in the Contract shall be governed by the applicable provisions of the Contract and shall not be grounds for withdrawal of a Bid.

#### ARTICLE 13 – AFFIRMATIVE ACTION

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13.01 As provided in the Contract, certain affirmative action requirements apply to the Project. Bidder shall be required to complete and deliver as part of its Bid the Contractor Utilization Plan/Request for Waiver.

#### ARTICLE 14 – PREVAILING WAGE

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14.01 Bidders are advised that performance of the Work is subject to the Missouri Prevailing Wage Act (RSMo §§ 290.210, et seq.) and shall be paid at the applicable prevailing wage rates.

#### ARTICLE 15 – BIDDER INELIGIBILITY

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15.01 Bidders are advised that no entity having been debarred from participating in any program or activity funded in whole or in part with federal funds or whose principals have been convicted of any criminal offense involving fraud, bribery or misappropriation of public funds is eligible for the award of any Contract pursuant to this Invitation to Bidders.

## ARTICLE 16 – AWARD OF CONTRACT

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16.01 In submitting a Bid, Bidder recognizes that neither Hunt Midwest nor Port KC are bound to award the Contract to any Bidder. Bidder recognizes that Hunt Midwest and Port KC may reject any and all bids in their sole discretion.

16.02 If Developer accepts a Bid submitted, the Project Representative will submit to the selected Bidder a fully completed Contract and the selected Bidder shall sign and deliver the required number of counterparts of the Contract and any related documents to Developer within five (5) days of receipt of such documents.

**CONTRACT FOR CONSTRUCTION OF  
KCI 29 LOGISTICS PARK (SCOPE OF WORK)**

**THIS CONTRACT FOR CONSTRUCTION OF KCI 29 LOGISTICS PARK**

\_\_\_\_\_ (“Contract”) is made this \_\_\_\_ day of \_\_\_\_\_, 2023 (“Effective Date”), between **Hunt Midwest Real Estate Development, Inc.**, a corporation organized and existing under the laws of the State of Missouri (“**Hunt Midwest**”), **Port Authority of Kansas City, Missouri**, a political subdivision of the State of Missouri formed pursuant to Chapter 68, RSMo (“**Port KC**”), and \_\_\_\_\_, a \_\_\_\_\_ (“Contractor”). Hunt Midwest and Port KC may be collectively referred to herein as “**Developer**”.

WITNESSETH, that the parties hereto, for the considerations hereinafter expressed, covenant and agree as follows:

**Section 1. Scope of Work.**

Contractor shall furnish the necessary materials, superintendence, labor, tools, equipment, services, and transportation required to complete such site improvements as are detailed in **Exhibit A** attached hereto and incorporated herein, including any incidental work thereto as is necessary to the completion of that which is detailed in **Exhibit A**, all of which shall be performed in a good and workmanlike manner with new materials (unless otherwise required by this Contract) and in accordance with the highest standard of care, customs and procedures in the industry (collectively, the “**Work**”). All Work not conforming to these standards shall be considered defective.

**Section 2. Ordering and Delivery of Materials.** Contractor shall order all materials and equipment within twenty-four (24) hours of the Effective Date of this Contract and shall coordinate delivery of all such materials with Hunt Midwest.

**Section 3. Commencement of Work.** Contractor commence the Work within twenty-four (24) hours of the Effective Date of this Contract.

**Section 4. Completion of Work; Liquidated Damages.**

Time is of the essence. Contractor shall fully complete the Work, including any punch list items, no later than the dates indicated below:

Phase IA: Sta 10+00 to Sta 44+57 – December 1, 2023

Phase IB: Sta 44+57 to Sta 69+95 – April 1, 2023

(“Phase Completion Date(s)”).

In entering into this Contract, Contractor represents and warrants that it has considered the consequences of any labor or material shortages, and time requirements for procurement, installation and construction completion. If the Contractor is substantially delayed at any time in the commencement or progress of the Work by an act or neglect of Developer or by changes ordered by Developer in the Work; or by labor disputes, fire, unavoidable casualties or other causes beyond the Contractor's reasonable control; or by delay authorized by Developer; or by other causes that Developer determines may justify delay, then the applicable Phase Completion Date shall be extended by signed Change Order, but only to the extent that such event actually caused a delay in the Work. If the Contractor becomes entitled to an extension of a Phase Completion Date as provided herein, then such extension shall be the Contractor's sole compensation as a result of such delay; it being agreed that Contractor shall not be entitled to any increase in the Contract Price as a result thereof.

### **Section 5. Contract Price.**

Except as may be adjusted pursuant to the execution of a written Change Order (defined below) signed by Developer, Developer shall pay Contractor, as full and complete compensation for the satisfactory performance of the Work required by this Contract, a sum not to exceed

\_\_\_\_\_ **AND 00/100 DOLLARS**  
**(\$\_\_\_\_\_.00) ("Contract Price")**, which sum shall be payable as and when provided in Section \_\_\_\_\_. No extra work performed under this Contract will be recognized or paid for unless agreed to by written Change Order before the extra work is done.

The Contract Price includes the amount of all applicable taxes, permits and approvals (including any applicable sales, consumer, use and similar taxes, and taxes on the wages of Contractor's employees) and the cost of all labor and supervision necessary to perform the Work as required herein.

Notwithstanding the foregoing, should Developer request Contractor to work overtime, then Contractor shall do so and, provided the Contractor is not in default in any of the provisions herein, Developer will additionally reimburse Contractor for that portion of the Contractor's actual labor cost, approved by Developer, in excess of the labor costs that Contractor would have incurred but for said acceleration of the Work; provided however that Contractor shall not be entitled to overhead on the premium time portion of overtime.

### **Section 6. Progress Payments.**

Contractor has submitted to Developer a schedule of values, allocating the entire Contract Price to the various portions of the Work, which schedule is attached hereto and incorporated herein as **Exhibit B**. This schedule shall be used in reviewing the Contractor's applications for payment. Contractor shall submit a payment application to Developer by fifteenth (15<sup>th</sup>) of each calendar month. Each monthly payment application shall request payment only for Work having been performed by Contractor during the immediately preceding calendar month. For illustrative purposes only, an application for payment submitted by July 15, 2023 would be for Work performed during the month of June 2023. Each monthly payment

application shall itemize the Work completed, assign a completed percentage for each item of the Work included as of the end of the period covered by the application for payment, indicate the total amount previously invoiced by Contractor through the date of the current request for payment and certify that any materials and Work covered by the application for payment has been completed in accordance with the requirements of this Contract. Each monthly payment application shall also be accompanied by lien waivers executed by the Contractor and any and all subcontractors, materialmen and suppliers, in form and content satisfactory to Developer in its sole discretion, for the amount of the payment requested and for all amounts previously paid, as evidence of payment of all accounts in full. In the event Developer has reasonable cause to question any payment or the amount thereof which Contractor has represented as being due and payable, Contractor shall provide Developer such additional information as Developer may reasonably require for purposes of determining that such payment and the amount thereof is, in fact, due.

Provided the payment application and all submittals in connection therewith are in proper form, then Developer shall, except to the extent Developer takes exception to the payment application, make payment to Contractor of the approved and undisputed amounts requested in the payment application within thirty (30) days thereafter.

