

**ADVERTISEMENT FOR BID
CITY OF BALDWIN CITY, KANSAS**

Sealed proposals will be received by the City of Baldwin City, Kansas in the City Clerk's office at City Hall, 803 Eighth Street, Baldwin City, Kansas 66006 until 12:00 noon on Thursday, September 30, 2010 for a project to evaluate, demolish, remove, and clean-up a two-story masonry structure in downtown Baldwin City, Kansas. The proposals will be opened and read in public at 1:30 p.m., September 30, 2010 at the Public Works office, 609 High Street, Baldwin City, Kansas. A pre-bid conference (not mandatory) will be held at 9:00 a.m. on Thursday, September 23, 2010 at the Public Works office, 609 High Street.

PROJECT: Evaluation, demolition, removal, clean up, and lot restoration of a two-story masonry structure and additional foundation located at/near 600 High Street, in downtown Baldwin City, Kansas, while preserving a party wall, as per project specifications available with the City of Baldwin City. This project is a public condemnation of a privately-owned structure.

Requests for Bid Documents (including the project specifications) and any questions regarding the project should be directed to Jeff Dingman, City Administrator, City of Baldwin City. The City of Baldwin City may accept the lowest and best responsive bid, and reserves the right to reject part or all of any or all bids, to waive irregularities or informalities in any bid, to divide purchases among bidders to accomplish the best gross price, and to make the final decision as to acceptability of quality and price. Bids received after the specified time of closing will be unopened. Time is of the essence.

INVITATION TO SEALED BID 2010-101

Sealed Bids will be received by the City Clerk of Baldwin City, Kansas prior to 12:00 P.M., Thursday, September 30, 2010. "Sealed Bid" form must be used to submit your Bid for:

EVALUATION, DEMOLITION, REMOVAL, CLEAN-UP, AND LOT RESTORATION OF A TWO-STORY MASONRY STRUCTURE AND AN ADDITIONAL FOUNDATION LOCATED AT/NEAR 600 HIGH STREET IN DOWNTOWN BALDWIN CITY, WHILE PRESERVING PARTY-WALL. ALL WORK TO BE ACCOMPLISHED PER PROJECT SPECIFICATIONS AVAILABLE WITH THE CITY OF BALDWIN CITY

Bids will be opened and read in public at 1:30 P.M., in the Public Works Conference Room at the Baldwin City Public Works Facility, 609 High Street, Baldwin City, Kansas.

Specifications and Sealed Bid forms are available on the City of Baldwin City Website:

www.baldwincity.org or if you are unable to access the bid on the website, they are also on file in the office of the Codes Administrator, 609 High Street, Baldwin City, Kansas and may be obtained at no charge either at the pre-bid conference or by notifying Public Works in writing following the pre-bid conference.

A PRE-BID CONFERENCE will be held on Thursday, September 23, 2010, at 9:00 a.m. Please meet at the Public Works Facility, 609 High Street, Baldwin City, Kansas. The meeting is intended to review requirements and allow vendors the opportunity to visit the site and ask questions concerning the job. This meeting is recommended, but not mandatory.

Bids are to be made on the attached SEALED BID FORM, sealed in an envelope clearly marked with the BID NUMBER stated at the upper right portion of this sheet (to avoid premature opening of the Bid), and delivered to the City Clerk, City of Baldwin City, 803 Eighth Street, Baldwin City, Kansas, 66006. The City of Baldwin City may accept the lowest and best responsive bid. **Failure to mark your Bid may cause your Bid to not be considered.** The Sealed Bid Form must be fully completed, including name, signature, title, and telephone number. **Bids not submitted pursuant to the conditions set out in this request may be rejected. All Bids received after the stated opening date and time will not be considered.**

Dated at Baldwin City, Kansas this 16th day of September, 2010.

