

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION awarding a twelve-month term and supply contract for the furnishing of environmental services for use by the Facilities Management Division of the Public Works Department to Kingston Environmental Services of Kansas City, MO, under the terms and conditions of the City of Kansas City, Missouri, Contract No. EV0612-06, an existing government contract.

RESOLUTION #17586, May 2, 2011

INTRODUCED BY Bob Spence, County Legislator

WHEREAS, the County desires to retain environmental services for use by the Facilities Management Division of the Public Works Department to provide for their needs for the upcoming twelve-month period; and,

WHEREAS, the Director of Finance and Purchasing, pursuant to section 1030.4 of the Jackson County Code, 1984, recommends award of a contract to Kingston Environmental Services of Kansas City (Jackson County), MO, under the terms and conditions of the City of Kansas City, Missouri, Contract No. EV0612-06, an existing government contract; and,

WHEREAS, section 1030.4, Jackson County Code, 1984 requires, that for any such purchase in excess of \$25,000.00, the Director of Finance and Purchasing shall submit the purchase to the County Legislature for approval; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that award

be made as recommended by the Director of Finance and Purchasing, and that the Director be and hereby is authorized to execute for the County any documents necessary to the accomplishment of the award; and,

BE IT FURTHER RESOLVED that the Director of Finance and Purchasing is authorized to make all payments, including final payment on the contract, to the extent that sufficient appropriations to the using spending agency are contained in the then current Jackson County budget.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:

Jay D. Haber
Chief Deputy County Counselor

W. Alfred Nelson
County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution #17586 of May, 2, 2011, was duly passed on May 10, 2011 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 7

Nays 0

Abstaining 0

Absent 2

5.10.11
Date

Mary Jo Spino
Mary Jo Spino, Clerk of Legislature

This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases is subject to annual appropriation.

April 29, 2011
Date

D. Longman
Director of Finance and Purchasing

REQUEST FOR LEGISLATIVE ACTION

Completed by County Counselor's Office:

Resolution No.: 17586

Sponsor(s): Bob Spence

Date: May 2, 2011

<p>SUBJECT</p>	<p>Action Requested <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance</p> <p>Project/Title: <u>Awarding a Twelve-Month Term and Supply Contract for the furnishing of Environmental Services for the Facilities Management Division of the Public Works Department to Kingston Environmental Services Inc. of Kansas City (Jackson County), Missouri; under the Terms and Conditions of the City of Kansas City Missouri Contract No. EV0612-06, existing government contract.</u></p>										
<p>BUDGET INFORMATION <i>To be completed By Requesting Department and Finance</i></p>	<table border="1"> <tr> <td>Amount authorized by this legislation this fiscal year:</td> <td>\$</td> </tr> <tr> <td>Amount previously authorized this fiscal year:</td> <td>\$</td> </tr> <tr> <td>Total amount authorized after this legislative action:</td> <td>\$</td> </tr> <tr> <td>Amount budgeted for this item * (including transfers):</td> <td>\$</td> </tr> <tr> <td>Source of funding (name of fund) and account code number; FROM / TO</td> <td>FROM ACCT TO ACCT</td> </tr> </table> <p>* If account includes additional funds for other expenses, total budgeted in the account is: \$</p> <p>OTHER FINANCIAL INFORMATION:</p> <p><input type="checkbox"/> No budget impact (no fiscal note required) <input type="checkbox"/> Term and Supply Contract (funds approved in the annual budget); estimated value and use of contract: Department: Facilities Management Estimated Use: \$70,000.00</p> <p>Prior Year Budget (if applicable): \$15,000.00 Prior Year Actual Amount Spent (if applicable): \$10,000.00</p>	Amount authorized by this legislation this fiscal year:	\$	Amount previously authorized this fiscal year:	\$	Total amount authorized after this legislative action:	\$	Amount budgeted for this item * (including transfers):	\$	Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT TO ACCT
Amount authorized by this legislation this fiscal year:	\$										
Amount previously authorized this fiscal year:	\$										
Total amount authorized after this legislative action:	\$										
Amount budgeted for this item * (including transfers):	\$										
Source of funding (name of fund) and account code number; FROM / TO	FROM ACCT TO ACCT										
<p>PRIOR LEGISLATION</p>	<p>Prior ordinances and (date): N/A Prior resolutions and (date): N/A</p>										
<p>CONTACT INFORMATION</p>	<p>RLA drafted by (name, title, & phone): Teddy Ballard, Senior Buyer, 881-3465</p>										
<p>REQUEST SUMMARY</p>	<p>Facilities Management needs Environmental Services and has requested to utilize the City of Kansas City Missouri's Contract with Kingston Environmental (Jackson County).</p> <p>Pursuant to Section 1030.04 of the Jackson County Code, 1984, the Director of Finance and Purchasing recommends a Twelve-Month Term and Supply Contract for the furnishing of Environmental Services for the Facilities Management Division of the Public Works Department to Kingston Environmental Services Inc. of Kansas City (Jackson County), Missouri; under the Terms and Conditions of the City of Kansas City Missouri Contract No. EV0612-06, existing government contract.</p> <p>The Director of Finance and Purchasing requests approval by the Legislature of this Contract which exceeds \$25,000.00. The Director of Finance and Purchasing has determined that due to higher volume discounts offered to larger purchasing groups and/or entities, he recommends the award be made under the following contracts:</p> <p>RECOMMENDED VENDOR: Kingston Environmental Services Inc. Kansas City (Jackson County)</p> <p>CONTRACT NUMBER City of Kansas City, Missouri Contract No: EV0612-056</p>										