Final payment to Contractor shall not be made until: (i) the Work is finally accepted, in writing, by Developer; (ii) Contractor submits to Developer evidence that all payrolls, bills for materials and equipment and other indebtedness connected with the Work have been paid or otherwise satisfied; and (iii) Contractor has submitted to Developer a final release and waiver of all claims, liens or other demands which Contractor may assert against Developer, in a form acceptable to Developer.

Developer shall have the right to charge back against Contractor, and to deduct from any payments due Contractor pursuant to this Contract, all amounts incurred by Developer as a result of any failure by Contractor to comply with the terms of this Contract or as a result of any negligence or unsatisfactory Work by Contractor or its subcontractors, including but not limited to all costs incurred by Developer to correct defective or non-conforming Work, and all amounts paid by Developer to any subcontractor or supplier as a result of Contractor's failure to make payment to such person or entity.

It shall be a condition precedent to payment of any invoice from Contractor that Contractor is in compliance with, and not in breach or default of, all provisions of this Contract. If damages are sustained by Developer as a result of breach or default by Contractor, Developer may withhold payment(s) to Contractor for the purpose of set off until such time as the exact amount of damages due Developer from Contractor may be determined. Contractor agrees that Developer will not process Contractor's request for payment unless Developer determines Contractor's request for payment is in proper form, correctly computed, and properly payable under the provisions of this Contract.

No payment made under this Contract shall be proof of satisfactory performance, either wholly or in part, and no payment shall be construed as acceptance of deficient or unsatisfactory Work.

Contractor warrants that title to all Work covered by an application for payment will pass to Developer no later than the time of payment.

**Section 7. Retainage.** Developer will not withhold retainage from any progress payments due Contractor, but reserves the right to withhold up to ten percent (10%) at its sole option and discretion if, at any time, it deems its interest have been impaired as a result of the nature or manner in which Contractor is performing, or not performing, the Work.

**Section 8. Coordination of Work.** Contractor is responsible to coordinate its Work with the work of others on the KCI 29 Logistics Park project (the “**Project**”). It is expressly understood that Contractor’s scheduling requirements set forth in this Contract have been set up as a means to enable the Developer to coordinate the Work with the work of others on the Project, to permit a flow of work and to ensure adherence to the Project’s scheduled completion dates. In the event Contractor fails to meet or exceed its scheduling requirements for commencing and/or completing its Work, and furthermore causes any other contractor, subcontractor, supplier or any party related to this Project to incur overtime charges or additional expenses which Developer is obligated to reimburse, in whole or in part, then Developer may deduct any such charges or expenses from the Contract Price.

**Section 9. Vehicle Parking; Silt Fencing and Mud.**

Contractor and its employees, laborers, agents and subcontractors’ vehicles shall be parked in areas approved by Developer but in no event on driveways or other concrete surfaces on the property. No vehicles shall be left on or near the job site overnight without the prior written consent of Developer. Contractor shall preserve all silt fencing, hay bales and other erosion control devices installed for each project and shall, at its expense, repair and replace any such devices that are disturbed by Contractor. Contractor, at its expense, shall remove all mud that its and its employees, laborers, agents and subcontractors’ vehicles place on the streets. If Contractor or its employees, laborers, agents or subcontractors violate any of such prohibitions, Contractor shall be responsible and pay for all towing, clean-up, repairs, replacements and fines.

**Section 10. Performance and Payment Bonds.**

Contractor shall furnish a Performance Bond and a Payment Bond (collectively, “**Bonds**”), each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all Contractor’s obligations under the Contract. These Bonds shall remain in effect at least until one (1) year after the date when final payment of the Contract becomes due. The cost of the Bonds, without markup to Contractor, is included in Contract Price.

The Bonds shall be in the form prescribed by Developer, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A certified copy of

such agent's authority to act must accompany all Bonds signed by an agent. The sureties must be licensed by the State of Missouri to issue bonds in the State of Missouri and retain an A.M. Best rating of "B+, Class V" for Bonds in excess of \$200,000. If the surety on any Bonds furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in Missouri or it ceases to meet the requirement of this Section, Contractor shall within twenty (20) days thereafter provide substitute Bonds meeting the requirements of this Section.

Contractor shall promptly pay or cause to be paid all subcontractors furnishing labor, services, articles or materials for the Work, whether pursuant to an agreement with the Contractor or any subcontractor, and shall deliver the Work free from any claims or liens. In the event of failure of the Contractor to do so, Developer may, without any obligation to do so, pay and discharge any such lien or claim and deduct the amount so paid from any moneys which may be or become due and payable to the Contractor even if there is a dispute between Contractor and the person asserting the claim or lien and withhold payment to Contractor from any subsequent applications for payment, or hold Contractor liable, for costs and expenses incurred, including attorneys' fees.

Contractor hereby agrees to indemnify, defend (with counsel reasonably acceptable to Developer) and save harmless Developer against all claims, losses, settlements, penalties, damages, liabilities and expenses (including, without limitation, attorney fees) which Developer may sustain, incur, or become liable for on account of any such claim or lien, regardless of whether any such claim or lien is presented or filed before or after the final estimate is paid, and that payment of the final estimate shall not constitute a release from or waiver of this obligation of Contractor.

#### **Section 11. Prompt Pay.**

Contractor shall pay to its subcontractors and material suppliers, within fifteen (15) days after each payment from Developer (or such shorter time as their respective contract(s) might provide for), those sums due the same under the terms of their respective contract(s), except that any retention shall not exceed five percent (5%). In the event that a payment is not timely made by Contractor, in whole or in part, on the grounds that the work, or any portion thereof, was not deemed suitable for payment, Contractor shall provide the subcontractors and material suppliers with a written explanation for the withholding or deductions. If Contractor shall fail to make a payment in full within the time allotted herein, without reasonable cause, Contractor shall pay its subcontractors and material suppliers, in addition to any payment due them, interest in the amount of not less than one and one-half percent per month (or such greater interest as their respective contract(s) might provide for), calculated from the date payment was due.

#### **Section 12. OSHA 10-Hour.**

Contractor shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their On-Site Employees which includes a course in construction safety and health approved by OSHA or a similar program approved by the State of Missouri's Department of Labor and

Industrial Relations which is at least as stringent as an approved OSHA program, unless such On-Site Employees have previously completed the required program. All On-Site Employees who have not previously completed the program are required to complete the program within sixty (60) days of beginning Work. Any On-Site Employee found at the location of the Work without documentation of the successful completion of the required course shall be afforded twenty (20) days to produce such documentation and Contractor shall cause those failing to do so to be removed from the location of the Work until such time as they shall be in compliance.

The failure to comply with the requirements of this Section may subject Contractor to the payment of statutory penalties to Developer. Contractor shall incur a statutory penalty of two thousand five hundred dollars (\$2,500) plus one hundred dollars (\$100) for each On-Site Employee employed by Contractor, for each calendar day, or portion thereof, such employee is employed without the required training within the time limits allotted herein. Any statutory penalties shall be imposed and collected, if due, consistent with the procedures established by Section 292.675, RSMo.

Contractor shall contractually require its subcontractors of every tier to adhere to the requirements of this Section in every regard.