Jeff Dingman
City Administrator
(785) 594-6427
City of Baldwin City
803 Eighth St., PO Box 86
Baldwin City, KS 66006

**CITY OF BALDWIN CITY
SEALED BID FORM**

Please quote your delivered prices to the City of Baldwin City on items or services listed below. Consult attached minimum and general specifications for requirements. **This is not an order.**

**BID NO. 2010-101 BID SUBMITTAL DEADLINE: 12:00 NOON CDT on Sept. 30, 2010
PUBLIC BID OPENING TIME: 1:30 P.M. CDT on Sept. 30, 2010**

INSTRUCTIONS:

THIS FORM MUST BE PROPERLY FILLED OUT AND RETURNED BY MAIL OR IN PERSON TO : The City Of Baldwin City, City Clerk's Office, 803 Eighth Street, Baldwin City, Kansas 66006. RECEIVED BY THE CLERK PRIOR TO 12:00 NOON CDT on September 30, 2010. Bids are to be made on this SEALED BID FORM, sealed in an envelope clearly marked with the BID NUMBER stated at the upper left portion of this sheet (to avoid premature opening of the Bid), and received by the City Clerk's Office (see above address). **Failure to mark your Bid may cause your Bid to not be considered.** Bids will be publicly opened and read at the above stated time in the Public Works Conference Room at the Baldwin City Public Works Facility, 609 High Street, Baldwin City, Kansas. The City of Baldwin City may accept the lowest and best responsive bid. **Bids not submitted pursuant to the conditions set out in this request may be rejected. All Bids received after the stated opening date and time will not be considered.** Vendors wishing to remain on the vendor list should return this bid with a bid or a written request to remain on the vendor list. Questions may be directed to: Jeff Dingman, City Administrator, City of Baldwin City.

The City of Baldwin City reserves the right to reject part or all of any bid and to waive formalities. All bids are subject to Purchasing Policies set by the City of Baldwin City. The City of Baldwin City reserves the right to divide purchases among vendors to accomplish the best gross price and to make the final decision as to acceptability of quality and price.

ITEM NO	QTY	DESCRIPTION – PICTURES OF STRUCTURES TO BE REMOVED AVAILABLE IN THE PUBLIC WORKS OFFICE, 609 High Street, Baldwin City, KS.	TOTAL BID PRICE
#1	1 Complete Job	Evaluation, demolition, removal, clean up, and lot restoration of a two-story masonry structure and additional foundation located at/near 600 High Street, in downtown Baldwin City, Kansas, while preserving a party wall, as per project specifications available with the City of Baldwin City. LEGAL DESCRIPTIONS: High Street Lot X in Baldwin City, Douglas County, KS. ALL STRUCTURES MUST BE COLLAPSED AND FLATTENED WITHIN 14 DAYS OF NOTICE TO PROCEED. ALL FINAL CLEAN UP TO BE COMPLETED WITHIN 30 DAYS.	

TOTAL BID FOR ALL ITEMS LISTED IF PURCHASED FROM YOUR COMPANY AT ONE TIME, INCLUDING ALL DISCOUNTS

IN SUBMITTING THE ABOVE, THE VENDOR EXPRESSLY AGREES THAT UPON PROPER ACCEPTANCE BY THE CITY OF BALDWIN CITY, A CONTRACT IS CREATED IN THE FORM OF THE ATTACHED. THIS BID FORM MUST BE SIGNED! SIGNATURE ACKNOWLEDGES RECEIPT OF ADDENDUM # ____.

SIGNATURE

TITLE

ORDERING ADDRESS/CONTACT:

REMITTANCE ADDRESS (IF DIFFERENT):

