

**JOINT RIVER FORCE MARINE STORAGE & DEPLOYMENT FACILITY
AGREEMENT**

This Joint River Force Marine Storage & Deployment Facility Agreement (“Agreement”) is by and between Mid-America Regional Council, hereinafter referred to as "MARC", and Jackson County, Missouri, hereinafter referred to as "the County" and is effective this _____ day of _____, 2014.

WITNESSETH:

WHEREAS, MARC desires to enter into an sub-recipient agreement with the County to design and construct a marine storage & deployment facility located at 4001 NE Lakewood Way, Lee’s Summit, Missouri to meet a critical need for a storage facility located in close proximity to the Missouri River to conduct routine law enforcement patrol and emergency response missions, hereinafter referred to as the "Project"; and

WHEREAS, the Mid-America Regional Council has been awarded grant funding through the FY 2011 Port Security Grant Program (CFDA# 97.056) to support projects that increase port security; and

WHEREAS, the Mid-America Regional Council will provide administrative and coordinative services associated with the Area Maritime Security Committee’s Port Security grant initiatives on behalf of the County and its mutual aid partners; and

WHEREAS, the County plans to procure contract services to design and construct a storage facility from which to deploy maritime assets to protect and respond to events involving critical infrastructure and waterway incidents; and

WHEREAS, this investment is part of a larger initiative to decrease risk to critical infrastructure along the Port of Kansas City waterways; and

WHEREAS, the parties to this agreement have determined that their cooperative effort will be a benefit to the public’s health, safety, and welfare.

WHEREAS, the parties agree that the project will be allocated Port Security Grant Program funding not to exceed \$200,000. In exchange for these funds, the County will design and construct a basic three-bay storage facility that will allow quicker access to the river for immediate tactical law enforcement response in accordance with the project design that has received Environmental and Historic Preservation approval from the Federal Emergency Management Agency.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. SCOPE OF WORK

The County shall manage the performance and accomplish in a manner satisfactory to both parties the tasks described in ATTACHMENT A (the “Work”), which are incorporated

herein by reference. The County shall exercise the same degree of care, skill and diligence in the performance of the Work as is ordinarily possessed and exercised by a member of the same profession who is currently practicing under similar circumstances.

2. **TIME OF PERFORMANCE**

- A. Term – The County and its subcontractors shall begin performing the Work on or prior January 1, 2014 and shall work diligently to complete the Project to the satisfaction of MARC, in accordance with the terms provided herein by July 31, 2014.
- B. Extension of Term - The timeframe for the completion of the Project under this Agreement may be extended at MARC's sole discretion upon request by the County. Any request for an extension of time to complete the Project shall be made in writing to MARC. The County shall provide to MARC, upon request, documentation to substantiate the justification for additional time needed to complete the Project. MARC shall provide the County with written notice of its decision within fifteen (15) days of the date that MARC received the written extension request. MARC must comply with the federal requirements on the grant term limits; as such, additional extensions to the timeline for this project are unlikely to be approved.

3. **COMPENSATION**

Maximum Obligation - During the term of this Agreement, the compensation paid by MARC to the County for all Work specified herein relating to the Project shall not to exceed \$200,000. MARC shall be entitled to deduct and setoff against all compensation that may otherwise become due under this Agreement the sums paid by MARC to cure or correct any of the County's defaults.

A. Method and Time of Payment - Payment shall be made in the following manner:

- (i) This is a reimbursement agreement. The County is obligated to complete the construction of the marine storage facility project. Following final acceptance of the storage facility the County shall submit an invoice to MARC for work completed on the Project. The invoice shall (a) provide an itemization of Work performed and material costs, (b) indicate the total amount charged for each Service, and (c) the County shall provide a summary of all other direct and indirect costs incurred by the County that pass to MARC pursuant to the terms of this Agreement. The invoice will be based on actual cost incurred.
- (ii) MARC shall reimburse the County within forty-five (45) calendar days after the receipt of the invoice.
- (iii) The County shall maintain complete records of all costs incurred under this Agreement. All such records shall be maintained on a generally accepted accounting basis for a minimum period of five (5) years after final payment is made under this Agreement and shall be clearly identifiable and readily accessible to authorized representatives of MARC for inspection and audit.

