



UNIVERSITY OF LOUISVILLE

PROCUREMENT SERVICE

Invitation to Bid

IB-011-25

JB Speed Student Success Building

BID CATEGORY

BC-39 Landscaping

BID PACKAGE TABLE OF CONTENTS

1. INSTRUCTION TO BIDDERS
2. BID CATEGORY DESCRIPTIONS
3. CONSTRUCTION SCHEDULES
4. BID FORMS
5. AGREEMENT FORMS
6. BIDDER QUALIFICATION FORM
7. GENERAL CONDITIONS
8. SPECIAL CONDITIONS
9. SALES TAX PROCEDURES
10. WHITTENBERG CONSTRUCTION COMPANY SAFETY POLICY
11. SITE LOGISTICS PLAN
12. TECHNICAL SPECIFICATIONS AND DRAWINGS

1. INSTRUCTIONS TO BIDDERS

1.1 PROJECT INFORMATION

- A. Project Identification: JB Speed School Student Success Building
- B. Owner: University of Louisville
- C. Architect: Luckett & Farley, Louisville KY
- D. CM-GC: Whittenberg Construction Co., Louisville KY

1.2 BID SUBMITTAL AND OPENING

- A. The Owner and Construction Manager-General Contractor (CM-GC) will receive sealed bids until the bid time and date at the location indicated below. Late bids will not be accepted. Bids shall be prepared in compliance with the Instructions to Bidders and delivered as follows:

- Bid Opening Date: **January 28th, 2025**
- Bid Opening Time: **12PM, EST.**
- Bid Opening Location: **2215 S. Brook Street, Service Complex, Louisville, KY 40208 – Conference Room 102**

1.3 WRITTEN QUESTIONS

- A. All questions shall be in writing and directed to the Contract Specialist of record:
 - 1. Email: evan.riddell@louisville.edu
 - 2. Only written questions submitted to the contract specialist and answered via addendum are considered valid.
- B. All Emails Shall be Titled as: IB-011-25, BC-39 Landscaping JB Speed Student Success Questions
- C. Questions shall be submitted by: **January 16th, 2025, by 2PM, EST.**

1.4 PLANS AND SPECIFICATIONS

- A. Technical Specifications & Drawings, Site Logistics, CM-GC Safety Requirements and Schedule can be found at the following link:

- <https://louisville.box.com/s/8tuleruyi7uvqex6mrpos2vrgn09jm7a>

INSTRUCTIONS TO BIDDERS

TABLE OF CONTENTS

<u>ARTICLE NO.</u>	<u>TITLE</u>
1	Definitions
2	Bidder's Representation
3	Bidding Documents
4	Bidding Procedure
5	Consideration of Bids
6	Qualification of Contractors
7	Subcontractor and Material Listing
8	Unit Prices
9	Bonding
10	Form of Agreement Between Owner & Contractor
11	Award of Contract
12	Public Works Act
13	Basic Legal Requirements
14	Taxes
15	Plan Holder
16	Post Bid Review and Material Submittal
17	Equal Employment and Non-discrimination
18	Participation by Minority-Owned and Woman-Owned Business Enterprises
19	Bid Protests
20	Conflict of Interest
21	Anti-Kickback
22	Eligibility to Participate in Governmental Programs Certification
23	Supplier Certifications

INSTRUCTIONS TO BIDDERS

UNIVERSITY OF LOUISVILLE

PROCUREMENT SERVICES

BELKNAP CAMPUS

LOUISVILLE, KENTUCKY 40292

ARTICLE 1 - DEFINITIONS

- 1.1 Bidding documents include the Instructions to Bidders, Bid Proposal Form, other sample bidding and contract forms and the proposed contract documents including any addenda issued prior to receipt of bids.
- 1.2 The term "Contract Specialist" is the University's appointed representative.
- 1.3 Addenda are written or graphic instruments issued by the contracting agency prior to the execution of the contract which modify or interpret the bidding documents by addition, deletions, clarifications, or corrections.
- 1.4 A bid proposal is a complete and properly signed document, proposing to do the work or designated portion thereof for the sums stipulated therein supported by data called for by the bidding documents.
- 1.5 A bid is the sum stated in the bid proposal for which the bidders offer to perform the work described in the specifications and detailed on the drawing plans.
- 1.6 An alternate is an amount stated in the bid proposal (if indicated) to be added to or deducted from the amount of the base bid if the corresponding change in project scope or materials or method of construction described in the bidding documents is accepted.
- 1.7 A unit price is an amount stated in the bid proposal as a price per unit of measurement for materials or services as described in the contract documents.
- 1.8 The term Owner as used throughout the specifications and contract documents means the University of Louisville, represented by the University Planning, Design and Construction Department.
- 1.9 The term CM-GC or CM refers to the Construction Manager-General Contractor firm or Construction Manager, which for this project is **Whittenberg Construction**.
- 1.10 A bidder is one who submits a bid for a contract with the Owner for the work described in the proposed contract documents. Also to be referred to as **Trade Contractor**.
- 1.11 A sub-bidder is one who submits a bid to a bidder for materials or labor for a portion of the work. Also to be referred to as Subcontractor or Supplier.

ARTICLE 2 - BIDDER'S REPRESENTATION

- 2.1 Each bidder by making his bid represents that:
 - 2.1.1 He has read and understands the bidding documents and his bid is made in accordance therewith.
 - 2.1.2 He has visited the site and has familiarized himself with the local conditions under which the work is to be performed.
 - 2.1.3 His bid is based upon; materials, systems, equipment and owner/consultant approved equals as described in the original bidding documents and accordance with the bidding conditions and terms without exception.

ARTICLE 3 - BIDDING DOCUMENTS

3.1 Copies

- 3.1.1 Bidders, sub-bidders, and others may obtain from the contract specialist bidding documents in the manner and for the deposit sum and, charge, if any, stated in the invitation to bid.
- 3.1.2 Complete sets of bidding documents shall be used in preparing bids. The contract specialist assumes no responsibility for misinterpretations resulting from the use of incomplete sets of documents.
- 3.1.3 The contract specialist, in making copies of the bidding documents available on the above terms, does so only for the purpose of obtaining bids on the work and does not confer license or grant for any other use.

3.2 Interpretation or Correction of Bidding Documents.

- 3.2.1 Bidders shall promptly notify the contract specialist of record of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents or of the site and local conditions.
- 3.2.2 Bidders desiring clarification or interpretation of the bidding documents shall make a written request to the contract specialist to reach him by the deadline for written questions date referenced above (1.4 Inquiries).
- 3.2.3 Any interpretation, correction or change of the bidding documents will be made by addendum, issued by the purchasing officer. Interpretations, corrections or changes of the bidding documents made in any other manner will not be binding and bidders shall not rely upon such interpretations, corrections and changes.
- 3.2.4 The materials, products and equipment detailed, described or referenced to manufacturers' or vendors' names, trade names, catalog numbers, etc., are intended to establish a minimum standard of required function, dimension, appearance and quality. Material article or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article equipment so proposed is, in the opinion and judgement of the Architect, of equal substance and function.

3.3 (omitted)

3.4 Addenda

- 3.4.1 All addenda will be posted to: <http://louisville.edu/purchasing/bids> for viewing and acknowledgement with vendors bid. It will be the responsibility of all bidders to visit the above site prior to submitting bid and acknowledge receipt on submitted bid document.
- 3.4.1 Copies of addenda will be made available for inspection wherever bidding documents are on file for that purpose.
- 3.4.2 No addenda will be issued later than seven (7) days prior to the date for receipt of bids except for postponing the date for receipt of bids or withdrawing the request for bids.
- 3.4.3 Each bidder shall ascertain prior to submitting his bid that he has received all addenda issued by the purchasing officer for the particular bid invitation.

ARTICLE 4 - BIDDING PROCEDURE

4.1 Form and Style of Bids

- 4.1.1 Bids shall be submitted on the proposal forms provided by the University of Louisville Procurement Services.
- 4.1.2 All blanks on the bid proposal form shall be filled in and all support data shall be furnished.
- 4.1.3 Where so indicated by the makeup of the bid form, sums shall be expressed in both words and figures, and in case of discrepancy between the two, the amount in words shall govern.
- 4.1.4 Any interlineation, alteration or erasure must be initialed by the signer of the bid or by an official designee of the signer of the bid.
- 4.1.5 All Owner designated alternates if applicable shall be bid. **The bidder shall not insert voluntary alternates and**

designs unless so stipulated in specifications and drawings

4.1.6 **Bidder shall make no additional stipulations on the bid proposal form nor qualify his bid in any other manner.**

4.1.7 Bid proposal form shall include the legal name of bidder and a statement whether bidder is a sole proprietor, a partnership, a corporation, or may other legal entity, and each copy shall be signed by the person or persons legally authorized to bind the bidder to a contract. A bid by a corporation shall further give the state of incorporation. A bid submitted by an agent shall have a current signing authority certifying agent's authority to bind bidder.

4.2 Bid Security

4.2.1 The bid shall be accompanied by a bid security in the amount of 5% of bid total pledging that the bidder will enter into a contract with the Owner on the terms stated in his bid and will if required, furnish bonds covering the faithful performance of the contract and the payment of all obligations arising thereunder.

4.2.2 Should the bidder fail to enter into a contract or fail to furnish required prequalification financial and safety information within 10 days of notice to award, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty.

4.2.3 The purchasing officer will retain the bid security of bidders until either (a) the contract has been executed, or (b) the specified time has elapsed so that bid may be withdrawn, or (c) all bids have been rejected.

4.3 Submission of Bids

The bid, the bid security, and any supporting data required to be submitted with the bid shall be enclosed in a sealed envelope. The envelope shall be addressed to the party receiving the bids and shall be identified with the bidder's name and address, the sealed bid invitation number, closing date and hour. The sealed envelope shall be enclosed in a separate mailing envelope with the notation "BID ENCLOSED" on the face thereof along with the bid number on front of the envelope.

4.3.1 Bids shall be deposited at the designated location prior to the time and date for receipt of bids indicated in the invitation to bid, or any extension thereof made by addendum. Bids received after the closing time and date for receipt of bids will not be considered if any bid was received prior to the official closing date for receipt of bids.

4.3.2 Bidder shall assume full responsibility for timely delivery at location designated for receipt of bids. Receipt inquiries to: University of Louisville Procurement Service – Evan Riddell (P) 502.852.6248 (E) evan.riddell@louisville.edu.

4.3.3 Oral, telephonic, or telegraphic bids or changes in bids by such methods are not permitted and will not receive consideration.

4.4 Modification or Withdrawal of Bid

4.4.1 Prior to the closing time and date designated for receipt of bids, bids submitted early may be withdrawn only by a properly identified representative of the bidding firm whose name appears on the bid envelopes. If the bidder desires to withdraw the bid, but is unable to appear or have an authorized representative appear prior to the official closing and opening date for bids, the bid will be opened, read and tabulated along with any other bids. Any written request for the withdrawal will be reviewed and evaluated in accordance with standard published regulations and policies of the University of Louisville.

4.4.2 Withdrawn bids may be resubmitted up to the closing time designated for the receipt of bids.

4.4.3 A bid may not be modified, withdrawn or cancelled by the bidder, during the stipulated time period following the time and date designated for the receipt of bids without approval of the purchasing officer and subject to the forfeit of the bid guaranty and suspension of future bidding privileges.

ARTICLE 5 - CONSIDERATION OF BIDS

5.1 Opening of Bids

5.1.1 Unless stated otherwise in the Invitation to Bid, all properly identified bids received on time will be publicly opened and read aloud. The bid tabulation will be posted on the website: <https://louisville.edu/purchasing/bids>

- 5.2 Cancellation of Invitation for Bids, Rejection of Bids and Waiver of Technicalities or Informalities.
- 5.2.1 The right to cancel the Invitation for Bids, to reject any and all bids and to waive technicalities and minor irregularities in bids shall be maintained and preserved in the case of all Invitations for Bids issued by a purchasing official of the University when such action is determined to be in the best interest of the University of Louisville.
- 5.2.2 Grounds for the rejection of bids include, but shall not be limited to:
1. Failure of a bid to conform to the essential requirements of an Invitation to bid.
 2. Failure to meet best value requirements as stated by the University.
 - Such as: Past performance, schedule, the bid addresses all of the design requirements of the design team
 3. Any bid which fails to conform to the written specifications and plans contained or referenced in any Invitation for Bids shall be rejected unless the invitation authorized the submission of alternate bids and the items offered as alternates meet the requirements specified in the invitation.
 4. Any bid which fails to conform to the delivery or completion schedule established in the bidding documents.
 5. A bid imposing conditions which would modify the terms and conditions of the Invitation for Bids, or limit the bidder's liability to the state on the contract awarded on the basis of such Invitation for Bids.
 6. Any bid determined by the purchasing officer in writing to be unreasonable as to price.
 7. Bids received from bidders determined to be non-responsible bidders.
 8. Failure to furnish a bid guarantee when required by an Invitation for Bids.
 9. Failure to document good faith efforts in soliciting bids from Minority and Women-Owned subcontractors/suppliers, if participation goals are not met.
- 5.2.3 Technicalities or minor irregularities in bids which may be waived when the purchasing officer determines that it will be in the University's best interest to do so, are mere matters of form not affecting the material substance of a bid or some immaterial deviation from or variation in the precise requirement of the Invitation for Bids and having no, or a trivial or negligible effect on price, quality, quantity or delivery of supplies or performance of the services being procured, the correction or waiver of which will not affect the relative standing of, or be otherwise prejudicial to other bidders. The purchasing officer may either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in his bid, or waive such deficiency where it is advantageous to the University to do so.
- 5.3 Acceptance of Bid
- 5.3.1 It is the intent of the purchasing officer to award a contract in due course and after a reasonable bid evaluation period to the lowest responsive and responsible bidder provided the acceptable bid sum is within budgeted funds.
- 5.3.2 If Owner designated alternates are considered in the award, the alternate(s) will be accepted in their sequence of listing on the bid form and the lowest bid sum will be computed on the basis of the sum of the base bid and any alternates accepted.

ARTICLE 6 - QUALIFICATIONS OF CONTRACTORS

- 6.1 Statement of Bidder's Qualifications
- 6.1.1 The apparent low bidder shall submit within 48 hours after bid opening, a statement of bidder's and requested subcontractor qualifications (**see Bidders Qualification form**). The purchasing officer shall have the right to take such steps as is deemed necessary to determine the ability of the bidder to perform the work in a prompt and efficient manner per the contract documents.
- 6.1.2 In determining the qualifications and responsibilities of the bidder, the Purchasing Officer, Project Manager and Consultant shall take into consideration the bidder's experience, relevant facility type with applicable reference

checks, previous work standing, financial standing, current work load capacity with the ability to handle additional work to that currently in progress, skill levels required, acceptable subcontractor listing, quality and efficiency of construction in place, plant and equipment proposed to be utilized on the project.

- 6.1.3 Domestic and foreign corporations shall be registered with the Kentucky Secretary of State and declared to be in "good standing" prior to award of contract. Offeror should verify status at the following website: <http://www.sos.ky.gov> and click on "Business Services". Failure to comply with this requirement within (5) days after notification may render your bid non-responsive.

Proof of registration with the Kentucky Secretary of State is required by all awarded contractors and subcontractors for this project prior to any award and / or work being performed. Kentucky Secretary of State Fast Track Business Registration can be found at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx>.

- 6.1.4 The right is reserved to reject any bid where an investigation and evaluation of the bidder's qualifications would give reasonable doubt that the bidder could perform prompt and efficient completion of the work per the contract. Rejection of bid may also be made for violations of Article 48 of the General Terms & Conditions and failure to properly register with the Kentucky Secretary of State.

ARTICLE 7 - SUBCONTRACTOR AND MATERIAL LISTING

7.1 Subcontractors

- 7.1.1 The bidder shall submit with the bid the names of subcontracting firms Indicated on the form of proposal for various branches of the work and shall submit the MBE/WBE Subcontractor/Supplier Form and/or Record of MBE/WBE Solicitation Form, whichever is appropriate.
- 7.1.2 The bidder shall be responsible for establishing to the satisfaction of the purchasing officer the reliability and responsibility of the named subcontractors.
- 7.1.3 If, after due investigation, there is reasonable and substantial objection to the qualifications of a subcontractor, the bidder shall, upon direction of the purchasing officer, submit an acceptable substitute subcontractor with no change in bid price.
- 7.1.4 The bidder shall not substitute a subcontractor named on the form of proposal without prior notification to the purchasing officer. Any notification for a substitution of a listed subcontractor shall be in writing and the reason fully set forth therein. The reason shall demonstrate real cause and evidence good faith by the bidder. If the subcontractor to be replaced is a Minority or Woman-Owned Firm, evidence of good faith efforts to replace the Subcontractor with another MBE/WBE shall be submitted.
- 7.1.5 This shall not be construed to waive the contractor's rights to later substitute a subcontractor for the failure of the subcontractor to accept a sub-purchase order, failure to perform in a satisfactory manner per the requirements of the contract or any other legal rights of the contractor to manage and coordinate his subcontractors.
- 7.1.6 No contractual relationship shall exist between the Owner and Subcontractor.

7.2 List of materials and equipment

- 7.2.1 The bidder shall submit a list of major materials and equipment by manufacturer's name, brand and/or catalogue number in the form and manner specified in the bidding conditions and shall submit the MBE/WBE Subcontractor/Supplier Form and/or Record of MBE/WBE Solicitation, whichever is appropriate.
- 7.2.2 Prior to the acceptance of a bid, the purchasing officer will make a preliminary review of the list of materials and equipment included with the bid proposal and advise the bidder of the acceptance thereof, or other such action as may be necessary in order to meet the requirements of the contract specifications. If any of the material or equipment named in the list are determined not to meet the requirements and standards of the specifications, the bidder shall be required to furnish other material or equipment meeting the specifications at no change in bid price. Preliminary review and acceptance of the above listing shall not relieve the bidder, as the contractor, of furnishing equipment and materials in complete accordance with the specifications and drawings.
- 7.2.3

ARTICLE 8 - UNIT PRICES

8.1 Submission

- 8.1.1 The bidder shall submit with the bid a list of unit prices as designated on Form of Proposal.
- 8.1.2 Unit prices are for adjusting the scope or quantity of work from the indicated by the contract drawings and specifications, upon written authorization of the Owner.
- 8.1.3 The unit price shall include all labor, materials, equipment, appliances, supplies, overhead and profit.
- 8.1.4 Only a single unit price shall be quoted for the designated item of work. It shall be utilized for either more or less work, in the event the contract is required to be adjusted by unit prices.
- 8.1.5 Unit prices shall apply to all phases of the work whether the work be performed by the bidder or by the bidder's contractor/subcontractor.
- 8.1.6 For unit prices of a lump sum bid contract, the Owner reserves the right, prior to an award of contract, to evaluate the unit prices and adjust and/or reject any unit price that is determined by the purchasing officer to be unreasonable in amount.
- 8.1.7 On line item total sum bid where firm unit bid prices are quoted for estimated quantities of units of work, the unit price is the bid and is not subject to change. The Purchasing Officer reserves the right to correct mathematical errors in extensions and additions by the bidder. The purchasing officer's corrected bid sum total shall take preference over the bidder's computed bid sum total.

ARTICLE 9 – BONDING

- 9.1 A Five Percent (5%) Bid Bond shall accompany all bids. Awarded vendor shall provide One Hundred Percent (100%) Payment and Performance Bonds equal to the awarded contract total. All bonding is to be paid for by the bidder and is assumed included in the bid.

9.2 Owner's Right to Require Bonds

- 9.2.1 The Purchasing Officer prior to the execution of the contract, require the bidder to furnish bonds covering the faithful performance of the contract and the payment of all obligations arising there under in such form and amount as the purchasing officer may prescribe and with such sureties secured through the bidder's usual sources as may be agreeable to the parties. All required bonding is to be paid for by the awarded contract and including in the bid.

9.3 Time of Delivery and Form of Bonds

- 9.3.1 The bidder shall deliver the required bonds to the purchasing agency at the date of execution of the form of contract agreement and/or not later than ten (10) calendar days from the letter of intent if approval is given by the purchasing officer.
- 9.3.2 Unless otherwise specified in the bidding documents, the bonds shall be written on the form bound in the bidding document in the number of copies to be specified by the purchasing officer.
- 9.3.3 The bidder shall require the Attorney-in-Fact who executes the required bonds on behalf of the surety to affix hereto a certified and current copy of his Power of Attorney. The date of the Power of Attorney shall not precede the date of the bonds. The bonds must be signed or counter signed by a resident agent of the State of Kentucky.

ARTICLE 10 - FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

10.1 Form to be Used

- 10.1.1 Unless otherwise provided in the bidding documents, the Form of Agreement of Contract will be written on the standard form of agreement bound with the bidding documents and the number of copies to be specified by the

purchasing officer.

10.1.2 All trade contracts shall be assigned to the **CM-GC, Whittenberg Construction**.

ARTICLE 11 - AWARD OF CONTRACT

- 11.1 The issuance of an award of the contract is contingent upon (1) securing an acceptable bid that is within the amount of budgeted funds and (2) determining that the award of contract will be to the best interest of the University of Louisville.
- 11.1.1 That a contract is entered into will be evidenced and finalized upon the execution and release of an official Notice to Proceed from Whittenberg Construction after execution of "Agreement of Contract" and assignment to the CM-GC.
- 11.1.2 The successful bidder will be required to sign an affidavit stating, that all contractors and subcontractors employed, or that will be employed, under the provisions of this contract are in compliance with Kentucky requirements for Worker's Compensation Insurance according to KRS Chapter 342 and Unemployment Insurance according to KRS Chapter 341.
- 11.1.3 All trade contracts shall be assigned to the **CM-GC, Whittenberg Construction**.

ARTICLE 12 - PUBLIC WORKS ACT

- 12.1 Exemption and Compliance
- 12.1.1 Public works contracts estimated to cost \$250,000.00 or less are exempt from the provisions of the Public Works Act, KRS 337.505 through KRS 337.550.
- 12.1.2 On covered public works contracts (non-exempted), the contract will require full compliance by the contractor and subcontractor with the provisions of the Public Works Wages and Hours Act, KRS 337.505 through KRS 337.550.
- 12.2 Minimum Wage Rates
- 12.2.1 On covered contracts, the contractor and subcontractor shall pay all labor performed on the site not less than the minimum hourly wage rates set forth in the Department of Labor Wage Determination. The designated wage rates represent minimum rates of pay allowable and shall not be construed to mean that higher rates may not have to be paid in order to secure labor. No contract adjustment is permissible should this condition become applicable.
- 12.2.2 No Applicable

ARTICLE 13 - BASIC LEGAL REQUIREMENTS

- 13.1 Authentication of Bid and Statement of Non-collusion and Non-conflict of Interest
- 13.1.1 Authentication of Bid, Statement of Non-collusion and Non-conflict of Interest document is bound with and included as part of the Form of Proposal and shall be submitted, fully signed and executed, with and as a part of the bid. Failure to sign this document and include same with the bid shall invalidate the bid.
- 13.2 Foreign Corporate Firms
- 13.2.1 Foreign corporations, for doing business within the Commonwealth of Kentucky, are required to be registered with the Secretary of State, New Capitol Building, Frankfort, Kentucky and must be in good standing.
- 13.2.2 The foreign corporate bidder, if not registered with the Secretary of State at the time of the bid submittal, shall be required to become registered and be declared in good standing prior to the issuance or receipt of a contract.
- 13.3 Domestic Corporations
- 13.3.1 Domestic corporations are required to be in good standing with the requirements and provisions of the Office of the Secretary of State.

ARTICLE 14 - TAXES

14.1 Kentucky Sales and/or Use Tax

- 14.1.1 All bids shall include appropriate tax on all material purchased for use within the contracted service.
- 14.1.2 Review special conditions article 14 and the sales tax procedures. Items over \$10,000 will be purchased directly by UofL. These items and the taxes on these items should be included in the base bids. After award these items and taxes on these items will be deducted from the contract amount via change order.

14.2 Federal Excise Tax

- 14.2.1 The University of Louisville is entitled to exemption from Federal Excise Tax. All bidders or contractors shall take this into consideration of their bid.

14.3 Taxes, Workmen's Compensation, Etc.

- 14.3.1 The prime bidder or contractor will be required to accept liability for payment of all payroll taxes or deductions required by local and federal law, including but not limited to old age pension, social security or annuities. Workmen's Compensation Insurance shall be carried to the full amount as required by Kentucky Statutes.

14.4 Tax Credits

- 14.4.1 The University intends to pursue any clean energy tax incentives or credits that might be available under the Inflation Reduction Act of 2022.

ARTICLE 15 - PLAN HOLDER

15.1 Intent to Bid and Plan holders List

- 15.1.1 A request for bid proposal and bid documents will be considered as intent to submit a bid and unless otherwise notified, the firm's name will appear on the plan holder's list showing all bidders, plan holders and issued addenda. In the event the bidder elects not to submit a bid, it is requested that notifications of such fact be furnished the purchasing official on or before seven (7) days prior to the closing date for receipt of bids.
- 15.1.2 The published plan holder and addenda listing is for general information purposes and the exclusion or inclusion of any firm in no way constitutes and/or implies a legal responsibility upon the Owner for the approval and/or disapproval of the qualifications of any listed bidder subcontractor material or equipment supplier. If the bidder or plan holder notes that he is not in receipt of certain or any of the listed addenda, it shall be his responsibility to obtain copies from the purchasing official or review same at any of the designated reporting agencies that bid documents have been placed for review.