BIDDER COMPANY NAME

REMITTANCE NAME

STREET ADDRESS

REMITTANCE ADDRESS

CITY/STATE/ZIP

REMITTANCE CITY/STATE/ZIP

TELEPHONE NUMBER

EMAIL ADDRESS

FAX NUMBER

Demolition Work General Specifications
Baldwin City, KS

1. Demolition contractors are to be licensed with the City of Baldwin City prior to the awarding of any contracts.
2. Purchase a demolition permit from the Building Inspection Division. If it will be necessary to close or obstruct any streets or alleys, notification should be made to Douglas County Emergency Dispatch at (785) 843-0250.
3. Unless noted, all structures or portions of structures on the property are to be demolished and removed, without harm or loss to adjoining property or persons.
4. The contractor is to provide, erect, and maintain any barricades and fences to protect the public during demolition.
5. The contractor is responsible for the disconnection, termination and appropriate relocation of all utilities and any charges associated with the disconnection, termination and relocation.
6. The contractor shall locate any sewer services and cut the services five feet inside the property line and plug the service with concrete. If a septic tank is located on the property, it shall be pumped and fill with sand to the outlet and then be covered with soil. Any cisterns or wells that may be on the property must be filled. A building inspector shall be contacted to observe the sewer service lines and septic tanks prior to cover: (785) 594-6907.
7. Contractor shall appropriately and completely shore and brace each portion of the adjacent buildings or structures that will remain (including but not limited to party walls) so as to prevent their movement or settlement due to the performance and completion of the Work. If at any time the safety of an adjacent building or structure appears to be endangered, Contractor shall take appropriate steps to shore, brace and otherwise secure such adjacent buildings or structures and give immediate notice of such potential dangers to their occupants and the City.
8. Preservation of the integrity of a party wall to an adjacent building (including where the roof of the adjacent building may have been connected to the structure being demolished) is the responsibility of Contractor. Final weatherproofing of the party wall is the responsibility of the adjoining landowner, and the City will notify the adjoining landowner of such responsibility.
9. All debris resulting from the demolition will be removed as it is generated. Debris shall not be allowed to accumulate. Cleaning and salvaging materials is not permitted on the demolition site.
10. Unless otherwise noted, all basement and/or foundation walls should be removed. The basement floor shall be removed. The excavation should be filled with clean dirt, with the top foot being topsoil suitable for seeding grass. A building inspector shall be contacted to observe the excavation prior to cover: (785) 594-6907.
11. Unless otherwise noted, all flat concrete shall be removed except for city sidewalks and flatwork located on the city rights of way. Any damage to city sidewalks or curbs during the course of demolition shall be repaired at the contractor's expense and prior to payment being made.
12. All weeds, sibling trees, and brush shall be removed and the site and yard shall be graded to allow for proper drainage. Holes should be filled with soil to attain proper grade. The lot shall be seeded with fescue.

13. The City of Baldwin City has made its records available concerning utility location and other matters, but does not and cannot warrant that such information is accurate or complete.
14. Any structure found to contain asbestos or other hazardous materials shall be abated in accordance with the appropriate Kansas Department of Health and Environment regulations. All lead abatement costs and scheduling have been included in Contractor's bid, along with all other costs and scheduling to abate materials that would be visible to a contractor in a jobsite walkthrough or a review of building records.
15. Call the City Building Inspection Department for a final inspection. No payments will be made until final approval of grading, seeding and sewer disconnection has been granted.

REQUEST FOR BID
GENERAL CONDITIONS

The City of Baldwin City is seeking Bids for items and services specified in the enclosed which it wishes to purchase. None of the attachments are intended to be restrictive but to act as a guide for those desiring to submit Bids. **ALL BIDS SHALL BE GOOD FOR A PERIOD OF FORTY-FIVE DAYS FROM THE DATE THEY ARE OPENED.**

PRICE PROTECTION. The price stated in the Bid shall be firm and not subject to increase during the term of any contractual agreement arising between the City of Baldwin City and the vendor as a result of the Bid. Vendors shall provide firm prices less any federal excise tax. *The City of Baldwin City is exempt from payment of sales tax. For further information contact the City Clerk's Office (785-594-6427).*

METHOD OF PAYMENT. Payment will be made within 21 days of date of delivery and satisfactory performance to the City of Baldwin City and submission of Contractor's invoice.