- (iv) The County will provide MARC with documentation on the purchasing process used to select vendors for the Project. The County is required to follow competitive procurement processes or document reasons for selecting a sole source contract.
- (v) There is no cash match requirement for the Project.

B. Compensation After Termination - In the event that this Agreement is terminated as provided below, the County shall be compensated for all Work rendered as outlined in Attachment A and other expenses incurred under this Agreement prior to the date of receipt of the termination notice or other termination date specified in such notice. The County and any of its subcontractors, agents and legal representatives agree to accept this amount of compensation in full satisfaction of all claims for compensation under this Agreement.

4. **CHANGES AND ADDITIONAL WORK**

This Agreement constitutes the entire agreement between MARC and the County and it may not be amended or altered in any way except by a written amendment signed by both parties to this Agreement; provided, however, that at any time during the term of this Agreement MARC, by written notice to the County, may modify the scope of the Work to be furnished by the County under this Agreement. If such modification causes an increase or decrease in the amount of Work to be provided by the County or in the amount of time required for their performance, equitable adjustment shall be made to the provisions of this Agreement for payments to the County.

5. **TERMINATION**

- A. The parties reserve the right to terminate this Agreement at any time with or without cause by giving the other party advance written notice of such termination.
- B. In the event of any such termination, the County shall deliver to MARC, as the property of MARC, all designs, reports, drawings, studies, estimates, computations, memoranda, documents, and other papers or materials either furnished by MARC or prepared by or for the County under this Agreement.

6. **ASSIGNMENT**

The County's rights, obligations and duties under this Agreement shall not be assigned in whole or in part without the prior written consent of MARC. However, claims for money due to the County from MARC under the terms of this Agreement may be assigned to a bank, trust company or other such financial institution, provided that prompt written notice of such an assignment is given to MARC. None of the Work covered by this Agreement shall be subcontracted without the prior written approval of MARC.

7. **INDEPENDENT CONTRACTOR**

The County will act as an independent contractor in the performance of the Work under this Agreement. The County shall have ultimate decision-making authority as to the equipment

procured using the funds provided by MARC pursuant to this agreement.

8. **PROHIBITED INTERESTS**

No officer, member or employee of MARC, no member of MARC's governing body and no other public official of the locality or localities in which the Project is being carried out who exercises any functions or responsibilities in the review and approval of this Project shall participate in any decision related to this Agreement affecting, either directly or indirectly, his or her own personal interest. No member of or delegate to the Missouri General Assembly or the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising from it.

9. **CONFLICTS OF INTEREST**

A. The County hereby certifies that the company and any personnel assigned to work for MARC under this Agreement are not involved in other community projects that would pose a conflict to the County's ability to successfully carry out the responsibilities of this Agreement. If potential conflicts arise during the term of this Agreement, the County agrees to notify MARC immediately in writing and discuss the potential issues and work with MARC to address any potential issues arising from the situation.

B. The County covenants that it presently has no known personal or pecuniary interest and shall not knowingly acquire such interest, directly or indirectly, which could conflict in any manner with the performance of Work under this Agreement, including the submission of impartial reports and recommendations.

10. **INSURANCE**

A. The County is self-insured for claims for damages for personal injury or death, and for damages to property, arising from the intentional and negligent acts, errors or omissions of the County and its members in the performance of the Project Plan tasks covered by this Agreement.

B. As between the County and MARC, the parties waive any and all rights against each other, including their rights of subrogation, for damages covered by property insurance during and after the completion of Project Plan tasks under this Agreement.

11. **FEDERAL AND STATE TERMS AND CONDITIONS**

A. This Agreement shall be subject to all applicable Federal Terms and Conditions provided in ATTACHMENT B attached hereto and incorporated herein by reference.

B. The County will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), as supplemented in Department of Labor regulations (29 CFR Part 3) regarding labor standards for federally-assisted construction sub-agreements.