For purposes of this Section, the following definitions shall be applicable:

"Directly engaged in construction" shall mean work performed in the actual erection of the structure or completion of the Work. In addition, employees working at a nearby or adjacent facility used by Contractor or its subcontractors for construction of the Work shall be deemed on-site employees. Persons engaged solely in the transportation of materials, fuel, or equipment to the location of the Work shall not be deemed to be directly engaged in construction.

"On-site employee", laborers, workmen, drivers, equipment operators, and craftsmen employed by Contractor or its subcontractors to be directly engaged in construction of the Work.

### **Section 13. E-Verify.**

Contractor shall not employ any person performing services under this Contract who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3). Contractor shall execute an "Employee Eligibility Verification Affidavit" and shall attach thereto documentation sufficient to establish Contractor's enrollment and participation in an electronic verification of work program operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program authorized by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986. For those Contractors enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that Contractor will obtain upon successfully enrolling in the program shall constitute sufficient documentation for purposes of complying with this Section. Contractor shall

submit the affidavit and attachments to Developer prior to commencement of the Work, or at any point thereafter if requested by Developer.

#### **Section 14. Prevailing Wage.**

The “Prevailing Wage Requirements” shall collectively refer to the following:

- A. Sections 290.210 to 290.340, RSMo, the State of Missouri Prevailing Wage Law (“Law”); and
- B. 8 CSR 30-3.010 to 8 CSR 30-3.060, the Prevailing Wage Law Rules (“Rules”); and
- C. Annual Wage Order No. 29 (“Wage Order”) issued by the State of Missouri’s Department of Labor and Industrial Relations, a copy of which is attached hereto and incorporated herein as **Exhibit C**; and
- D. Any applicable Annual Incremental Wage Increase (“Wage Increase”) to the Wage Order.

In accordance with the provisions of the Prevailing Wage Requirements, Contractor will pay or cause to be paid the applicable prevailing hourly rate of wages to all workers entitled to the same. If and to the extent the Prevailing Wage Requirements are applicable, Contractor will take whatever lawful steps are necessary to ensure that prevailing hourly rate of wages are paid by Contractor and all subcontractors thereunder, of every tier, according to the type of work being performed.

In order to monitor the payment of the prevailing hourly rate of wages, Contractor shall do the following:

- i. Post and require all subcontractors to post and keep posted a clearly legible statement of all prevailing hourly rate of wages to be paid to the workers in a prominent and easily accessible place at the location of the Work; and
- ii. Complete and require all subcontractors to complete the “Daily Labor Force Report” for each calendar day that the Work is being performed, and remit the same not less than weekly to Port KC; and
- iii. Complete and require all subcontractors to complete the “Certified Payroll Report” for each calendar week that the Work is being performed, and remit the same to Port KC not more than two weeks after the close of the applicable payroll reporting period; and
- iv. Complete weekly interviews with randomly selected workers to identify any potential compliance issues; and
- v. Review every Daily Labor Force Report in conjunction with the applicable Certified

Payroll Report and identify any errors, omissions, or entries inconsistent with the Prevailing Wage Requirements; and

- vi. Correct and require all subcontractors to correct any errors, omissions or entries inconsistent with the Prevailing Wage Requirements that are identified during such review of the same, and to remit to the affected workers any additional sums determined to be due as a result of such corrections; and
- vii. Remit to Port KC, once per month, the Certified Payroll Reports as corrected, if applicable. (The corresponding Daily Labor Force Reports shall **not** be submitted to Port KC but shall be retained as otherwise provided for herein, and are subject to review by Port KC and its authorized agents upon their request); and
- viii. File with Port KC, not more than thirty (30) days following the completion of the Work, an “Affidavit of Compliance With Prevailing Wage Requirements” for the purpose of certifying their compliance with the Prevailing Wage Requirements.

Those forms required to be submitted by Contractor are attached hereto and incorporated herein as **Exhibit D**.

All records submitted with respect to the Prevailing Wage Requirements or otherwise herein required shall be retained by Contractor for not less than three (3) full year following the date upon which Contractor submits to Port KC the “final” Certified Payroll Reports for the Prevailing Wage Applicable Work, and shall be made available for review by Port KC and its authorized agents upon request. Port KC shall have the absolute right to audit Contractor’s compliance with the provisions of this document and to examine, in whole or in part, any records which Contractor is required to obtain and retain, and to interview any workmen in connection therewith. Contractor shall grant Port KC or its authorized representative access to such records and workmen, if applicable, during business hours, and shall make such records and workmen available at the location of the Work or such other location in reasonable proximity thereto as Port KC may identify.

Contractor is solely responsible for ensuring that its subcontractors comply with the provision of the Prevailing Wage Requirements and shall be the sole point of contact for Port KC with respect such matters. Contractor shall not instruct its subcontractors to submit documentation directly to Port KC unless Port KC and Contractor shall have mutually agreed otherwise in writing. Any documentation not otherwise submitted through Contractor may be rejected by Port KC in its sole discretion, in which case Contractor shall resubmit such materials.

If any allegations or inquiries are made with respect to any potential violations of the Prevailing Wage Requirements, or if Contractor’s review of the Daily Labor Force Reports and Certified Payroll Reports indicates a violation, Contractor must notify Port KC in writing within five (5) days of learning of such

allegation, inquiry or violation. Contractor must follow up with the relevant contractor(s) and subcontractors thereunder until all allegations, inquiries or violations are satisfactorily resolved and disclose the resolution to Port KC, in writing, within five (5) days following the resolution of all such allegations, inquiries or violations.

If any violations of the Prevailing Wage Requirements are not resolved to the satisfaction of Port KC, Port KC may identify, by written notice to Contractor, the workers claiming to have been underpaid, the days they claim to have been underpaid, and the amounts they claim to have been underpaid. Contractor will have ten (10) days following receipt of such notice, or such longer time as Port KC may authorize in writing, to respond to the notice. Contractor will be given reasonable notice and an opportunity to be heard on the matter. Based on the information in the notice, Contractor's response, and such additional information as Port KC determines relevant, Port KC will render a written decision as to the amount, if any, of additional wages Port KC concludes is owed. Within ten (10) days following Contractor's receipt of such Port KC determination, Contractor shall either (i) promptly pay or cause to be paid any such wages that Port KC determines are owed, or (ii) notify Port KC in writing that it disputes Port KC's determination. In the event Contractor elects (ii) above, the matter shall be referred to the State of Missouri's Department of Labor and Industrial Relations for further enforcement action. Notwithstanding the foregoing, nothing herein shall be construed as precluding Contractor from any additional civil and criminal liability imposed by the Prevailing Wage Requirements.

The failure to comply with the Prevailing Wage Requirements may subject Contractor to the payment of statutory penalties. Contractor shall incur a statutory penalty of one hundred dollars (\$100.00) for each worker employed, for each calendar day, or portion thereof, such worker is paid less than the prevailing hourly rate of wages for any work done on behalf of Contractor and all subcontractors thereunder.

**Section 15. M/WBE.** Developer strongly supports the utilization of minority and women owned business enterprises in the performance of the Work and Contractor represents that it has made a good faith effort to maximize the use of such firms. This Contract shall be subject to the goals as contained in the Contractor Utilization Plan/Request for Waiver submitted by Contractor with its bid.

Contractor must electronically submit the following document to [compliance@portkc.com](mailto:compliance@portkc.com) by the last calendar day of each calendar month until such time as the Work has been fully completed.