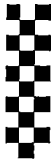
	This award is made on an "as needed" basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases is subject to annual appropriations.	
CLEARANCE	<input checked="" type="checkbox"/> Tax Clearance Completed (Purchasing & Department) <input type="checkbox"/> Business License Verified (Purchasing & Department) <input checked="" type="checkbox"/> Chapter 6 Compliance - Affirmative Action/Prevailing Wage (County Auditor's Office)	
ATTACHMENTS	City of Kansas City Missouri Contract No. EV0612-06; Memo from Mr. Craig Mosher of the Public Works Department; and Compliance and Tax status	
REVIEW	Department Director:	Date:
	Finance (Budget Approval): <i>If applicable</i>	Date: 4/27/11
	Division Manager: <i>SM</i>	Date: 4/27/11
	County Counselor's Office:	Date:

Fiscal Information (to be verified by Budget Office in Finance Department)

- This expenditure was included in the annual budget.
- Funds for this were encumbered from the _____ Fund in _____.
- There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.
- Funds sufficient for this expenditure will be/were appropriated by Ordinance # _____.
- Funds sufficient for this appropriation are available from the source indicated below.

Account Number:	Account Title:	Amount Not to Exceed:

- This award is made on a need basis and does not obligate Jackson County to pay any specific amount. The availability of funds for specific purchases will, of necessity, be determined as each using agency places its order.
- This legislative action does not impact the County financially and does not require Finance/Budget approval.



PURCHASING DEPARTMENT

415 East 12th Street
Kansas City, Missouri 64106

816-881-3267
Fax 816-881-3268

DISPOSITION OF TERM & SUPPLY CONTRACT

Post-It® Fax Note	7671	Date	2-8-11	# of pages▶	1
TO:	To <i>Teddy Ballard</i>	From	<i>MARILYN</i>		
	Co./Dept.	Co.			
FROM:	Phone #	Phone #	<i>3258</i>		
	Fax # <i>3268</i>	Fax #	<i>4525</i>		

DATE: February 8, 2011

RE: City of Kansas City MO Contract No. EV0612-06 "ENVIRONMENTAL SERVICES"

Attached are the contract documents from the City of KCMO contract with Kingston.

Please review and inform me of the following:

- A. Department requires these services request contract approval.
- B. Bid with attached specifications.
- C. Department does not require services of this bid - **DO NOT BID.**

Total estimated amount needed for departmental use \$ ~~25,000~~

Marilyn Bottomore
2-8-11

Please return a copy of this memorandum to my attention by February 15, 2011, so that appropriate action can be taken.

If you have any questions, please feel free to call me at 881-3465. Thank you.

Attachments

\$70,000.00
Chr
2/26/11



MODIFICATION OF CONTRACT

1. Modification No.: 1 Effective Date: 09-01-10	2. Contract No.: EV0612-06 Effective Date: 09-01-09
3. Buyer: Karen Wang Telephone Number: (816) 513-1594	5. Supplier – Name and Address Kingston Environmental Services, Inc. ATTN: Allen Roth 15450 Hanger Rd Kansas City, MO 64147
4. Issued By CITY OF KANSAS CITY, MISSOURI Procurement Services Division 1st Floor, Room 102 W, City Hall 414 East 12 th Street Kansas City, Missouri 64106-2793	
6. SPECIAL INSTRUCTIONS: Retain this signed copy of the modification and attach it to the original contract that was previously provided by the Procurement Services Division.	