C. The County will comply with federal environmental review and historic preservation (EHP) requirements prior to initiating construction activity. The requirements for this review are outlined by the Federal Emergency Management Agency at <http://www.fema.gov/plan/ehp/ehpreview/index.shtm>. EHP approval was obtained for this project in July 2012. The County will ensure all standard and special conditions of the EHP approval are met as follows:

- (i) Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.
- (ii) This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.
- (iii) If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

D. Specific Requirements under the Port Security Grant Program: The County agrees that all allocations and use of funds for this Project will be in accordance with the Fiscal Year (FY) 2011 Port Security Grant program guidance and application kit, (http://www.fema.gov/pdf/government/grant/2011/fy11_psgp_kit.pdf), including the following:

- (i) Grant recipients must follow the Federal Acquisition Regulations implementing the Buy American Act, 48 CFR Part 25 - all supplies and construction materials purchased be produced in the United States, unless such materials are not reasonably available, or such a purchase would not be in the public interest.
- (ii) Disadvantaged Business Requirement - Applicants are advised that, to the extent that recipients of a grant use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

When practicable, any equipment purchased with grant funding shall be prominently marked as follows: "Purchased with funds provided by the U.S. Department of Homeland Security."

E. Reporting and Monitoring Requirements

- (i) The County agrees to provide MARC with its OMB Circular A-133 Audit Reports (if required) along with other annual reports on the status and use of the marine storage facility. MARC will provide a reporting form for County use and provide adequate time prior to the reporting deadline for the County to compile and submit the necessary information. The County shall permit monitoring by MARC, DHS, the Coast Guard or other appropriate federal agency representatives, and comply with such reporting procedures as may be

established by DHS, the Coast Guard or MARC. The County shall maintain all related records for at least five (5) years following notification by MARC of the Federal closure of the grant. Record retention is required for purposes of Federal examination and audit. Records may be retained in an automated format. Although information will be provided to MARC by the County, MARC has no obligation [or right] to maintain or repair the marine storage facility or ensure that they are used safely or properly.

- (ii) MARC has the obligation under Federal Funding Accountability and Transparency Act of 2006 to report the names and total compensation of each of the sub-recipients under this award for the preceding fiscal year if the sub-recipient received 80 percent or more of its annual gross revenues from Federal procurement contracts and subcontracts and Federal financial assistance subject to the Transparency Act; and \$25 million or more in annual gross revenues from Federal procurement contracts and subcontracts and Federal financial assistance subject to the Transparency Act. The County agrees to notify MARC if it meets the conditions above and will provide to MARC required information for reporting purposes.

F. Real Property, Title & Disposition

Title to the marine storage facility will vest upon completion of construction by the County. Except as otherwise provided by Federal statutes, the marine storage facility will be used for the originally authorized purposes as long as needed for that purpose, and neither MARC nor the County shall not dispose of or encumber its title or other interests. When the marine storage facility is no longer needed for the originally authorized purpose, the County will request disposition instructions from MARC. The instructions will provide for one of the following alternatives: Retention of Title, Sale of Property or Transfer of Title. Records must be maintained regarding ultimate disposition of the marine storage facility. See 44 CFR Part 13.31 <http://www.gpo.gov/fdsys/pkg/CFR-2008-title44-vol1/pdf/CFR-2008-title44-vol1-sec13-32.pdf>

G. Non-Supplanting Certification

The County affirms that the federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. The County may be required to supply documentation certifying that the reduction in non-federal resources occurred for reasons other than the receipt of federal funds.

12. **LIABILITY**

The County shall take necessary steps to insure or protect itself, its personnel, and equipment, and to comply with all applicable local, state and federal laws or other governmental requirements regarding ownership or use of the marine storage facility, including, without limitation, all safety and security standards. MARC, not being the manufacturer of the marine storage facility, has no responsibility with respect to the marine storage facility or any use thereof, or any accidents or claims relating thereto. MARC makes no representations or warranties, express or implied, regarding the facility, whether arising

by operation of law or otherwise, and expressly disclaims any and all warranties of merchantability, of fitness for a particular purpose of use, of non-infringement, of title, condition, quality or workmanship, or in any other respect. In no event shall MARC be liable to the County for any indirect, incidental, consequential, special, and exemplary or punitive damages.