ARTICLE 16 - POST BID REVIEW AND MATERIAL SUBMITTAL

16.1 Representative at Bid Opening

- 16.1.1 It is requested that the prime bidder have an authorized representative at the bid opening for submittal of the material and equipment listing and post bid review of the apparent low bid or bids that follows immediately after the opening and reading of the bids.
- 16.1.2 Unless otherwise provided for in the bidding conditions, the apparent low bidder shall submit the material and equipment listing on or within one (1) hour from the close of the reading of the bids. The list of materials and equipment shall be that listing contained with the Form of Proposal.
- 16.1.3 The post bid review will include representatives of the architect/engineer consultant, University, CM and bidder's representative. Preliminary review will be directed toward subcontractors, material listing, unit prices, and qualifications the bidder.
- 16.1.4 The bidder's representative shall be qualified for responding to and giving clarifications.

ARTICLE 17 – EQUAL EMPLOYMENT AND NONDISCRIMINATION

17.1 General Policy

- 17.1.1 The University of Louisville is committed to a policy of providing equal job opportunities on public contracts and prohibiting discrimination based on race, creed, color, sex, age, religion or national origin.
- 17.2 Federal Executive Order 11246 entitled "Equal Employment Opportunity" as amended
- 17.2.1 Construction contractors are covered under Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 2012) and Section 503 of the Rehabilitation Act of 1973, as amended if they have a construction contract of the requisite amount with a Federal agency a non-construction contractor, or another construction contractor, if that contract is necessary in whole or in part to the performance of the nonexempt contract or if any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.
- 17.2.2 A contractor is covered under the Executive Order if the contract amount exceeds \$10,000; under Section 503 if the amount is more than \$2,500; and under 38 U.S.C. 2012 if the amount is \$10,000 or more.
- 17.2.3 Regulations applicable to construction contractors and federally assisted construction contractors are published primarily in 41 CFR Chapter 60-4. Specific regulatory provisions in others parts of 41 CFR Chapter 60 are also applicable to construction contractors. (See 41 CFR 60-4.7 and Parts 60-250 and 60-741. Applicable definitions are found in 41 CFR 60-1.3. The veterans and handicap program regulations at 41 CFR Part 60-250 and 41 CFR Part 60-741 also are applicable to Federal construction contractors.
- 17.3 Reporting Compliance
- 17.3.1 Each contractor and subcontractor awarded a contract in excess of \$10,000 is required to provide written notification to the U.S. Department of Labor, Office of Federal Contract Compliance Programs, 332 West Broadway Street, Suite 1600, Louisville, Kentucky 40202. The notification must include the following:
1. Name, address and telephone number of the contractor and subcontractor.
 2. The contractor's and subcontractor's employer identification number.
 3. Estimated dollar amount of contract.
 4. Estimated starting and completion dates of the contract.
- 17.3.2 **Monthly Employment Utilization Reports (EUR)** are required to be submitted with monthly pay submission/requests to the CM-GC and University of Louisville by the contractor if contracts are in excess of \$10,000 or more. Contractor must ensure subcontractors comply with these same requirements. EUR form is available at <http://louisville.edu/purchasing/forms>
- 17.3.3 The following goals are applicable to contractors and subcontractors entire construction craft workforce performing work on all projects:
1. The goal for Female participation is 5%.
 2. The goal for Minority participation is 20%.
- Note: The goals for Minority and Female participation are expressed in percentages for the contractor's or subcontractors aggregate workforce in each construction work.
- 17.3.4 The following goals are applicable to contractors and subcontractors resident workforce participation for construction work on this project:
1. Goal for Kentucky/Indiana Residents workforce participation is 75%
 2. Goal for Louisville SMSA workforce participation is 60%
- 17.3.5 Contractors shall within contracting period, submit to the University of Louisville the following and all requirements that are contained within the University's Letter of Intent:
1. A statement of intent to comply with Executive Order 11246.
 2. Signed Supplier Certification document.

3. EUR reporting shall be on forms located at <http://louisville.edu/purchasing/forms> and submitted in the manner instructed by the University.

- 17.3.6 If the bidding party is subsequently awarded the contract being sought, failure to comply with the goals and timetables set forth by Executive Order 11246, shall be an unlawful practice under Federal law and the University of Louisville's good faith efforts. This shall constitute a material breach of contract
- 17.3.7 If the bidding party's work force is not reflective of the percentage of minorities in the drawing area and he has complied with all other affirmative action requirements in the Act, he may certify by verified affidavit that he had made every reasonable effort to comply with said percentage requirements and he shall thereafter be entitled to all benefits of the Act.

ARTICLE 18 - PARTICIPATION BY MINORITY AND WOMAN-OWNED BUSINESS ENTERPRISES

18.1 General Policy

- 18.1.1 The University of Louisville requires potential contractors to make a concerted effort to include Minority-Owned and Woman-Owned Business Enterprises as subcontractors or suppliers on its projects.

Toward that end, the University has established a Preferable Goal for construction/renovation project participation at 20% Minority-Owned and 5% Woman-Owned Businesses. Alternatively, firms may also achieve this Goal with a combined Minority and Women participation level of 25% for the project.

- 18.1.2 The University tracks dollars spent with Minority-Owned and Woman-Owned Business Enterprises as a standard procedure. The successful bidder will be required to report to the Department of Purchasing as requested, the dollar amounts of all purchase orders submitted to Minority-Owned or Woman-Owned subcontractors and suppliers for work done or materials purchased for this contract.
- 18.1.3 Replacement of a Minority-Owned or Woman-Owned subcontractor or supplier listed in the original submittal must be requested in writing and must be accompanied by documentation of Good Faith Efforts to replace the subcontractor/supplier with another MBE/WBE Firm; this is subject to approval by the University.
- 18.1.4 For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, bidders may contact the University's Affirmative Action Office (502-852-6538); The Kentucky Tristate Minority supplier Development Council (502-625-0135); The Louisville and Jefferson County Human Relations Commission (502-574-3631); Kentucky Procurement Assistance Program, Economic Development Cabinet (502-564-4252); The Office of Equal Employment Opportunity, Contract Compliance Division in Frankfort (502-564-2874).

18.2 Definitions

- 18.2.1 A Minority-Owned Business Enterprise (MBE) is defined as a business which is certified as being at least 51% owned and operated by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage.
- 18.2.2 A Woman-Owned Business Enterprise (WBE) is defined as a business which is certified as being at least 51% owned and operated by one or more Non-Minority Females.

18.3 Certification

- 18.3.1 In order to qualify toward the Participation Goal, any MBE/WBE utilized on this contract must be certified by one or more of the following state/local agencies: Commonwealth of Kentucky; Kentucky Transportation Cabinet; Louisville Metropolitan Sewer District; Louisville Water Company; Kentucky Minority Supplier Development Council; Kentucky Certification Cooperative; Small Business Administration; Louisville Metro Government; Louisville & Jefferson County Human Relations Commission; Housing Authority of Louisville.

18.4 Obligation of Bidder

- 18.4.1 The bidder shall make a good faith effort to achieve the participation goal for MBE/WBE subcontractors/suppliers. The failure to meet the goal shall not necessarily be cause for disqualification of the bidder; however, bidders not meeting the goal are required to furnish with their bids written documentation of their good faith efforts to do so.
- 18.4.2 **Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.**

- 18.4.3 The Form of Proposal includes two forms related to this section, "MBE/WBE Subcontractor/Supplier Form" and "Record of MBE/WBE Solicitation". The applicable forms **must** be completed and submitted as outlined below. Bidders may make additional copies of the forms as necessary.

Failure to submit these forms as requested may be cause for rejection of bid.

18.5 **Documentation Required**

- 18.5.1 Bidders reaching the goal are required to submit only the "MBE/WBE Subcontractor/Supplier Form". The form must be fully completed including name and telephone number of participating MBE/WBE Firm(s); type of work to be performed; estimated dollar value of the contract and value expressed as a percentage of the total Lump Sum Bid Price. The form must be signed and dated, and is to be submitted with the bid.
- 18.5.2 Bidders not reaching the Goal must submit **both** the "MBE/WBE Subcontractor/Supplier Form" and the "Record of MBE/WBE Solicitation". (If bid includes no MBE/WBE Participation, bidder shall enter "None" on the subcontractor/Supplier Form.) In addition to these forms, the bidder may submit the following as **Proof of Good Faith Efforts** to meet the participation goal:
1. Advertised opportunities to participate in the contract in general circulation media, trade and professional association publications, small and minority business media, and publications of minority and women's business organizations prior to the deadline for submission of bids to allow MBE and WBE firms to participate effectively;
 2. Provided notice to a reasonable number of minority and women's business organizations of specific opportunities to participate in the contract prior to the deadline for submissions of bids to allow MBE and WBE firms to participate effectively;
 3. Sent written notices, by certified mail, e-mail or facsimile, to qualified, certified MBEs and WBEs soliciting their participation in the contract prior to the deadline for submission of bids to allow them to participate effectively;
 4. Attempted to identify portions of the work for qualified, certified MBE and/or WBE participation in order to increase the likelihood of meeting the goals, including breaking down contracts into economically feasible units;
 5. Conferred with qualified, certified MBEs and WBEs and explained the scope and requirements of the work for which their bids or proposals were solicited;
 6. Attempted to negotiate in good faith with qualified, certified MBEs and WBEs to perform specific subcontracts; not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities;
 7. Copies of quotations submitted by MBE/WBE firms which were not used due to uncompetitive pricing or other factors and/or copies of responses from firms that were contacted indicating that they would not be submitting a bid.
 8. After obtaining bid specifications from University contractor, bidder sent certified letters, e-mail or facsimiles to qualified, certified MBEs and WBEs;
 9. Followed up initial solicitations of interest by contacting MBEs and WBEs to determine whether the MBEs and WBEs were interested.
 10. Made efforts to refer interested MBEs and WBEs to entities who may be able to assist them in obtaining required bonding, lines of credit or insurance, and;
 11. Effectively used the services of available minority community organizations, minority contractors groups, local, state and Federal minority business assistance offices, and other organizations that provide assistance in the recruitment and placement of MBEs and WBEs.

Failure to submit any of the documentation requested in this section may be cause for rejection of bid. Bidders may include any other documentation deemed relevant to this requirement. "Record of MBE/WBE Solicitation" and other required documentation of good faith efforts are to be submitted with the bid, if participation goal is not met.

ARTICLE 19 - BID PROTESTS

- 19.1 Reference KRS45A.285; KRS164A.555 to 164A.630.
- 19.2 Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or selection for award of a contract by the University of Louisville, may file a protest with the Director of Procurement Services within two (2) calendar weeks after such aggrieved person knows or should have known the facts giving rise thereto. All protests must be in writing and must use the phrase "**Bid Protest**" in the letter. The Chief Procurement Officer shall review all facts presented and render a determination in writing promptly to the aggrieved person.
- 19.3 The aggrieved person may appeal the determination in writing within four calendar days to the Sr Vice President for Finance who shall promptly issue a ruling in writing. The ruling of the Sr Vice President shall be the final action on behalf of the University. Copies of the bid protest procedure are available on request from the University of Louisville Procurement Services.
- 19.4 **Suspension or Cancellation:** In the event of a bid protest, the University may notify the successful bidder to suspend the purchase order while the protest is being reviewed. Depending on the outcome of the bid protest, the purchase order may be cancelled or confirmed. Any questions regarding this procedure should be addressed to the Director of Procurement Services, (502) 852-7211.

ARTICLE 20 CONFLICT OF INTEREST

- 20.1 Firms responding to this invitation to bid are required to disclose any potential conflict of interest. If the owner of your organization is related to a University of Louisville employee, that relationship must be disclosed in writing prior to, or in no case later than, the time of award/execution of agreement.

For purposes of disclosure of a conflict, a person is a related person if related to a University employee in any of the following ways, and includes those within these categories who are referred to as adopted, step, foster, grand, half, in-law, spouse of, or great:-

- Parent
- Child or ward
- Sibling
- Uncle or aunt
- First cousin
- Nephew or niece
- Spouse, domestic partner, significant other

ARTICLE 21 ANTI-KICK BACK

- 21.1 All Bidders shall comply with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that each Bidder, subcontractor or subgrantee is prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he is otherwise entitled.

ARTICLE 22 ELIGIBILITY TO PARTICIPATE IN GOVERNMENTAL PROGRAMS CERTIFICATION

- 22.1 Vendor's signature on this solicitation response certifies that the vendor, and where applicable subcontract vendor, or any person performing services under this agreement (i) is not now nor have ever been excluded, suspended, debarred or otherwise deemed ineligible to participate in governmental healthcare, procurement, or other programs; (ii) is not now nor have ever been charged with or been convicted of a criminal offense related to the provision of government healthcare, procurement, or other programs and have not been reinstated in such programs after a period of exclusion, suspension, debarment, or ineligibility. If the vendor, and where applicable subcontract vendor, or any person performing services under this agreement becomes ineligible for participation in such governmental programs in the future, vendor will have a process in place such that subcontract vendor(s) and any person performing services under this agreement will promptly notify the vendor of such ineligibility. The vendor will notify the University buyer of record within seventy-two (72) hours of the vendor becoming aware of the governmental ineligibility of the vendor, any subcontract vendor, or any person performing services under this agreement.

ARTICLE 23 SUPPLIER CERTIFICATION

- 23.1 The University of Louisville is committed to conducting its procurement practices in accordance with federal law and regulations and with firms committed to an Equal Employment Opportunity policy. Towards that end the vendor is requested to review the attached Supplier Certification document and to complete any applicable information regarding conflict of interest requirements in the Supplier Certification. The attached Supplier Certification will be incorporated into the final contract/agreement resulting from this bid. Awarded vendors will be required to agree to and comply with the applicable provisions of the Supplier Certification when conducting business with the University.

SUPPLIER CERTIFICATION

The following certifications and acknowledgements are applicable as indicated by the particular provision.

The term "Supplier," as used in this document, refers to the entity that is supplying the goods or services to the University of Louisville or one of its affiliated corporations. In related documents, the entity may also be referred to as Bidder, Offeror, Applicant, Proposer, Seller, Second Party, Subcontractor or other similar term.

The term "Contract", as used in this document, refers to the agreement, purchase order, memorandum of understanding, subcontract, subaward, personal services agreement/contract or other similar document specifying the provisions under which the Supplier is providing goods or services to the University of Louisville or one of its affiliated corporations.

The term "UofL affiliated entity" refers to the University of Louisville, the University of Louisville Research Foundation, the University of Louisville Athletic Association, or the University of Louisville Foundation.

1. EQUAL OPPORTUNITY CLAUSE

(Applicable to Suppliers exceeding \$10,000 in Contracts with a UofL affiliated entity in a twelve-month period)

This Contract is subject to the requirements of Executive Orders 11246 and 11375 and the rules and regulations of the U.S. Secretary of Labor (41 CFR Chapter 60) in promoting Equal Opportunities.

During the performance of this Contract the Supplier agrees as follows:

- a. Supplier will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. Supplier will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. Supplier agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Government setting forth the provisions of this nondiscrimination clause.
- b. Supplier will, in all solicitations or advertisements for employees placed by or on behalf of the Supplier, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.
- c. Supplier will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Supplier's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. Supplier will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders.
- e. Supplier will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders, or pursuant thereto, and will permit access to his books, records,

and accounts by the contracting agency and the Affirmative Action Office for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- f. In the event of Supplier's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part, and Supplier may be declared ineligible for further Government contracts in accordance with the procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. Supplier will include the provisions of Paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provision will be binding upon each subcontractor or vendor. Supplier will take such action with respect to any subcontract or purchase order as the Government or Buyer may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event Supplier becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Supplier may request the United States to enter into such litigation to protect the interests of the United States.¹

2. AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

(Applicable to Suppliers exceeding \$10,000 in Contracts with a UofL affiliated entity)

This Contract is subject to the requirements of Executive Order 11701 and the regulations of the U.S. Secretary of Labor (41 CFR Chapter 60, Part 60-250) in promoting employment opportunities for disabled and Vietnam veterans.

During the performance of this contract or purchase order, Supplier agrees as follows:

- a. To provide special emphasis to the employment of qualified disabled veterans and veterans of the Vietnam era. The Supplier also agrees that all suitable employment openings of the Supplier which exist at the time of execution of this Contract and those which occur during the performance of this Contract, including those not generated by this Contract and including those occurring at an establishment of the Supplier other than the one wherein the Contract is being performed but excluding those of independently operated corporate affiliates, shall be offered for listing at an appropriate local office of the State Employment Service system wherein the opening occurs and to provide such reports to such local office regarding employment openings and hires as may be required: provided, that if the Contract or purchase order is for less than \$10,000 or if it is with a state or local government, the reports set forth in Paragraphs (c) and (d) of this clause are not required.
- b. Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment service or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Supplier from any requirements in Executive Order or regulations regarding nondiscrimination in employment.
- c. The reports required by Paragraph (a) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or where the Supplier has more than one establishment in a state, with the central office of the state employment service. Such reports shall indicate for each establishment (1) the number of individuals who were hired during the reporting period; (2) the number of those hired who were disabled veterans; and (3) the number who were nondisabled veterans of the Vietnam era.
- d. The Supplier shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract or purchase order. The Supplier shall maintain copies of the reports submitted until the expiration of one year after final payment under the Contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the University's Affirmative Action Office.

¹ For federally-assisted construction contracts, the Supplier further agrees that it shall comply with the requirements of 41 CFR 60-1.4(b), which is specifically incorporated by reference herein.

- e. Whenever the Supplier becomes contractually bound to the listing provisions of this clause, he shall advise the employment service system in each state wherein he has establishments of the name and location of each such establishment in the state. As long as the Supplier is contractually bound to these provisions and has so advised the state system, there is no need to advise the state system of subsequent contracts or purchase orders. The Supplier may advise the state system when it is no longer bound by this contract clause.
- f. This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.
- g. This clause does not apply to openings which the Supplier proposed to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.
- h. As used in this clause:
 1. "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical, and executive administrative, and professional openings which are compensated on a salary basis of less than \$18,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment. It does not include openings which the Supplier proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. Under the most compelling circumstances an employment opening may not be suitable for listing, including the situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government
 2. "Appropriate office of the state employment service system" means the local office of the federal-state national system or public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.
 3. "Openings which the Supplier proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Supplier's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Supplier proposes to fill from regularly established "recall" or "rehire" lists.
 4. "Openings which the Supplier proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings for which no consideration will be given to persons outside of a special hiring arrangement, including openings which the Supplier proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Supplier and representatives of his employees.
 5. "Disabled veteran" means a person entitled to disability compensation under the law administered by the Veterans' Administration for disability rates at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.
 6. "Veterans of the Vietnam era" means a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred after August 05, 1964, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for service-connected disability if any part of such duty was performed after August 05, 1964, and (2) who was so discharged or released within the 48 months preceding his application for employment covered under this part.

3. CERTIFICATE OF NONSEGREGATED FACILITIES

(Applicable to Suppliers exceeding \$10,000 in Contracts with a UofL affiliated entity)

This Contract is subject to the requirements of Executive Order 11246 and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-1.8) prohibiting segregated facilities based upon race, color, religion, sex or national origin.

The undersigned Supplier certifies to the University of Louisville and the Federal Government agencies with which it contracts that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit the employees to perform their services at any location under his

control where segregated facilities are maintained. Supplier certifies further that he will not maintain or provide for his employment any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The undersigned bidder, Offeror, applicant, supplier, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time period) he will obtain identical certifications from proposed subcontractors prior to the award of subcontractors exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause, that he will retain such certification in his files, and that he will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certification for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provision of the Equal Opportunity Clause. The Certification may be submitted either for each subcontract or for all subcontracts or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

4. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

(Applicable to Suppliers exceeding \$10,000 in Contracts with a UofL affiliated entity)

This Contract is subject to the requirements of Executive Order 11758, section 503 of the Rehabilitation Act of 1973, as amended, and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-741.5) to promote the employment and advancement of qualified handicapped individuals.

During the performance of this Contract, Supplier agrees as follows:

- a. that it will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:
 - i. Recruitment, advertising, and job application procedures;
 - ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
 - iii. Rates of pay or any other form of compensation and changes in compensation;
 - iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 - v. Leaves of absence, sick leave, or any other leave;
 - vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor;
 - vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 - viii. Activities sponsored by the contractor including social or recreational programs; and

- ix. Any other term, condition, or privilege of employment.
- b. that it will comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- c. that in the event of noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- d. that it will post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The contractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
- e. that it will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
- f. that it will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

5. AFFIRMATIVE ACTION PROGRAM REQUIREMENT

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in Contracts with a UofL affiliated entity)

This Contract is subject to the requirements of Executive Order 11758, section 503 of the Rehabilitation Act of 1973, as amended, and the regulations of the U.S. Secretary of Labor (41 CFR Part 60-741.40) in promoting affirmative action in Employment of the Handicapped. Supplier agrees to conform to its requirements as outlined in 41 CFR Part 60-741.44.

Furthermore, Supplier agrees to develop a written Affirmative Action Compliance Program for each of its establishments as required by 41 CFR 60-2.1.

6. FILING CERTIFICATE

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in Contracts with a UofL affiliated entity)

Supplier has filed or will file the necessary compliance reports, including Standard Form 100 (EEO-1) where and when required by law and applicable regulations, including, without limitation, the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972 and regulations in 41 CFR 60-1.7. Supplier further agrees that it shall require similar certification and filing from its nonexempt subcontractors and suppliers. The Supplier agrees to submit a copy of his Affirmative Action Program to the Affirmative Action Office, University of Louisville, within 30 days after the award to him of a Contract. Subsequent reports shall be submitted annually in accordance with 41 CFR 60-1.7(a)(1).

7. AFFIRMATIVE ACTION CERTIFICATE

(Applicable to Suppliers employing 50 or more employees and exceeding \$50,000 in Contracts with a UofL affiliated entity)

Supplier has developed, is maintaining, and will continue to maintain the written affirmative action compliance program to guarantee equal employment opportunity to minority groups required by applicable laws and regulations, including, without limitations, those appearing in 41 CFR 60-1.40. Supplier further agrees that it shall require similar certification and filing from its nonexempt subcontractors and suppliers.²

8. ADMINISTRATIVE, CONTRACTUAL, LEGAL REMEDIES

(Applicable to federally funded Contracts exceeding \$150,000 [or a higher threshold if the \$150,000 is adjusted for inflation as determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council])

Supplier acknowledges that the applicable UofL affiliated entity may impose sanctions or penalties on the Supplier for violation of terms of the Contract or breach of contract including violation of applicable regulations, other applicable provisions of law, or any directive or instruction from the UofL affiliated entity or the federal entity providing the funding. The UofL affiliated entity will determine the appropriate sanction and/or penalty, up to and including the inability to provide future goods or services to any UofL affiliated entity. In determining the appropriate sanction and/or penalty, the UofL affiliated entity will consider previous violations, potential harm to the project for which the goods or services are being provided, and any other relevant factors. The Supplier will be notified in writing of the intent to sanction and/or penalize and will have 10 business days from the date of receipt of the notice to submit a written response. The response will be reviewed and a final decision will be communicated in writing to the Supplier. These sanctions or penalties do not preclude the UofL affiliated entity, nor the Supplier, from pursuing any other alternate dispute resolution or legal remedy to which either may be entitled under law or regulation.

9. DAVIS BACON ACT (This project is not federally funded)

(Applicable to federally funded construction projects exceeding \$2,000)

Supplier agrees to pay wages to mechanics and laborers at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Supplier agrees to pay wages and meet the other requirements as specified by Davis-Bacon Act, as amended (40 U.S.C. 3141-3148) as supplemented by the Department of Labor regulations (29 CFR Part 5). Supplier acknowledges that the UofL affiliated entity's decision to make a Contract with Supplier is conditioned upon the acceptance of the wage determination.

10. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(Applicable to federally funded Contracts exceeding \$100,000 which involves the employment of mechanics and laborers)

Supplier agrees to pay salaries and wages in accordance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor regulations (29 CFR part 5.) Supplier acknowledges that such requirements include computation of wages of a standard work week of 40 hours for every mechanic and laborer and that work in excess of the standard work week is permissible provided the worker is compensated at a rate no less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. These requirements do not apply to purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

11. CLEAN AIR AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to federally funded Contracts exceeding \$150,000)

² Nonconstruction contractors should refer to 41 CFR Part 60-2 for specific affirmative action requirements. Construction contractors should refer to 41 CFR Part 60-4 for specific affirmative action requirements.

Supplier agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Supplier acknowledges the requirement to report any violations with the funding Federal agency and to the Regional Office of the Environmental Protection Agency (EPA) and agrees to notify the UofL affiliated entity of any such violations.

12. TERMINATION

(Applicable to federally funded Contracts exceeding \$10,000)

The UofL affiliated entity shall have the right to terminate/cancel this Contract at any time upon thirty (30) days' written notice to the Supplier. The UofL affiliated entity shall pay Supplier for termination costs as allowable under OMB Circular A-21 or 2 CFR Part 200 as applicable.

13. LOBBYING/ANTI-KICK BACK

Copeland Anti-Kick Back Act:

(Applicable to any federally funded Contracts or funded by a federal loan)

The Supplier agrees to comply with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that each Supplier, Bidder, subcontractor or subgrantee is prohibited from inducing, by any means, any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States to give up any part of the compensation to which he is otherwise entitled.