PERMIT/LICENSE. The contractor will be required to obtain Demolition Permits prior to commencing work on site. **(NO CHARGE PERMITS MUST BE OBTAINED FROM THE CITY INSPECTION DIVISION BY THE CONTRACTOR).** All applicable City Codes are to be followed for work to be performed. All work must be done by a licensed demolition contractor. Inspections shall be requested by the contractor as required and must receive the Building Inspector's approval prior to payment.

COMPLETION DATE. Bids shall reflect final completion within 30 calendar days of notice to proceed unless a different time frame is noted. Coordination of demolitions shall be done with the Building Official upon award of contract.

CONTRACTOR'S INSURANCE: The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved. Policies shall contain a provision that coverage afforded under the policies will not be canceled or not renewed until at least thirty (30) days' prior written notice has been given to the Owner. Certificates of Insurance showing such coverage's to be in force shall be filed with the Owner prior to commencement of the work.

WORKMEN'S COMPENSATION INSURANCE: The Contractor shall procure and maintain during the life of this Contract, Workmen's Compensation and Employer's Liability Insurance as required by applicable law to fully cover all his employees, and in case any work is sub-let, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation and Employer's Liability Insurance for all of the subcontractor's employees unless such employees are covered by the protection offered by the Contractor's insurance. In case any class of employees engaged in hazardous work under this Contract at the site of the project are not protected under the Workmen's Compensation statutes, the Contractor shall provide and shall cause each subcontractor to provide adequate and suitable insurance for the protection of his employees as are not otherwise protected.

COMPREHENSIVE GENERAL LIABILITY INSURANCE: The Contractor shall procure and maintain during the life of this contract, Contractor's Comprehensive General Liability Insurance which shall include premises - operations

(including explosion, collapse and underground coverage), independent contractors, completed operations, and blanket contractual liability on all written contracts including broad form property damage coverage. The policy shall protect the Contractor and any subcontractor performing work covered by this Contract, for claims for damages for bodily injury, as well as from claims for property damages which may arise from operations under this Contract, whether such operations be by himself or any subcontractor or by anyone directly or indirectly employed by either of them, and shall provide for coverage for damage to the party wall. Such insurance shall be written for not less than limits of liability as follows:

Comprehensive General Liability

1. Bodily Injury.....\$1,000,000 Each Occurrence; \$2,000,000 Aggregate
2. Property Damage\$1,000,000 Each Occurrence

-or-

3. Combined Single Limits.....\$2,000,000 Each Occurrence

Comprehensive General Liability Insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy.

COMPREHENSIVE VEHICLE LIABILITY INSURANCE: The Contractor shall procure and maintain during the life of this Contract, Comprehensive Vehicle Liability Insurance which shall cover claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle on the project, whether owned, hired or non-owned; and in connection with any operations or work under this Contract, whether such operations or work be performed by the Contractor or any subcontractor or by anyone directly or indirectly employed by either of them. Such insurance shall be written for not less than limits of liability as follows:

Comprehensive Automobile Liability

1. Bodily Injury.....\$300,000 Each Person; \$500,000 Each Occurrence
2. Property Damage\$100,000 Each Occurrence

-or-

3. Combined Single Limits.....\$500,000 Each Occurrence

SUBCONTRACTOR'S INSURANCE: The Contractor shall either (a) require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Comprehensive General Liability Insurance and Comprehensive Vehicular Liability Insurance of the type and in the same amounts as specified in the preceding subparagraphs, or (b) insure the activities of his subcontractors in the Contractor's policy.

PROOF OF CARRIAGE OF INSURANCE: Prior to, or at the time of execution of the Contract, the Contractor shall file with the City, a "Certificate of Insurance" on the form provided in the Contract Documents and supplemented if desired by a "Certificate of Insurance" on a form supplied by the Insurer. The "Certificate" will be considered proof to show that the Contractor and his subcontractors, if any, carry adequate coverage fully to protect themselves against such claims which may arise from operations under this Contract, whether such operations be by the Contractor or any subcontractor or anyone directly or indirectly employed by either; said coverage to be in the form and minimum amounts herein above specified. Each "Certificate" shall contain a clause requiring the Insurer to notify the City at least thirty (30) days in advance of any cancellation or change in insurance contracts. All policies shall be subject to approval by the City as to Insurer and adequacy of protection.