13. **INDEMNIFICATION**

The County expressly agrees to the extent permitted by law, to defend, indemnify, and hold and save harmless MARC, its officers, agents, servants and employees for liability of any nature (including, without limitation, reasonable attorneys' fees) related to (i) a breach of this Agreement by the County, (ii) the Services provided under this Agreement by the County or arising from any act or omission of the County or of any employee or agent of the County; or (iii) infringement or misappropriation or allegation of infringement or misappropriation of any patent, copyright, trade secret, trademark or other proprietary right of any third party relating to any deliverable provided or service performed by the County.

14. **REPORT OF LOSS OR EXPIRATION**

The County agrees to notify MARC within ten (10) working days of the loss, damage or expiration of the marine storage facility provided through this Agreement. The County understands that neither MARC nor state or federal agencies are able to replace items lost, damaged or expired.

15. **CERTIFICATE REGARDING DEBARMENT AND SUSPENSION**

MARC, as a non-federal entity utilizing federal funds, is prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended, debarred or otherwise excluded from, or ineligible for, participation in Federal assistance programs or activities, or whose principals are suspended, debarred or otherwise excluded from, or ineligible for, participation in Federal assistance programs or activities. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 (e.g., sub-awards to sub-recipients). The County hereby agrees to provide MARC with a copy of the signed Certificate Regarding Debarment and Suspension, attached hereto as ATTACHMENT C and incorporated herein by reference, to ensure that these federal rules are followed.

16. **E-VERIFY**

The County shall be responsible for ensuring compliance with the Immigration Reform Act of 1986 and laws regulating immigration and the verification of eligibility for employment of persons. All contractors and sub-contractors with contract amounts in excess of \$3,000 on federally-funded projects are required to verify the employment eligibility status of employees through the E-verify federal program administered by the Department of Homeland Security, U.S. Citizenship and Immigration Services. Compliance with any such requirements is required under this Agreement and any subcontracts permitted hereunder. The County shall indemnify, defend and hold harmless MARC against any expense incurred including imposition of fines which results from violation of such laws. The County affirmatively states that it is not knowingly in violation of Executive Order 12989 and the

Federal Acquisition Regulation (FAR) E-Verify Clause 48 CFR 52.222-54 and shall not henceforth be in such violation. The County further agrees to execute a sworn affidavit, under the penalty of perjury attesting to the fact that the County's employees are lawfully present in the United States. Failure of the County to comply with this requirement shall be grounds for termination for default. County hereby agrees to provide MARC with a copy of the signed Employee Eligibility Verification Affidavit, attached hereto as ATTACHMENT D and incorporated herein by reference, to ensure that these federal and state rules are followed.

17. **ANTI-LOBBYING**

The County shall be responsible for ensuring compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient. The County hereby agrees to provide MARC with a copy of the signed Anti-Lobbying Certificate, attached hereto as ATTACHMENT E and incorporated herein by reference, to ensure that these federal and state rules are followed.

18. **DEFAULT**

In the event there is a default with respect to any of the provisions of this Agreement or its obligations under it, the non-defaulting party shall give the defaulting party written notice of such default. After receipt of such written notice, the defaulting party shall have fifteen (15) days in which to cure any monetary default and thirty (30) days in which to cure any non-monetary default, provided the defaulting party shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and the defaulting party commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. The non-defaulting party may not maintain any action or effect any remedies for default against the defaulting party unless and until the defaulting party has failed to cure the same within the time periods provided in this paragraph.

19. **GOVERNING LAW**

This Agreement shall be interpreted under and governed by the laws of the State of Missouri. Whenever there is no applicable state statute or decisional precedent governing the interpretation of this Agreement, then federal common law shall govern.