Certification Governing Lobbying:

(Applicable to federally funded Contracts exceeding \$100,000)

The Supplier certifies to the best of his/her knowledge and belief that:

1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Supplier, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, , the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Supplier shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying", to the UofL affiliated entity.

3) The Supplier shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

14. ACCESS TO RECORDS

(Applicable to any federally funded Contracts)

The UofL affiliated entity reserves the right to inspect, upon reasonable advance notice by the UofL affiliated entity and during normal business hours, Supplier's physical facilities, and all books, records, and documents of any kind pertaining to this Contract or Supplier's performance of supplying the goods or services provided by this Contract. Supplier agrees to provide copies of any records, receipts, accounts or other documentation to the UofL affiliated entity in a timely fashion as reasonably requested by the UofL affiliated entity. Supplier will keep all usual and proper records and books of accounts in accordance with Generally Accepted Accounting Principles (GAAP) relating to performance of the Contract for a minimum period of three (3) years after the date of receipt of the final payment.

15. AUDITS

(Applicable to any federally funded Contracts)

Supplier assures UofL affiliated entity that it complies with either A-133 or the applicable provisions of 2 CFR Part F Audit Requirements (§200.500-200.520) applicable to assurances from subawards/subcontracts and that it will notify the UofL affiliated entity of completion of required audits and of any adverse findings which impact this Agreement, including those required audits conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS). The UofL affiliated entity reserves the right to inspect, upon reasonable advance notice and during normal business hours, Supplier's physical facilities used to provide the Services undertaken under this Agreement, and all books, records, and documents of any kind pertaining to the provision of the Services provided under this Agreement. Supplier agrees to provide copies of any records, receipts, accounts or other documentation in a timely fashion as reasonably requested by the UofL affiliated entity. Supplier will keep all usual and proper records and books of accounts in accordance with Generally Accepted Accounting Principles (GAAP) relating to performance/provision of Services for a minimum period of three (3) years after the date of receipt of the final payment.

This Supplier Certification is hereby incorporated into the applicable Contract with you. Your signature on the Contract, acceptance of the Contract/purchase order, acceptance of payment, or other form of acceptance/acknowledgement (e.g. continuing business relationship) with a UofL affiliated entity indicates your agreement to and acceptance of the applicable provisions. No counteroffer or provision of alternate terms and conditions is accepted by the UofL affiliated entity. Any changes must be agreed to in a signed separate writing specifically addressing the particular provision(s).

2. BID CATEGORY DESCRIPTIONS

SUMMARY OF WORK/BID CATEGORY TRADE PACKAGE DESCRIPTIONS

1. GENERAL REQUIREMENTS

- 1.1 The Bid Categories/Trade Package Contractor (BC-XX) have been numbered for reference only and shall not be construed or implied to mean anything other than organization of the Bid Categories in this document and for reference to assignment of specific work. Each Bid Category shall be completed by a separate Trade Contractor under separate contract.
- 1.2 This section defines in a high-level summary the scope of work to be performed by each Trade Package Contractor of the designated Bid Categories and any special provisions related to the execution of the work and is intended as a general outline of the work and the general areas of the work with specific items noted for inclusion or exclusion in the work. The details of the work are further defined in the drawings, specifications, and other provisions in the documents. This summary shall in no way be construed as an all-inclusive list of the work required of each Trade Package Contractor.
- 1.3 Each bidder is responsible for reviewing all documents and understanding the full scope of the work in its Bid Category and the work included in the all-other Bid Categories and previous Bid Packages. No additional reimbursement of costs or extension of time will be allowed by a Trade Package Contractor for its lack of knowledge or understanding of the work assigned to its Bid Category.
- 1.4 Each Trade Package Contractor for its designated Bid Category shall provide all items of expense to fully complete and make operationally functional as intended all items to fully complete the work. Each Trade Package Contractor shall provide and pay for all labor, supervision, materials, tools, equipment, permits, fees, layout, utility locates, design where noted, and all other operations and services necessary to complete its Work including, but not limited to, hauling, transporting, unloading, material handling, storage, rigging, lifting, hoisting, shoring, dewatering, and scaffolding.
- 1.5 Each Trade Contractor is responsible for all information as described in this specification. When a conflict exists, this specification shall supersede information given in the general conditions or the Supplementary/Special Conditions to the CM/Owner Contract. For any contradictions in the bid documents, the most stringent in regards to cost will apply.
- 1.6 **All proposals are to be submitted on the Bid Form provided. Do not attach any additional clarifications, exclusions, etc. Failure to do so will make bidder subject to disqualification. Any items that would need to be clarified should be submitted via questions before the bid date and answers will be posted via addendum before the bid date.**
- 1.7 Concurrent work: Work will be performed under separate contracts held by the Owner concurrently with work under this Contract. Trade Contractor(s) shall coordinate and cooperate fully with Owner and CM-GC so that work may be carried out smoothly, without interfering with or delaying work under this Contract or work under separate contracts.
- 1.8 All Bid Category contractors are to take note of the existing utilities that remain, most notably all underground electrical, communications lines, & high-pressure gas line. Special care is to be used when working in these areas (anywhere within 10' of these utilities), and vacuum excavations & hand excavations are to be used to expose these utilities so they can be protected.
- 1.9 Allowances shall only be used as directed and approved by the CM/GC or owner.
- 1.10 Separate bids shall be submitted for this Bid Package for the following Bid Categories.
- 1.11 All Trade Package Contractors are responsible for Division 1 of the specifications and the exhibits.
- 1.12 The CM-GC and Trade Contractors may park anywhere inside of the fenced per the special conditions. The following shall supersede allowing of contractors to park in the "Floyd Street Garage" as detailed in the special conditions:

Additional parking for construction workers is available at Cardinal Stadium or in lots designated by Parking and Transportation at the established fee. Location of parking will be determined at the time of the permit purchase. Regardless of parking area, all contractors who wish to park a motor vehicle on University property are required to purchase and display a University of Louisville permit. Contractor parking permits are \$40 per month or \$10 per week for on-campus parking. Contractor parking permits for Cardinal Stadium are \$16 per month or \$4 per week. Contractors are to follow all University parking rules and regulations founds at: <https://louisville.edu/parking/rules-regulations>.
- 1.13 All bidders shall review the documents from BP#1(UofL Bid # IB-007-24), BP#2 (UofL Bid # IB-020-24) and BP#3 (UofL Bid # IB-022-24). These plans shall be used as reference for preparing bids for BP#4. There is work included on these

documents that needs to be included in BP#4 where detailed in the bid descriptions. All BC's in BP#4 shall review these documents and bid descriptions in BP#1, BP#2 and BP#3 to understand the scope of works. BP#4's landscape drawings govern over the previous bid packages landscape sets.

BP#1 included early purchase of equipment, site electrical work to make the existing site safe, the civil sitework, geothermal, landscaping and site hardscapes. Submittals for the equipment that was purchased early will be included in this solicitation via addendum. The applicable trade contractors will be responsible for installing this equipment.

BP#2 included the auger cast piles and special inspections on the auger cast piles.

BP#3 included the remaining buildout for the structure, finishes, lab equipment, elevators, mechanical, fire suppression and electrical work.

- 1.14 Procore will be utilized by the CM for managing the project. All costs associated for Procore are by the CM. Trade contractors shall **not** include any costs in their bids for using Procore. All trade contractors will be required to use Procore as directed by the CM.
- 1.15 All contractors shall make note where the polished concrete is installed per the finish floor plans A131 – A134. All contractors must take special care in these areas when performing their work. Any cost to repair damages to the polished concrete will be the responsibility of the contractor who damaged the area. Note, protection board will be installed in these areas by BC-13. If the protection board needs to be moved for a particular contractors work. The contractor needing it to be moved shall be responsible for moving and placing back the protection board.
- 1.16 All BC's shall include all labor and material required for **MOCKUPS** per their scope of work if required by specification or indicated. These materials are to be released within 1 month of NTP.
- 1.17 There is a lot of foot traffic between classes at the entrance to the site. All Trade Package Contractors are to include a flagman and any necessary traffic control to accompany any deliveries onto the site.
- 1.18 All BC's must attend mandatory weekly progress meetings at least 1 month prior to starting your scope of work and while on site.
- 1.19 All Contractors will be required to abide by the OSHA safety regulations and the safety policies of WCC. Initial perimeter safety rails, handrails and coverings of openings will be installed by BC-13. Each BC shall remove and replace these items as needed to install their work.

BID CATEGORY BC-39 – LANDSCAPING

The scope of work includes, but is not limited to, the following:

Specifications:

EXHIBIT A LEED SCORECARD

ALL DIVISION 01 GENERAL REQUIREMENT SPECIFICATIONS

323300 - SITE FURNISHINGS (PER BELOW)

328400 - PLANTING IRRIGATION

329113 – SOIL PREPERATION

329200 - TURF AND GRASSES

329300 - PLANTS

Furthermore, includes but not limited to the following:

1. Locate all site utilities. This is to include both public and private lines.
2. Mulch, trees, plants, shrubs, perennials & grasses.
3. Decorative gravel mulch.
4. Sod. Preparation of areas as required.
5. Seed and straw. Preparation of areas as required.
6. Bermuda grass sprigs. Preparation of areas as required.
7. Weed prevention fabric.
8. Coconut shell chips.
9. Maintenance of all materials until acceptance is provided by the owner/LA.
10. Site furnishings to include are:
 1. Mobile green island modules/configurations.
 - i. Includes wood seating beams, planter shell, fabric, soil backfill, washed drain rock, and leveling beam.
 2. Rough and ready big green bench.
 - i. Includes wood seating beams, planter shell, fabric, soil backfill, washed drain rock, and leveling beam.
 3. Tree grates.
11. All irrigation. Irrigation backflow preventer and protection cage is by this BC. *All sleeves under hardscape as required.*
12. All topsoil and planting soils per the specifications and plans (Do not assume any existing can be reused). Testing and amending of soils as specified is included.
13. Mockups as required.
14. BP#4's landscape drawings and specs govern over the previous bid packages. In the "Cardbox" link the BP#4 drawings are titled "IB-011-25, BC-39 LANDSCAPE DRAWINGS.pdf" and the specs are titled "IB-011-25, BC-39 LANDSCAPE SPECIFICATIONS.pdf".
15. Alternates #1-#3 are detailed on the bid forms.

Items to be excluded from bid:

1. Concrete seat walls
2. Power Pedestals
3. Light bollards
4. Owner purchased furnishings per schedule

3. PRELIMINARY SCHEDULES

The updated project schedule is included withing this link:

<https://louisville.box.com/s/8tuleruyi7uyqex6mrpos2yrqn09jm7a>.

4. BID FORMS

GENERAL INFORMATION

Bidders shall use the Form(s) included at the end of this section when submitting a proposal.

The following information must be submitted with the bid. All required documents (A-H) below are labeled with the appropriate Bid Category number. Please ensure that you have the correct forms for the category that you are submitting your proposal for.

- A. Statement of Non-Collusion
- B. Identification Sheet
- C. Lump Sum Bid, Alternate Bids and Subcontractor Listing
- D. Bid Breakout Pricing
- E. Authentication & Statement
- F. Required Affidavit for Bidders, Offers And Contractors
- G. Bid Bond or certified check in an amount not less than five percent (5%) of total bid.
- H. Bidder Qualifications Form

The following information must be submitted with the bid or 1 hour after the bid opening by the apparent low bidder

- I. FP7 - List of Materials and Equipment
- J. FP8 & FP9 - MBE/WBE Subcontractor/Supplier Forms

The following information must be submitted 48 hours after the bid opening by apparent low bidder

- K. University Bidder's Qualification Form
- L. Bidders Qualifications Submission to ISQFT
- M. Supplier Certification and Workers Compensation Form

Failure to submit any of the documentation requested above may be cause for rejection of bid.

Note that there are separate Forms for each Bid Category for certain requested information.

Bidders can make photocopies of sheets as necessary.

All bids must be received at the following location and time:

Bid Category #39

- Bid Opening Date: **January 28th, 2025**
- Bid Opening Time: **12PM, EST.**
- Bid Opening Location: **2215 S. Brook Street, Service Complex, Louisville, KY 40208 – Conference Room 102**

INVITATION TO BID:	IB-011-25 (Bid Pack 4)
BID CATEGORY:	Bid Category (BC) #39 – Landscaping
DATE ISSUED:	01/07/2025
TITLE:	JB Speed Student Success Building
CONTRACT SPECIALIST NAME:	Evan Riddell
EMAIL CONTACT:	evan.riddell@louisville.edu
METHOD OF AWARD:	Best Value Sealed Bid

The University of Louisville's Department of Procurement Services will receive sealed Bids at the address listed herein until the time and date shown below.

RETURN ADDRESS:

Deliver By U.S. Mail:

Department of Procurement Services
University of Louisville
Louisville, KY 40292

Delivery by Courier or Overnight Carrier:

University of Louisville
Department of Procurement Services
2215 S. Brook Street
Louisville, KY 40208

BIDS MUST BE RECEIVED NO LATER THAN: January 28th, 2024, by 12:00PM, EST.

1. Bids will be opened and read publicly within specified times unless otherwise stated within this bid document.

AUTHENTICATION OF BID AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That I am the bidder (if the bidder is an individual), a partner in the bidder (if the bidder is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the bidder is a corporation):
2. That the attached Invitation to Bid(s) has been arrived at by the bidder independently and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the Invitation to Bid, designed to limit independent bidding or competition:
3. That the contents of the bid or bids have not been communicated by the bidder or its employees or agents to any persons not an employee or agent of the bidder or its surety; on any bond furnished with the bid or bids and will not be communicated to any such person prior to the official bid or bids:
4. That the bidder is legally entitled to enter into the contracts with the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, including those prohibited by the provision of KRS 45A.325, 45A.330 to 45A.340, 45A.990 and 164.821(7).
5. Bidder and its affiliates are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139 to the extent required by Kentucky law: and will remain registered for the duration of any contract awarded. Furthermore, Bidder is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.
6. That I have fully informed myself regarding the accuracy of the statements made above.

NOTICE

1. Any agreement of collusion among bidders or prospective bidders which restrains, tends to restrain, or is reasonably calculated to restrain competition by agreement to bid at a fixed price, or to refrain from bidding, or otherwise, is prohibited.
2. Any firm/person who violates any provisions of Kentucky Revised Statue 45A.325 shall be guilty of a felony and shall be punished by a fine not less than five thousand dollars (\$5,000) not more than ten thousand dollars (\$10,000) or be imprisoned not less than one year nor more than five years, or both such fine and imprisonment.

Name of Company:		Date:
Address:		Phone:
City:	State:	Fax:
Zip:		
Payment Terms:	This offer is valid for _____ calendar days from the date this bid is received	E-Mail Address:
		Web Address:
Shipping Terms: FOB Destination, Freight Prepaid and Added to Invoice	Print Name:	
Federal Employer ID:	Signature:	

VENDOR IS TO COMPLETE THIS COVER SHEET AND SUBMIT WITH BID IN ITS ENTIRETY

University of Louisville

FORM OF PROPOSAL – BC39 – LANDSCAPING

This Form of Proposal shall be used in submitting a proposal for the work. Copies will be furnished upon request by the authority issuing the Contract Documents.

THIS PROPOSAL SUBMITTED BY _____

(Name and Address of Bidder) _____

DATE: _____, TELEPHONE: _____

TO: **If by U.S. Mail Service:**

**University of Louisville
Procurement Services
Belknap Campus
Room 107A, Service Complex
2215 S. Brook Street
Louisville, Kentucky 40208**

OR

If by Courier or Overnight Carrier Service:

**University of Louisville
Procurement Services
Belknap Campus
Room 107A, Service Complex
2215 S. Brook Street
Louisville, Kentucky 40208**

GENTLEMEN:

The Bidder, in compliance with your **Invitation to Bid No. IB-011-25, BC-39** and having carefully examined all Bid Documents herein, including the specifications for the work as prepared by the University and their consultants hereby proposes to furnish all labor, materials, equipment, services and supervision required to perform specifics of the scope, within the time set forth therein and for the stated LUMP SUM BID Amount.

The Bidder hereby acknowledges receipt of the following Addenda:

ADDENDUM NO. _____ DATED _____

ADDENDUM NO. _____ DATED _____

ADDENDUM NO. _____ DATED _____

ADDENDUM NO. _____ DATED _____

ADDENDUM NO. _____ DATED _____

ADDENDUM NO. _____ DATED _____

(IF NONE HAS BEEN ISSUED AND RECEIVED, INSERT THE WORD, NONE.)

FORM OF PROPOSAL IB-011-25, BC39

AUTHENTICATION OF BID AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST

I HEREBY CERTIFY:

121. That I am the bidder (if the bidder is an individual), a partner in the bidder (if the bidder is a partnership), or an officer and employee of the bidding corporation having authority to sign on its behalf (if the bidder is a corporation);
122. That the submitted bid or bids have been arrived at by the bidder independently and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other contractor, vendor of materials, supplies, equipment or services described in the Request for Bid, designed to limit independent bidding or competition; as prohibited by provision KRS45A.325;
123. That the contents of the bid or bids have not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder, its surety on any bond furnished with the bid or bids and will not be communicated to any such person prior to the official opening of the bid or bids.
124. That the bidder is legally entitled to enter into the contract with the Commonwealth of Kentucky and is not in violation of any prohibited conflict of interest, including those prohibited by the provisions of KRS 164.390; and 45A.330 to 45A.340 and 45A.455;
125. This offer is for **Sixty (60)** calendar days from the date this bid is opened. In submitting the above it is expressly agreed that upon proper acceptance by the Division of Engineering and Contract Administration of any or all items bid above, a contract shall thereby be created with respect to the items accepted;
126. That I have fully informed myself regarding and affirm the accuracy of all statements made in this Official Bid Document including Bid Amount.
127. Unless otherwise exempted by KRS 45.590, the bidder intends to comply in full with all requirements of the Kentucky Civil Rights Act and to submit data required by the Kentucky Equal Employment Act upon being designated the successful bidder. Will comply with Executive Order 11256 and will execute the "Supplier Certification" as requested.
128. That the bidder is not debarred from doing business with federal agencies and that, if debarred during the life of the contract, the bidder will notify the Commonwealth buyer of record within seventy-two (72) hours of the federal debarment.
129. That the bidding contractor and all subcontractors to be employed do not and will not maintain any facilities they provide for employees in a segregated manner and they are in full compliance with provisions of 41 CFR 60-1.8 that prohibits the maintaining of segregated facilities.
130. In accordance with KRS45A.110(2), the undersigned hereby swears under penalty of perjury that he/she has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky and that the award of a contract to the bidder will not violate any provision of the campaign finance laws of the Commonwealth of Kentucky.

READ CAREFULLY - SIGN IN SPACE BELOW - FAILURE TO SIGN MAY INVALIDATE BID

SIGNED BY: _____ NAME/TITLE _____

FIRM: _____ EMAIL: _____

ADDRESS: _____

CITY STATE ZIP CODE DATE _____

PHONE _____ FAX _____

Dunn & Bradstreet number: _____

University of Louisville

FORM OF PROPOSAL

LUMP SUM BID

Provide the lump sum quote below and attach itemized pricing for all labor and materials on a separate page.

The Bidder, in compliance with the Invitation to Bid (IB-011-25, BC-39) and having carefully examined the complete Bid Documents, as well as the Specifications for the work as prepared, and any addenda, hereby proposes to furnish all labor, materials, equipment, services and supervision required to perform specifics of the Bid Documents, within the time set forth therein and for the stated LUMP SUM BID amounts. Bids will be evaluated by the combination of the below amounts which provide the best value to the University and other criteria as listed in these bid documents. The decision to include add alternates will be at the University's discretion and will be based upon the budget requirements for the project. As such, any combination of the below add alternates may be used to determine the low bidder.

Base Bid Lump Sum:

Dollars

(USE WORDS)

(USE WORDS) Cents

\$ _____
(USE FIGURES)

Bid Breakout

Total Base Bid Above (Inclusive of all materials & taxes): \$ _____

KY State Sales Tax on Owner Purchased Items (see section 11): \$ _____

Total Base Bid Less KY State Sales Tax on Owner Purchased Items: \$ _____

Bid Breakout for Owner Purchased Materials W/O Taxes: \$ _____

Optional: Other one-time and/or initial offering investment \$ _____

Contributions **(To be deducted from overall proposal)

Breakdown of Owner Purchased Items:

Item Description	Direct Owner Purchase Amount (w/o tax)
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
Total (This amount should match item #4 above)	\$

Alternate # 1 – Planting Reductions

Removal of all trees, shrubs, and planting requirements labeled as “ALT #1” on sheet L-201. This includes (4) Oakleaf Hollies and (5) Washington Hawthorns.

Deduct:

Dollars

(USE WORDS)

Cents

\$ _____.

(USE WORDS)

(USE FIGURES)

Bid Breakout (Alternate #1):

1. Total Alternate #1 Bid Above (Inclusive of all materials & taxes): \$_____.
2. Deduct Kentucky State Sales Tax on Owner Purchased items (Alt #1): \$_____.
3. Total Alternate #1 Bid Less Kentucky State Sales Tax on Owner Purchased: \$_____.
4. Bid Breakout for Owner Purchased Materials without taxes included (Alt #1): \$_____.

Alternate # 2 – Planting Reductions

Removal of all trees, shrubs, and planting requirements labeled as “ALT #2” on sheet L-201. This includes (438) Black Flowering Sedges, (308) Sea Knight Irises, and (307) Purple Coneflowers; (3) Flame Thrower Redbuds and (3) Cherokee Princess Dogwoods. The median area of the parking lot would be replaced with grass seed per seed and sod specifications.

Deduct:

Dollars

(USE WORDS)

Cents

\$.

(USE WORDS)

(USE FIGURES)

Bid Breakout (Alternate #2):

5. Total Alternate #2 Bid Above (Inclusive of all materials & taxes): \$ _____.
6. Deduct Kentucky State Sales Tax on Owner Purchased items (Alt #2): \$ _____.
7. Total Alternate #2 Bid Less Kentucky State Sales Tax on Owner Purchased: \$ _____.
8. Bid Breakout for Owner Purchased Materials without taxes included (Alt #2): \$ _____.

Alternate # 3 – Planting Reductions

Removal of all trees, shrubs, and planting requirements labeled as “ALT #3” on sheet L-202. This includes (29) Pink Muhlies, (10) Parson’s Junipers, (4) Fizzy Mizzy Virginia Sweetspires, (1) Bottlebrush Buckeye, (6) David Viburnums, (2) American Beautyberries), (16) Hameln Fountain Grasses, (9) Flower Carpet Scarlet Roses, and (4) Hummingbird Summersweets. There would be planting bed adjustments for Enlarged Plan A in the shrub planting area only. The area removed from planting bed would be replaced with grass seed per seed and sod specifications. Enlarged Plan B would require an additional (5) Cherokee Princess Dogwoods along the sidewalk placed during construction in lieu of shrubs.

Deduct:

_____ Dollars

(USE WORDS)

_____ Cents

\$ _____.

(USE WORDS)

(USE FIGURES)

Bid Breakout (Alternate #3):

9. Total Alternate #3 Bid Above (Inclusive of all materials & taxes): \$ _____.
10. Deduct Kentucky State Sales Tax on Owner Purchased items (Alt #3): \$ _____.
11. Total Alternate #3 Bid Less Kentucky State Sales Tax on Owner Purchased: \$ _____.
12. Bid Breakout for Owner Purchased Materials without taxes included (Alt #3): \$ _____.

FORM OF PROPOSAL

IB-011-25, BC39

Base Bid Breakdown: *The following is just for review of scope and is not to be used for schedule of values

General Conditions/Markup	\$ _____
Topsoil	\$ _____
Mulch	\$ _____
Trees	\$ _____
Shrubs	\$ _____
Perennials & Grasses	\$ _____
Sod	\$ _____
Seed and Straw	\$ _____
Irrigation	\$ _____
Bermuda Grass Sprigs	\$ _____
Mobile green island modules/configurations	\$ _____
TOTAL (Base bid w/ all taxes & material):	\$ _____

FORM OF PROPOSAL
IB-011-25, BC39

LIST OF UNIT PRICES

Unit prices shall include the furnishing of all labor, material, equipment, services and supervision and include all items of cost, overhead, and profit for the contractor and any subcontractor involved, and shall be used uniformly without modifications for either additions or deductions. The unit prices as established in accordance with changes or extra work performed under the contract.

DESCRIPTIONS

UNIT PRICES

Deciduous Trees 2”	\$ _____/EA
Evergreen Trees 6’-7’	\$ _____/EA
Ornamental Trees 2”	\$ _____/EA
Ornamental Trees Japanese Maples	\$ _____/EA
Ornamental Trees Multi Stem	\$ _____/EA
Shrubs #2 Container	\$ _____/EA
Shrubs #3 Container	\$ _____/EA
Shrubs #5 Container	\$ _____/EA
P&G #1 Container	\$ _____/EA
P&G #2 Container	\$ _____/EA
P&G #3 Container	\$ _____/EA
P&G Quart Container	\$ _____/EA
Mulch	\$ _____/CY
Sod	\$ _____/SY
Seed and Straw	\$ _____/SY
Gravel Mulch	\$ _____/CY
Weedmat	\$ _____/SY
Topsoil	\$ _____/CY

IB-011-25, BC39

SUBCONTRACTOR LISTING

BRANCH OF WORK

MBE/WBE?

[illegible]

FORM OF PROPOSAL

IB-011-25, BC39

MATERIALS & EQUIPMENT LISTING

Bidders are hereby advised that if a Bidder so desires, this list may be completed and submitted with his Proposal.