7. Description of Modification

ENVIRONMENTAL SERVICES

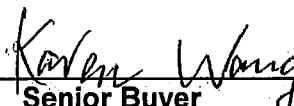
Contract **EV0612-06** is renewed from September 1, 2010 to August 31, 2011, at the current pricing level(s).

Taxpayer Clearance Letter. In accordance with City Ordinance No. 010461, if the City renews a contract, the Supplier shall provide new proof of tax compliance dated not more than ninety (90) days prior to the renewal date of the contract. Submission of this proof shall be a condition precedent to the City making the first payment under such renewal. This tax clearance letter may be obtained from the City's Revenue Division at (816) 513-1135 or (816) 513-1083.

All other Terms and Conditions of Contract **EV0612-06** remain unchanged.

8. City of Kansas City, Missouri

By: **Karen Wang, CPPB, MBA**



Senior Buyer

This Day: **July 30, 2010**

**MASTER CONTRACT
FOR ON CALL ENVIRONMENTAL SERVICES
THE CITY OF KANSAS CITY, MISSOURI**

CONTRACT NO.: EV00000612-06

THIS Contract is between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation ("CITY"), and Kingston Environmental Services, Inc. ("CONTRACTOR").

Sec. 1. The Contract.

- (a) The Contract between the CITY and CONTRACTOR consists of the following Contract Documents: (1) this Contract and any and all Attachments and Exhibits attached to this Contract; (2) the CITY's RFP No. EV0612 that is incorporated by reference into this Contract; (3) CONTRACTOR's Proposal dated May 28, 2009 that is incorporated by reference into this Contract; (4) each project specification/cost estimate proposal (hereinafter "Project Proposal") submitted by CONTRACTOR to CITY that CITY issues a Work Authorization in accordance with the Contract (the CONTRACTOR's Project Proposal and City's Work Authorization shall hereinafter be collectively referred to as the "Project Agreement"). All documents listed in this Section 1 shall be collectively referred to as the "Contract Documents" and are incorporated into this Contract. CITY and CONTRACTOR agree that the terms "Agreement" and "Contract" and "Contract Documents" are used interchangeably in this Contract and the terms "Agreement" and "Contract" and "Contract Documents" each include all "Contract Documents."
- (b) CITY and CONTRACTOR agree that each Project Agreement shall automatically incorporate the Contract regardless whether the Project Agreement specifically incorporated the Contract.

Sec. 2. Initial Term of Contract and Additional Periods.

- (a) Initial Term. The initial term of this Contract shall begin on the date the City issues a Notice to Proceed to CONTRACTOR and shall end one year later. The Manager of Procurement Services is authorized to enter into an amendment of this Contract with CONTRACTOR to extend the term of this Contract and time of performance for this Contract.
- (b) Renewal Terms. At anytime prior to the expiration of the initial term or any subsequent term, the CITY, in its sole discretion, may renew this Contract for five additional one year terms.
- (c) Transition Term. Notwithstanding the expiration of the initial term or any subsequent term or all options to renew, CONTRACTOR and CITY shall continue performance under this Contract until the CITY has a new contract in place with either CONTRACTOR or another provider or until the CITY terminates the Contract.

Sec. 3. Services and Compensation.

- (a) CONTRACTOR shall not provide any services, goods, supplies, materials and equipment until after the CITY issues a Work Authorization in response to CONTRACTOR's Project Proposal. The CITY's Work Authorization shall not be effective unless the CITY issues a Purchase Order in accordance with the Contract. Each Project Agreement shall be a separate individual contract between CITY and CONTRACTOR that automatically incorporates the Contract.
- (b) CITY shall order all services to be provided by CONTRACTOR under this Contract by means of a Purchase Order issued by the CITY's Manager of Procurement Services for which funds have been certified and encumbered by the City's Director of Finance. CITY shall not have any financial obligations to CONTRACTOR under this Contract until the CITY issues a Purchase Order to CONTRACTOR. CONTRACTOR shall not provide any services in excess of the dollar amount contained in any Purchase Order and CONTRACTOR shall not be entitled to any payment in excess of the dollar amount of the Purchase Orders from CITY.