NON-DISCRIMINATION. During the performance of this contract, the contractor/vendor will not discriminate against any employee or applicant for employment because of race, sex, religion, color, age, national origin, ancestry or physical handicap, unless based upon a bona fide occupational qualification. The contractor/vendor will take affirmative action to ensure applicants are employed, and that employees are treated during employment without regard to their race, sex, religion, color, age, national origin, ancestry or physical handicap.

PROPERTY TAX STATEMENT. The Contractor shall provide a statement on property owned within the City of Baldwin City must be complete and returned with the Bid in accordance with the City's policy on delinquent property taxes. "The City reserves the right to reject all bids from bidders who are delinquent in personal or real estate property taxes to Douglas County, Kansas."

SAFETY REQUIREMENTS. Contractor will meet all Occupational Safety and Health Administration's (OSHA) guidelines and regulations and ensure that contractor's personnel are provided applicable safety training and personnel protective equipment. Said contractor personnel will also be required to utilize universal precautions and work practice controls.

THE CITY OF BALDWIN CITY RESERVES THE RIGHT TO REJECT PART OR ALL OF ANY BID AND TO WAIVE FORMALITIES. ALL BIDS ARE SUBJECT TO PURCHASING POLICIES SET BY THE CITY OF BALDWIN CITY. THE CITY OF BALDWIN CITY RESERVES THE RIGHT TO DIVIDE PURCHASES AMONG VENDERS TO ACCOMPLISH THE BEST GROSS PRICE AND TO MAKE THE FINAL DECISION AS TO ACCEPTABILITY OF QUALITY AND PRICE. ALL VENDORS DOING BUSINESS WITH THE CITY OF BALDWIN CITY SHALL ABIDE BY ALL LOCAL, STATE AND FEDERAL LAWS.

CERTIFICATE OF INSURANCE

STATE OF KANSAS)
)SS.
COUNTY OF DOUGLAS)

The undersigned hereby certifies to the City of Baldwin City, Kansas, that insurance policies have been issued to:

Name of insured _____

Address _____

which will be in force to cover the work to be performed under the Contract for

FURNISH ALL LABOR, MATERIALS AND EQUIPMENT REQUIRED TO PERFORM ALL WORK TO COMPLETE THE DEMOLITION OF STRUCTURES IN BALDWIN CITY, KANSAS

ALL AS SPECIFIED IN BID 2010-101, OF BALDWIN CITY, KANSAS AND IN STRICT ACCORDANCE WITH SPECIFICATIONS OF BID 2010-101 and that such policies are in every manner in compliance with the insurance requirements as set for in the General Conditions and Specifications of the Standard Specifications of the City of Baldwin City, Kansas, with the following exceptions (if any):

In the event of any material change in or cancellation of any such policy, the company will give written notice to the City Clerk, City of Baldwin City, P.O. Box 86, Baldwin City, Kansas 66006 Thirty (30) days prior to any such change or cancellation.

Date

Name of Insurance Company

Authorized Representative

Address

(This form must be completed and signed even if an Insurance Company Certificate of Insurance is provided.)

CERTIFICATE OF WORKER'S COMPENSATION INSURANCE

STATE OF KANSAS)
)SS.
COUNTY OF DOUGLAS)

The undersigned hereby certifies to the City of Baldwin City, Kansas, that Worker's Compensation Insurance Policies have been issued to:

Name of insured _____

Address _____

which will be in force to cover the work to be performed under the Contract for

FURNISH ALL LABOR, MATERIALS AND EQUIPMENT REQUIRED TO PERFORM ALL WORK TO COMPLETE THE DEMOLITION OF STRUCTURES IN BALDWIN CITY, KANSAS

ALL AS SPECIFIED IN BID 2010-101, OF BALDWIN CITY, KANSAS AND IN STRICT ACCORDANCE WITH SPECIFICATIONS OF BID 2010-101 and that such policies are in every manner in compliance with the insurance requirements as set for in the General Conditions and Specifications of the Standard Specifications of the City of Baldwin City, Kansas, with the following exceptions (if any):

In the event of any material change in or cancellation of any such policy, the company will give written notice to the City Clerk, City of Baldwin City, P.O. Box 86, Baldwin City, Kansas 66006 Thirty (30) days prior to any such change or cancellation.