**M/WBE Monthly Utilization Report:** This form identifies the M/WBEs utilized and the amounts paid to each.

The following shall be credited towards achieving the M/WBE goals:

1. One hundred percent (100%) of the dollar amount paid to a general contractor or a subcontractor that is a qualified M/WBE, except as otherwise expressly provided for herein.

2. Sixty percent (60%) of the total dollar amount paid to obtain supplies or goods from a supplier who is a qualified M/WBE
3. Ten percent (10%) of the total dollar amount paid to obtain supplies or goods from a supply broker who is a qualified M/WBE.
4. One hundred percent (100%) of the total dollar amount paid to a manufacturer of construction supplies who is a qualified M/WBE.

**NO CREDIT**, however, will be given for the following:

1. The dollar amount paid to an M/WBE that does not perform a Commercially Useful Function; and
2. The dollar amount that a M/WBE subcontracts to any contractor not a qualified M/WBE; and
3. Materials and supplies used on the project unless the M/WBE is responsible for negotiating the price, determining quality and quantity, ordering the materials and installing (where applicable) and paying for material itself; and
4. Work performed by an M/WBE in a scope of work other than that in which the M/WBE is certified.

Contractor agrees to permit the Port KC's duly authorized agents or employees access at all reasonable times to the applicable books and business records of Contractor as may be necessary for the purposes of ascertaining compliance with the requirements of this Section. Contractor shall require its subcontractors to likewise make its applicable books and records available to the same extent as is applicable to Contractor.

Those forms required to be submitted by Contractor are attached hereto and incorporated herein as **Exhibit E**.

#### **Section 16. Construction Workforce.**

This Contract shall be subject to the following goals:

<b>Minorities</b>	<b>- 10%</b>
<b>Women</b>	<b>- 2%</b>

The goals are expressed as a percentage of the total Construction Labor Hours performed by minorities and women in completing the Work.

Contractor must electronically submit the following document to [compliance@portkc.com](mailto:compliance@portkc.com) by the last

calendar day of each calendar month until such time as the Work has been fully completed.

**Project Workforce Monthly Utilization Report.** Two copies of this report must be submitted to the Port KC each month. The first copy will be utilized to report Contractor's workforce compliance data with regard to the Work. The second copy will be utilized to report consolidated workforce compliance data for every subcontractor retained by Contractor with regard to the Work.

Contractor agrees to permit the Port KC's duly authorized agents or employees access at all reasonable times to the applicable books and business records of Contractor as may be necessary for the purposes of ascertaining compliance with the requirements of this Section. Contractor shall require its subcontractors to likewise make its applicable books and records available to the same extent as is applicable to Contractor.

Those forms required to be submitted by Contractor are attached hereto and incorporated herein as **Exhibit F**.

#### **Section 17. Assignment or Subcontracting.**

Contractor shall not assign or transfer any part or all of Contractor's obligation or interest in this Contract without prior written approval of Developer. If Contractor shall assign or transfer any of its obligations or interests under this Contract without Developer's prior written approval, it shall constitute a material breach of this Contract.

This provision shall not prohibit Contractor from subcontracting as otherwise provided for herein. The utilization of subcontractors shall not relieve Contractor of any of its responsibilities under the Contract, and Contractor shall remain responsible to Developer for the negligent acts, errors, omissions or neglect of any subcontractor and of such subcontractor's officers, agents and employees. Developer shall have the right to reject, at any point during the term of this Contract, any subcontractor proposed to be utilized by the Contractor, and to require that any subcontractor cease working under this Contract. Developer's right shall be exercisable in its sole and subjective discretion. Developer shall not be obligated to pay or be liable for payment of any monies which may be due to any subcontractor. Contractor shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing Contractor's services hereunder.

#### **Section 18. Investigation of Contract Documents and Site of Work by Contractor.**

Contractor has examined and fully understands the nature and location of the Work, the character, quality, and quantity of materials, and of equipment and facilities, necessary in the prosecution of the Work, the

general and local conditions, and all other matters which can in any way affect the Work under this Contract. Any variance in actual conditions at the location of the Work from those observed by Contractor prior to the execution of this Contract or contemplated by any of the documents reviewed by or furnished to Contractor shall not be the basis for extra compensation by Developer to Contractor.

### **Section 19. Excavation and Protection of Underground Utilities.**

Before excavating, Contractor shall ascertain if there are any above or underground pipelines, electric wires, cables or other subsurface utilities, including fiber optic cable systems located within the area in which the Work is to be performed. Excavating could result in damage to buried cables or utility lines resulting in disruption of service to users and business interruptions involving loss of revenue and profits. Before any excavation commences, Contractor must contact the appropriate utility companies. All underground and overhead wires or cables must be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line. It is also the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.

Any excavations, holes or trenches must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, all areas must be secured and left in a condition that will ensure that personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

### **Section 20. Contractor's Warranty.**

Contractor warrants that all materials, supplies and equipment installed or incorporated in the Work covered by this Contract shall be of the best grade of their respective kinds for the purposes for which they are used, shall be free from defect in material and workmanship and shall comply with all applicable federal, state and local governmental statutes, ordinances, rules, orders and regulations. Contractor further warrants that if any part of the Work is found to be defective or in noncompliance with such warranty within the period of one (1) year from the date of final acceptance of the Work by Developer, Contractor shall make any necessary repairs or corrections, or provide replacement parts, at Contractor's sole expense, promptly upon receipt of written notice thereof from Developer.

### **Section 21. Changes and Alterations.**

Contractor shall not make any change in the Work, or to the times for commencement or completion of the Work, and Contractor shall not be entitled to any increase in the Contract Price or to any additional compensation of any kind as a result of any change in the Work or delay to the commencement or completion of the Work, except and only to the extent such change has been authorized in writing and in advance by Developer.

Developer reserves the right to make, at any time during the progress of the Work, such changes and alterations in the details of the Work or in the quantities of the Work as may be found necessary or desirable, and such changes shall not be considered as a waiver of any condition of this Contract, nor shall they invalidate any of the provisions hereof.

Any change or alterations in the details of the Work or in the quantities of the Work authorized by Developer will be documented in a writing signed by the parties (“**Change Order**”) and shall be compensated at the unit prices set forth in **Exhibit B**, to the extent said unit prices are applicable for purposes of such change or alteration.

## **Section 22. Compliance with Laws.**

Contractor shall comply with all federal, state and local laws, ordinances and regulations applicable to the Work and this Contract, and shall, at its own expense, secure all occupational and professional licenses and permits from public or private sources necessary for the fulfillment of its obligations under this Contract.

## **Section 23. Insurance.**

Contractor shall procure and maintain in effect throughout the term of this Contract insurance policies with coverage not less than the types and amounts specified in this Section. Policies containing a Self-Insured Retention are unacceptable to Developer unless otherwise approved by Developer in writing.

1. Commercial General Liability Insurance Policy: with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate, written on an “occurrence” basis. The policy shall be written or endorsed to include the following provisions:

- a. Severability of Interests Coverage applying to Additional Insureds;
- b. Contractual Liability;
- c. Per Project Aggregate Liability Limit;
- d. No Contractual Liability Limitation Endorsement;
- e. Additional Insured Endorsement, ISO form CG20 10, current edition, or its equivalent.