Sec. 4. Effective Date of Contract.

- (a) Notwithstanding Section 2 of this Contract, neither party has any obligation under this Contract until the Manager of Procurement Services issues a Purchase Order which shall be signed by the City's Director of Finance certifying there is a balance, otherwise unencumbered, to the credit of the appropriation to which the expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment will be made, each sufficient to meet the obligation incurred in the Purchase Order.
- (b) The date of the first Purchase Order issued by the CITY is the effective date of this Contract.

Sec. 5. Invoices. CONTRACTOR shall submit to CITY an Invoice for services performed in sufficient detail for the CITY to determine that the amount CONTRACTOR is requesting is in fact due and payable. It shall be a condition precedent to payment of any invoice from CONTRACTOR that CONTRACTOR is in compliance with, and not in breach or default of, any terms, covenants and conditions of this Contract. If damages are sustained by CITY as a result of breach or default by CONTRACTOR, CITY may withhold payment(s) to CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due CITY from CONTRACTOR may be determined.

Sec. 6. Representations and Warranties of CONTRACTOR. CONTRACTOR hereby represents and warrants to the CITY the following:

- (a) CONTRACTOR is in good standing under the laws of the state of Missouri and each state in which it does business, except any such state where the failure to be in good standing would not have a material adverse effect on CONTRACTOR's ability to perform this Contract in accordance with its terms.

- (b) The execution, delivery and performance by CONTRACTOR of this Contract have been duly authorized by all necessary corporate action and do not and will not (i) require any consent or approval of CONTRACTOR's board of directors; (ii) require any authorization, consent or approval by, or registration, declaration or filing with, or notice to, any governmental department, commission, board, bureau, agency or instrumentality, or any third party, except such authorization, consent, approval, registration, declaration, filing or notice as has been obtained prior to the date hereof; (iii) violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect having applicability to CONTRACTOR or its articles or by-laws; and (iv) result in a breach of or constitute a default under any material agreement, lease or instrument to which CONTRACTOR is a party or by which it or its properties may be bound or affected.
- (c) CONTRACTOR shall not enter into any contract for the services to CITY that purports to grant a security interest or right of repossession to any person or entity respecting the services, or any portions thereof or chattels placed thereon.
- (d) There is no litigation, proceeding or other investigation pending or, to the knowledge of CONTRACTOR, threatened against CONTRACTOR which would prevent consummation of the transaction contemplated by this Contract or would have a materially adverse effect on CONTRACTOR.

Sec. 7. Survival of the Representations, Warranties and Covenants. All representations, warranties and covenants expressed herein shall survive the execution of this Contract for the benefit of the parties hereto.

Sec. 8. Governing Law. This Contract shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of law provisions. The CITY and CONTRACTOR: (1) submit to the jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) waive any and all objections to jurisdiction and venue; and (3) will not raise forum nonconveniens as an objection to the location of any litigation.

Sec. 9. Termination for Convenience. CITY may, at any time upon fifteen (15) days written notice to CONTRACTOR specifying the effective date of termination, terminate this Contract, in whole or in part.

Sec. 10. Default and Remedies.

- (a) If CONTRACTOR shall be in default or breach of any provision of this Contract, CITY may terminate this Contract, suspend CITY's performance, withhold payment or invoke any other legal or equitable remedy after giving CONTRACTOR ten (10) days written notice and opportunity to cure such default or breach.

- (b) If CITY shall be in default or breach of any provision of this Contract, CONTRACTOR may terminate this contract or suspend CONTRACTOR's performance after giving CITY ten (10) days written notice and opportunity to cure such default or breach.

Sec. 11. Waiver. Waiver by CITY of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Contract can be waived except by written consent of CITY, and forbearance or indulgence by CITY in any regard whatsoever shall not constitute a waiver of same to be performed by CONTRACTOR to which the same may apply and, until complete performance by CONTRACTOR of the term, covenant or condition, CITY shall be entitled to invoke any remedy available to it under this Contract or by law despite any such forbearance or indulgence.

Sec. 12. Acceptance. No payment made under this Contract shall be proof of satisfactory performance of the Contract, either wholly or in part, and no payment shall be construed as acceptance of deficient or unsatisfactory services.