Date

Name of Insurance Company

Authorized Representative

Address

(This form must be completed and signed even if an Insurance Company Certificate of Insurance is provided.)

AGREEMENT

- 1.1. On the _____ day of _____, 2010, the City of Baldwin City (“**Baldwin City**”), and _____, (“**Contractor**”), executed this agreement of the terms and conditions governing the project under Bid 2010-101 (“**Project**”).
- 1.2. Baldwin City has retained Contractor as an independent contractor to provide all the express and implied labor, services, supplies, material, equipment, tools, design, construction and other work and goods necessary for Contractor to fulfil the requirements and intentions of the Contract Documents to the highest degree of care and workmanship. (The “**Work**”). The **Contract Documents** shall include any drawings for the Project, all approved shop drawings and submittals during the course of the Project, and all applicable codes, regulations, and manufacturer and/or supplier proper installation or operational instructions.
- 1.3. In exchange for Contractor’s due, proper, punctual and faithful performance of the Work pursuant to all of the terms in this Agreement, each of which is deemed material, Baldwin City shall pay Contractor \$_____ (the “**Contract Sum**”) pursuant to the terms of paragraph 1.5.
- 1.4. **TIME IS OF THE ESSENCE.** Contractor shall begin, perform and complete the Work so that the Project achieves Final Completion within 30 days after the issuance of a notice to proceed. By entering into this Agreement, Contractor represents and warrants that the above deadlines are reasonable and acceptable, and that Contractor can and will perform in compliance with them.
- 1.5. **Payment.**
 - 1.5.1. Upon satisfactory, final completion of all work on the Project, Contractor may submit an application for payment for the Contract Sum. A properly completed application for payment shall require: any pay applications, invoices and lien waivers or releases from its subcontractors and suppliers (collectively “**Suppliers**”) for the amounts covered in the Contractor’s application (each Supplier must include a waiver or release of all of Supplier’s lien rights in exchange for payment to the extent of the amount of payment received, and a verified statement that it received payments for all previous applications); a waiver or release of all of Contractor’s lien rights in exchange for payment to the extent of the amount of payment received; and, such other information as Baldwin City may reasonably request in support of Contractor’s application for payment.
 - 1.5.2. Disputes shall exist as to the amounts due Contractor in an application for payment only in the event that the application for payment is in error, Contractor is

in violation of a term(s) of this Agreement, Baldwin City is not satisfied that Final Completion has been achieved, and/or there are claims or the suggestion of claims potentially attributable to the Work. Such disputes shall be in an amount not to exceed Baldwin City's estimation of its exposure arising from such error, violation and/or claim.

- 1.5.3. Within twenty (20) days of receipt of a timely, properly completed, undisputed application for payment, Baldwin City shall pay Contractor one-hundred percent (100%) of the undisputed amount.
- 1.5.4. Contractor shall pay each of its Suppliers all undisputed amounts due them within seven (7) business days of receipt of payment from Baldwin City. In the event Contractor fails to submit an application for payment pursuant to paragraph 1.5.1 or Baldwin City otherwise verifies that Contractor has failed to pay a Supplier, Contractor agrees that Baldwin City, in its discretion, shall have the right to pay any Supplier directly and then deduct 100% of such payment from Contractor's application for payment. For the avoidance of doubt, Suppliers shall have no direct claim against Baldwin City for payment of any amounts due, and Baldwin City does not hold such funds on behalf of any third party. Supplier's sole claim for payment shall be against Contractor.
- 1.5.5. The Contract Sum shall represent the maximum amount that Baldwin City shall be obligated to pay Contractor for the completion of the Work, subject only to any changes pursuant to paragraph 1.6.