20. **NOTICES**

Any action by MARC under this Agreement may be taken by David A. Warm, Executive Director, or such other person as MARC may designate for such purpose by written notice to the County. All compensation and written notices to the County shall be considered to be properly given if mailed, delivered in person or transmitted by facsimile machine to:

Colonel Ben Kenney
Jackson County Sheriff's Office
3310 NE Rennau
Lee's Summit, MO 64064
Phone (816) 524-4302
bkenney@jacksongov.org

All invoices, written reports and written notices given to MARC shall be considered to be sufficiently given if mailed, delivered in person, or transmitted by facsimile machine to:

Ms. Erin Lynch
Emergency Services & Homeland Security Program Director
Mid-America Regional Council
600 Broadway, Suite 300
Kansas City, Missouri 64105-1554
Phone (816) 701-8390
FAX (816) 421-7758

21. **ENTIRE AGREEMENT**

This Agreement cancels and supersedes all previous discussions, negotiations, understandings, representations, warranties and agreements, written or oral, relating to the subject matter of this Agreement, and contains the entire understanding of the parties hereto.

22. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which is deemed to be an original and all of which constitute one agreement that is binding upon all of the parties hereto, notwithstanding that all parties are not signatories to the same counterpart.

23. **ATTACHMENTS**

The following documents are Attachments to this Agreement and are attached hereto and incorporated herein by this reference.

Attachment A: Scope of Work
Attachment B: Federal Terms and Conditions
Attachment C: Certificate Regarding Debarment and Suspension
Attachment D: Employee Eligibility Verification Affidavit
Attachment E: Anti-Lobbying Certificate

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the dates set forth below.

**MID-AMERICA REGIONAL
COUNCIL**

JACKSON COUNTY, MISSOURI

By:

David A. Warm
Executive Director

Michael D. Sanders
County Executive

Michael Sharp
Jackson County Sheriff

Date:

"MARC"

Date:

"COUNTY"

APPROVED TO FORM:

W. Stephen Nixon
County Counselor

Mary Jo Spino
Clerk of the Legislature

Attachment A
Scope of Work

Summary Statement

Through this project a new marine storage & deployment facility will be constructed at 4001 NE Lakewood Way, Lee's Summit, Missouri. The building will be a single-story, metal structure, and approximately 65' wide x 60' deep and 3,900 square feet with a concrete floor, water and electricity. It will be located on the property of Jackson County Sheriff's Office new General Headquarters.

The Port of Kansas City is an unusual port environment due to its size and composition and distance from any other high-risk ports. It is home to the second largest rail hub in the U.S. Twenty significant bridges considered vital to the Nation's infrastructure span the port. These bridges handle rail, motor vehicle traffic, and carry a variety of infrastructure such as pipelines and fiber optic cabling. Many aspects of protection and response are limited by a lack of capacity to deploy emergency responders and approach from the waterway. This facility will be constructed downstream of the Port's urban core in Jackson County, Missouri. The building will house port assets such as water vessels and trailers and towing vehicles. It also may be utilized for a training area prior to accessing the river. In addition to serving as a strategic storage area this facility may also provide adequate accommodation to serve as a small, temporary morgue site.

Major Project Milestones:

1. Jackson County, Missouri, Jackson County Sheriff's Office will procure services of a vendor(s) to make improvements detailed above. The County will use their own procurement regulations provided that the procurement regulations conform to applicable federal law and the standards identified in the Procurement Standards Sections of Grant Common Rule (Code of Federal Regulations (44 CFR Part 13)).
 - a. At a minimum, the County shall meet the following procurement standards:
 - i. All procurement transactions whether negotiated or competitively bid and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition.
 - ii. All quotations and the rationale behind the selection of a source of supply shall be retained, attached to the purchase order copy, and placed in the accounting files.
 - b. Any goods and services procured from any of the vendors listed on the state for federal suspension or debarment list will not be reimbursed. Please consult with the following source in procurement decisions: the Federal list of Vendors under Suspension/Debarment: <https://www.sam.gov>
2. Design, Site Preparation, Construction and Installation: The County will manage Project through design, site preparation, construction and installation phase per its agreement with selected vendor(s). The County will provide MARC with monthly updates as the Project progresses. The County will also notify MARC of any delays in this phase that will impact

Project period. Prior to initiating site preparation or construction, the County will confirm that it has reviewed and complied with federal Environmental and Historic Preservation Review requirements. During the construction the County will conduct on-site field inspections and continuously monitor contractor compliance with all project requirements. This monitoring may be done utilizing a vendor selected by the County so long as the County verifies compliance.