Sec. 13. Records.

- (a) For purposes of this section:

1. "CITY" shall mean the City Auditor, the City's Internal Auditor, the City's Director of Human Relations, the City Manager, the City department administering this Contract and their delegates and agents.
2. "Record" shall mean any document, book, paper, photograph, map, sound recordings or other material, regardless of physical form or characteristics, made or received in connection with this Contract and all Contract amendments and renewals.

- (b) CONTRACTOR shall maintain and retain all Records for a term of five (5) years that shall begin after the expiration or termination of this Contract and all Contract amendments. CITY shall have a right to examine or audit all Records, and CONTRACTOR shall provide access to CITY of all Records upon ten (10) days written notice from the CITY.

- (c) The books, documents and records of CONTRACTOR in connection with this Contract shall be made available to the City Auditor, the City's Internal Auditor, the City's Director of Human Relations and the City department administering this Contract within ten (10) days after the written request is made.

Sec. 14. Affirmative Action. If the CITY's payments to CONTRACTOR exceed \$120,000.00 for the period of May 1st through April 30th, CONTRACTOR shall establish and maintain for the term of this Contract an Affirmative Action Program in accordance with the provisions of Chapter 38 of City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto. CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry or national origin, sex, disability, age, or sexual orientation, in a manner prohibited

by Chapter 38 of City's Code. City has the right to take action as directed by City's Human Relations Department to enforce this provision. If CONTRACTOR fails, refuses or neglects to comply with the provisions of Chapter 38 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, canceled or suspended, in whole or in part, and CONTRACTOR may be declared ineligible for any further Contracts funded by CITY for a period of one (1) year. This is a material term of this Contract.

Sec. 15. Tax Compliance. If the CITY's payments to CONTRACTOR exceed \$120,000.00 for the period of May 1st through April 30th, CONTRACTOR shall provide proof of compliance with the CITY's tax ordinances administered by the CITY's Commissioner of Revenue as a precondition to the CITY making the first payment under this Contract. CONTRACTOR also shall submit to the CITY proof of compliance with the CITY's tax ordinances administered by the CITY's Commissioner of Revenue as a condition precedent to the CITY making final payment under the Contract.

Sec. 16. Buy American Preference. It is the policy of the CITY that any manufactured goods or commodities used or supplied in the performance of any CITY Contract or any subcontract thereto shall be manufactured or produced in the United States whenever possible.

Sec. 17. Notices. All notices to be given hereunder shall be in writing and may be given, served or made by depositing the same in the United States mail addressed to the party to be notified, postpaid and registered or certified with return receipt requested or by delivering the same in person to such person. Notice deposited in the mail in accordance with the provisions hereof shall be effective unless otherwise stated in such notice or in this Contract from and after the second day next following the date postmarked on the envelope containing such notice. Notice given in any other manner shall be effective only if and when received by the party to be notified. All notices shall be sent to the following addresses:

If to the CITY: City of Kansas City, Missouri
 Procurement Services Division
 414 East 12th Street, 1st Floor, Room 102 W
 Kansas City, Missouri 64106
 Attention: Cedric Rowan
 Telephone: (816) 513-1592
 Facsimile: (816) 513-1156

With copies to: Galen Beaufort, Esq.
 City Attorney
 Law Department of Kansas City, Missouri
 414 East 12th Street, 28th Floor
 Kansas City, Missouri 64106
 Telephone: (816) 513-3147

CONTRACTOR:

Allen Roth
Kingston Environmental Services, Inc.
15450 Hangar Rd. Kansas City, MO 64147
Phone: 816-524-8811
Fax: 816-525-5027

Sec. 18. General Indemnification.

- (a) For purposes of this Section 18 only, the following terms shall have the meanings listed:
1. Claims means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by the CITY in the enforcement of this indemnity obligation.
 2. CONTRACTOR's Agents means CONTRACTOR's officers, employees, subcontractors, successors, assigns, invitees, and other agents.
 3. CITY means CITY, its Agencies, its agents, officials, officers and employees.
- (b) CONTRACTOR's obligations under this Section with respect to indemnification for acts or omissions, including negligence, of CITY, shall be limited to the coverage and limits of insurance that CONTRACTOR is required to procure and maintain under this Contract. CONTRACTOR affirms that it has had the opportunity to recover all costs of the insurance requirements imposed by this Contract in its contract price.
- (c) CONTRACTOR shall defend, indemnify and hold harmless CITY from and against all claims arising out of or resulting from all acts or omissions in connection with this Contract caused in whole or in part by CONTRACTOR or CONTRACTOR's Agents, regardless of whether or not caused in part by any act or omission, including negligence, of CITY. CONTRACTOR is not obligated under this Section to indemnify CITY for the sole negligence of CITY.