2. Workers’ Compensation Insurance: as required by statute, including Employers Liability with limits of:

Workers’ Compensation: Statutory

Employers Liability:

\$500,000 bodily injury by accident – each accident

\$500,000 bodily injury by disease-policy limit

\$500,000 bodily injury by disease-each employee

3. Commercial Automobile Liability Insurance Policy: with a limit of \$1,000,000, covering owned, hired, and non-owned automobiles. The Policy shall provide coverage on an “any auto” basis and on an “occurrence” basis. This insurance policy will be written on a Commercial Automobile Liability form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Contract, by Contractor.
4. Professional Liability Insurance, if applicable, with limits Per Claim/Annual Aggregate of \$2,000,000.
5. Umbrella or Excess Liability coverage with limits of \$2,000,000.

The Commercial General, Automobile, and Umbrella Liability Insurance specified above shall provide that the Hunt Midwest and Port KC, and each of their respective agents, officials, officers, and employees, while acting within the scope of their authority, shall be named as additional insured’s for the services performed under the Contract. At or before execution of the Contract, the Contractor must deliver to Developer a certificate of insurance showing all required coverage, endorsements, and additional insured’s, and which will declare that the respective insurer may not cancel or fail to renew the same in whole or in part without giving to Developer written notice of its intention to cancel or not renew at least thirty (30) days in advance.

All insurance coverage must be written by companies that have an A.M. Best’s rating of “A-VI” or better and are licensed or approved by the State of Missouri to do business in Missouri.

Contractor agrees that all insurance policies which it is required to carry pursuant to this Contract, will contain provisions to the effect that in the event of payment of any loss or damage, Contractor’s insurers will have no rights of recovery against Hunt Midwest, Port KC, or any of their respective agents, officials, officers, and employees for loss or damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other insurance applicable to the Work required pursuant to this Contract.

Contractor’s failure to maintain the required insurance coverage will not relieve Contractor of its contractual obligation to indemnify as otherwise provided in this Contract.

If the coverage afforded is cancelled or changed or its renewal is refused, Contractor shall give at least thirty (30) days prior written notice to Developer. In the event Contractor fails to maintain the required insurance coverage in effect, Developer may order Contractor to immediately stop Work, and upon ten (10) days’ notice and an opportunity to cure, may pursue its remedies for breach of this Contract as provided for herein and by law.

In no event shall the language in this Section constitute or be construed as a waiver or limitation of Port KC's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by other provision of law.

#### **Section 24. Indemnification.**

The following terms shall have the meanings listed herein for purposes of construing this Section:

- a. **Claims** means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by Developer in the enforcement of this indemnity obligation, of any kind of character (including consequential and punitive damages).
- b. **Contractor's Agents** means Contractor's officers, employees, subcontractors, successors, assigns, invitees, and other agents.

Contractor's obligations under this Section with respect to indemnification shall be limited to the coverage and limits of insurance that Contractor is required to procure and maintain under this Contract. Contractor affirms that it has had the opportunity to recover all costs of the insurance requirements imposed by this Contract in its contract price.

Contractor shall defend, indemnify and hold harmless Developer from and against all Claims arising out of or resulting from all acts or omissions in connection with this Contract, including but not limited to professional negligence, if applicable, caused in whole or in part by Contractor or Contractor's Agents. Contractor is not obligated under this Section to indemnify Developer for the sole negligence of the Developer, as applicable.

In no event shall the language in this section constitute or be construed as a waiver or limitation of Developer's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by other provision of law.

The right to indemnification set forth in this Section shall survive the termination or expiration of this Contract.

#### **Section 25. Superintendence; Employees.**

Contractor shall constantly keep a competent superintendent at the location of the Work during such periods of time as the Work is being performed. The Contractor shall employ on the Work only persons who are qualified and competent to perform the Work entrusted to them.

## **Section 26. Protection Against Property Damage and Personal Injuries.**

Contractor shall use care and vigilance to secure the location of the Work and avoid injury to persons and property. Contractor shall furnish and maintain, without expense to Developer, such passageways, guard-fences, toe boards, notices, lights, and other facilities and means for protection as may be necessary.

## **Section 27. Storage Facilities, Vacation Thereof and Cleaning Up.**

Contractor shall arrange for and be responsible for storage of all materials and equipment during the course of the Work. Hunt Midwest will, so far as it conveniently can do so and without assuming the risk of loss to any stored materials or equipment, permit Contractor to use so much of its property as is reasonably required for the storage of materials and for temporary construction facilities. All temporary facilities, equipment or services necessary in connection with Contractor's Work on the project shall be provided by Contractor at its sole cost and expense. Contractor shall promptly remove, at its sole cost and expense, all temporary structures, rubbish and waste materials, equipment, tools, fixtures, shipping containers, materials and supplies upon completion of the Work. From and after the execution of this Contract, through and to final completion of the Work, Contractor shall be responsible for and bear all risk of damage to or loss or theft of all materials, equipment, tools and fixtures furnished by Contractor for the Work.

## **Section 28. Termination for Convenience.**

Developer may, at any time upon ten (10) days' notice to Contractor specifying the effective date of termination, terminate this Contract, in whole or in part. If Developer terminates this Contract, Developer shall only be liable for payment for services rendered before the effective date of termination. Contractor shall prepare an accounting of the services performed and direct costs incurred by Contractor up to the effective date of termination. All work or materials prepared or obtained by Contractor pursuant to this Contract shall become Developer's property.

Contractor agrees it has no right to terminate this Contract for convenience.

## **Section 29. Default and Remedies.**

If Contractor shall be in default or breach of any provision of this Contract, Developer may terminate this Contract, suspend Developer's performance, withhold payment or invoke any other legal or equitable remedy, including but not limited to the retention of any liquidated damages to which it is entitled under this Contract, after giving Contractor seven (7) days written notice and opportunity to cure such default or breach.

If Developer shall be in default or breach of any provision of this Contract, Contractor may terminate this contract or suspend Contractor's performance after giving Developer fifteen (15) days written notice and opportunity to cure such default or breach.

All rights and remedies which a party may be entitled to seek at law and in equity are hereby declared to be cumulative and not exclusive.

**Section 30. Records.**

Contractor shall maintain and retain all documents, books, papers, photographs, maps, sound recordings or other materials, regardless of physical form or characteristics, made or received in connection with this Contract for a term of three (3) years that shall begin after the expiration or termination of this Contract, and in the event of any litigation occurring within said three (3) year period of which Developer has made Contractor aware, then until such litigation has been resolved, whichever is later. Developer shall have a right to examine or audit all such records and Contractor shall provide access to Developer within ten (10) calendar days' written notice from Developer.

**Section 31. Choice of Forum.**

All questions arising under this Contract, all business transacted hereunder, and the legal relations between Contractor and Developer shall be governed by and construed in accordance with the laws of the State of Missouri, without reference to the conflict of laws principles. Venue for any proceeding shall be the circuit court of Platte County, Missouri.