3. Inspection, Final Report and Reimbursement: When the County completes the Project; a representative of the Area Maritime Security Committee (or designee) will make a site visit to ensure the Project conforms to the initial Port Grant application and to confirm Project completion. MARC will reimburse the County for Project costs not to exceed \$200,000 following this site visit and receipt of invoice. The County will provide to MARC an invoice and documentation to include a copy of the original paid invoice(s), a copy of proof of payment of invoices (i.e. check copy or proof of electronic funds transfer), and any other documentation required to support the purchase.

Project Period:

This project is expected to be completed by July 31, 2014.

The County is responsible for communicating any anticipated delays in the project schedule that impact the ability to meet this timeframe to MARC as soon as practicable.

Attachment B

Federal Terms and Conditions

1) **NONDISCRIMINATION (49 CFR Part 21)**. During the performance of this Agreement, the COUNTY, for itself, its assignees, and successors in interest, agrees as follows:

A. COUNTY shall comply with the regulations relative to nondiscrimination in federally assisted programs of the United States Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are hereby incorporated by reference and made a part of this Agreement.

B. COUNTY, with regard to the Services performed by it during the term of this Agreement, shall not discriminate on the grounds of age, race, color, sex or national origin in the selection or retention of subconsultants, including procurement of materials and leases of equipment. COUNTY shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix "B" of the Regulations.

C. In all solicitations, whether by competitive bidding or negotiation, made by the COUNTY for services to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the COUNTY of the COUNTY's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of age, race, color, sex or national origin.

D. The COUNTY shall provide all information and reports required under the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, and other sources of information, and its facilities as may be determined by MARC to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information is required, or such information is in the exclusive possession of another that fails or refuses to furnish this information, the COUNTY shall so certify to MARC, and shall set forth what efforts it has made to obtain the information.

E. In the event of the COUNTY's noncompliance with the nondiscrimination provisions of this Agreement, MARC shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to: (i) Withholding of payments to the COUNTY under the Agreement until the COUNTY complies; and/or (ii) Cancellation, termination, or suspension of the Agreement, in whole or in part.

F. The COUNTY shall include the provisions of Paragraphs A through E above in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The COUNTY shall take such action with respect to any subcontract or procurement as MARC may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the COUNTY becomes involved in or is threatened with litigation with a subcontractor or supplier as a result of such direction, the COUNTY may request MARC to enter into such litigation to protect the interests of MARC.

2) **AMERICANS WITH DISABILITIES ACT**. COUNTY shall comply with applicable provisions of the Americans with Disabilities Act of 1991, as amended. In particular, COUNTY shall assist MARC in compliance by including appropriate language in all public documents and reports notifying persons with disabilities of MARC's policy of providing accommodations (i.e. interpreter, large print, reader and hearing assistance) to persons who need such assistance to participate in the Project.

3) **AFFIRMATIVE ACTION IN EMPLOYMENT**. The

COUNTY shall comply with the provisions of Section 503 of the Rehabilitation Act of 1973, as amended (the "Act"), and also agrees as follows:

A. The COUNTY will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The COUNTY agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other form of compensation, and selection for training, including apprenticeship.

B. The COUNTY agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor pursuant to the Act.

C. In the event of the COUNTY's 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 pursuant to the Act.

D. The COUNTY agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting officer. Such notices shall state the COUNTY's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

E. The COUNTY will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the COUNTY is bound by the terms of the Act, and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.