Sec. 19. Indemnification for Professional Negligence. If this contract is for professional services, CONTRACTOR shall indemnify, and hold harmless CITY and any of its agencies, officials, officers, or employees from and against all claims, damages, liability, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any negligent acts or omissions in connection with this Contract, caused by CONTRACTOR, its employees, agents, subcontractors, or caused by others for whom CONTRACTOR is liable, in the performance of professional services under this Contract. CONTRACTOR is not obligated under this section to indemnify CITY for the negligent acts of CITY or any of its agencies, officials, officers, or employees.

Sec. 20. Insurance.

- (a) CONTRACTOR shall procure and maintain in effect throughout the term of this Contract insurance policies with coverage not less than the types and amounts specified in this Section. CONTRACTOR must have:
1. Commercial General Liability Insurance Policy: with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:
 - a. Severability of Interests Coverage applying to Additional Insureds
 - b. Contractual Liability
 - c. Per Project Aggregate Liability Limit or, where not available, the aggregate limit shall be \$1,000,000.
 - d. No Contractual Liability Limitation Endorsement
 - e. Additional Insured Endorsement, ISO form CG20 10, current edition, or its equivalent.
 2. Workers' Compensation Insurance and Employers Liability Policies as required by Missouri law.
 3. Commercial Automobile Liability Insurance Policy: with a limit of \$1,000,000 per occurrence, covering owned, hired, and non-owned automobiles. The Policy shall provide coverage on an "any auto" basis and on an "occurrence" basis. This insurance policy will be written on a Commercial Business Auto form, or acceptable equivalent, and will protect against claims arising out of the operation of motor vehicles, as to acts done in connection with the Contract, by CONTRACTOR.
 4. If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$1,000,000.
- (b) All insurance policies required in this Section shall provide that the policy will not be canceled until after the Insurer provides the CITY ten (10) days written notice of cancellation in the event that the cancellation is for CONTRACTOR's nonpayment of premiums and thirty (30) days written notice of cancellation to CITY for all other reasons of cancellation.
- (c) The Commercial General and Automobile Liability Insurance Policies specified above shall provide that CITY and its agencies, agents, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds for the services performed under this Contract. CONTRACTOR shall provide to CITY at execution of this Contract a certificate of insurance showing all required endorsements and additional insureds.

- (d) All insurance policies must be provided by Insurance Companies that have an A.M. Best's rating of "B+V" or better, and are licensed or approved by the State of Missouri to provide insurance in Missouri.
- (c) Regardless of any approval by CITY, CONTRACTOR shall maintain the required insurance coverage in force at all times during the term of this Contract. CONTRACTOR's failure to maintain the required insurance coverage will not relieve CONTRACTOR of its contractual obligation to indemnify the CITY pursuant to this Section of this Contract. In the event CONTRACTOR fails to maintain the required insurance coverage in effect, CITY may declare CONTRACTOR in default.
- (d) In addition to the insurance required in this Section, CONTRACTOR shall also maintain all insurance required by the General Conditions and name the City as an additional insured as to all coverages.

Sec. 21. Interpretation of the Contract.