**Section 32. Service of Notices.**

All notices required by this Contract shall be in writing sent by hand delivery, overnight delivery by a reputable courier, or regular U.S. mail, postage prepaid. Notices sent as provided herein shall be deemed given and effective (i) upon receipt, (ii) one Business Day after deposit with a reputable overnight courier, or (iii) four Business Days after deposited in the mails. A "Business Day" means any day that is not a Saturday, Sunday or any other day which is a Federal holiday. A party may change its address for receipt of notices by the giving of a written notice of such change in accordance herewith. Notices shall be provided to the following addresses, unless otherwise modified pursuant to the terms of this Section:

If to Port KC:

Port KC  
Attn: President and CEO  
110 Berkley Plaza  
Kansas City, MO 64120

With a copy to:

Port KC  
Attn: General Counsel  
110 Berkley Plaza  
Kansas City, MO 64120

If to Hunt Midwest:

Hunt Midwest Real Estate Development, Inc.  
ATTN: Aaron Schmidt, Senior Vice President  
1881 Main Street, Suite 200  
Kansas City, MO 64108

If to Contractor:

**Section 33. Severability.**

All of the provisions of this Contract shall be severable. If any provision of this Contract is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Contract shall be valid unless the court finds that the valid provisions of this Contract are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Contract could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

**Section 34. No Gratuities and Kickbacks.**

Contractor certifies that it has not and will not offer or give any Hunt Midwest or Port KC employee or officer a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any part of a contract, of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract, or to any solicitation or proposal thereof.

Contractor certifies that no payment, gratuity, offer of employment or benefit has been or will be made by or on behalf of or solicited from a subcontractor under a contractor of a higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

**Section 35. Conflicts of Interest.**

Contractor certifies that no officer or employee of Hunt Midwest or Port KC has, or will have, a direct or indirect financial or personal interest in this Contract, and that no officer or employee of Hunt Midwest or Port KC, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Contractor in this Contract.

**Section 36. Waiver or Modification.**

No provision of this Contract may be waived, modified or amended except in writing signed by the party against whom enforcement is sought.

If Developer shall waive any provision of this Contract, it shall not operate as a waiver of Contractor's subsequent breach or noncompliance with the provision. Developer shall be entitled to invoke any contractual or legal remedy available to Developer despite any of Developer's previous waiver(s) of Contractor's breach or noncompliance with the Contract provisions.

**Section 37. Independent Contractor.**

Contractor is an independent contractor and is not Developer's agent. Contractor has no authority to take any action or execute any documents on behalf of Developer. Contractor accepts full and exclusive liability for the payment of any and all premiums, contributions or taxes for workers' compensation, social security, unemployment benefits, or other employee benefits now or hereinafter imposed under any state or federal law, which are measured by the wages, salaries or other remuneration paid to persons employed by Contractor on Work performed under the terms of this Contract.

**Section 38. Headings; Construction of Contract.**

The headings of each section of this Contract are for reference only. Unless the context of this Contract clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

**Section 39. Non-Discrimination.**

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed or religion, ancestry or natural origin, sex, handicap or disability, age, familial status, marital status, sexual orientation or gender identity.

**Section 40. USA/Missouri Preferences.**

Any manufactured goods or commodities used or supplied in performing the Work shall be manufactured or produced in the United States; provided, however, this provision may be waived in the event only one line of a particular good or product required for the performance of the Work is manufactured or produced in the United States.

Contractor shall give further preference to materials, products, supplies and all other articles produced, manufactured, made or grown within the State of Missouri.

**Section 41. Contractor's Business Practices.**

Contractor shall adopt and use generally accepted accounting principles in Contractor's operations. Contractor shall use its best efforts to obtain all equipment and materials for use in the performance of its services under this Contract at the lowest possible cost and to purchase the equipment and materials by competitive bidding whenever required by law or whenever practical. Contractor shall identify, label, protect and release to Developer at the termination of this Contract, all non- expendable equipment purchased with funds provided under this Contract.

**Section 42. Tax Compliance.**

Contractor shall remain in compliance with the license and tax ordinance administered by the City of Kanas City, Missouri during the term of this Contract and shall furnish Developer sufficient evidence of the same if so requested.

**Section 43. Good Standing.**

Contractor shall maintain its corporate status for the duration of the Work and shall provide to Developer, prior to commencing the same, documentation from the Missouri Secretary of State attesting to the fact that Contractor is registered to conduct business in the State of Missouri and is in good standing.

**Section 44. Rules of Contract Construction.**

Developer and Contractor agree that this Contract shall be construed without regard to any presumption or other rule requiring construction of the Contract against the party causing the contract to be drafted.

**Section 45. Binding Effect.**

This Contract shall be binding upon Developer and Contractor and their successors in interest.

**Section 46. Representations and Warranties.**

Developer and Contractor certify that they have the power and authority to execute and deliver this Contract, to use the funds as contemplated hereby and to perform this Contract in accordance with its terms.

**Section 47. Contractor Eligibility.**

Contractor certifies that it has not been debarred from participating in any program or activity funded in whole or in part with federal funds or whose principals have been convicted of any criminal offense involving fraud, bribery or misappropriation of public funds.

#### **Section 48. Arbitration.**

At Developer's option, any dispute or controversy arising out of this Contract or the breach thereof shall be settled by binding arbitration to be held in the Kansas City Metropolitan Area. Any such arbitration shall be conducted under the Rules of the American Arbitration Association unless the parties mutually agree to a private arbitration. The award of the arbitration panel shall be enforceable in any court of competent jurisdiction. This arbitration agreement shall be enforceable under the Federal Arbitration Act.

#### **Section 49. Attorneys' Fees.**

If Developer engages an attorney, or files a lawsuit or asserts a counterclaim or demands arbitration against Contractor, arising out of a dispute with Contractor in connection with this Contract, and if Developer prevails in that matter, lawsuit, counterclaim or arbitration, then Contractor shall pay all attorneys' fees, court costs, arbitrator fees and/or arbitration processing fees incurred by Developer or assessed by a court or arbitration panel or tribunal.

#### **Section 50. Source of Funding.**

Contractor has been advised that the Contract Price will be paid, in part, using funds appropriated by the Missouri General Assembly to the Missouri Department of Economic Development and funded through the U.S. Department of the Treasury Coronavirus State Fiscal Recovery Fund as authorized by the American Rescue Act. A funding agreement conveying these funds has not yet been provided to Developer, but Developer anticipates that their expenditure will require that Developer comply with certain regulatory processes and procedures. In the event the terms of such funding agreement would require that this Contract be amended for purposes of rendering it compliant with any such regulatory processes and procedures, the parties hereto will negotiate in good faith and execute such amendments as may be required for purposes of ensuring that the Work to be performed under this Contract is eligible for reimbursement from said funds.

**Section 51. Exercise of Developer's Rights.** Hunt Midwest and Port KC agree that the rights and obligations to be performed by Developer pursuant to this Contract may be exercised by Hunt Midwest, unless and until such delegation of authority is otherwise rescinded or modified by written agreement of Hunt Midwest and Port KC. Notwithstanding the foregoing, Hunt Midwest shall have no authority to amend the terms of this Contract on without Port KC's written consent. Further notwithstanding the foregoing, the authority of Hunt Midwest in performing the rights and obligations of Developer shall not be construed as relieving Contractor from any obligation expressly owed under the terms of this Contract to Port KC or its agents, officials, officers, and employees, including but not limited to those provisions with respect to insurance and indemnification.