F. The COUNTY will include the provisions of Paragraphs A through E above in every subcontract or purchase order of \$2,500.00 or more unless exempted by rules, regulations or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding on each subcontractor or vendor. The COUNTY will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance (41 CFR 60-741.4.4).

4) **EQUAL EMPLOYMENT OPPORTUNITY (41 CFR Part 60-1.4(b))**. During the performance of this Agreement, the COUNTY agrees as follows:

A. The COUNTY will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The COUNTY will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, 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. The COUNTY agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

B. The COUNTY will, in all solicitations or advertisements for employees placed by or on behalf of the COUNTY, state that all qualified applicants will receive

consideration for employment without regard to race, color, religion, sex or national origin.

C. The COUNTY will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the COUNTY's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The COUNTY shall comply with all provisions of Executive Order 11246 of September 24, 1965, and by rules, regulations, and relevant orders of the Secretary of Labor.

E. The COUNTY will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by MARC and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

F. In the event of the COUNTY's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the COUNTY may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as 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. The COUNTY will include the portion of the sentence immediately preceding Paragraph A and the provisions of Paragraphs A through G in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The COUNTY will take such action with respect to any subcontract or purchase order as MARC may direct as a means of enforcing such provision, including sanctions for noncompliance, provided, however, that in the event the COUNTY becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the COUNTY may request MARC to enter into such litigation to protect the interests of MARC.

5) PROHIBITION AGAINST SUBSTANCE ABUSE. The COUNTY shall comply with the requirements of the Omnibus Drug Initiative Act of 1988 (Public Law 100-690), as amended, and certify to MARC that it will provide a drug-free workplace.

6) LOBBYING. The COUNTY hereby certifies that the federal funds provided under the terms of this Agreement will not be paid, by or on behalf of the COUNTY, to any person to influence an officer or employee of any federal agency or federal elected official. The COUNTY will provide full disclosure of any non-federal resources expended to lobby any federal official in connection with the Project.

Attachment C
Certificate Regarding Debarment and Suspension

The County hereby certifies to the best of its knowledge and belief that it and its principals, affiliates and approved subcontractors:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
- B. Have not within a three (3) year period preceding the date of the Agreement been convicted of or had a civil judgment rendered against them for commission of (i) fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, (ii) a violation of Federal or State antitrust statutes, or (iii) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- D. Have not within a three (3) year period preceding the date of the Agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.

In the event the County is unable to certify to any of the statements in this certification, the County shall attach an explanation to this certification that must be approved in writing by MARC prior to the commencement of the Agreement.

Jackson County, Missouri

By: _____

Date: _____

Attachment D

Employee Eligibility Verification Affidavit

AFFIDAVIT OF COMPLIANCE WITH EXECUTIVE ORDER 12989 and Federal Acquisition Regulation (FAR) E-Verify Clause 48 CFR 52.222-54 for contracts over \$3,000.00

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, the undersigned Notary Public, in and for the County of _____, State of _____, personally appeared _____ (*Name*) who is _____ (*Title*) of _____ (*Name of company*)

a _____ (*Type of business*) and after being duly sworn did depose and say:

1. That said company is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the contracted services; and
2. That the said company does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

The term used in this affidavit shall have the meaning set forth in Executive Order 12989 and Federal Acquisition Regulation (FAR) E-Verify Clause 48 CFR 52.222-54.

Documentation of participation in a federal work authorization program is attached to this affidavit.

Signature

Name

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public

My commission expires:

Attachment E

Anti-Lobbying Certificate

The undersigned certifies, to the best of his or her knowledge and belief, that:

- 1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersign, to any person influencing or attempting to influence an officer or employee of a federal agency, 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 Federal appropriated funds have been paid or will be paid to any person for attempting to influence an officer or employee of any federal agency, Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal or Federally assisted contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- 3 The undersigned shall require that the language of this certification be included in the award documents of all tiers (including subcontracts, sub-grants, and contracts under grant, loans, and cooperative agreements) and that all sub-recipients 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 32, US 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.

(Name of Entity)

(Name and Title of Authorized Official)

(Signature of above Official)

(Date)