NOTE: Every item listed under the different phases of construction must be clearly identified so that the Owner will definitely know what the Bidder proposes to furnish. If not applicable indicate "NA".

The use of a manufacturer or dealer's name only or stating "as per Plan and Specifications" will not be considered as sufficient identification. Where more than one "make" or "brand" is listed for any one item, the Owner shall have the right to select the one to be used.

Please indicate by a (X) in the far-right column if the subcontractor is a Minority-Owned or Woman-Owned Business Enterprise; for each MBE/WBE listed, please complete "MBE/WBE Subcontractor/Supplier Form".

Failure to submit a proper list may result in rejection of the Bidder's proposal.

[illegible]

INSTRUCTIONS FOR FILING EMPLOYMENT UTILIZATION REPORT

The Employment Utilization Report (EUR) is to be completed by each subject contractor (both prime and sub) and signed by a responsible official of the company. The General Contractor shall submit the EUR report with monthly pay application for its aggregate work force and include all reports for each subcontractor's aggregate work force to the University of Louisville.

Compliance Agency	University of Louisville assigned responsibility for equal employment opportunity. (Secure this information from the contracting officer.)
Contractor	Any contractor who has a construction contract with the University of Louisville.
Minority	Includes Blacks, Hispanics, American Indians, Alaskan Natives, and Asian and Pacific Islanders-both men and women.
1. Covered Area	Jefferson County, Kentucky
2. Employer's Identification Number	Federal Social Security Number used on Employer's Quarterly Federal Tax Return (U.S. Treasury Department Form 941).
3. Current Goals (Minority & Female)	Minority – 12.2% Female – 3.5%
4. Reporting Period	Monthly, or as directed by the Compliance Officer, beginning with the effective date of contract.
5. Construction Trade	Only those construction crafts which contractor employs in Jefferson County, Kentucky.
6. Work-Hours of Employment (a-e)	a. The total number of male hours and the total number of female hours Worked by employee's classification. b.-e. The total number of male hours and the total number of female hours worked by each specified group of minority employees in each classification.
Classification	The level of accomplishment or status of the worker in the trade (Journey Worker, Apprentice, Trainee).

INSTRUCTIONS FOR FILING EMPLOYMENT UTILIZATION REPORT

7. Minority Percentage

The percentage of total minority work-hours of all work hours (the sum of columns 6b, 6c, 6d, and 6e; just one figure for each construction trade).

8. Black Percentage

The percentage of black males and females computed from the total number of blacks in 6b.

9. Total Number of Employees

Total number of male and total number of female employees working in each classification of each trade in the contractor's aggregate work force during reporting period.

10. Total Number of Minority Employee

Total number of male minority employee and total number of female minority employees working in each classification in each trade in the contractor's aggregate work force during reporting period.

FORM OF PROPOSAL
MBE/WBE SUBCONTRACTOR/SUPPLIER FORM

does commit itself that on Invitation to Bid IB-011-25, BC39:

The Bidder agrees to furnish information required by the University of Louisville to indicate the Minority and Woman- Owned Business which it intends to utilize. Breach of this commitment constitutes breach of the Bidder's contract if awarded.

Name of Business	MBE WBE	Telephone Number	Type of Business	Dollar Value for Project	Percent

The undersigned will enter into a formal agreement with the minority or woman-owned business firms for work listed in this schedule conditioned upon execution of a contract with the University of Louisville.

Subcontractors and other persons and organizations proposed by the Bidder and accepted by the Owner and the Architect/ Engineer must be used on the work for which they were proposed and accepted and shall not be changed except with the written approval of the Owner and the Architect/Engineer. The undersigned hereby certifies that he or she has read the terms of this commitment and is authorized to bind the Bidder to the commitment herein set forth.

Signature and title of authorized official of the company and the date must be properly executed on this document or the bid will be deemed non-responsive.

NAME OF AUTHORIZED OFFICER

Date

TITLE

Date

SIGNATURE

FORM OF PROPOSAL
RECORD OF MBE/WBE SOLICITATION

Certifies That the following Minority/Women-Owned

firms were contacted to solicit pricing as subcontractors/suppliers for Invitation to Bid No. **IB-011-25, BC39**:

Name of Business	MBE WBE	Work Items Solicited	Result: No response/Bid Too High

The above firms were not selected for use on this project for the reasons stated in the RESULT column.

Signature

Date

5. AGREEMENT FORMS

TRADE CONTRACT AGREEMENT

The SAMPLE Form of Agreement between Owner and Trade Contractor is included at the following link:

<https://louisville.box.com/s/n2a2pdrqxtvkhz9e92e5y1oqgboxvbpr>

ASSIGNMENT AND ASSUMPTION OF TRADE CONTRACT

The SAMPLE Assignment of Contract between Owner, Whittenberg Construction, and the Trade Contractor is included at the following link:

<https://louisville.box.com/s/n2a2pdrqxtvkhz9e92e5y1oqgboxvbpr>

6. BIDDER'S QUALIFICATION FORM

IB-011-25, BC-39 (Complete for submissions on all Bid Categories)

UNIVERSITY OF LOUISVILLE Bidders Qualifications

1. Purpose

The Commonwealth of Kentucky Model Procurement Code (KRS 45A.080) requires that a contract be awarded to the lowest responsive and responsible bidder whose bid offers the best value. KRS 45A.070(6) defines "Responsible bidder or offeror" as "a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance," and "Best value" as "a Procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the Commonwealth." The information requested in this document is to be used to evaluate the "responsibility" by verifying the apparent low bidder:

- (a) Has adequate financial resources (in working capital and bonding capacity) in relation to the scope and dollar amount of the project or the ability to secure such resources;
- (b) Has the experience, organization, technical qualification, available personnel resources, and has or can acquire the equipment necessary to perform the scope of work bid;
- (c) Is able to comply with the required performance schedule or completion date, taking into account existing commitments (i.e. capacity); and
- (d) Has a satisfactory record of performance, integrity, judgment and skills to complete the project bid.

The information provided must verify that the bidding firm has a sufficient level of expertise, experience, financial stability, and personnel resources to qualify the firm as being "responsible" prior to proceeding with an award of Contract. The determination of the firm's capability and responsibility will be made as fairly and honestly as possible using a reasonable exercise of sound judgment and discretion in the review of information provided or otherwise secured through references or other sources.

2. Application Submittal

The low responsive Bidder must complete the information requested by typing or clearly printing responses in ink. All information requested must be provided. If a question does not apply, insert "NA" for not applicable. The University of Louisville reserves the right to request supplemental information to fully determine responsibility of the Bidder. The Bidder agrees to provide supplemental information, if requested by the University.

3. Insurance Requirements

The Successful Bidder will be required to provide proof of insurance indicating current liability coverages, including workers compensation, with limits equal to or exceeding the amounts required by the bid documents. Additionally, builders risk coverage equal to the Contract amount will be required of the successful contractor.

*NOTE: Pursuant to KRS 45A. 110, except as otherwise provided under the Open Records Act and any other applicable law, the Bidder has the right of nondisclosure to the public of certain information required by this submittal. If the Bidder wishes nondisclosure of certain information, he/she shall enclose the confidential information in a separate envelope marked CONFIDENTIAL and forward it with the information and other submittals required by this document. If this is not done, he/she waives the right of nondisclosure of this information and the signing of the Bid Proposal shall constitute written waiver of that right.

University Personnel and University Consultants will use this form and any other requested additional information to determine the responsefulness of the apparent low bidder and sub-contractors.

1. Name of Firm _____
Street Address _____
City, State, Zip _____
County _____
Business Phone (____) _____ Telefax (____) _____
2. Mailing Address _____
City, State, Zip _____
3. Contact Person _____
4. Type of Firm () Corporation () Partnership
 () Sole Proprietorship () Individual
 () Joint Venture () Other (Explain)
5. How many years has the firm been in business? ____years _____months
 - Has this business operated under any other name? __Yes _____No
If yes what Other names: _____
6. If your firm is a corporation, provide the following:
 - Date of incorporation _____ State of incorporation _____
 - States where corporation is authorized to conduct business _____
 - Attach proof that your firm is in good standing and registered with the Kentucky Secretary of State.
7. If your firm is an individual or partnership, provide the following:

- Date of organization: _____
- If a partnership, is it limited or general? _____

- Name and address of all partners and specify their respective partnership participation, i.e., limited, general, managing.

8. If your firm is other than a corporation, individual or partnership, describe organization and identify principals.

9. In the space provided below, describe the type(s) of construction and project management expertise offered by your company.

(use additional pages if required)

10. List key persons (partners, owners, officers and directors). Include any other persons who have duties, responsibilities or authority typically delegated to partners, owners, officers or directors. Provide organization chart of the key individuals in the firm.

<u>Name of Person</u>	<u>Position/title</u>	<u>% Ownership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

11. In the past five years, has the firm ever been fined for violating state or federal safety or environmental laws? _____ Yes _____ No If yes, attach an explanation.

12. Has any key person with the firm ever been convicted of any state or federal crime (excluding traffic violations), including but not limited to embezzlement, theft, bribery, falsification or destruction of records, receipt of stolen property, criminal anti-trust violations or bid-rigging?
_____ Yes _____ No If yes, attach an explanation.

13. Has a civil court issued a judgment of \$10,000 or more against the firm in the past five years?
_____ Yes _____ No If yes, attach an explanation.

14. Is the firm currently a party to a pending lawsuit with a potential damage alleged of \$10,000 or more? _____ Yes _____ No If yes, attach an explanation.

15. In the past five years, has the firm been terminated from or failed to complete any contract?
_____ Yes _____ No If yes, attach an explanation.

16. Performance and Payment Bonds will be issued by:

Surety Company Name _____
Street Address _____
City, State, Zip _____
Phone Number () _____ Fax () _____

Local Bond Agency _____
Kentucky Licensed Agent _____
Street Address _____
City, State, Zip _____
Phone Number () _____ Fax () _____

17. Current level of bonding capacity authorized by the surety.
Single Limit \$ _____ Aggregate Limit \$ _____

18. Bank Reference

Bank Name _____
Street Address _____
City, State, Zip _____
Phone Number () _____ Fax () _____
Contact Person _____

19. VENDOR REPORT OF PRIOR VIOLATIONS ON CONSTRUCTION PROJECTS

This form is applicable to all bid construction projects issued by the University of Louisville Procurement Services in accordance with KRS 45A.080.

The **Prime Bidder** on any construction sealed bid **shall** complete and provide a signed and notarized form with the required information.

All subcontractors for the best evaluated Prime Bidder shall also provide a signed and notarized form with the required information attached through the Prime Bidder to University within five (5) calendar days of the bid opening date. **The Prime Bidder shall provide copies of this form to the subcontractors for their execution.**

The information required is specifically - **any final determination(s) of violations within the last five (5) calendar years of the following:**

1. Violations of KRS Chapter 136 (Corporation and Utility Taxes);
2. Violations of KRS Chapter 139 (Sales and Use Taxes);
3. Violations of KRS Chapter 141 (Income Taxes);
4. Violations of KRS Chapter 337 (Wages and Hours);
5. Violations of KRS Chapter 338 (Occupational Safety and Health of Employees);
6. Violations of KRS Chapter 341 (Unemployment Insurance);
7. Violations of KRS Chapter 342 (Workers Compensation); and
8. Violations of Occupational Safety and Health Laws **in any other states and at the federal level.**

If there are no violations for a particular category, vendor should attach a statement to that effect.

If there are violations for a particular category, the vendor should list them and provide the following information for each: the date of the violation, a short description of the violation (including statutory citation), the name of the governmental enforcement agency involved, and the amount of any penalties imposed as a result of the final determination.

Please note that this information may be provided to other governmental agencies, such as the Kentucky Labor Cabinet, as part of the bid process. The University reserves the unqualified right to disqualify any vendors from participating further in this bid process if appropriate under law.

In addition, the successful prime bidder and subcontractors shall remain in continuous compliance with KRS 45A.485 during the life of any contract awarded and shall notify the Procurement Services of any new final determinations of violations in **any** of the above-mentioned categories, which occur after contract award, and during the life of any contract awarded. Failure to comply with these requirements may result in the bidder and subcontractors being disqualified from participating in future bid opportunities for the Commonwealth.

COMPANY NAME: _____

ADDRESS: _____

THIS VENDOR VIOLATION FORM IS BEING SENT TO THE LABOR CABINET FOR VERIFICATION. PLEASE MAKE SURE ALL YOUR VIOLATIONS ARE LISTED WITHIN THE LAST FIVE (5) YEARS. IF A BIDDER LISTS "NONE" AND HAS SOME, THEIR BID MAY BE REJECTED. FOR A LIST OF YOUR VENDOR VIOLATIONS, YOU CAN FAX OR EMAIL THE LABOR CABINET WITH YOUR REQUEST. FAX NUMBER IS (502) 696-1984 OR EMAIL: labor.desam@ky.gov.

Violation Category	Date	Description	Govt. Agency	Enforcement	Amount of Penalties

Additional Project Information

1. List the name and title of the home office administrative project manager who will be assigned and responsible for this project. A current resume of this individual shall be attached to this submittal. The resume should include a list of projects for which this project manager has been responsible within the past five (5) years.

Name of Manager _____ Title _____

2. List the name and title of the on-site manager that will be assigned and responsible for this project. A current resume of this individual shall be attached to this submittal. This resume should include a list of projects for which this manager has been responsible within the past five (5) years.

Name of Project Manager _____
Title _____

3. List the name and title of the on-site project superintendent who will be assigned and responsible for this project. A current resume of this individual shall be attached to this submittal. This resume should include a list of projects for which this superintendent has been responsible within the past five (5) years.

Name of Project Superintendent _____ Title _____

4. How many full-time, non-labor employees does the firm currently have? _____

5. How many full-time, labor/trade employees does the firm currently have? _____

6. What is your firm's average annual dollar volume of work for the past five (5) years?
\$ _____

7. List below, by specification section, the work you plan to complete with your own work force or with subcontractors. In the blanks provided please indicate the specification section and "O" for own forces and "S" for subcontracted work.

Spec. Section	"O" or "S"	Spec. Section	"O" or "S"	Spec. Section	"O" or "S"
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

8. What percentage of the total work do you estimate will be performed with your own work force?
____%

9. How long has the firm been engaged in the type contracting required by this project?
____ Years _____ Months

10. List below five of your most recently completed projects that demonstrate your ability to complete the type of work required by the project being bid. (NOTE: The inability to list five such projects will not necessarily prevent a determination of responsibility.)

A. Project Title _____ Owner _____
Contract Amount _____ Completion date _____
Owner Phone Number () _____ Fax () _____
Name of Owner Contact _____
Architect/Engineer _____ Phone No.() _____
Brief description of your firm's work and responsibility in this project.

B. Project Title _____ Owner _____
Contract Amount _____ Completion date _____
Owner Phone Number () _____ Fax () _____
Name of Owner Contact _____
Architect/Engineer _____ Phone No.() _____
Brief description of your firm's work and responsibility in this project.

C. Project Title _____ Owner _____
Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

D. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

E. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

11. List below all projects that are currently under construction that demonstrate your ability to complete the type of work required by the project being bid.

A. Project Title_____ Owner_____

Contract Amount_____ Completion date_____

Owner Phone Number ()_____ Fax ()_____

Name of Owner Contact_____

Architect/Engineer_____ Phone No.()_____

Brief description of your firm's work and responsibility in this project.

B. Project Title_____ Owner_____

Contract Amount_____ Completion date_____

Owner Phone Number ()_____ Fax ()_____

Name of Owner Contact_____

Architect/Engineer_____ Phone No.()_____

Brief description of your firm's work and responsibility in this project.

C. Project Title_____ Owner_____

Contract Amount_____ Completion date_____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

D. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

E. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

Certification and Signature:

I hereby certify that I am an authorized principal of the firm and I:

1. Have read, and understand the reason for submitting this information;
2. Agree, upon request, to provide any additional information that may be necessary for determination of contractor responsibility;
3. Will, upon request, provide complete financial statements within five business days;
4. Swear or affirm that all information provided on this submittal is true;
5. Understand that if any of the responses are found to be materially untrue, the firm will be ineligible to be awarded a contract.

Your signature on this document is a sworn statement to the University of Louisville. This document must be signed by the firm's CEO, president, vice-president, partner or sole owner.

Under penalties of perjury, I hereby swear or affirm, warrant and represent that the above answers and information have been personally provided by me, and that I have the authority to execute this document on behalf of this firm.

Signature_____

Name_____

Title_____

Date_____

7. GENERAL CONDITIONS

PART 1 - GENERAL

- 1.1 The general conditions to be used for this project are included on the following pages:
1.2 These terms and conditions shall apply to every Trade Contract.

TABLE OF CONTENTS

<u>ARTICLE NO.</u>	<u>TITLE</u>
1	General Conditions
2	Definitions
3	The Architect/Engineer
4	Work Reasonably Inferred and Discrepancies
5	Shop Drawing Schedule
6	Shop Drawing Submittals
7	Drawings and Specifications
8	Materials, Appliances, and Employees
9	Royalties and Patents
10	Surveys, Permits, and Regulations
11	Protection of Work, Property, Employees, and Public
12	Inspection of Work
13	Inspection and Testing of Materials
14	Superintendent – Supervision
15	Changes in the Work
16	Concealed Conditions
17	Deductions for Uncorrected Work
18	Delays and Extension of Time
19	Weather Data
20	Correction of Work Before Final Payment
21	Correction of Work After Final Payment
22	Termination of Contract for Convenience

	of Owner
23	Termination of Contract for Default Action of Trade Contractor
24	Suspension of Work
25	Time of Completion
26	Liquidated Damages
27	Payment to the Trade Contractor
28	Trade Contractor's Payment to Subcontractor
29	Use of Completed Portions
30	Indemnification
31	Insurance
32	Builders Risk Insurance
33	Guaranty Bonds
34	Claims for Damage
35	Liens
36	Assignment
37	Separate Contracts
38	Mutual Responsibility of Trade Contractors
39	Trade Contractor/Subcontractor Relationship
40	Project Site Limits
41	Clean Up
42	Substitution - Materials and Equipment
43	Test and Inspection
44	Guarantee and Warranty
45	Wages and Hours
46	Apprentices
47	Prevailing Wage Rate Schedule
48	Conduct of Employees
49	Assignment of Trade Contracts
50	Audited Financial Statements

51	Anti-Kickback
52	Asbestos Containing Material
53	Protection at Site
54	Construction and Safety Devices
55	Trade Contractor Safety Requirements

GENERAL CONDITIONS

UNIVERSITY OF LOUISVILLE

PROCUREMENT SERVICES

LOUISVILLE, KENTUCKY 40292

ARTICLE 1 - GENERAL CONDITIONS

These general conditions apply to each section of the specifications and are binding upon the Trade Contractor and all subcontractors as each are subject to the provisions contained herein.

These general conditions are intended to define and establish certain rules and provisions of the contract governing the operation so that the work may be continued and be completed in an orderly, expeditious and workman like manner.

These general conditions, together with the specification and contract documents, shall further establish the standards of material and workmanship for the "work".

ARTICLE 2 - DEFINITIONS

Wherever used in these general conditions or in other contract documents, the following terms have the meaning indicated which are applicable to both the singular and plural thereof:

The term **OWNER** as used throughout the specifications and contract documents means the University of Louisville, represented by the **University Louisville Planning Design and Construction**.

ARCHITECT means the person, company or corporation, architect or other consultant, named in the contract documents.

Construction Manager – General Contractor (CM-GC) means **Whittenberg Construction Co.**

TRADE CONTRACTOR means the person, company or corporation with whom the Owner has executed a contract, which is subsequently assigned to the CM-GC.

SUBCONTRACTOR means the person, company or corporation having a direct contract with the Trade Contractor for the performance of a part of the work.

CONTRACT means the bid offer of the Trade Contractor as officially accepted by the Owner, evidenced by the "Letter of Intended Acceptance", executed Owner/Trade Contractor agreement of contract, and the executed Finance encumbrance document, entitled "Purchase Contract".

CONTRACT DOCUMENTS means the agreement between the Owner and Trade Contractor, the Payment and Performance Bond, the general, supplemental and special conditions, the drawings, the specifications, the scope of work, all addenda and modifications and change orders issued after execution of the contract. The contract documents complement each other; whatever is required by one shall be as binding as if required by all.

WORK means and comprises the completed construction required by the contract documents. It includes labor, material, equipment, supplies, superintendency, plant, and equipment to perform and complete the contract in an expeditious, orderly and workmanlike manner

CONTRACT AMOUNT means the sum stated in the contract including any authorized adjustments thereto; it is the total amount payable by the Owner to the Trade Contractor through the CM-GC for the performance of the work under the contract documents.

WORK ORDER means a written notice by the Owner or CM-GC to the Trade Contractor, authorizing the Trade Contractor to commence work under the contract and establishing the beginning date.

CONTRACT COMPLETION TIME means the number of calendar days to complete the work as specified in the contract documents.

CALENDAR DAY means a day of twenty-four hours measured from midnight to the next midnight.

CHANGE ORDER means a written order to the Trade Contractor signed by the Owner, issued after the execution of the contract, authorizing a change in the work or an adjustment in the contract sum or the contract time.

SHOP DRAWINGS means drawing, diagrams, schedules, and other data specially prepared for the work by the Trade Contractor or any subcontractor manufacturer, supplier, or distributor to illustrate some portion of the work.

WRITTEN ORDER means a field order issued by the architect or CM-GC which clarified or interprets the contract documents, or orders minor changes in the work which does not require a change order.

ARTICLE 3 - THE ARCHITECT/ENGINEER

University of Planning Design and Construction, will be the Owner's representative during construction and until the work is complete.

Luckett & Farley Architects will advise and consult with the Owner. The Owner's instructions to the Trade Contractor shall be forwarded through the consultant.

The architect will visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the work, and to determine in general if the work is proceeding in accordance with the contract documents. On the basis of his on-site inspection observations, he will keep the Owner informed of the progress of the work, and will endeavor to guard the Owner against defects and deficiencies in the work of the Trade Contractor.

The architect will not be responsible for, and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work.

The architect will be the sole interpreter of the requirements of the contract documents and the judge of the performance thereunder by the Trade Contractor.

Claims, disputes, and other matters in questions that arise relating to the execution or progress of the work shall be referred initially to the Architect/Engineer for decision, which he will render in writing within a reasonable time.

The architect will have authority to reject work which does not conform to the contract documents.

The CM-GC will review and approve, or take other appropriate action upon Trade Contractor's submittal, such as shop drawings, product data, and samples, but only for conformance with the design concept of the work, and with the information given in the contract documents. Such action shall be taken with reasonable promptness so as to cause no delay. The architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

The CM-GC will prepare change orders, and authorize minor changes in the work, not involving extra cost and time extension, provided the changes are not inconsistent with the purpose of the work.

The architect will conduct inspections to determine the dates of substantial completion and final completion; will receive and forward to the Owner for the Owner's review, written warranties and related documents required by the contract and assembled by the Trade Contractor.

ARTICLE 4 - WORK REASONABLY INFERRED AND DISCREPANCIES

The Trade Contractor shall make a thorough examination of the site(s) and study all drawings and specifications and all conditions relating to the erection of the work. Materials or labor evidently necessary for the proper and complete execution of the work, which are not specifically mentioned although reasonably inferred therefrom, shall be included in the work.

The intent of the contract documents is to include all items necessary for the proper execution and completion of the work. Anything called for in the specifications and not shown on the drawings or shown on the drawings and not called for in the specifications, shall be included in the Trade Contractor's work, the same as if included in both. In the event of a doubt arising as to the true intent and meaning of the drawings and specifications, the Trade Contractor shall report it at once to the architect. The architect shall furnish, with reasonable promptness, additional instructions, by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions shall be consistent with the contract documents, true developments thereof and reasonably inferable therefrom. The work shall be executed in conformity therewith and the Trade Contractor shall do no work without proper drawings and instructions. The architect shall be responsible for interpretation of the documents. **The architect's decision regarding compliance with plans and specifications in the case of conflicts shall be final and binding.**

ARTICLE 5 - SHOP DRAWING SCHEDULE

The Trade Contractor shall submit a schedule to the architect and CM-GC, prior to the submittal of the firm's first application for payment, fixing the dates for the submission of shop drawings.

ARTICLE 6 - SHOP DRAWING SUBMITTALS

The Trade Contractor shall review, approve, and submit shop drawings in accordance with the approved schedule as herein detailed. By approving and submitting shop drawings, the Trade Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the work and of the contract documents.

The Trade Contractor shall submit adequate shop drawings required for the work and the architect will review and approve, with reasonable promptness, shop drawing and samples, or return for corrections as required. The review and approval shall be only for conformance with the design concept of the project and for compliance with the information given in the contract documents. The approval of a separate item will not indicate approval of the assembly in which the item functions.

The Trade Contractor shall make any corrections required by the architect for compliance to the contract and shall return the required number of corrected copies of shop drawings and resubmit new samples until approved. The Trade Contractor shall direct specific attention, in writing, or on resubmitted shop drawings, to revisions other than the corrections called for by the architect on previous submissions. The Trade Contractor's stamp of approval on any shop drawing or sample shall constitute a representation to Owner and architect that the Trade Contractor has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog number, and

similar data, or he assumes full responsibility for doing so, and that he has reviewed or coordinated each shop drawing or sample with the requirements of the work and the contract documents.