#### **Section 52. Entire Agreement.**

This Contract, and all exhibits and attachments thereto, is the sole and exclusive statement of the

understandings and agreements of the parties with respect to its subject matter. This Contract constitutes the complete and integrated agreement between Developer and Contractor and supersedes all prior agreements or understandings, whether written or oral.

[Signature page follows]

**IN WITNESS WHEREOF**, the parties hereto have executed this Contract as of the day and year first above written.

**PORT AUTHORITY OF KANSAS CITY,  
MISSOURI**

**HUNT MIDWEST REAL ESTATE  
DEVELOPMENT, INC.**

By: \_\_\_\_\_  
Jon Stevens  
President/CEO

By: \_\_\_\_\_  
Ora H. Reynolds  
President/CEO

**[CONTRACTOR]**

By: \_\_\_\_\_  
Name  
Title

**EXHIBIT A**

**Work**

[ATTACH PLANS PRIOR TO CONTRACT EXECUTION]

**EXHIBIT B**

**Unit Bid Prices**

[ATTACH PRIOR TO CONTRACT EXECUTION]

EXHIBIT C

Annual Wage Order

**Missouri**  
**Division of Labor Standards**  
WAGE AND HOUR SECTION



MICHAEL L. PARSON, Governor

**Annual Wage Order No. 29**

Section 083  
**PLATTE COUNTY**

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by \_\_\_\_\_  
Todd Smith, Director  
Division of Labor Standards

Filed With Secretary of State: \_\_\_\_\_ **March 10, 2022**

Last Date Objections May Be Filed: **April 11, 2022**

Prepared by Missouri Department of Labor and Industrial Relations

Building Construction Rates for  
PLATTE County

Section 083

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Asbestos Worker	\$68.12
Boilermaker	\$32.16*
Bricklayer	\$59.27
Carpenter	\$60.12
Lather	
Linoleum Layer	
Milwright	
Pile Driver	
Cement Mason	\$32.16*
Plasterer	
Communications Technician	\$61.41
Electrician (Inside Wireman)	\$65.93
Electrician Outside Lineman	\$32.16*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Elevator Constructor	\$32.16*
Glazier	\$56.53
Ironworker	\$66.13
Laborer	\$47.93
General Laborer	
First Semi-Skilled	
Second Semi-Skilled	
Mason	\$54.19
Marble Mason	
Marble Finisher	
Terrazzo Worker	
Terrazzo Finisher	
Tile Setter	
Tile Finisher	
Operating Engineer	\$59.08
Group I	
Group II	
Group III	
Group III-A	
Group IV	
Group V	
Painter	\$50.03
Plumber	\$72.42
Pipe Fitter	
Roofer	\$56.95
Sheet Metal Worker	\$76.72
Sprinkler Fitter	\$32.16*
Truck Driver	\$49.75
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

\*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

\*\*The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in Section 290.210 RSMo.

Heavy Construction Rates for  
PLATTE County

Section 083

OCCUPATIONAL TITLE	**Prevailing Hourly Rate
Carpenter	\$60.24
Millwright	
Pile Driver	
Electrician (Outside Lineman)	\$32.16*
Lineman Operator	
Lineman - Tree Trimmer	
Groundman	
Groundman - Tree Trimmer	
Laborer	\$49.23
General Laborer	
Skilled Laborer	
Operating Engineer	\$56.99
Group I	
Group II	
Group III	
Group IV	
Truck Driver	\$49.73
Truck Control Service Driver	
Group I	
Group II	
Group III	
Group IV	

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

If a worker is performing work on a heavy construction project within an occupational title that is not listed on the Heavy Construction Rate Sheet, use the rate for that occupational title as shown on the Building Construction Rate Sheet.

\*The Division of Labor Standards received fewer than 1,000 reportable hours for this occupational title. The public works contracting minimum wage is established for this occupational title using data provided by Missouri Economic Research and Information Center.

\*\*The Prevailing Hourly Rate includes any applicable fringe benefit amounts for each occupational title as defined in Section 290.210 RSMo.

## OVERTIME and HOLIDAYS

### OVERTIME

For all work performed on a Sunday or a holiday, not less than twice (2x) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work.

For all overtime work performed, not less than one and one-half (1½) the prevailing hourly rate of wages for work of a similar character in the locality in which the work is performed or the public works contracting minimum wage, whichever is applicable, shall be paid to all workers employed by or on behalf of any public body engaged in the construction of public works, exclusive of maintenance work or contractual obligation. For purposes of this subdivision, "**overtime work**" shall include work that exceeds ten hours in one day and work in excess of forty hours in one calendar week; and

A thirty-minute lunch period on each calendar day shall be allowed for each worker on a public works project, provided that such time shall not be considered as time worked.

### HOLIDAYS

January first;  
The last Monday in May;  
July fourth;  
The first Monday in September;  
November eleventh;  
The fourth Thursday in November; and  
December twenty-fifth;

If any holiday falls on a Sunday, the following Monday shall be considered a holiday.





**CERTIFIED PAYROLL REPORT**

Project Title: \_\_\_\_\_  
 Payroll Number: \_\_\_\_\_ of \_\_\_\_\_ Final

CONTRACTOR/SUB		WEEK ENDING:	SHEET	of													
ADDRESS:																	
CITY STATE ZIP:																	
FEDERAL ID NUMBER:																	
EMPLOYEE NAME:	First Name	Last Name	DATE	MON	TUES	WED	THUR	FRI	SAT	SUN	TOTAL HRS.	BASE RATE	O.T. RATE	FRINGE RATE	TOTAL		
ADDRESS:																	
CITY STATE ZIP:																	
SOCIAL SECURITY NO.:																	
OCCUPATIONAL TITLE/CLASSIFICATION:																	
GROUP:																	
WEEK ALL JOBS:	HOURS:	GROSS EARNINGS:	FEDERAL:	FICA:	STATE:	LOCAL ETAX:	MISC:	NET PAY:								EARNINGS FOR THIS JOB:	
EMPLOYEE NAME:		First Name	Last Name	DATE	MON	TUES	WED	THUR	FRI	SAT	SUN	TOTAL HRS.	BASE RATE	O.T. RATE	FRINGE RATE	TOTAL	
ADDRESS:																	
CITY STATE ZIP:																	
SOCIAL SECURITY NO.:																	
OCCUPATIONAL TITLE/CLASSIFICATION:																	
GROUP:																	
WEEK ALL JOBS:	HOURS:	GROSS EARNINGS:	FEDERAL:	FICA:	STATE:	LOCAL ETAX:	MISC:	NET PAY:								EARNINGS FOR THIS JOB:	
EMPLOYEE NAME:		First Name	Last Name	DATE	MON	TUES	WED	THUR	FRI	SAT	SUN	TOTAL HRS.	BASE RATE	O.T. RATE	FRINGE RATE	TOTAL	
ADDRESS:																	
CITY STATE ZIP:																	
SOCIAL SECURITY NO.:																	
OCCUPATIONAL TITLE/CLASSIFICATION:																	
GROUP:																	
WEEK ALL JOBS:	HOURS:	GROSS EARNINGS:	FEDERAL:	FICA:	STATE:	LOCAL ETAX:	MISC:	NET PAY:								EARNINGS FOR THIS JOB:	
EMPLOYEE NAME:		First Name	Last Name	DATE	MON	TUES	WED	THUR	FRI	SAT	SUN	TOTAL HRS.	BASE RATE	O.T. RATE	FRINGE RATE	TOTAL	
ADDRESS:																	
CITY STATE ZIP:																	
SOCIAL SECURITY NO.:																	
OCCUPATIONAL TITLE/CLASSIFICATION:																	
GROUP:																	
WEEK ALL JOBS:	HOURS:	GROSS EARNINGS:	FEDERAL:	FICA:	STATE:	LOCAL ETAX:	MISC:	NET PAY:								EARNINGS FOR THIS JOB:	
EMPLOYEE NAME:		First Name	Last Name	DATE	MON	TUES	WED	THUR	FRI	SAT	SUN	TOTAL HRS.	BASE RATE	O.T. RATE	FRINGE RATE	TOTAL	
ADDRESS:																	
CITY STATE ZIP:																	
SOCIAL SECURITY NO.:																	
OCCUPATIONAL TITLE/CLASSIFICATION:																	
GROUP:																	
WEEK ALL JOBS:	HOURS:	GROSS EARNINGS:	FEDERAL:	FICA:	STATE:	LOCAL ETAX:	MISC:	NET PAY:								EARNINGS FOR THIS JOB:	
EMPLOYEE NAME:		First Name	Last Name	DATE	MON	TUES	WED	THUR	FRI	SAT	SUN	TOTAL HRS.	BASE RATE	O.T. RATE	FRINGE RATE	TOTAL	
ADDRESS:																	
CITY STATE ZIP:																	
SOCIAL SECURITY NO.:																	
OCCUPATIONAL TITLE/CLASSIFICATION:																	
GROUP:																	
WEEK ALL JOBS:	HOURS:	GROSS EARNINGS:	FEDERAL:	FICA:	STATE:	LOCAL ETAX:	MISC:	NET PAY:								EARNINGS FOR THIS JOB:	