- (a) CITY selected CONTRACTOR through a negotiated procurement process rather than an Invitation for Bids (IFB) solicitation. Unlike the IFB, this process allows the CITY and CONTRACTOR to discuss and negotiate a contract at arms length prior to entering a final contract that is acceptable to both the CITY and the CONTRACTOR. After negotiation and discussion, CONTRACTOR and CITY have incorporated multiple documents into this Agreement and the meaning of some of the words used in the Agreement may be uncertain, incomplete or duplicative and the Agreement may promise something at one place and take that promise away at another. In sum, the Agreement may contain words and provisions that are susceptible of more than one meaning so that reasonable persons of average intelligence may fairly and honestly differ in their construction of the words and provisions. It is the intent of the CITY and the CONTRACTOR that the CITY's taxpayers receive the benefit or advantage in the construction and interpretation of this Agreement, regardless of the normal judicial rules of contract construction even if the construction and interpretation of the Agreement will cost the CONTRACTOR more money and time. CITY and CONTRACTOR agree that CITY's Manager of Procurement Services shall resolve all disagreements as to the meaning of this Agreement or any ambiguity in this Agreement, in favor of the CITY and its taxpayers even if it will cost the CONTRACTOR more money and time. The decision of CITY's Manager of Procurement shall be final and conclusive if the Manager of Procurement Services acted in good faith.
- (b) CONTRACTOR acknowledges and agrees that the CITY has provided CONTRACTOR with an opportunity to have CONTRACTOR's attorney review and advise CONTRACTOR on the Agreement and any potential ambiguities or areas of disagreement and the potential adverse legal consequences of CONTRACTOR agreeing to this Section as well as the entire Agreement. CONTRACTOR certifies that CONTRACTOR has provided the CITY written notice of all ambiguities, conflicts, errors or discrepancies that it has discovered in the Agreement and the written resolution thereof by the CITY as embodied in this final Agreement is acceptable to CONTRACTOR.

- (c) CONTRACTOR certifies that CONTRACTOR has either (1) waived its right to have CONTRACTOR's attorney review this section and Agreement; or (2) CONTRACTOR has consulted with an attorney on this section and Agreement.
- (d) CONTRACTOR knowingly and voluntarily agrees to this section and the entire Agreement. CONTRACTOR certifies that this contract was not procured by fraud, duress or undue influence.

Sec. 22. Contract Execution. This Contract may be executed in one or more counterparts, each of which will be deemed an original copy of this Contract and all of which, when taken together, will be deemed to constitute one and the same Contract. This Contract shall be effective upon the execution of counterparts by both parties, notwithstanding that both parties may not sign the same counterpart. The parties' signatures transmitted by facsimile or by other electronic means shall be proof of the execution of this Contract and shall be acceptable in a court of law.

Sec. 23. Guaranteed Lowest Pricing. CONTRACTOR certifies that the Primary Contract contains CONTRACTOR's lowest and best pricing for all services supplied by CONTRACTOR to any government, governmental entity, political subdivision, city, state, school district or any other public entity in the United States as of the date of this Contract.

Sec. 24. Assignment and Subcontracting. CONTRACTOR shall not subcontract, assign or transfer any part or all of CONTRACTOR's obligations or interests without CITY's prior approval. If CONTRACTOR shall subcontract, assign, or transfer any part of CONTRACTOR's interests or obligations under this Contract without the prior approval of CITY, it shall constitute a material breach of this Contract.

Sec. 25. Minority and Women's Business Enterprises. CITY is committed to ensuring that minority and women's business enterprises (M/WBE) participate to the maximum extent possible in the performance of CITY contracts. CONTRACTOR agrees to comply with all requirements of CITY's Minority and Women's Business Enterprise Program as enacted in CITY's Code Sections 38-84 through 38-100.8 and as hereinafter amended. CONTRACTOR shall make its good faith efforts in carrying out this policy by implementing its contractor utilization plan on Project Agreements, which is incorporated herein as part of the Contract.

Sec. 26. Performance Bond and Payment Bond.

(a) If a Project requires prevailing wage, CONTRACTOR shall obtain and thereafter at all times during this Contract maintain a payment bond and performance bond, in the name of the City and in the total dollar amount of all Project Agreements, plus any amendments. All Bonds shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A certified copy of such agent's authority to act must accompany all Bonds signed by an agent. If the surety on any Bond furnished by Seller is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirement of the preceding sentence, Seller shall within twenty (20) days thereafter substitute another Bond and surety, both of which must be acceptable to City.

(b) All Bonds required by the Contract Documents to be purchased and maintained by CONTRACTOR shall be obtained from surety that is duly licensed in the State of Missouri and in the jurisdiction in which the Project is located, if not in Missouri, to issue Bonds. All surety companies shall hold an A.M. Best rating of B+, V, or better.

Sec. 27. Prevailing Wage.