Where a shop drawing or sample submission is required by the specifications, no related work shall be commenced until the submission has been approved by the architect. A copy of each approved shop drawing and each approved sample shall be kept in good order by the Trade Contractor at the site and shall be available to the architect and CM-GC.

The architect's approval of shop drawings or samples shall not relieve the Trade Contractor from his responsibility for any deviations from the requirements of the contract documents unless the Trade Contractor has in writing called

the architect's attention to such deviation at the time of submission and the architect has given written approval to the specific deviation, nor shall any approval by the architect relieve the Trade Contractor from responsibility for errors or omissions in the shop drawings.

ARTICLE 7 - DRAWINGS AND SPECIFICATIONS

The Trade Contractor shall keep one copy of all drawings and specifications on the site, in good order, available to the architect and/or his representatives.

All drawings, specifications, and copies thereof, furnished by the architect and CM-GC, are the property of the University of Louisville. They are not to be used on other work.

ARTICLE 8 - MATERIALS, APPLIANCES, AND EMPLOYEES

Unless otherwise stipulated, the Trade Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, temporary heat, hoist, supplies, appliances, transportation, and other facilities necessary for the execution and completion of the work.

Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. The Trade Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

The Trade Contractor shall at all times enforce strict discipline and good order among his employees and subcontractors and shall not employ on the work any person not skilled in the work assigned to him.

ARTICLE 9 - ROYALTIES AND PATENTS

The Trade Contractor shall pay all royalties and license fees and shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof. However, the foregoing shall apply to the Owner in lieu of the Trade Contractor in the event that a particular process or the product of a particular manufacturer is specified.

ARTICLE 10 - SURVEYS, PERMITS AND REGULATIONS

The Owner will furnish only such surveys as included in the contract. Approvals, assessments, and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified. Building, sewer, water, and similar types of permits, where required by

local ordinances, shall be obtained by the Trade Contractor. A Trade Contractor's license fee for doing business in the locale, if applicable, shall be paid for by the Trade Contractor.

The Trade Contractor shall give all notices and comply with all laws, codes, rules and regulations bearing on the conduct of the work as drawn and specified.

ARTICLE 11 - PROTECTION OF WORK, PROPERTY, EMPLOYEES AND PUBLIC

The Trade Contractor shall continuously maintain adequate protection of all his completed work and materials delivered from damage and shall protect the Owner's property from injury or loss arising in connection with this contract, until final acceptance of the work. He shall make good any such damage, injury, or loss, except such as may be directly due to errors in the contract documents or caused by agents or employees of the Owner. He shall adequately protect adjacent property as provided by law and the contract documents.

The Trade Contractor shall take all necessary precautions for the safety of employees on the work, and shall comply with all applicable provisions of federal, state, and municipal safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the work is being performed.

The Trade Contractor shall designate a responsible member of his organization, on the work, as safety officer whose duty shall be to enforce safety regulations. The name and position of the person so designated shall be reported to the CM-GC by the Trade Contractor.

In an emergency affecting the safety of life, or of the work, or of adjoining property, the Trade Contractor, without special instruction or authorization from the CM-GC, architect or Owner, is hereby permitted to act, at his discretion, to prevent such threatened loss or injury. The Trade Contractor shall immediately inform the University Department of Public Safety (588-6111).

ARTICLE 12 - INSPECTION OF WORK

The Owner, the architect, the CM-GC and their representative shall at all times have access to the work whenever it is in preparation or progress and the Trade Contractor shall provide proper facilities for such access and for inspection. The architect and CM-GC shall be given timely notification in order to arrange for proper inspection of any work performed outside of the normal working day or week.

If the specifications, the architect's or CM-GC instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, the Trade Contractor shall give the architect and CM-GC timely notice of its readiness for inspection. Inspections by the architect or CM-GC shall be made promptly.

If any portion of the work should be covered contrary to the request of the architect or CM-GC, or to requirements specifically expressed in the contract documents, it must, if required in writing by the architect, be uncovered for his observation and shall be replaced at the Trade Contractor's expense.

If any other portion of the work has been covered, which the architect or CM-GC has not specifically requested to observe prior to being covered, the architect or CM-GC, with the Owner's approval, may request to see such work and it shall be uncovered by the Trade Contractor. If such work be found not in accordance with the contract documents, the Trade Contractor shall pay such costs unless it be found that this condition was caused by the Owner, or a separate Trade Contractor employed by the Owner, in which event the Owner shall be responsible for the payment of such costs.

ARTICLE 13 - INSPECTION AND TESTING OF MATERIALS

All inspection and testing costs required by the contract documents shall be paid for the Trade Contractor.

All test costs required beyond the initial test to verify the requirements of the contract documents on Item shall be paid by the Trade Contractor of record. The Owner will not pay costs for retesting required for incorrect work or materials.

ARTICLE 14 - SUPERINTENDENT - SUPERVISION

A qualified superintendent and any necessary assistants shall be maintained on the work site and give efficient supervision to the work until its completion. The superintendent shall have full authority to act in behalf of the Trade Contractor and all instructions given to the superintendent shall be considered as given to the Trade Contractor. It shall be the responsibility of the Trade Contractor's superintendent to coordinate work of all the subcontractors.

The superintendent shall not be changed unless he proves to be unsatisfactory to the Trade Contractor and ceases to be in his employ. The Trade Contractor shall give timely notice to the Owner of a change in the superintendent and a reasonable explanation for the change.

ARTICLE 15 - CHANGES IN THE WORK

The Owner, without invalidating the contract, may as the need arises, order changes in the work by deletion or modification. All such changes to the work shall be authorized by change order and be executed under the conditions of the original contract. Contract amount and time of completion shall be adjusted at the time of ordering such change. The value of any such change in work shall be determined in one or more of the following methods:

-
- A. By mutual acceptance of a lump sum submitted with a complete breakdown of the costs including labor hours and rates, list of materials with pricing for each item, equipment and subcontractor costs. Copies of quotations from suppliers and subcontractors must also be attached to the proposal. Price proposals are to be submitted to the CM-GC within the time frame specified in the request for proposal (also refer to as change Bulletins).
 - B. By unit prices named in the contract or subsequently agreed upon. Under either method, proposals for change in work shall be accompanied by a complete itemization of net costs for labor and materials, including the work of all subcontractors. In no case will a change be approved without such detailed itemization.
 - C. If the then existing circumstances indicate the impracticability or impossibility of proceeding under either of the above methods, the Owner/GCMS may direct the Trade Contractor to proceed with the change in the work, for which the Trade Contractor shall be paid the actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work. The Trade Contractor shall keep and present in such form as the Owner/GCMS may direct, a correct amount of all items comprising the net cost of such work, together with vouchers, including the cost to the Trade Contractor of all labor, common and skilled, foremen, and the fair rental of all machinery together with reasonable transportation cost of machinery not on the site.

In any event, it is agreed and understood that an amount not to exceed ten percent (10%) shall be added to the **actual net cost** of the change of work as defined within. It is further agreed and understood that said maximum addition of ten percent constitute the exclusive cost for direct overhead and profit for work performed by the Trade Contractor.

The Trade Contractor shall not include in the net cost of change of work any allowance for the use of capital, insurance premium, or any actual or anticipated profit, or job or office overhead not previously mentioned, these items being considered as being covered under the added amount for general overhead. Pending final determination of value, partial payments on account of changes in work may be made on recommendation of architect.

The architect may authorize (via the CM-GC) minor changes in the work, not involving extra cost and time extension, provided the changes are not inconsistent with the purpose of the work.

If the Trade Contractor claims that any instructions by the architect (via the CM-GC) involve additional cost and/or time extension, he shall give the architect and CM-GC written notice thereof within 30 days after the receipt of such instructions and before proceeding to execute the change in work.

ARTICLE 16 - CONCEALED CONDITIONS

Should concealed conditions encountered in the performance of the work below the surface of the ground, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the contract documents, or should unknown physical conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract be encountered, the contract sum shall be equitably adjusted by change order upon claim by either party made within twenty days after the first observance of the conditions.

ARTICLE 17 - DEDUCTIONS FOR UNCORRECTED WORK

If the Owner, architect or CM-GC deems it not expedient to correct work damaged, or not done in accordance with the contract, an equitable deduction from the contract price shall be made therefore.

ARTICLE 18 - DELAYS AND EXTENSION OF TIME

It is agreed that time is of the essence for each and every portion of this contract and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the Trade Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due to:

- (a) Any preference, priority, or allocation order duly issued by the government;
- (b) Unforeseeable cause beyond the control and without the fault or negligence of the Trade Contractor, including, but not restricted to acts of God or of the public enemy, acts of the Owner, acts of another Trade Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes freight embargoes and unusually severe weather;
- (c) Any delays of subcontractors or suppliers occasioned by and of the causes specified in subsection (a) and (b) of this article provided, further that the Trade Contractor shall, within 48 hours of the occurrence of the event, notify the Owner in writing, who shall ascertain the facts and extent of the delay and notify the Trade Contractor within a reasonable time of its decision in the matter. Any change in the contract time resulting from any such claim shall be incorporated in a change order. An extension of time shall not construed as cause for extra compensation under the contract.
- (d) Unusual inclement weather as used herein means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the seasons of the year. Normal weather shall be determined based on records for the station of the United States Environmental Data Service show in Article 19 of the General Conditions.

ARTICLE 19 - WEATHER DATA

A. Information and data furnished or referred to below is furnished for the Trade Contractor's information. It is to be expressly understood, however, that the Owner will not be responsible for any interpretation or conclusion drawn there from by the Trade Contractor.

B. Weather Conditions - Information in the tables below was compiled from the records of the National Weather Service at Louisville, Kentucky.

P R E C I P I T A T I O N

	NORMAL	MAXIMUM OF	MINIMUM OF	24 HOUR	AVERAGE
NUMBER OF					
MONTH (INCH)	RECORD (IN)	RECORD (IN)	MAXIMUM (IN)	DAYS .1" OR MORE	
JAN	3.57	16.65	0.37	2.98	13

FEB	3.26	7.69	0.67	3.40	11
MAR	4.83	10.38	0.99	3.85	13

APR	4.01	9.30	0.79	4.39	13
MAY	4.23	10.84	1.20	3.24	12
JUN	4.25	11.69	1.36	5.88	11

JUL	4.95	10.64	1.83	4.73	11
AUG	3.96	11.18	0.56	3.56	9
SEP	3.28	9.69	0.24	4.35	8

OCT	2.26	6.13	0.33	3.21	8
NOV	3.30	6.87	0.45	2.58	11
DEC	3.78	9.97	0.61	3.77	12

T E M P E R A T U R E

NORMAL	MAXIMUM	MINIMUM of	AVERAGE
NUMBER OF			

MONTH	(DEG F)	RECORD (DEG F)	RECORD (DEG F)	DAYS 32 DEG F OR BELOW
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JAN	31.5	76	-21	11
FEB	34.5	76	-15	7
MAR	43.9	83	-2	1

APR	55.0	88	18	0
MAY	64.3	92	26	0
JUN	72.2	101	39	0

JUL	75.9	103	47	0
AUG	74.9	103	42	0
SEP	68.7	103	35	0

OCT	56.8	91	20	0
NOV	44.9	81	-3	1
DEC	36.1	75	-10	5

D. For the purpose of this Contract, "Unusual Inclement Weather" will be interpreted as those days in excess of the number of days shown in the final column under PRECIPITATION on which rainfall exceeded 0.1 inch and in the final column under temperature on which maximum temperature was below 32 degrees F.

ARTICLE 20 - CORRECTION OF WORK BEFORE FINAL PAYMENT

The Trade Contractor shall promptly remove from the premises all materials rejected by the architect or CM-GC that fail to conform to the contract, whether incorporated in the work or not, and the Trade Contractor shall promptly replace and re-execute the work in accordance with the contract and without expense to the Owner and shall bear the expense of making good all work of other Trade Contractors destroyed or damaged by such removal or replacement.

ARTICLE 21 - CORRECTION OF WORK AFTER FINAL PAYMENT

Neither the final certificate of payment nor any provisions in the contract documents shall relieve the Trade Contractor of responsibility for faulty materials or workmanship and, unless otherwise specified, he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from date of the acceptance of the work by the Owner. The Owner, architect or CM-GC shall give notice of observed defects with reasonable promptness.

ARTICLE 22 - TERMINATION OF CONTRACT FOR CONVENIENCE OF OWNER

A. The Owner may terminate the contract for its own convenience when it is determined by the contracting authority that such termination will be in the best interest of the University of Louisville. When it has been determined that a contract should be terminated for the convenience of the University, the contracting authority shall give reasonable written notice and negotiate a fair and just settlement with the Trade Contractor

B. The Trade Contractor shall have the burden of establishing the amount of compensation to which he believes himself to be entitled by the submission of complete and accurate cost data employed in submitting his bid or proposal for the contract, and evidence of expenses paid or incurred in performance of the contract from the date of award through the date of termination for convenience.

ARTICLE 23 - TERMINATION OF CONTRACT FOR DEFAULT ACTION OF TRADE CONTRACTOR

If the Trade Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply sufficient skilled workmen, adequate equipment, or proper material, or if he should fail without proper cause to make prompt payment to subcontractors, or for material or labor, or persistently disregard laws, ordinances, or the instruction of the architect, or otherwise be guilty of a substantial violation of any provision of the contract, then the Owner, upon the certification by the architect or CM-GC that sufficient cause exists to justify such action, may without prejudice to any other right or remedy and after giving the Trade Contractor three (3) days written notice by registered mail of declaration of default, take possession of the premises and all materials and building components thereon, and finish the work in accordance with laws of the Commonwealth.

In such case, the Trade Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to the Trade Contractor. If any such expense shall exceed such unpaid balance, the Trade Contractor shall pay the difference to the Owner. The expense

incurred by the Owner, as herein provided, and the damage incurred through the Trade Contractor's default shall be certified by the architect.

ARTICLE 24 - SUSPENSION OF WORK

A. The Owner

1. The Owner may, for reasons exclusive of any court order or other types of litigation, suspend the work or any portion thereof for a period of not more than thirty (30) days or such further time as agreed upon by the Trade Contractor without causing termination of the contract. The notice of suspension shall be in writing and shall set forth the reason for the suspension. The written notice shall fix the approximate date on which work is contemplated to be resumed. The Owner will allow reimbursement of direct job expenses or extension of time, or both, directly attributable to the suspension.

2. In the event the Owner should be prevented or enjoined by court order from proceeding with the work or from authorizing its prosecution, either before or after the award and contract execution, by reason of any litigation for a period of up to ninety (90) days, the delay shall not constitute cause for termination and the Trade Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but the time for completion of work will be extended to such reasonable time as the owner may determine will compensate for time lost by such delay. Such determination to be set forth in writing.

B. The Trade Contractor

If, through no act or fault of the Trade Contractor, the work is suspended for a period of more than thirty (30) days by the Owner, or more than ninety (90) days under an order of court or other public authority, or the architect fails to act on any request for payment within thirty (30) days after it is submitted, or the Owner fails to pay the Trade Contractor via the CM the sum certified by the architect or awarded by the court within fifteen (15) days of its approval and presentation, then the Trade Contractor may, after ten (10) days from delivery of a written notice to the Owner and the architect, terminate the contract and recover from the Owner payment for all work executed and reasonable expense sustained. In addition and in lieu of terminating the contract, if the architect has failed to act on a request for payment, or if the Owner has failed to make any payment as aforesaid, the Trade Contractor may upon ten (10) days written notice to the Owner and the architect stop the work until he has been paid all amounts then due, in which event and upon resumption of the work, a change order shall be issued for adjusting the contract price or extending the contract time, or both, to compensate for the costs and delays attributable to the stoppage of the work.

ARTICLE 25 - TIME OF COMPLETION

A. The Trade Contractor shall begin work and mobilize on site within five (5) calendar days after the contract has been fully executed and a notice to proceed has been given by the Owner or CMGC. He shall carry the work forward expeditiously with adequate forces and management process for achieving completion within the contract time. All time limits stated in the Contract Documents are of the essence to the contract.

B. The contract time, unless otherwise provided, is the period of time specified in the Contract Documents for final completion as defined hereinafter, including authorized adjustments thereto. (See "Agreement of Contract", for mandatory completion dates and construction time.)

C. Substantial completion of the work shall mean when the work is sufficiently complete, so that the architect, CM-GC and Owner may inspect the work to determine items requiring correction or completion for final acceptance.

D. The date of substantial completion shall be that date certified by the architect or CM-GC in accordance with the following procedures that the work is sufficiently complete to inspect.

(1) When the Trade Contractor considers the work is substantially complete, he shall submit a written declaration of his consideration to the architect and a request for an inspection. The declaration and request shall be accompanied by a Trade Contractor prepared list of those items of work still to be completed or

corrected. The failure of the Trade Contractor to include any item or items on such list not completed or needing correction shall not alter the responsibility of the Trade Contractor to complete all work in accordance with the contract documents.

(2) The architect or CM-GC shall, within a reasonable time after receipt of notification from the Trade Contractor of declaration of substantial completion and request for inspection, notify the owner of the date for inspection and make the inspection.

(3) If the architect or CM-GC considers the work substantially complete, he shall prepare a Certificate of Substantial Completion which shall establish the date of substantial completion and a list of items to be completed or corrected, and shall fix the time within which the Trade Contractor shall complete the items listed. This time shall not exceed thirty (30) calendar days. The Certificate of Substantial Completion shall be submitted to the Owner, architect or CM-GC and Trade Contractor for their written acceptance.

(4) If, after making the inspection, the architect or CM-GC does not consider the work substantially complete, he will notify the Trade Contractor in writing, giving the reasons therefore.

E. Final Completion - The architect or CM-GC, upon receipt of written notice from the Trade Contractor that the work is complete and is ready for final inspection and acceptance, will promptly make such inspection and when he finds the work completed and acceptable under the contract documents and the contract fully performed, he will so notify the Trade Contractor in writing and promptly certify a final Certificate for Payment to the Owner accompanied by final certificate of occupancy from the Kentucky Department of Building and Housing. If the architect or CM-GC finds the work not complete he shall notify the Trade Contractor and the owner. The Trade Contractor shall then apply every effort to complete the work within the time allotted at the time of substantial completion. If the Trade Contractor fails to complete the work in the time allotted, liquidated damages will be assessed as described in Article 3 of the Agreement of Contract. If additional inspection is required, the Trade Contractor shall reimburse the architect and or CM-GC for the time required for this inspection at the architect's and or CM-GC established hourly rate.

F. Beneficial Occupancy - The owner may, should circumstances require, receive beneficial occupancy of the works or parts thereof for the use for which it is intended. Such occupancy shall not occur until after substantial completion. At the time of beneficial occupancy, the owner accepts responsibility for the operation, maintenance, utilities and insurance. The Owner shall notify the architect, the CM-GC and the Trade Contractor prior to substantial completion that he will require beneficial occupancy and the Trade Contractor shall provide the Owner at the time of substantial completion a preliminary certificate of occupancy issued by the Kentucky Department of Building and Housing.

ARTICLE 26 - LIQUIDATED DAMAGES

The Owner, architect, CM-GC and the Trade Contractor recognize and agree that time is of the essence of this Contract and that the Owner will suffer financial loss if the Work is not completed within the time specified in the Contract plus any extensions that may be allowed. The parties further recognize the delays, expense and difficulties involved in proving the actual loss suffered by the Owner should the Work not be completed on time. The Owner and the Trade Contractor agree on the amounts stated as liquidated damages in the Agreement. The Owner and Trade Contractor agree that the amount stated as liquidated damages are not intended to be penalties and shall be fair and reasonable.

Should the Trade Contractor fail to satisfactorily complete the Work under Contract on or before the date stipulated for Substantial Completion as adjusted by approved Change Orders if any the Trade Contractor will be required to pay liquidated damages to the Owner for each consecutive Calendar Day that the Owner is deprived of full use of the area beyond the date specified unless otherwise stipulated elsewhere by Owner. After the date for Substantial Completion has been certified by the Owner the Trade Contractor shall cease to owe liquidated damages until the date established for Final Completion

If Final Completion is not achieved by the date established for Final Completion as adjusted by approved Change Orders if any liquidated damages in the amount stipulated in the Agreement will become due and collectable. The

Contract will be considered complete and Final Completion shall be deemed to have occurred when all work has been completed in compliance with the Contract Documents and the Certificate of Final Completion has been issued by the Owner. No deduction or payment of liquidated damages will in any degree release the Trade Contractor from further obligations and liabilities to complete the entire Contract Permitting the Trade Contractor to continue and finish the Work, or any part of it, after expiration of the Contract Time, shall in no way constitute a waiver on the part of the Owner of any liquidated damages due under the Contract.

ARTICLE 27 - PAYMENT TO THE TRADE CONTRACTOR

The Owner through the CM-GC will make payments, less 10 percent (10%) retainage to the Trade Contractor on the amount of the work performed or materials furnished for the work in accordance with the conditions and in accordance with the following procedures:

A. Schedules

Prior to submitting the first payment application, the Trade Contractor shall submit a schedule of values of the work and a progress schedule in form and substance satisfactory to the architect or CM-GC. The schedule of values shall include quantities and prices aggregating the contract price and shall subdivide the work into component parts. An approved copy of the schedules will be provided to the Trade Contractor which will be the basis for progress payments during construction. The schedule of progress shall indicate the starting and completion dates of the various stages of the work.

B. Application for Progress Payment

(1) Not more often than once a month, the Trade Contractor shall submit to the CM-GC a signed application for payment for the work completed as of the date of the application and accompanied by such data and schedules as the CM-GC may reasonable require. If payment is requested on the basis of materials and equipment not incorporated in the work, but delivered and suitably stored at the site or at another location agreed to in writing, the application for payments shall also be accompanied by such data, satisfactory to Owner, as will establish the Owner's title to the material and equipment and protect his interest therein, including applicable insurance. Each subsequent application for payment shall include an affidavit of the Trade Contractor stating that all previous progress payments received on account of the work have been applied to discharge in full all of the Trade Contractor's obligations reflected in prior applications for payment.

(2) Upon certification of substantial completion of the work, the Trade Contractor may make application for the balance of the contract funds less the value of incomplete work, and request release of retainage, if any.

C. Contractor's Warranty of Title

The Trade Contractor warrants and guarantees that title to all work, materials and equipment covered by any application for payment, whether incorporated in the project or not, will pass to Owner at the time of payment free and clear of all encumbrance.

D. Approval of Payments

(1) The CM-GC will, within ten (10) days after receipt of each application for payment, either indicate in writing his approval of payment and present the application to the Owner, or return the application to the Trade Contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the Trade Contractor may make the necessary corrections and resubmit the application. The Owner, provided no exception is taken to the application for payment submitted by the architect, will generally issue payment on or within thirty five (35) days from the date received from the CM-GC. (In compliance with HB490). A reasonable delay on the part of the Owner in making payment to the Trade Contractor vis the CM-GC for any given payment shall not be grounds for breach of contract. The CM-GC may refuse to approve the whole or any part of any payment if it would be incorrect to make such presentation to the Owner.

E. Retainage Reduction

Retainage may be reduced from the 10% of each pay application to a **minimum 5% of the original contracted amount** with no additional retainage on future payment requests, provided 50% of the work is in place and satisfactory progress is being made. The Trade Contractor's request for reduction in retainage shall be submitted to the CM-GC for review and recommendation. If progress falls behind the approved schedule, the full 10% retainage will be reinstated.

G. The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:

- (1) Unsettled liens.
- (2) Faulty or defective work appearing after substantial completion.
- (3) Failure of the work to comply with the requirements of the contract documents.
- (4) Terms of any special warranties required by the contract documents.

H. The acceptance of final payment by the Trade Contractor shall constitute a waiver of all claims except those previously made in writing and identified by the Trade Contractor as unsettled at the time of the final application for payment.

Neither the final payment nor any part of the remaining retained percentage shall become due until the Trade Contractor delivers to the Owner (University of Louisville), an affidavit that all payrolls, bills for materials, supplies and equipment, and other indebtedness connected with the work have been paid or otherwise satisfied.

ARTICLE 28 – TRADE CONTRACTOR'S PAYMENT TO SUBCONTRACTOR

The Trade Contractor shall promptly pay each subcontractor upon receipt of payment from the Owner the amount to which said subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Trade Contractor on account of each subcontractor's work. The Trade Contractor shall, by an appropriate agreement with each subcontractor, require each subcontractor to make payments to his subcontractors in similar manner.

The CM-GC may, on request, furnish to any subcontractor, information regarding the percentage of completion of the amounts applied for by the Trade Contractor and the action thereon by the CM-GC.

Neither the Owner nor the architect or CM-GC shall have any obligation to make payment to any subcontractor except as may otherwise be required by law.

ARTICLE 29 - USE OF COMPLETED PORTIONS

By mutual agreement between the Owner, CM-GC, Trade Contractor, and architect, the Owner may use a specified part of the project after an inspection is made. Such possession and use shall not be deemed an acceptance of any work not completed in accordance with the contract documents.

ARTICLE 30 - INDEMNIFICATION

A. To the fullest extent permitted by law, the Trade Contractor shall indemnify and hold harmless the Owner, the CM-GC, the architect and their agents and employees from and against all claims, damages, loss and expenses, including attorney's work, provided that any such claim, loss, damage or expense (a) is attributable to bodily injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (b) is caused in whole or in part by any negligent act or omission of the Trade Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

B. In any and all claims against the Owner, the CM-GC, the architect or any of their agents or employees by any employee of the Trade Contractor, any subcontractor, any one directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Trade Contractor or any subcontractor under workmen's compensation acts, disability benefit acts or other employee acts.