**AFFIDAVIT OF COMPLIANCE WITH PREVAILING WAGE REQUIREMENTS**

Project Title \_\_\_\_\_ Date \_\_\_\_\_

I, \_\_\_\_\_ (name) \_\_\_\_\_, upon being duly sworn upon my oath state that: (1) I am the \_\_\_\_\_ (title) \_\_\_\_\_ of \_\_\_\_\_ (business entity) \_\_\_\_\_; (2) all requirements of §§291.210 to 290.340, RSMo, pertaining to the payment of wages to workers employed on public works projects have been fully satisfied with regard to this company's work on the above-referenced project; (3) I have read and am familiar with the prevailing wage rules in 8 CSR 30-3.010 to 8 CSR 30-3.060; (4) based upon my knowledge of these rules, including the occupational titles set out in 8 CSR 30-3.060, I have completed full and accurate records clearly indicating (a) the names, occupations, and crafts of every work employed by this company in connection with this project together with an accurate record of the number of hours worked by each worker and the actual wages paid for each class or type of work performed, (b) the payroll deductions that have been made for each worker, and (c) the amounts paid to provide fringe benefits, if any, for each worker; (5) the amounts paid to provide fringe benefits, if any, were irrevocably made to a fund, plan, or program on behalf of the workers; (6) these payroll records are kept and have been provided for inspection to Port KC and will be made available, as often as may be necessary, to Port KC and the State of Missouri's Department of Labor and Industrial Relations; (7) such records shall not be destroyed or removed from the state for three years following the completion of this company's work on the project; and (8) there has been no exception to the full and complete compliance with the provisions and requirements of Annual Wage Order No. \_\_\_\_\_ issued by the State of Missouri's Division of Labor Standards and applicable to this project located in \_\_\_\_\_ County, Missouri.

The matters stated herein are true to the best of my information, knowledge, and belief. I acknowledge that the falsification of any information set out above may subject me to criminal prosecution pursuant to §§ 290.340, 570.090, 575.040, 575.050, or 575.060, RSMo.

\_\_\_\_\_  
Affiant's signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires:

**EXHIBIT E**

**M/WBE Forms**



Affirmative Action Policy (Construction Workforce) Compliance

Project Name: \_\_\_\_\_

Month Ending \_\_\_/\_\_\_/\_\_\_

Phase Number, if applicable: \_\_\_\_\_

\_\_\_ General Contractor \_\_\_ Consolidated Subcontractors

Total Construction Labor Hours during reporting period:

\_\_\_\_\_

Total Construction Labor Hours to date:

\_\_\_\_\_

Minority Construction Workforce Goal (Monthly Labor Hours):

0.00

Minority Construction Workforce Goal (Cumulative Labor Hours):

0.00

Women Construction Workforce Goal (Monthly Labor Hours):

0.00

Women Construction Workforce Goal (Cumulative Labor Hours):

0.00

Minority Construction Workforce

Monthly Labor Hours

Cumulative Labor Hours

\_\_\_\_\_

Women Construction Workforce

Monthly Labor Hours

Cumulative Labor Hours

\_\_\_\_\_

**BID FORM**

**This Bid is submitted to Hunt Midwest Real Estate Development, Inc. and Port KC (“Developer”), for the KCI 29 Logistics Park Public Watermain Extension Package**

Bidder accepts all of the terms and conditions of the Invitation to Bidders and the Instructions to Bidders. The Bid shall remain subject to acceptance for ninety (90) days after submission.

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract for Construction with Developer in the form included on the Bidding Documents Manual to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid, and in accordance with the other terms and conditions of the Bidding Documents.

In submitting this Bid, Bidder makes the representations set forth in the Instructions to Bidders.

Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly produced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Developer.

Bidder will complete the Work in accordance with the Contract for the prices set forth on **Exhibit A**, which is attached hereto and incorporated herein by this reference.

Bidder agrees that the Work shall be substantially and finally complete as set forth in the Contract.

The following documents are attached to this Bid:

- Completed AIA Form A305 - Contractor’s Qualification Statement with supporting data; and
- A list of Subcontractors and Suppliers and Qualification Statements for each.

The terms used in this Bid with initial capital letters have the meanings indicated in the Instructions to Bidders and the Contract.

**SUBMITTED on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by:**

**ENTITY NAME:** \_\_\_\_\_

**TYPE OF ENTITY:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**(Signature)**

**PRINTED NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**BUSINESS ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PHONE NO.:** \_\_\_\_\_

**EMAIL ADDRESS:** \_\_\_\_\_

**EXHIBIT A – CONTRACTOR PRICING FORM**

<b>ITEM DESCRIPTION</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>UNIT PRICE</b>	<b>ITEM TOTAL</b>
<b>GENERAL CONDITIONS</b>				
Mobilization	LS	1		
Bond	LS	1		
<b>WATERLINE</b>				
8" CL52 DIP	LF	400		
16" CL54 DIP	LF	6000		
16" BUTTERFLY VALVE	EA	22		
12" Gate Valve	EA	3		
8" Gate Valve	EA	3		
Fire Hydrant Assembly	EA	23		
Air Release Valve	EA	1		
Connect to Exist.	EA	1		
Straddle Block	EA	8		
			<b>TOTAL BID</b>	

**NOTE: Steel casing shown on the Plans between stations 10+00 and 15+75 is NOT part of the scope of work for this contract. Bidders shall include only the cost of installing pipe in existing casing in this area in their bids.**