1.6. Entirety and Changes.

- 1.6.1. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of this Agreement.
- 1.6.2. No variation or waiver of any provision of this Agreement shall be effective unless made in writing and signed by or on behalf of each of the Parties, except as provided in paragraph 1.6.5.
- 1.6.3. Contractor is solely responsible for the identification of all conditions which may affect the Work and/or the Contract Sum, whether such conditions concern the site, access, coordination of other work, or other. Because Contractor has had full and unfettered access to the building (including opportunity for destructive testing) and otherwise is aware that demolition can have otherwise unforeseen conditions, the Contract Sum shall not be increased due to unforeseen conditions, or any defect, omission, error or other deficiency in the Contract Documents, including but not limited to geological conditions, latent conditions within the building, and/or hazardous materials.

1.6.4. In the event of conflict or ambiguity between the obligations, responsibilities and/or rights of the separate terms of this Agreement with obligations, responsibilities and/or rights in this or any other purported agreement, the obligation, responsibility and/or right which imposes the greater burden upon Contractor or more greatly limits the rights of Contractor shall control, unless otherwise agreed to in writing by Baldwin City.

1.6.5. Baldwin City shall be authorized to give written directives to Contractor altering the work to be performed. Upon delivery of such a written directive from Baldwin City to Contractor, Contractor shall comply with its terms. Any costs added or deducted from the Contract Sum due to the directive shall be agreed upon in writing by Baldwin City and the Contractor, and, if no agreement on same can be reached within fourteen (14) calendar days, Contractor agrees that Baldwin City, with the consultation of a local neutral contractor, shall unilaterally adjust the Contract Sum.

1.6.6. For the avoidance of doubt, except as provided in paragraphs 1.6.5, no change to the Agreement, Work or the Contract Sum shall be effective unless Baldwin City and Contractor agree to the nature of the change or alteration and the cost of that change or alteration in writing; *absent an agreement in writing, Contractor shall not be obligated to perform the change or alteration in Work and/or Baldwin City shall not be obligated to pay for it, even if a benefit is exchanged.*

1.7. **Termination.** In the event Contractor breaches any term of this Agreement, Baldwin City shall have the right after two (2) days written notice to terminate this Agreement and to complete the Work and charge the cost thereof to Contractor through a deduction in any pay application or otherwise. Such rights under this paragraph shall not affect the right of Baldwin City to recover damages due to Contractor's breach.

1.8. **Indemnification.**

1.8.1. To the fullest extent allowed by law, Contractor hereby irrevocably and unconditionally agrees to defend Baldwin City and all of its agents, employees, directors, guests, patrons, members and other representatives ("**Baldwin City Parties**") and keep the Baldwin City Parties fully and effectively indemnified on demand against any and all losses, claims, liens, judgments, damages, costs, charges, expenses, liabilities, demands, proceedings and actions (including attorney fees) which Baldwin City Parties may sustain or incur or which may be brought or established against Baldwin City Parties by any person to the extent they arise out of or in relation to or by reason of:

1.8.1.1.the negligence, recklessness, wilful misconduct, unauthorized act or omission of Contractor (for the avoidance of doubt, this also includes any Supplier) in the provision of the Work;

1.8.1.2.any personal injury or property damage arising from the Project;

1.8.1.3.any breach of this Agreement; and/or

1.8.1.4.any unauthorized act or omission of Contractor (for the avoidance of doubt, this also includes any Supplier).

1.8.2. The indemnity given in clause 1.8.1 does not limit any compensation rights of Baldwin City Parties.

1.9. **Miscellaneous.**

1.9.1. Contractor shall not assign this Agreement or any part thereof to others without the prior written consent of Baldwin City.