C. The obligations of the Trade Contractor under this paragraph shall not extend to the liability of the CM-GC or the architect, his agents or employees, arising out of;

- (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or
- (2) the giving of or the failure to give directions or instructions by the architect his agents, or employees, provided such giving or failure to give is the primary cause of injury or damage.

ARTICLE 31 - INSURANCE

Before the Trade Contractor becomes entitled to any rights under this contract and prior to taking any action under this contract, Trade Contractor shall have a certificate of insurance for Trade Contractor's in-force insurances issued to the owner and the certificate shall state that the insurance carrier(s) will give owner sixty (60) days prior written notice of any cancellation(s).

Trade Contractor, at its own expense, agrees to obtain and maintain for the life of the contract policies of insurance, with the Owner and CM-GC as additional insured, in the minimum amounts identified as follows:

MINIMUM COVERAGE AMOUNT

Type of Insurance	Minimum Limits of Liability
Commercial General Liability* Including: Completed Products Personal and Advertising Injury Products/Completed Operations	\$1,000,000.00 Each Occurrence \$2,000,000.00 General Aggregate
Auto Liability* (all owned, hired and non-owned vehicles)	\$1,000,000.00 Combined Single Limit (Bodily Injury, Property Damage)
Workers Compensation	Statutory Limits – Kentucky and the state(s) of domicile of the Contractor and any subcontractors(s). The all state and voluntary compensation endorsement is to be attached to the policy.

Employers Liability	\$1,000,000.00 (each employee, each accident and policy limit)
Property Insurance	Replacement Cost, Open Perils, Property Insurance for all Personal Property used/stored by the vendor involved procurement on University Property.

*Occurrence coverage is required. Claims-made coverage is not acceptable.

ARTICLE 32 - BUILDERS RISK INSURANCE

The CM-GC shall procure and maintain builders risk insurance to cover "all risk" perils on a completed value form in an amount of protection of not less than 100% of the Contract amount. Trade Contractors will be liable for a **\$50,000** deductible per claim. Subcontractors must provide their own property insurance for materials in storage or in transit valued above \$500,000.

ARTICLE 33 - GUARANTY BONDS

Trade Contractor shall furnish a performance and payment bond(s) in an amount equal to one hundred percent (100%) of the contract price as security for the faithful performance of the contract and the payment of all persons performing labor on the project under the contract and furnishing materials, equipment or supplies in connection with the contract, including security for the payment of all unemployment contributions which become due and payable under Kentucky Unemployment Insurance Law. The surety company must have an AM Best rating of "A-" or higher and be "Treasury Listed". Payment and Performance Bonds shall be assigned to the CM-GC, however this does not relieve the Trade Contractor from obligations as stipulated in the original contract, payment and performance bonds.

The performance and payment bond(s) shall be executed by a Surety Company authorized to do business in the Commonwealth of Kentucky, and the contract instrument of bonds must be countersigned by a duly appointed and licensed agent resident of Kentucky. Bonds shall not expire until the specified warranty period required by the contract expires.

ARTICLE 34 - CLAIMS FOR DAMAGE

A. Should either party to the contract suffer damage because of an alleged wrongful act or neglect of the other party, or of anyone employed by him, or others for whose act he is legally liable, or other controversy arising under the contract such claim or controversy shall be made in writing to the other party within 30 days after the first occurrence of the event. If a claim or controversy against the owner is not settled or comprised within 30 days after receipt of written notice thereof, then the Trade Contractor may institute legal proceedings in accordance with the applicable provisions of the Kentucky Revised Statutes.

B. Any legal action entered against the Owner on the contract by the Trade Contractor shall be brought in the Franklin Circuit Court and shall be tried by the court sitting without a jury. All defenses in law or equity, except the defense of government immunity, shall be preserved to the Owner.

ARTICLE 35 - LIENS

A. Lien for labor, materials, supplies, and rental equipment supplied on the contract shall be as provided by KRS 376.195 et seq.

B. Statements of lien shall be filed with the Franklin County Clerk and action to enforce the same must be instituted in the Franklin Circuit Court, Frankfort, Kentucky, pursuant to KRS 376.250.

C. The lien shall attach only to any unpaid balance due the Trade Contractor for the improvement from the time a copy of statement of lien, attested by the county clerk, is delivered to the Owner pursuant to the provisions of KRS 376.240.

ARTICLE 36 – ASSIGNMENT OF PAYMENTS

Neither party to the contract shall assign the contract or subject it as a whole without the written consent of the other, nor shall the Trade Contractor assign any monies due or to become due to him hereunder, without the previous written consent of the Owner.

ARTICLE 37 - SEPARATE CONTRACTS

The Owner reserves the right to let other contracts in connection with the work or to perform work with his own forces. The Trade Contractor shall afford other Trade Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate his work with theirs.

If any part of the Trade Contractor's work depends for proper execution or results upon the work of any other Trade Contractor, the Trade Contractor shall promptly report to the CM-GC any observed defects in such work that render it unsuitable for proper execution or connection. His failure to inspect and report shall constitute an acceptance of the other Trade Contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other Trade Contractor's work after the execution of his work.

Whenever work being done by the Owner's forces or by other Trade Contractors is contiguous to work covered by this contract, the respective rights of the various interests involved shall be established by the CM-GC to secure the completion of the various portions of the work in general harmony.

ARTICLE 38 - MUTUAL RESPONSIBILITY OF TRADE CONTRACTORS

Should the Trade Contractor cause damage to any separate Trade Contractor on the work, the Trade Contractor agrees, upon due notice, to settle with such Trade Contractor if he will so settle. If such separate Trade Contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Trade Contractor who shall defend such proceedings at the Trade Contractor's expense and if any judgement against the Owner arises therefrom, the Trade Contractor shall pay or satisfy it and pay all costs incurred by the owner.

ARTICLE 39 - TRADE CONTRACTOR/SUBCONTRACTOR RELATIONSHIP

A. The Trade Contractor is fully responsible to the Owner for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him and for the coordination of the work, including placement and fittings of the various component parts. No claims for extra cost as a result of the failure to coordinate the work, or by acts or omissions of the various subcontractors will be honored by the Owner.

B. The Trade Contractor agrees to bind every subcontractor by the terms of contract documents as far as applicable to their portion of the work.

C. The Trade Contractor shall make no substitution for any subcontractor without timely notification to the CM-GC.

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- D. Nothing contained in the contract documents shall create any contractual relationship between the Owner and any subcontractor.

ARTICLE 40 - PROJECT SITE LIMITS

The Trade Contractor shall confine his apparatus, the storage of materials, and the operations of his workmen to project site limits as directed by the CM-GC.

ARTICLE 41 - CLEAN UP

The Trade Contractor shall at all times keep the premises free from accumulation of waste material or rubbish caused by his operation in connection with the work. At the completion of the work, he shall remove all his rubbish about the site of the work and all his tools, scaffolding and surplus materials and shall leave his work in a clean and usable condition, satisfactory to the Owner, unless more exactly specified. This will include, but not necessarily be limited to, glass, hardware, fixtures, masonry, tile, and marble floors shall be cleaned and waxed, if provided for in the specifications. This shall be done before final inspection and acceptance. In case of dispute, or if the Trade Contractor fails to clean up at the completion of work, the CM-GC may perform the cleaning task and charge the cost to the Trade Contractor.

ARTICLE 42 - SUBSTITUTION - MATERIALS AND EQUIPMENT

A. Substitution of major equipment and materials previously submitted by the Trade Contractor and approved by the architect or CM-GC will be considered only for the following reasons:

- (1) Unavailability of the material or equipment due to conditions beyond the control of the supplier.
- (2) Inability of the supplier to meet contract schedule.
- (3) Technical noncompliance to specifications.

B. Substitution of other equipment and materials named in the specifications may be allowed provided the proposed substitution will meet or exceed the functions called for by the general design, be similar and of equal substance to that originally specified and be suited to the same use and capable of performing same function of that specified. The burden for proving equality is that of the Trade Contractor. **The owners representative shall have final say in the approval of equal materials.**

Inclusion of a certain make or type of materials or equipment in the Trade Contractor's estimate shall not obligate the Owner to accept such material or equipment if it does not meet the requirements of the plans and specifications.

ARTICLE 43 - TEST AND INSPECTION

Regulatory agencies of the government having jurisdiction may require any work to be inspected, tested or approved. The Trade Contractor shall assume full responsibility therefore, pay all costs in connection therewith, unless otherwise noted, and furnish the architect the required certificates of inspection, testing or approval.

The Trade Contractor shall give the GCMC & the architect timely notice of readiness of the work for all inspections, tests or approvals.

ARTICLE 44 - GUARANTEE AND WARRANTY

The Trade Contractor shall guarantee that labor, equipment and materials will be free of defects for a period of one (1) year from the date of substantial completion. Expendable items and wear from ordinary use are excluded from this guarantee.

Prior to the final payment of the work, the Trade Contractor shall assemble and present to the architect and CM-GC all guarantees and warranties required by the contract documents.

ARTICLE 45 - WAGES AND HOURS

As per House Bill 3, effective January 9, 2017, per KRS337 the University or any State Agency shall not have the authority to require any employer to pay to an employee a certain wage or fringe benefit other than as determined by the employer and or hourly rates (Minimum Wage) as established by Federal, State, Local or Agency itself.

ARTICLE 46 – APPRENTICES

Apprentices (for all classifications of work) shall be permitted to work only under an apprenticeship agreement approved by the Kentucky Supervisor of Apprenticeship and by the Kentucky Apprenticeship Council which is recognized by the Bureau of Apprenticeship and Training, U.S. Department of Labor.

ARTICLE 47 – PREVAILING WAGE RATE SCHEDULE

Prevailing wages are not required for this project. This project is not federally funded.

ARTICLE 48 – CONDUCT OF EMPLOYEES

It is understood that the possession of weapons and/or consumption of alcohol or drugs on the job by any personnel, Trade Contractor, subcontractor or otherwise, is strictly prohibited. Any person having possession of same and/or under the influence of alcohol or drugs, while on the premises at any time, shall be removed from the site at the direction of the Trade Contractor and shall be subject to automatic dismissal by the Trade Contractor.

Trade Contractor must maintain the work environment free of discrimination, verbal and sexual harassment keeping in compliance with any and all Affirmative Action Plans. No Trade Contractor or subcontractor employee shall fraternize, use abusive language, make both verbal and suggestive overtures to or with the students, staff and general public at or near the facility or job site. Job conduct and responsibilities shall be discussed regularly at sub-contractor meetings.

ARTICLE 49 – ASSIGNMENT OF CONTRACT

It shall be understood that all Trade Contracts and Bonds will be made and entered into by and between the University of Louisville and the Trade Contractors. Upon execution of each Trade Contract and Bonds by the awarded Trade Contractor and the University of Louisville, Trade Contracts and Bonds shall be assigned to the CM-GC by the University utilizing an assignment agreement contained within this bound bid document, titled “Assignment and Assumption of Trade Contract”. The assignment and assumption of the Trade Contract by the CM-GC does not relieve the Trade Contractor from obligations as stipulated in the original contract, payment and performance bonds.

ARTICLE 50 - AUDITED FINANCIAL STATEMENTS

The University reserves the right to request Audited Financial Statements from any and all firms submitting proposals in order to adequately evaluate a firm's financial stability in performing the services as outlined within this request for proposal. Upon request from the University, firm(s) shall provide the last two (2) years audited financial statements for review by the University. These statements shall be treated as Proprietary Information. They will be marked so in the bid file and will not be subject to open records inspection/requests.

ARTICLE 51 - ANTI-KICK BACK

All Bidders shall comply with the Copeland "Anti-Kick Back" Act (18 USC 874) as supplemented in the Department of Labor Regulations (29 CFR, Part 3). This Act provides that each Bidder, subcontractor or subgrantee

is prohibited from inducing, by any means, any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he is otherwise entitled.

ARTICLE 52 – ASBESTOS CONTAINING MATERIALS

No asbestos-containing materials are to be supplied/used by any person supplying to the University or be installed in or on University property by any person performing work for the University. Furthermore, all products marked “May Contain Mineral Fiber” will be assumed to contain asbestos unless the manufacturer provides written certification that no asbestos fibers are present in the product and identifies the fibers for which the product is marked.

An exception can be made where an authorized faculty or staff member certifies that the use of asbestos is essential to an ongoing research or production project and works with Environmental Health and Safety Department to ensure that the material is used, stored and disposed of in a safe and legal manner.

ARTICLE 53 – PROTECTION AT SITE

Pedestrian and automobile traffic near project sites shall be protected from injury and damage due to construction activities by appropriate means such as roping off walk or driveways, erecting warning signs, erecting snow fences and other positive ways which will divert traffic from areas of possible danger. Any permanent barricades (more than one shift) shall be approved by the Project Team and/ or UofL Parking.

Special attention shall be given to open trenches regarding pedestrian traffic with emphasis on blind or handicapped pedestrians. Open trenches shall be fenced with snow fence and also protected by audio means.

ARTICLE 54 – CONSTRUCTION AND SAFETY DEVICES

The Trade Contractor shall provide safety controls for protection of the life and health of employees and visitors. The Trade Contractor will utilize precautionary methods for the prevention of damage to property, materials, supplies, and equipment, and for avoidance of work interruptions in the performance of this Contract. In order to provide such safety control, the Trade Contractor shall comply with all pertinent provisions of the Kentucky Fire Prevention Code, Kentucky Building Code, Kentucky Labor Cabinet's Division of Occupational Safety and Health Program General Industry or Construction Standards (29 CFR 1926 or 1910 as adopted by 803 KAR Chapter 2) and Federal Occupational Safety and Health (Construction or General Industry) Standards that are in effect at the time the Contract is entered into and during the period in which the Contract is to be performed.

The Trade Contractor shall provide a written safety program which includes all pertinent written specialty standards such as, but not limited to, Control of Hazardous Energy Sources (Lockout/Tagout), Hazard Communications Program, First Aid, Bloodborne Pathogen Program, Respirator Use Program and Hearing Conservation Program. The Trade Contractor shall require all Sub-contractors to have an effective written safety program or be required to follow the Trade Contractor's written safety program.

ARTICLE 55 – TRADE CONTRACTOR SAFETY REQUIREMENTS

Take all steps necessary to protect the safety and health of university employees, students, and visitors during the performance of their work by establishing, administering, and enforcing safety rules that meet all federal, state, local and UofL regulatory requirements to include, but not limited to:

- 29 CFR 1910 OSHA Standards for General Industry
 - 29 CFR 1926 OSHA Standards for the Construction Industry
 - UofL Department of Environmental Health & Safety Programs and Procedures
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- Provide the UofL Project Team with emergency contact phone number(s), usable 24 hours a day, for the contractor's representative. Bear sole responsibility for the health and safety of his or her employees and all subcontractors.

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- Promptly report incidents to include injuries, significant near-misses, property damage & emergencies to both designated Project Manager & **University of Louisville Department of Public Safety 852-6111**.
 - Provide safety and health documentation to the University Project Team upon request. This documentation includes, but is not limited to, written safety programs, permits, training records, and safety data sheets.
 - Comply with or establish all Personal Protective Equipment (PPE) requirements when working at all UofL jobsites.
 - Review and comply with the UofL Contractor Safety Guidelines outlining high-risk activities.
 - Provide equipment that complies with applicable safety standards for testing, maintenance, inspection and repair.
 - Make the worksite available for inspection by Department of Environmental, Health, and Safety (DEHS), Public Safety, or any member of the UofL Project Team. Authorized University departments shall have the right to stop work until all identified safety protocols have been met.

8. SPECIAL CONDITIONS

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>
1	GENERAL INFORMATION
2	FIELD CONDITIONS
3	OWNER'S PROJECT MANAGER
4	OWNER'S REPRESENTATIVE
5	GEOTECHNICAL REPORT
6	TIME FOR COMPLETION
7	LIQUIDATED DAMAGES
8	PLANS, DRAWINGS, AND SPECIFICATIONS
9	WALK-THROUGH
10	CONSTRUCTION FENCE
11	PROJECT SIGN
12	ALLOWANCES AND RULES OF MEASUREMENT
13	SEQUENCE OF CONSTRUCTION
14	CRANE & MATERIAL HOIST OPERATIONS:
15	UTILITIES
16	BLASTING
17	CUTTING AND PATCHING - NEW AND EXISTING WORK
18	UNRELATED PROJECTS
19	SURVEYS RECORDS, REPORTS
20	ALTERNATES
21	SUBCONTRACT DOCUMENTS
22	SUBCONTRACTS
23	STORAGE AREAS
24	USE OF CM-GC EQUIPMENT
25	CM-GC REMEDIES
26	AUDITS
27	PROGRESS
28	MATERIALS AND EQUIPMENT
29	REPORTS
30	PAYMENTS TO LOWER TIERS
31	PROTECTION OF OTHER WORK
32	INSPECTION OF SITE AND PRECEDING WORK
33	SAFETY HAZARDS
34	HAZARDOUS MATERIALS
35	CLEANING UP
36	LIENS
37	COST OF CHANGES
38	NOTICES AND DELAY COSTS
39	SUBSTITUTIONS
40	MEDIATION, ARBITRATION AND VENUE
41	DESIGN BUILD PROVISIONS
42	INSURANCE
43	OWNER SUPPLIED ITEMS
44	REMOVED ITEMS
45	INTERIOR ENCLOSURES
46	UL INFORMATION TECHNOLOGY
47	SMOKE DETECTORS/FIRE ALARM SYSTEMS
48	MISCELLANEOUS CONDITIONS

The following Special Conditions apply to all Trade Categories:

ARTICLE 1 GENERAL INFORMATION

- 1.1 These Special Conditions are intended to modify, supplement, or delete from, applicable Articles of the General Conditions.
- 1.2 Where any Article of the General Conditions is supplemented by these Special Conditions, the Article shall remain in effect and the supplement shall be added thereto.
- 1.3 Where Special Conditions conflict with General Conditions, provisions of the Special Conditions take precedence.

ARTICLE 2 FIELD CONDITIONS

- 2.1 Trade Contractors will secure all data at the site of the building such as grades of lot, convenience of receiving and sorting material, location of public services, and other information which will have a bearing on making their proposals or on the execution of the Work if awarded the Contract, and no allowance will be made for failure of the Trade Contractors to obtain such site information prior to bidding.

ARTICLE 3 OWNER'S CONSTRUCTION MANAGER

- 3.1 The Owner's Construction Manager (also referred to as "Owner's Project Manager") during construction shall be the designated person from the University of Louisville Planning, Design and Construction.

ARTICLE 4 OWNER'S REPRESENTATIVES

- 4.1 Wherever in these Contract Documents reference is made to the Consultant, it shall be understood to mean **Luckett & Farley Architects**, or their duly authorized representatives. (See Article 2 of the General Conditions.)
- 4.2 Wherever in these documents reference is made to CM-GC, CM-GC or CM, it shall be understood to mean **Whittenberg Construction Co.**

ARTICLE 5 GEOTECHNICAL REPORT

- 5.1 See project specifications.

ARTICLE 6 TIME FOR COMPLETION

- 6.1 Time is of the essence. Therefore, all work is to be completed per the Project Schedule provided in the specifications and Substantial Completion as further defined in Article 25 of the General Conditions shall be as specified in the agreement of contract, Final Completion shall be 30 days after Substantial Completion

ARTICLE 7 LIQUIDATED DAMAGES

- 7.1 Liquidated damages are **\$1,500.00 per day** for any delay in substantial or final completion.
- 7.2 Refer to Section Agreement Form, Article 3.

ARTICLE 8 PLANS, DRAWINGS, AND SPECIFICATIONS

- 8.1 Refer to General Conditions, Article 7 regarding the property of the documents.
- 8.2 The Contract Agreement and Contract Documents are intended to supplement and complement each other and shall, where possible, be thus interpreted. In the case of conflict or inconsistency within, among, or

between the Documents, the provision granting greater rights or remedies to the Owner or CM-GC, or imposing the greater duty, standard, responsibility or obligation on the Trade Contractor shall govern. Unless clarified by a request for information made by the Trade Contractor, in the case of a conflict or inconsistency with, and among the drawings and specifications or applicable standard codes and ordinances or with a Contract Document not clarified by addendum, the better quality of work shall be provided in accordance with the Owner's or CM-GC's interpretation.

ARTICLE 9 WALK-THROUGH

- 9.1 After the "Notice to Proceed" is issued but before Work by the Trade Contractors is started, a walk-through of the area is required to document the condition of the space, surfaces, or equipment. It is the responsibility of the Trade Contractors for the scheduling of the walk-through with the Owner, the Consultant, and other interested parties.
- 9.2 During the walk-through, Trade Contractors shall document all damaged surfaces or other defective items that exist prior to construction.
- 9.3 The walk-through shall be attended by Owner's Project Manager, the CM-GC, a Representative of the user of the facility, the Trade Contractors and the Consultant.
- 9.4 Written documentation of the walk-through is to be provided by the Trade Contractor with copies distributed to all parties. Digital type color photographs are to be provided and labeled by Trade Contractors and one (1) copy of such photographs are to be given to Consultant. All parties attending the walk-through agree on the list of damages.

ARTICLE 10 CONSTRUCTION FENCE

- 10.1 All fencing to comply with Section 3306.1 of the Kentucky Building Code except where the following requirements are more stringent:
 - 10.1.1 All job site perimeter fencing shall be 8 feet in height.
 - 10.1.2 All job site perimeter fencing shall be post-driven and fence gauge and size to support a wind screen and withstand any wind force to avoid overturning.
 - 10.1.3 All fencing shall be of a woven material such as chain link or a solid type fence. Fencing shall include gates required for construction operations. Gates shall be lockable by daisy-chain with the Trade Contractor's lock and locks provided by the Owner and CM-GC.
 - 10.1.4 It shall be the assigned Trade Contractor's responsibility to determine the proper quality of materials and methods of installation of the fencing, with the understanding that it must be maintained in good condition, good appearance, rigid, plumb, and safe throughout the construction period. The fence does not have to be new material.
 - 10.1.5 Each Trade Contractors shall be responsible for maintaining any fence sections and/or posts necessary for their work. The Trade Contractors shall police such conditions to assure the fence and posts are reset in a timely manner and are specifically in place at the close of the working day.
 - 10.1.6 Trade Contractors not complying with the requirements of this Article shall be given written notifications via the CM-GC. If compliance is withheld, the Trade Contractors may be charged for Work done on his behalf provided approval is gained from the Owner prior to issuance of the charge.
 - 10.1.7 Plastic construction fence may be used as a visual warning barricade within the fenced construction site. This type of fencing is not acceptable as perimeter protection fence.

ARTICLE 11 PROJECT SIGNAGE

- 11.1 The Project Sign shall be assigned to a Trade Contractor.
- 11.2 No signs, except those attached to vehicles or equipment may be displayed without permission from the CM-GC and the Owner's Project Manager. No political signs will be permitted.

ARTICLE 12 ALLOWANCES AND RULES OF MEASUREMENT

- 12.1 Allowances as spelled out shall be carried in the contract amount of each Trade Contract. Trade Contract bid amount shall include OH&P to cover the stated amount. Unused portions of allowances shall be credited back to the Owner. For quantity allowances of labor, the unused portion will be calculated by the appropriate published wage rate plus demonstrated amounts for Workers Comp, FICA, Medicare, FUI & SUI, and GL per gross payroll. For quantity allowances of material, the unused portion will be calculated by demonstrated material quotations.
- 12.2 Rules of Measurement shall be established by the Consultant in the field. Actual measurement square shall be taken in the field. These amounts shall become binding upon the Trade Contractors and be adjusted as before mentioned.

ARTICLE 13 SEQUENCE OF CONSTRUCTION

- 13.1 The Trade Contractors shall coordinate any road and sidewalk closings, utility disruptions, etc. which will affect the use of the existing building(s) with the Owner's Project Manager prior to commencing that work.
- 13.2 The area(s) for this project may involve/effect the operations of existing buildings, and will remain in use throughout this project's construction period. The Owner shall have access to the building(s) throughout the duration of the project. The Trade Contractors shall coordinate construction activity to assure the safety of those who must cross the project site and shall provide and maintain the necessary barriers and accommodations for a completely safe route of accessibility. The Trade Contractors is to ensure that all exits provide for free and unobstructed egress. If exits must be blocked, then prior arrangements must be made with the Owner's Project Manager.
- 13.3 The Trade Contractors shall cooperate with the Owner in minimizing inconvenience to, or interference with normal use of existing buildings and grounds by staff, students, other Trade Contractors, or the public. Trade Contractors shall conduct operations to prevent damage to adjacent building structures and other facilities and in such a manner to protect the safety of building's occupants.
- 13.4 Special effort shall be made by the Trade Contractors to prevent any employee from entering existing buildings for reasons except construction business. In particular, use of toilets, drinking fountains, vending machines, etc. is strictly prohibited.

ARTICLE 14 CRANE & MATERIAL HOIST OPERATIONS:

- 14.1 Trade Contractors shall provide appropriate barriers to protect pedestrian-and vehicular traffic area. When crane, material hoist, or other construction equipment is operating or moving, flag men provided by Trade Contractor making the lift or movement shall be utilized to prevent pedestrian and vehicular traffic from crossing pathway of crane lift. Trade Contractor's flag men shall coordinate these activities with the appropriate security personnel.
- 14.2 Crane and material hoist shall be safely secured and inaccessible during non-operating hours. Trade Contractor shall coordinate all operations and or erection of crane or material hoist.

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- 14.3 Any damage to trees, shrubs or plant material at the placement of crane or material hoist shall be repaired by tree surgery or replaced as directed by the Trade Contractor. The Trade Contractor shall adhere to the University's Tree protection guidelines that are available from the University's Physical Plant Department.
- 14.4 All necessary crane permits are to be included as required by each Trade Contractor (FAA, RAA, KAZC, etc.)

ARTICLE 15 UTILITIES

- 15.1 Not Applicable
- 15.2 UTILITY OUTAGES
- 15.2.1 Interruption of Utilities and Services: No utilities or services may be interrupted without full consent and prior scheduling of the Owner. Owner approval is required in writing for each disruption.
- 15.3 ENTIRE BUILDING OUTAGE
- 15.3.1 The CM-GC is the Trade Contractor's contact for requesting Utility Outages. The CM-GC will contact the Owner's Project Manager who will contact the proper departments and divisions within the University and receive approval from those units prior to allowing a planned outage to occur. The established standard within the University departments and divisions of an entire building or group of buildings shall be three weeks written notice. The written notice shall include the type of utility to be interrupted, reason for outage, length of outage, what will be affected by the outage, and a statement of whether or not the materials are on hand to complete the Work. If a specific time is desired for the outage it should be included. The Owner's Project Manager will insure that all parties affected are contacted and that a time which is least disruptive to all parties is selected. At the appointed outage time, work shall begin and proceed continuously with all required manpower until Work is complete at no added cost to the University. The Owner's Project Manager will then notify all affected departments or divisions. Any costs, including off hour or overtime required for shutdowns is to be included as required.
- 15.4 SECTION OF A BUILDING OUTAGE
- 15.4.1 The CM-GC is the Trade Contractors contact for requesting Utility Outages. The CM-GC will contact the Owner's Project Manager who will contact the proper departments and divisions within the University and receive approval from those units prior to allowing a planned outage to occur. The established standard within the University departments and divisions of a section of a building shall be a verbal request one week prior to outage. The verbal request shall include the type of utility to be interrupted, when the outage is desired, reason for outage, length of outage, and what will be affected by the outage. If one weeks' notice is insufficient or inappropriate as judged by the Owner's Project Manager, then written notification may be required. The Owner's Project Manager will insure that all parties affected are contacted and that a time which is least disruptive to all parties is selected. At the appointed outage time work shall begin and proceed continuously with all required manpower until work is complete at no added cost to the University. The Owner's Project Manager will then notify all affected departments or divisions.
- 15.4.2 The Trade Contractors shall be responsible for all switching, valving, etc. required to take the affected utility out of service, and shall be responsible for returning the utility to full normal service at the completion of the outage.

ARTICLE 16 BLASTING

- 16.1 There shall be no blasting under any conditions on University of Louisville property unless specified in these Special Conditions.

ARTICLE 17 CUTTING AND PATCHING - NEW AND EXISTING WORK

- 17.1 New Work - Cutting and patching shall be done by craftsmen skilled and experienced in the trade or craft that installed or furnished the original Work. Repairs shall be equal in quality and appearance to similar adjacent Work and shall not be obviously apparent as a patch or repair. Work that cannot be satisfactorily repaired shall be removed and replaced.
- 17.2 Existing Construction - Refer to Architectural, Mechanical, and Electrical drawings for cutting and patching. All new Work shall be connected to the existing construction in a neat and workmanlike manner, presenting a minimum of contrast between old and new Work. Do all patching of the existing construction as may be required for the new construction to be done. Necessary patching, closing of existing openings, repairing and touching up shall be included as required for a proper, neat and workmanlike finished appearance. Any existing item that is to remain and is damaged during construction shall be replaced at the Trade Contractor's expense. This includes cleaning up and removal of slurry, sludge, water, and the like at the completion of the work.

ARTICLE 18 UNRELATED PROJECTS

- 18.1 Several unrelated construction Projects may/will be under way during the course of the Work related to this Project. The Trade Contractors for this Project must coordinate with any other Trade Contractors working in the building or nearby if Work areas overlap

ARTICLE 19 SURVEYS RECORDS, REPORTS

- 19.1 General: Working from lines and levels established by property survey documents, and as shown in relation to the Work, the assigned Trade Contractor (see Section 011000) will establish and maintain bench marks and other dependable markers to set lines and levels for Work at each area of construction and elsewhere on site as needed to properly locate each element of the entire Project. The Trade Contractors shall calculate and measure from the bench marks and dependable markers required dimensions as shown (within recognized tolerances if not otherwise indicated), and shall not scale drawings to determine dimensions. The assigned Trade Contractor (see Section 011000) shall advise all other Trade Contractors performing Work of marked lines and levels provided for their use in layout of Work.

ARTICLE 20 ALTERNATES

- 20.1 Alternate(s) may be considered in the sequence of the Alternates as listed within individual Bid Categories. It is the owner's intent to award this project up to the budgeted amount to maximize the Best value to the University and the Commonwealth of Kentucky. To that extent, apparent low bid totals shall be calculated and evaluated to the budgeted amount as read. The University may accept alternates which after evaluation of values added components maximizes the best return to the University.

ARTICLE 21 SUBCONTRACT DOCUMENTS:

- 21.1 The Subcontract Documents shall not include copies of, provisions of the Prime Contract relating to the Contractor's compensation.

ARTICLE 22 SUBCONTRACTS

- 22.1 The Trade Contractor must have written agreements with all Subcontractors binding each to the applicable provisions of the Trade Contractor's Documents and otherwise complying with the requirements of Paragraph 2.2 of AIA A401, 1997.

ARTICLE 23 STORAGE AREAS:

- 23.1 Unless otherwise provided in the Contract Documents, CM-GC shall provide reasonable storage areas for Trade Contractor on or adjacent to the Project site if space permits. If such storage areas are provided,

Trade Contractor shall relocate its materials and equipment as required by CM-GC from time to time for proper and safe execution of the Work by this Trade Contract, other Trade Contract, or Owner's Work. Additional costs to the Trade Contractor for relocation shall not be reimbursable by the CM-GC.

- 23.2 Trade Contractor acknowledges that site space is restricted and onsite storage may not be available. Offsite storage shall be provided by Trade Contractor with costs borne by Trade Contractor if onsite storage is unavailable.
- 23.3 Trade Contractor shall be responsible for maintaining storage areas in a clean, confined, and organized way on pallets or the like so that materials can easily be moved if necessary for contiguous work. Combustible materials shall be stored in fire-safe locations or be protected otherwise. Areas utilized for storage shall be restored by Trade Contractor.
- 23.4 Storage of materials outside the limits of construction but on the Owner's property is strictly prohibited without written permission from the Construction Manager.
- 23.5 All costs relating to temporary storage and protection shall be borne by the Trade Package Contractor requiring such storage and protection. Each Trade Contractor shall provide temporary protection as required against rain, wind, storms and theft. Damages to materials whether stored or installed due to the Trade Contractor's failure to provide protection as required will be corrected at the Trade Contractor's expense. The Trade Package Contractor shall retain full responsibility for any form of damage or deterioration caused by materials to surrounding surfaces.

ARTICLE 24 USE OF CONTRACTOR'S EQUIPMENT:

- 24.1 Unless otherwise specifically provided in the Documents, or in a separate written agreement signed by CM-GC, CM-GC's equipment will not be available to Trade Contractor for any purpose.

ARTICLE 25 CONTRACTOR'S REMEDIES:

1. If Architect or CM-GC, by notice to Trade Contractor, rejects or orders to be removed and replaced any work performed or materials furnished by Trade Contractor which are determined not to comply with the requirements of the contract documents, Trade Contractor, within one working day after such notice, shall proceed to take down the rejected work, remove the rejected materials from the project, repair (or pay the cost of repairing) damage to the work of others caused thereby, and replace the same with work and materials complying with the contract documents. If Trade Contractor does not commence such replacement work promptly or does not diligently complete such removal and replacement, CM-GC, by written notice, may take over the completion of such removal and replacement. In such event, CM-GC's costs shall be Trade Contractor's responsibility, without limiting any other remedy.

ARTICLE 26 AUDITS:

- 26.1 CM-GC shall have the right to audit the records and storage areas of Trade Contractor and its Subcontractors at any time for the purpose of determining compliance with Trade Contractor's obligations, such as, but not limited to, the status of work in process and the status of payments to lower tiers.

ARTICLE 27 PROGRESS

- 27.1 Trade Contractor shall keep itself informed as to the progress of the work of others and shall commence its work promptly upon notice from CM-GC, and shall perform its work thereafter promptly and in such manner as not to delay CM-GC, any separate Trade Contractor engaged by the Owner, or other persons performing work at the project. Any overtime or other acceleration required to remedy noncompliance with the preceding sentence shall be at Trade Contractor's expense. Any change in applicable schedules submitted to Trade Contractor by the CM-GC shall be binding on Trade Contractor with no additional compensation unless Trade Contractor notifies CM-GC of any objections within 10 days after receiving the revised schedule. If CM-GC directs Trade Contractor to schedule overtime work not otherwise required by

this Contract and Trade Contractor makes a timely claim, Trade Contractor shall receive an increase in compensation equal to the premium portion of the wages paid to its employees, plus taxes and fringe benefits payable thereon, but excluding any allowance for overhead and profit, consequential damages or other costs, unless specifically authorized by CM-GC.

ARTICLE 28 MATERIALS AND EQUIPMENT:

- 28.1 Trade Contractor promptly shall check all materials delivered at the project for its use, and shall immediately report all damages and shortages to CM-GC. Trade Contractor shall cover and at all times adequately protect its work and materials from damage until final acceptance by Owner, and shall properly store and protect materials furnished to it by others. CM-GC is not liable for any loss or damage to Trade Contractor's equipment at the project site.

ARTICLE 29 REPORTS:

- 29.1 The Trade Contractor shall furnish to the CM-GC periodic progress reports on the work of this agreement. At a minimum, the following items shall be supplied fully and accurately completed and signed by Trade Contractor's Representative and delivered to CM-GC:
- (1) Daily reports (if requested, on CM-GC's form) that include number of workers on site, hours worked, activities completed, equipment utilized, materials delivered and upcoming activities to be delivered by 9:00 a.m. the next working day;
 - (2) Daily production quantity sheets as required by CM-GC to be delivered by 9:00 a.m. the next working day;
 - (3) Weekly four (4) week look-ahead schedule updates with durations to accomplish tasks necessary to meet the current project schedule to be delivered forty-eight (48) hours prior to CM-GC's established coordination meeting; and
 - (4) All required reports, shop drawings, samples, test reports, or other information promptly as required by this agreement, the contract documents, the project schedule or the CM-GC.
- 29.2 Whether or not progress reports are to be provided Trade Contractor shall specifically alert CM-GC to any conditions which could result in delays or claims as soon as such conditions are known to Trade Contractor.

ARTICLE 30 PAYMENTS TO LOWER TIERS:

- 30.1 CM-GC, at its option and without assuming any responsibility to anyone to do so, may issue joint checks payable to Trade Contractor and its Subcontractors and material suppliers for that portion of any payment to Trade Contractor which CM-GC determines, in good faith, to be due to parties of a lower tier.

ARTICLE 31 PROTECTION OF WORK, OTHER WORK, AND EXISTING CONDITIONS:

- 31.1 The Trade Contractor shall take necessary precautions to protect properly the work of other Trade Contractors or existing conditions from damage caused by operations under this Contract, and will be responsible for the costs of repair of such damage. This includes, but is not limited to, protection from marring, staining, or otherwise blemishing surfaces that are intended to remain exposed finish.
- 31.2 Trade Contractor shall provide proper protective measures of materials stored on site for theft prevention, weather conditions, contiguous or completed work by other, and the like.
- 31.3 Trade Contractor shall provide protective coverings and/or measures to protect its completed work from contiguous work such as covering in progress work from water, dust, or other damage, maintaining protective coatings until punch out, if possible, etc.

ARTICLE 32 INSPECTION OF SITE AND PRECEDING WORK:

- 32.1 Trade Contractor, prior to beginning the work, shall notify CM-GC of any claimed ambiguities or errors in the contract documents affecting its work. Before beginning any work which is dependent upon prior work

of others, Trade Contractor shall inspect such prior work and notify CM-GC of any claimed deficiencies. No increase in Trade Contractor's compensation shall apply if CM-GC causes any identified deficiencies to be corrected within a reasonable time. Trade Contractor shall not be liable for any latent defects in prior work which are not reasonably ascertainable by Trade Contractor prior to commencing the work; however, if such defects become reasonably apparent at a later time, Trade Contractor must notify CM-GC and obtain CM-GC's instructions before continuing with affected work. In case of dispute as to whether such other work is defective or deficient, Trade Contractor nevertheless shall proceed immediately with its work when notified by CM-GC to proceed.

ARTICLE 33 SAFETY HAZARDS:

- 33.1 Trade Contractor shall comply strictly with all safety requirements set forth in the Subcontract Documents. Whether or not required by law or by other provisions of the contract documents, (i) Trade Contractor shall require hard hats to be worn at all times on the project site by anyone working for or under or visiting Trade Contractor, (ii) Trade Contractor shall assure that fall protection measures (such as but not limited to personal fall arrest systems, safety net systems or guardrails meeting OSHA requirements) are in use whenever a fall hazard exceeding 6 feet exists for any worker under this Contract (including but not limited to workers involved in steel erection and roofing work); (iii) Trade Contractor is required to comply with CM-GC's Trade Contractor and Supplier Safety, Health and Environmental Program; and (iv) Trade Contractor shall take special care to avoid damage to utility lines, whether indicated on the Drawings or not, and shall be responsible for contacting all applicable utility location services. If the Contract Documents state that any such safety measures are to be provided by CM-GC or others, Trade Contractor shall notify CM-GC if such measures are not in place when needed and shall not proceed with affected work until all required safety measures are in use. Without assuming any responsibility to do so, CM-GC may, without notice to Trade Contractor, correct any safety hazard created or permitted by Trade Contractor and bill Trade Contractor for the costs of this work. Trade Contractor, within 1/2 hour after any of its personnel is involved in an accident at the project involving personal injury or death or damage to property, shall deliver to CM-GC a report thereof in reasonable detail.

ARTICLE 34 HAZARDOUS MATERIALS:

- 34.1 Whether or not Trade Contractor believes that precautions will be sufficient to avoid injuries, Trade Contractor shall notify CM-GC immediately of the discovery of any hazardous materials or hazardous wastes which may be found on the site, other than ordinary construction materials and fuels which are being properly used and contained.

ARTICLE 35 CLEANING UP:

- 35.1 DAILY CLEANUP. Each Trade Contractor shall provide daily cleaning of work areas to "broom swept" condition and remove debris continuously throughout the work day to maintain safe working and egress conditions. Trash, debris, and unused materials shall be compacted and removed to onsite dumpsters. Any equipment as required to accomplish this is to be included by each Trade Contractor.
- 35.2 COMPOSITE CLEANUP. Trade Contractor and each of its Subcontractors shall participate in a daily composite cleanup at the direction of the CM-GC. Trade Contractor and each Subcontractor shall supply one (1) worker per ten (10) workers of peak for the week to participate. An additional worker shall be added for each additional ten (10) workers. The daily composite clean-up crew will be for a minimum of 1 hour per day and may be more if required to keep the jobsite clean. BC31 is to lead this cleanup effort/
- 35.3 COMPLETED WORK. Trade Contractor shall provide construction cleaning of installed products of such things as hand prints, markings, dirt, smudges, and the like at the completion of its installation.
- 35.4 ADJACENT STREETS/PARKING LOTS/WALKS All trade package contractors are responsible for the necessary cleaning of the site and adjacent streets resulting from mud, dirt, debris, etc. tracked off the site. Each Trade Contractor is responsible to clean the tires of its delivery vehicles from mud and debris prior to the vehicle leaving the site. Any fine levied against the owner or Construction Manager because of mud,

dirt, debris, etc. on the roads/parking lots or in the storm sewer become the responsibility of the responsible party as determined by the Construction Manager.

35.5 If Trade Contractor fails to follow CM-GC's directions regarding cleaning up within one working day, the CM-GC may (but is not required to) supplement clean up at Trade Contractor's expense.

35.6 WASTE DISPOSAL/DUMPSTERS. Each Trade Contractor shall dispose of all debris and waste in dumpsters provided by the Trade Contractor assigned with the dumpster allowance. Dumpsters shall not be used for materials resulting from demolition, site clearing, or excavation spoils.

ARTICLE 36 LIENS:

36.1 If any lien is filed against the Project by Trade Contractor, its Subcontractors, material suppliers of any tier or any of their respective laborers, related to any Work performed by or under Trade Contractor, Trade Contractor promptly shall cause such lien to be removed, and if Trade Contractor does not do so, CM-GC may take such action and make such payments as may be necessary or appropriate in order to remove such lien at the cost of Trade Contractor. The preceding sentence shall be inapplicable to the extent that any lien results from CM-GC's default in its payment obligations to Trade Contractor, but Trade Contractor must still comply with any restrictions concerning liens contained in the Prime Contract. Trade Contractor, upon CM-GC's request, shall promptly furnish to CM-GC satisfactory evidence as to the status of its accounts, including the names of all its Subcontractors and material suppliers, the original amounts of its contracts and the amounts paid and due thereon.

ARTICLE 37 COST OF CHANGES:

37.1 Unless otherwise agreed or otherwise provided in the Prime Contract, the change in the compensation to the Trade Contractor for any change in the Work shall be based on the reasonable direct cost of performing any additional work less any savings from work eliminated, plus, in case of a net addition, an allowance for overhead and profit not to exceed 10% of the net increase. With respect to the portion of any change performed by a Subcontractor, an allowance for overhead and profit shall not to exceed 5%.

ARTICLE 38 NOTICES AND DELAY COSTS:

38.1 In addition to the initial notice of any claim required by the Contract Documents, and any additional notices required by the Prime Contract, Trade Contractor shall submit to CM-GC, along with each monthly payment request, any additional information obtained by the Trade Contractor during such month as to the extent of any unresolved prior claims. Trade Contractor shall not be entitled to any increase in compensation by reason of any delay except to the extent that Trade Contractor gives timely notice of its claim and Owner compensates CM-GC for such delays under the Prime Contract. Compensation for delays shall be limited to reasonable, unavoidable costs and shall not include lost profits or lost income.

ARTICLE 39 SUBSTITUTIONS:

39.1 Trade Contractor shall not substitute materials (including "or equal" substitutions) without CM-GC's prior approval. Any deviations or substitutions in plans or specifications desired by Trade Contractor shall be submitted (in writing only) to CM-GC for approval, and if approved, Trade Contractor shall be responsible for any additional cost to CM-GC or others resulting from such deviations or substitutions.

ARTICLE 40 MEDIATION, ARBITRATION AND VENUE:

40.1 Dispute resolution will be per General Conditions Article No. 34.

ARTICLE 41 DESIGN-BUILD PROVISIONS:

41.1 If any of the Work under this Contract is designated in the Contract Documents as being "design-build", "performance specification", "delegated design" or any words of similar import indicating that the Trade

Contractor is responsible for designing any part of such Work, then with respect to all work for which Trade Contractor has design responsibility ("Design-Build Work"), the following provisions shall apply:

- 41.1.1 The design ("Trade Contractor Design") of the Design-Build Work shall be performed in a timely manner so as to cause no delay to the CM-GC, by qualified architects and/or engineers having all applicable licensure and registrations, who shall affix their professional stamps or seals to all resulting drawings and specifications.
- 41.1.2 The Trade Contractor Design shall reflect good professional practices and shall comply with all applicable legal requirements and other requirements of the Contract Documents. The Trade Contractor Design shall include all architectural and/or engineering work specified in the Contract Documents or reasonably inferable therefrom in order to produce a complete and usable result. The Trade Contractor Design is subject to the approval of the CM-GC and of the project Architect, but such approvals shall not relieve the Trade Contractor of sole responsibility for the Trade Contractor Design.
- 41.1.3 If so directed by the CM-GC, the Trade Contractor shall coordinate the Trade Contractor Design with the project Architect or applicable consultant, with copies of all correspondence to the CM-GC. Whether or not the Trade Contractor is authorized to communicate directly with the Architect, the Trade Contractor shall promptly revise all drawings and specifications to remedy any objections thereto by the Architect.
- 41.1.4 Unless otherwise specified, the Trade Contractor is responsible for obtaining all necessary permits for the Design-Build Work.
- 41.1.5 The Trade Contractor shall maintain, and cause the design professional(s) performing the Trade Contractor Design to maintain, professional liability insurance applicable to the Design-Build Work in the amount of at least \$1,000,000 per occurrence, or such greater amount as may be specified in the Contract Documents.
- 41.1.6 The Trade Contractor shall be responsible for any delays or other losses or damages incurred by the Owner, CM-GC, or other Trade Contractor due to any errors, omissions or delays in the Trade Contractor Design.

ARTICLE 42 INSURANCE

- 42.1.1 Per General Conditions

ARTICLE 43 OWNER SUPPLIED MATERIALS (OSM)

- 43.1 The Trade Contractor in coordination with the CM-GC shall supervise and coordinate the delivery and installation of all materials purchased by the Owner through trade contractor bid submissions. The Owner intends to purchase directly, materials totaling \$10,000 or greater included in each trade contractors bid submission in order to take advantage of tax-exempt status. The Trade Contractor shall take full responsibility of the owner supplied material program as set forth by the owner, which includes but is not limited to the following:
 - 1. Provide/review submittals, Product Data, Shop Drawings, and Samples, noting discrepancies and other issues in providing for OSMs in the work.
 - 2. Receive, unload, handle, store, protect, and supervise the installation of OSMs.
 - 3. Make building services connections for OSMs.
 - 4. Protect OSMs from damage during storage, handling, and installation and prior to Substantial Completion.
 - 5. Repair or replace OSMs damaged following receipt.

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6. Provide full warranty required by specifications for OSMs.
 7. Inspect all deliveries in a timely manner and document materials damaged in shipping. File freight claims with carrier for missing or damaged OSM's.

ARTICLE 44 REMOVED ITEMS

- 44.1 Refer to Technical Specification Sections

ARTICLE 45 INTERIOR ENCLOSURE

- 45.1 (not used)

ARTICLE 46 UL INFORMATION TECHNOLOGY

- 46.1 The University of Louisville's Unit of Information Technology Department of Communication Services manages the campus telephone system, data network and video network. UofL IT-Communication Services is not responsible for voice, data, and video pre-wire on this project. The Trade Contractors, during the initial startup of construction, shall coordinate with a representative from UofL IT-Communication Services for coordination of voice, data and video pre-wiring. The Trade Contractors will notify the UofL IT-Communication Services representative with a time window as to when communications pre-wiring will be completed. A minimum of thirty (30) days' notice shall be given to UofL IT-Communication Services prior to the completion of the pre-wiring.

ARTICLE 47 SMOKE DETECTORS / FIRE ALARM SYSTEMS - EXISTING AND/OR NEW FACILITIES

- 47.1 Trade Contractors shall protect all smoke detectors in work areas to prevent false alarms. The Trade Contractors will be responsible for any false alarm caused by dust created in their work areas or dust traveling to areas beyond the work, past inadequate protection barriers. If there is a need for an existing or newly installed fire alarm system or parts of that system to be serviced, turned off, or disconnected, prior approval must be obtained from the Owner's Project Manager and notification given to the **Campus Work Control – 852-6241**. The Trade Contractors must follow the procedure outlined for utility outages and any documented charges charged by the responding fire department due to a false alarm shall be paid by the Trade Contractors. As soon as all work is completed notification must be given to the Owner's Project Manager and to the Campus Dispatch Office prior to reactivation of the system. Prior to final payment to the Trade Contractors, all protected smoke detectors will be uncovered and tested.

ARTICLE 48 MISCELLANEOUS CONDITIONS

- 48.1 **CONTRACT DELIVERABLES.** Trade Contractors shall provide and deliver to CM/GC the following contract deliverable items which the Trade Contractor certifies to the CM/GC as being currently true, accurate and correct with no material changes:
 - A copy of Trade Contractor's Certificate of Insurance.
 - A list of the Trade Contractor's Project staff.
 - A copy of Trade Contractor's license, if required.
 - A copy of Trade Contractor's Sales Tax Registration Certificate.
 - Trade Contractor's payment and performance bonds.
 - A list of all tiers of sub-subcontractors and suppliers (including their addresses and the amounts due or to become due to each). The list shall be updated with each Progress Payment Application showing all additions, deletions and substitutions to such list, the contract deliverables for each new sub-subcontractor, supplier of any tier, and revised amounts due or to become due.
 - A copy of any certificate of qualification required by the Contract Documents or applicable law or regulation, including but not limited to, certification as a minority business enterprise or woman-owned business enterprise, Federal small business, or other status required certification.
 - Trade Contractor's schedule of values within 10 days of issuance of contract.