1.9.2. Contractor shall, at its own cost and expense, clean up, haul away and properly dispose of all debris and waste created by the Work, including but not limited to any hazardous waste. A failure to do so after one (1) day written notice of same, shall authorize Baldwin City to cause such work to be performed and charge the cost thereof (including Baldwin City overhead) to Contractor through a deduction in any application for payment or otherwise. Such rights under this paragraph shall not affect the right of Baldwin City to recover damages due to Contractor's breach.

1.9.3. Contractor shall secure the Project each and every day to protect it against vandalism, trespass, destruction or other harm.

1.9.4. Contractor shall maintain adequate workmen's compensation, general liability, builders risk and such other insurance in form and amount as is necessary to protect Baldwin City from any loss regarding the Work, and shall name Baldwin City as an additionally named insured on each policy. Prior to performing any Work, Contractor shall provide proof of such insurance to Baldwin City, and shall provide replacement policies to the extent any is unacceptable to Baldwin City.

1.9.5. Contractor shall observe and comply with every safety, health, environmental and/or employment statute, regulation, ordinance, code, rule, practice and law in the performance of this Agreement, including but not limited to the Occupational Safety and Health Act of 1970, as amended, and with all standards and rules issued thereunder, and shall take all reasonable steps during construction to ensure the health and safety of those using the property. The Contract Sum already includes all costs related to this compliance

1.9.6. Contractor represents and warrants that it can properly perform the Work as required under this Agreement, and that it is financially strong enough to do so. Contractor shall have on site a full time superintendent for the Work acceptable to Baldwin City. Baldwin City hereby approves of _____.

1.9.7. Neither Contractor nor any Supplier shall have any right or power to bind Baldwin City in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power). Baldwin City shall be authorized to act only

through Mr. Jeff Dingman, its authorized representative. Contractor shall be authorized to act only through _____, its authorized representative. Additional authorized representatives may be designated later in writing.

- 1.9.8. Contractor understands and agrees that no payment, occupancy, inspection, observation or acceptance of the Project by Baldwin City shall be conclusive evidence of the performance of this Agreement either wholly or in part nor shall it be construed to be an acceptance of defective work or improper materials.
- 1.9.9. Contractor shall cause any subrogation rights for losses or claims paid by a consolidated or wrap-up insurance program, owner's or contractor's protective liability insurance, or project management protective liability insurance concerning the Work to be waived.
- 1.9.10. Contractor shall secure and pay for (as part of the Contract Sum) the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work, including all Work necessary to secure all required government approvals.
- 1.9.11. Upon Final Completion, Contractor hereby warrants that the Work satisfies the terms of this Agreement, and agrees to remedy and otherwise re-execute at its expense any Work that does not conform to the Contract Documents. All manufacturer warranties shall be validly assigned to Baldwin City upon Substantial Completion. Such rights under this paragraph shall not affect the right of Baldwin City to recover damages.
- 1.9.12. Contractor hereby affirms, represents and warrants that it is an independent contractor separate from Baldwin City, and is solely responsible for the performance of the Work and the operation of its business, including but not limited to the payment of all taxes, procurement of insurance, and liability under workers compensation laws
- 1.9.13. Dispute Resolution. The parties agree that all disputes shall be resolved as follows, with each serving as a condition precedent for the latter: First) informal meetings between the parties to try to work out satisfactory arrangements, until one party stops meeting or declares an impasse; Second) nonbinding mediation, until the mediator declares impasse; Third) litigation exclusively in the District Court of Douglas County Kansas. The prevailing party in any litigation related to this Agreement shall be awarded its costs, expenses (expert and otherwise) and reasonable attorney fees incurred in dispute resolution.
- 1.9.14. This Agreement shall be interpreted according to the laws of the State of Kansas, and shall be construed fairly as to all parties; it shall not be construed for or against any party on the basis or the extent to which that party participated.

City of Baldwin City
("Baldwin City")

By: _____
Mr. Jeff Dingman, City Administrator

("CONTRACTOR")

By: _____