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- Trade Contractor's detailed work plan and schedule.
 - Trade Contractor's detailed submittal log and schedule.
 - Trade Contractor's Project Specific Safety Plan.
 - Trade Contractor's Project Specific Quality Plan.
 - All other information required by the Contract Documents.
- 48.2 WORK PRIORITY. The CM/GC, in order to respond to job conditions and/or achieve timely completion of the Project, shall have the right to modify the Project Schedule, to suspend, delay or accelerate, in whole or in part, the commencement or execution of the Trade Contractor's Work or any portion thereof or to vary the sequence thereof, to reasonably decide the time, order and priority of the various portions of Trade Contractor's Work, and all other matters relating to the scheduling and coordination of Trade Contractor's with other work on the Project. Trade Contractor shall not be entitled to additional compensation for changes made by the CM/GC pursuant to this Paragraph except as provided elsewhere in this Agreement.
- 48.3 IMMIGRATION LAW. Trade Contractor hereby represents warrants and covenants that Trade Contractor has:
- (1) Complied, and shall at all times during performance of this Agreement, comply in all respects with all applicable immigration laws, statutes, rules, codes, orders and regulations, including but not limited to, the Immigration Reform Control Act of 1986, as amended, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and any successor statutes thereto;
 - (2) Property maintained, and at all times during performance of this Agreement properly maintain, all records required by the Department of Homeland Security (the "DHS") including, but not limited to, the completion and maintenance of the Form I-9 for each of Trade Contractor's employees; and
 - (3) Responded, and shall at all times during performance of this Agreement respond, in a timely fashion to any inspection requests related to such I-9 Forms. During performance of this Agreement, Trade Contractor shall, and shall cause its directors, officers, managers, agents and employees to, fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the DHS of Trade Contractor or any of its employees.
- 48.4 SAFETY- Refer to Whittenberg Construction Co. (WCC) Safety Policy in the Bid documents and the following safety items. If a conflict, the most stringent application will apply.
- 48.5 SAFETY PROGRAM AND JOB SPECIFIC SAFETY PLAN. Prior to starting work, Trade Contractor shall submit to CM/GC Trade Contractor's and its sub-tiers contractors' (1) 12 Point Project Specific Safety Plan, (2) Hazard Communication Program & MSDS Books, (3) Contractor Safety Information Form (Form E1), and (4) Documentation of Training and Applicable Training Certificates.
- 48.6 SAFETY REPRESENTATIVE. Trade Contractor and sub-subcontractors shall have on the Project site a designated, qualified and competent Safety Representative empowered to act on behalf of Trade Contractor in all matters pertaining to safety at all times while Trade Contractor's Work is being performed. Before commencing its Work, Trade Contractor shall furnish to the CM/GC written notice of the appointment of its Safety Representative or its sub-subcontractor's Safety Representative. Appointed Safety Representative(s) shall not be changed without written approval of CM/GC. Trade Contractor and its sub-tier contractors shall conduct daily (or more frequently if Work activities change) safety inspections of their Work areas and take corrective measures as warranted. If circumstances warrant, such action in the CM/GC's reasonable discretion, CM/GC shall have the right to demand that Trade Contractor provide a fulltime safety professional as Trade Contractor's Safety Representative, whose sole responsibility shall be to monitor the safe performance of Trade Contractor's Work and matters related thereto.
- 48.7 SAFETY ORIENTATION. All employees working on site shall attend a mandatory jobsite safety orientation prior to beginning work on site. Orientations are given at 7 am each work day.
- 48.8 EMPLOYEE IDENTIFICATION. After successful completion of the safety orientation, each worker will be given a project hard hat sticker that shall be prominently displayed on the front of the hardhat. In addition, each employee shall its first and last name prominently displayed on the front of its hard hat.

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- 48.9 WEEKLY SAFETY MEETING. Trade Contractor and its sub-tier contractors shall conduct weekly safety meetings covering items pertinent to the work being performed documented by agenda, topics covered, attendance sign-ins that must be submitted to the CM/GC on a weekly basis.
- 48.10 SAFETY INCIDENT REPORTING. Trade Contractor shall immediately report any safety incident to CM/GC. For near-miss and incidents involving personal injury, Trade Contractor shall submit to CM/GC a written incident report with witness statements within 24 hours of incident.
- 48.11 PERSONNEL PROTECTIVE EQUIPMENT. At minimum, all employees shall utilize proper PPE 100% consisting of (1) Hard Hats, (2) Leather Work Boots, (3) Long Pants, (4) Shirts with Sleeves (without insensitive language/pictures), (5) PPE as required by OSHA, ANSI, MSDS, and/or manufacturers recommendations for the task being performed, and (6) Reflective vests, high visibility shirts, or other high visibility apparel when working in the vicinity of operating equipment.
- 48.12 FALL PROTECTION. The project requires 100% fall protection at heights 6' or greater. All trade package contractors are required to maintain any handrails installed by others as required for their work.
- 48.13 MANDATORY HARD HATS/SAFETY VESTS All persons shall wear hard hats while on site and bright yellow safety vests/shirts. The employer of any person working on site without a hard hat shall be fined the amount of one hundred dollars (\$100.00) for each occurrence. Refer to WCC Safety policy for additional information.
- 48.14 WORK HOURS. Normal work hours are 7:00 am to 4:00 pm Monday through Friday. Work outside these times shall be scheduled on week in advance with CM/GC. This shall not be construed to restrict overtime. Trade Contractor shall still be required to work overtime to maintain the schedule. If a Trade Contractor is required to work weekends or extended hours, the CM-GC will be compensated for the on-site supervision costs at the unit price of \$150 per hour. Saturdays are to be used as make up weather days and no additional compensation will be provided for these make-up days.
- 48.15 INTERNET BASED PROJECT COLLABORATION AND MANAGEMENT SOFTWARE. Procore will be utilized for project documentation such as submittals, requests for information (RFI), meeting minutes, safety audits, quality audits, O&M information, warranties, closeout documents, punchlists, and the like. Trade Contractor will be required to utilize the software. In addition to this software, each Trade Package Contractor is to provide their superintendent with a tablet to view the project documents. This is to be used in the field for document control and punch list.
- 48.16 CM/GC RIGHT TO TERMINATE. The performance of the Work may be terminated at any time in whole, or from time to time in part, by CM/GC for its convenience. Any such termination shall be affected by delivery to Trade Contractor of a written notice of termination specifying the extent to which performance of the work is terminated and the date upon which termination become effective.
- 48.17 RIGHT TO CONVERT TO TERMINATION FOR CONVENIENCE. In the event any termination of Trade Contractor for cause under this Agreement is later determined to have been improper, the termination shall be automatically converted to a termination for convenience, and Trade Contractor shall be limited in its recovery strictly to payment for work executed along with reasonable overhead and profit thereon.
- 48.18 Each Trade Package Contractor is to provide a mobile phone number to on-site supervisor and off-site manager to expedite communication.
- 48.19 WATCHMAN and SECURITY SERVICES. The services of a security guard or security camera will not be provided by either the Owner or the Construction Manager.
- 48.20 SNOW REMOVAL. Any snow removal as required to maintain the project schedule is to be included by each trade package contractor as required to perform their scope of work.

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- 48.21 PROTECTION of EXISTING FACILITIES. All Trade Contractors shall provide and maintain protection for all existing finishes, structures, gutters, drives, walks, finishes and buildings, not noted for removal during the performance of the work. The Trade Contractor responsible for the damage(s) is responsible for the costs to repair the damage(s).
- 48.22 EARTH EMBANKMENT PROTECTION. All Trade Contractor(s) performing excavation shall provide and maintain proper bank protection to prevent earth from caving or washing into the utility line excavation. Where adjacent property lines, structures, utilities, do not allow the earth to be excavated to its natural angle of repose without risk of damage, earth retention systems shall be designed and installed. The Trade Contractor(s) performing excavation shall provide to the Construction Manager drawings and engineering calculations sealed by a licensed Professional Engineer for sheeting and shoring of excavations. The Trade Contractor(s) performing excavation shall be responsible for all costs required for sheeting and shoring of excavations and shall furnish a Certificate of Insurance in the amount of \$1,000,000 to protect the Owner and the Construction Manager from claims arising out of the performance of professional services caused by any errors, omissions or negligent acts for which the Owner is legally liable. The Trade Contractor(s) performing excavation shall install protective railings (top and mid rail) meeting OSHA regulations along the top of all retention systems of the excavation. The Trade Contractor(s) performing excavations shall maintain the railings until the backfill operations are complete at which time the Trade Contractor(s) performing the excavation shall remove the railings.
- 48.23 DEWATERING. BC-06 SITEWORK is to dewater as required until the building pad is turned over to the foundation contractor (future). At that point, all dewatering as required for the building pad is to be included by the foundation's contractor through the duration of their work. All other dewatering is to be included as required by the Trade Package contractor needing it. Any water in pits, sumps, etc. is to be removed by a future general trade's contractor.
- 48.24 TEMPORARY ROADS. BC-06 SITEWORK has the responsibility for the temporary roads outside the new building footprint as part of the allowance in Bid Package #1. Any other temporary roads required in the new building footprint as required to perform the work is to be included by each Trade Package Contractor as required.
- 48.25 COLD WEATHER PROTECTION. Each Trade Package Contractor shall provide the temporary heat and protection necessary to allow his work to continue during cold weather including but not limited to tenting and heating, heat for water, fuel, and other materials as required.
- 48.26 AS-BUILT DRAWINGS. Each Trade Package Contractor shall furnish the Construction Manager with daily information regarding the exact location (including elevations and dimensions) of existing utilities and new construction for incorporation into the project As-Built Drawings. The Trade Package Contractor will then mark the information on the As-Built record set. Failure to keep up with the As-Built drawings on a daily basis may result in loss of payment of any or all of that month's periodic payment.
- 48.27 FIELD MEASUREMENTS. Each Trade Package Contractor shall be responsible for field measuring conditions prior to fabrication of materials and/or equipment which fit into restrictive spaces.
- 48.28 EMBEDS & SLEEVES. Each trade package is responsible for furnish, installation, and layout for any sleeves or embeds associated with their work. If a misc. or structural steel item is required to be embed in concrete, this will be furnished by the steel contractor and installed by concrete contractor.
- 48.29 PROJECT MEETINGS. Each Trade Package Contractor who is currently or will be working on site is responsible for weekly project coordination meeting attendance. Any Trade Package Contractor who violates this policy will be responsible for all rework costs or premium costs associated with rework due to that Trade Package Contractors failure to assist in the coordination meetings. Furthermore, attendance at the weekly meeting by the Trade Contractor is a condition precedent to receiving monthly payment.
- 48.30 No smoking is permitted on the campus. Anyone breaking this rule will be promptly dismissed and will not be allowed to return.

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- 48.31 Drugs and firearms not allowed on site. The Construction Manager has the right to inspect gang boxes, lunch boxes etc. on site to verify compliance. Anyone found in violation of this will be promptly dismissed and will not be allowed to return.
- 48.32 This is a drug free worksite. All personnel working on site shall report to work with a drug free certification card. No employee may begin work without a drug free certification card.
- 48.33 All employees working on the site must go through an orientation and safety program. No employee may begin to work without going through the orientation program. No employee may go through the orientation program without a drug free card.
- 48.34 All confined space safety requirements are included as required by each Trade Package Contractor. Fire watches are to be included as required by each trade contractor needing one as determined by OSHA or WCC safety policy (whichever is more stringent).
- 48.35 All shop drawings and product data submittals shall be submitted within 30 days of the date of the Notice of Intent to Award or sooner as required to meet the project schedule. No progress payments will be made to any Trade Contractor until all of their required submittals are received by the Construction Manager.
- 48.36 Each Trade Contractor must submit Operation & Maintenance manuals for review by the time they have billed for 75% of their contract. All pay requests after 75% complete will be held until O&M manuals are submitted. Information not available for the manuals until the end of the project must be inserted into the final manuals.
- 48.37 Each Trade Contractor must submit written copies of Daily Reports each day and Tool Box Talks each week to the Construction Manager.
- 48.38 All certificates of insurance provided by Trade Contractors shall name the Owner, Architect, and Construction Manager as an additional insured (Plus, any additional that may be required by the Owner). This is in addition to all other requirements. No work may begin until the contract is signed, and all bonds and insurance certificates are received by the Construction Manager.
- 48.39 All Trade Contractors are to take note that there are adjacent University facilities that have sensitive vibration requirements. If any of the construction activities should interfere with these operations, the work may need to be shut down and work times re-scheduled as required to accommodate the University. No additional compensation will be allowed. Additional time may be allowed should these re-scheduled times effect the work schedule
- 48.40 All Bid Categories shall:**
- i. Provide a full-time on-site supervisor satisfactory to the Owner and Construction Manager while work is being performed on-site. This supervisor may not be replaced without the prior written consent of the Construction Manager.
 - ii. Field verify existing lines and elevations prior to the start of work.
 - iii. Notify the Construction Manager in the event of any discrepancies.
 - iv. Document and forward any RFI's to the Construction Manager immediately.
 - v. Coordinate with all Trade Package Contractors.
 - vi. Lay out all work required to complete their particular Trade.
 - vii. Participate in weekly meetings for coordination with all Trade Package Contractors.

ARTICLE 49 – TEMPORARY FACILITIES AND CONTROLS

- 49.1 ASSIGNED WORK. Unless specifically assigned to a specific Bid Category in the summary of work, each Trade Contractor shall provide and maintain the necessary temporary measures to complete its work.
- 49.2 TEMPORARY STRUCTURES AND OFFICES. Only limited storage space is available, and will be

allocated by the Construction Manager on a priority basis. Office trailers & tool trailers will only be allowed as approved by the Construction Manager. Materials may need to be stored off-site and delivered on a just in time basis. Temporary structures, trailers and material storage shall be arranged in a safe manner to avoid interfering with construction, public access or the Owner's operations. The Construction Manager shall approve all locations of temporary structures, sheds, trailers and material storage prior to the delivery of any materials. Security of tool trailers, sheds, etc. is the responsibility of each individual trade package contractor. Each Trade Package Contractor shall relocate his temporary structures, trailers and materials in storage as often as required for construction progress as directed by the Construction Manager. Subcontractor shall at its expense restore area(s) to existing condition after removal of temporary structure. Trade Contractor shall provide its temporary structures and/or offices including permitting, required screening, power connections, internet connections/service/usage, and utility usage.

- 49.3 TEMPORARY TOILETS. Refer to bid descriptions.
- 49.4 TEMPORARY UTILITIES. Trade Contractor shall provide connections for temporary services to existing utilities of water and electric. Gas service is unavailable from Owner's existing services. Consumption Costs for temporary usage of water and electric will be borne by the Owner (Except as required for temporary offices). Trade Contractor shall be diligent in providing reasonable controls, repairs, and usage to conserve consumption. For high usage requirements, such as a fire hydrant, Trade Contractor shall provide meter from utility provider and bear usage costs of such.
- 49.6 TEMPORARY LIGHTING. Should specific task lighting be required to complete work above general work lighting beyond that assigned, Trade Contractor or its Subcontractor installing the work shall be responsible to provide and bear such costs of such measure.
- 49.7 TEMPORARY ELECTRIC. Any temporary power and/or generators as required for each Trade Contractor to perform their work is to be included by each Trade Contractor. See Section the bid category descriptions for additional assignments.
- 49.8 TEMPORARY FIRE PROTECTION/EMERGENCY ACTION STATIONS. Each trade package shall provide and maintain fire extinguisher/emergency action stations per OSHA requirements. Should an individual Trade Contractor have a spark or flame producing activity, Trade Contractor performing the work shall provide a separate fire extinguisher and fire watch during and for one (1) hour after completion of spark or flame producing activity. Combustible materials shall be moved twenty-five (25) feet away from the spark or flame producing activity and containment shall be provided by the Trade Contractor performing the work.
- 49.9 TEMPORARY TREE/PLANT PROTECTION. All Trade Contractors are to ensure these remain in place and maintain as required for your work.
- 49.10 TEMPORARY BARRICADES, HANDRAILS All Trade Contractors shall include OSHA approved barricades as required for their work. Temporary protection shall be confined to the smallest areas safely protected and be promptly removed after completion of the work and when the area is made safe. Trade Contractor requiring modifications to previously installed barricades/handrails to complete its work shall do so at its costs while maintaining a safe work environment.
- 49.11 TRAFFIC CONTROL. There is a lot of foot traffic between classes at the entrance to the site. All Trade Package Contractors are to include a flagman and any necessary traffic control to accompany any deliveries to and from the site. Trade Contractor shall provide traffic control measures (both vehicular and pedestrian) for its work that impedes or affects traffic flow as required for their work.
- 49.13 Parking on site will be limited and will be allowed only as approved by the Whittenberg Superintendent. Contractors abusing this are subject to a \$100 fine, in addition to being towed. Parking can be obtained adjacent to the project site in the Floyd Street Garage. Trade Contractor shall be responsible for all costs associated with parking and transport of employees to project site.

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- 49.14 EROSION CONTROL MEASURES. Erosion control measures are installed by BC-06. All Trade Package Contractors are required to maintain erosion control measures as required for their scope of work. All Trade Package Contractors must comply with Kentucky Department of Water-Erosion Prevention and Sediment Control plan.
- 49.15 TEMPORARY WATER. Each Trade Package Contractor shall provide his own ice, cups coolers and drinking water. One potable water source and temporary water for construction will be provided by BC-06 Sitework.
- 49.16 TEMPORARY CONSTRUCTION WATER SUPPLY. Each Trade Contractor shall provide his own hoses and equipment for using the temporary construction water supply.
- 49.17 COORDINATION AND COOPERATION

Trade contractors hereby agree to carefully coordinate its work with the overall project requirements and shall furnish at all times sufficient materials, skilled workmen, and equipment to perform the work to the entire satisfaction of the CM-GC and Owner so as not to delay the completion of the whole or any part of the work.

Trade contractors shall:

- (a) cooperate with the CM-GC and all others whose work may interfere with the Trade contractors Work;
- (b) specifically note and immediately advise the CM-GC of any interference with Trade contractors Work; and
- (c) participate in the preparation of coordination drawings and work schedules involving the Trade contractors Work.

MEP Coordination requirements are as follows:

- Mechanical Contractor, BC-29:
 - Responsible for leading the overhead coordination drawing process.
 - Conduct weekly overhead coordination meetings immediately following NTP. The sheet metal ductwork and gravity piping are to be given first priority at these meetings. At a minimum, the following are to participate:
 - Mechanical Contractor, BC-29
 - Plumbing Contractor, BC-29
 - Fire Protection Contractor, BC-28
 - Electrical Contractor, BC-30
 - Low Voltage Contractor, BC-30
 - Drywall Contractor, BC-21
 - General Trades Contractor, BC-31
 - Lab Equipment and Casework Contractor, BC-26
 - Ceilings Contractor, BC-23
 - Concrete Contractor, BC-13
 - Steel Contractor, BC-15
 - Glass Contractor, BC-20
 - Masonry Contractor, BC-14
- Within 30 days of NTP, produce overlaid coordination drawings in Autocad indicating all items to be installed in, or above the ceiling 2" in diameter or greater. The mechanical contractor is totally responsible for achieving ceiling heights as indicated in the contract documents or notifying Whittenberg that ceiling heights will not work within the same time frame. The drawings are to be built so that each layer can be turned on or off. The drawings are to indicate elevation above finished floor to the top and bottom of each item taking into account insulation thickness and supports (unitstrut, etc.). Drawing sections will be required for equipment rooms, congested ceiling spaces and areas where conflicts are identified.

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- Ductwork / hydronics is the first layer to be created. It is to be produced by the mechanical contractor.
 - Piping: domestic water, SWV, etc. is the second layer to be created. It is to be produced by the plumbing contractor and provided to the mechanical contractor for overlay in the required Autocad format.
 - Pneumatic tubing (if applicable) is the third layer to be created. It is to be produced by the pneumatic tubing contractor and provided to the mechanical contractor for overlay in the required Autocad format.
 - Electrical is the fourth layer to be created. It is to be produced by the electrical contractor and provided to the mechanical contractor for overlay in the required Autocad format.
 - Low Voltage is the fifth layer to be created. It is to be produced by the contractor responsible for cable tray and other low voltage raceway. It is to be provided to the mechanical contractor for overlay in the required Autocad format.
 - Fire protection is the sixth layer to be created. It is to be produced by the fire protection contractor and provided to the mechanical contractor for overlay in the required Autocad format.
 - The mechanical contractor is responsible for gathering each of these layers from the other contractors and compiling them into the overlay drawings.
 - Once the overlay drawing is complete, the mechanical contractor will continue to hold overhead coordination meetings to identify and work out any conflicts. If there are issues that cannot be resolved by the contractors, the mechanical contractor is to compile these issues into RFIs and send them to Whittenberg. Whittenberg will then work with the design team to address.
 - The fully coordinated drawings with issues resolved are to be submitted to Whittenberg by the mechanical contractor in the following format:
 - Autocad drawings/model with the capability to turn layers on or off.
 - PDF drawings:
 - Drawing with all layers on
 - A separate drawing for each layer showing only that layer.
 - Whittenberg will submit these drawings to the design team for their review.
 - Plumbing, Fire Protection, Electrical, Low Voltage and Pneumatic Tubing Contractors:
 - Participate in weekly overhead coordination meetings immediately following NTP.
 - Within 14 days of NTP, produce coordination drawings in Autocad indicating all of the contractors items to be installed in, or above the ceiling 2" in diameter or greater. The drawings are to indicate elevation above finished floor to the top and bottom of each item taking into account insulation thickness and supports (unitstrut, etc.). Drawings are to be produced in autocad and provided to the mechanical contractor for overlay.
 - Once the mechanical contractor has produced the overlay drawings, the contractors are to continue to participate in overhead coordination meetings to identify and work out any conflicts. If there are issues that cannot be resolved by the contractors, the contractors are to compile these issue into RFIs and send them to Whittenberg. Whittenberg will work with the design team to address.
 - Drywall Contractor, General Trades Contractor, Lab Equipment and Casework Contractor, Ceilings Contractor, Concrete Contractor, Steel Contractor, Glass Contractor, Masonry Contractor:
 - Participate in weekly overhead coordination meetings immediately following NTP.
 - Once the mechanical contractor has produced the overlay drawings, the contractors are to continue to participate in overhead coordination meetings to identify and work out any conflicts. If there are issues that cannot be resolved by the contractors, the contractors are to compile these issue into RFIs and send them to Whittenberg. Whittenberg will work with the design team to address.

9. SALES TAX PROCEDURES

SECTION 9 – SALES TAX PROCEDURES

1) NOTICE TO BIDDERS

- a) This section includes information that the Trade Package Contractors need to be aware of so that the University of Louisville can purchase material items directly to save Kentucky Sales and/or Usage Tax.

2) BIDDER INFORMATION

- a) Trade Package Contractors are informed that construction contracts of the University of Louisville are not exempt from the provisions of the Kentucky Sales and/or Use Tax, except for those materials which are purchased directly by the Owner.
- b) Costs for material purchases with a value over \$10,000 are to be included in each Trade Package Contractor's bid. The sales tax for these items shall also be included in the base bid. However, the deduct for the value of these items worth over \$10,000 is to be provided as a line item on the bid form.
- c) Only the actual amount of invoiced materials and taxes for these materials will be deducted from the successful bidders contract during construction.
- d) All other material purchase items are to be included in Trade Package Contractor's bid and shall include the Kentucky Sales and/or Usage Tax.
- e) It will be a requirement of each Trade Package Contractor to have made arrangements prior to the BID DATE with each respective material supplier and take whatever measures necessary to assure the Owner that the material supplier will sell material purchase items directly to the Owner. No early payment discounts should be assumed for these direct payments by the owner.
- f) Each Trade Contractor's Payment & Performance bond is to still cover the costs of these owner purchased materials.
- g) Each Trade Package Contractor will be required to bid the project complete, with all labor, Materials and equipment included in the Trade Package Contractor's bid.
- h) A material supplier is a person or organization who has a direct purchase order responsibility to the Owner. Purchase order amount as bid will include all cost of delivery to the job site. Material supplier must assume all responsibility for material until delivery is accepted. Material supplier will guarantee all material furnished under an Owner purchase order to be in accordance with the requirements of the Contract Documents.
- i) The Trade Package Contractor shall:
 - (1) Install same or use same in the work in accordance with the intent and purpose of the drawings and these and/or the manufacturer's specifications.
 - (2) Promptly inspect all such materials and equipment upon delivery and give prompt notice to the Owner of any shortages therein or damage or breakage thereto and assume entire responsibility for such shortage or damage or breakage if such notice is not promptly given.
 - (3) The CM/GC or Trade Contractor is responsible for filing claims on the Owner's behalf with the carrier or supplier on damaged items or items that need to be returned.
 - (4) Assume entire responsibility for the safety of all such materials and equipment against loss by theft or breakage or damage after same has been delivered at the site.
 - (5) Make good at his own expense any such loss or breakage or damage occurring before the Work is accepted by the Owner.

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- (6) The Trade Package Contractor shall notify the Owner or his local representative in cases of non-delivery of any part of the materials or equipment listed below as furnished by the Owner, at least two weeks before he expects to install same.
- (7) The designated Trade Package Contractor is responsible for installation of purchase order material or equipment and will be required to supervise and accept delivery, unload, handle, store, layout, and install all items.

(8) Material and Equipment suppliers must review and sign the PO Agreement Form located at the following link:

<https://louisville.box.com/s/n2a2pdrqxtvkhz9e92e5v1oqgboxvbpr>

This form must be submitted with bid documents. If a supplier refuses to accept these terms and conditions their quote may be rejected by the University.

10. WHITTENBERG CONSTRUCTION COMPANY SAFETY POLICY

See the following link for safety policy:

<https://louisville.box.com/s/8tuleruyi7uyqex6mrpos2yrn09jm7a>

11. SITE LOGISTICS PLAN

See the following link for the site logistics plan:

<https://louisville.box.com/s/8tuleruyi7uyqex6mrpos2yrn09jm7a>

12. TECHNICAL SPECS AND DRAWINGS

See the following link for the technical specifications and drawings:

<https://louisville.box.com/s/8tuleruyi7uyqex6mrpos2yrn09jm7a>