(a) If required by State or Federal Law for a Project, CONTRACTOR shall comply and require its Subcontractors to comply with;

1. sections 290.210 to 290.340, RSMo the State of Missouri Prevailing Wage Law (the "Law"); and
2. 8 CSR 30-3.010 to 8 CSR 30-3.060, the Prevailing Wage Law Rules (the "Rules"); and
3. the Annual Wage Order (Wage Order) issued by the State of Missouri's Department of Labor and Industrial Relations; and
4. any applicable Annual Incremental Wage Increase (Wage Increase) to the Annual Wage Order.

(b) The Law, Rules, Annual Wage Order and any Wage Increase are incorporated into and made part hereof this Contract and shall be collectively referred to in this Section as the "Prevailing Wage Requirements."

(c) CONTRACTOR shall pay and require its Subcontractors to pay to all workers performing work under this Contract not less than the prevailing hourly rate of wages for the class or type of work performed by the worker in accordance with the Law, Rules, Wage Order and any applicable Wage Increase. CONTRACTOR shall take whatever steps are necessary to insure that the prevailing hourly wage rates are paid and that all workers for CONTRACTOR and each of its Subcontractors are paid for the class or type of work performed by the worker in accordance with the Prevailing Wage Requirements.

(d) Prior to each of its Subcontractors beginning Work on the Site, CONTRACTOR shall require each Subcontractor to complete OWNER's Form 00490 entitled "Pre-contract Certification" that sets forth the Subcontractor's prevailing wage and tax compliance history for the two (2) years prior to the bid. CONTRACTOR shall retain one (1) year and make the Pre-contract Certifications available to OWNER within five (5) days after written request.

(e) CONTRACTOR shall keep and require each of its Subcontractors engaged in the construction of public works in performance of the Contract to keep full and accurate records on OWNER's:

1. "Certified Payroll Report" Form indicating the worker's name, address, social security number, occupation(s) and craft(s) of every worker employed in connection with the public work together with the number of hours worked by each worker and the actual wages paid in connection with the Project; and

a. "Daily Labor Force Report" Form indicating the worker's name, occupational title or classification group & skill and the workers' hours. OWNER shall furnish blank copies of the Daily Labor Force Report Form to CONTRACTOR for its use and for distribution to Subcontractors; and

b. "Payroll Certification" Form. CONTRACTOR shall prepare and shall require each Subcontractor to prepare a "Payroll Certification" Form to accompany the Certified Payroll Report. The Payroll Certification must be signed by the employee or agent who pays or supervises the payment of the workers employed under the Contract for the CONTRACTOR and each Subcontractor.

Copies of OWNER's "Certified Payroll Report" form, the Daily Labor Force Report and Payroll Certification Form are included in the Project Manual and are collectively referred to in this Section as the "Records."

(f) CONTRACTOR shall submit its and its Subcontractors Daily Labor Force Reports to OWNER each day. CONTRACTOR shall make all of CONTRACTOR's and Subcontractors' Records open to inspection by any authorized representatives of OWNER and the Missouri Department of Labor and Industrial Relations at any reasonable time and as often as they may be necessary and such Records shall not be destroyed or removed from the State of Missouri for a period of one (1) year following the completion of the public work in connection with which the Records are made. CONTRACTOR shall have its and its Subcontractors Certified Payroll Reports and Payroll Certifications available at the CONTRACTOR's office and shall provide the Records to the City electronically at City's sole discretion. In addition, all Records shall be considered a public record and CONTRACTOR shall provide the Records to the OWNER in the format required by the OWNER within three (3) working days of any request by OWNER at the CONTRACTOR's cost. OWNER, in its sole discretion, may require CONTRACTOR to send any of the Records directly to the person who requested the Record at CONTRACTOR's expense.

(g) CONTRACTOR shall post and keep posted a clearly legible statement of all prevailing hourly wage rates to be paid to all workers employed by CONTRACTOR and each of its Subcontractors in the performance of this Contract in a prominent and easily accessible place at the Site of the Work by all workers.

(h) If the Contract Price exceeds \$250,000.00, CONTRACTOR shall and shall require each Subcontractor engaged in any construction of public works to have its name, acceptable abbreviation or recognizable logo and the name of the city and state of the mailing address of the principal office of the company, on each motor vehicle and motorized self-propelled piece of equipment which is used in connection with the Project during the time the CONTRACTOR or Subcontractor is engaged on the project. The sign shall be legible from a distance of twenty (20') feet, but the size of the lettering need not be larger than two (2") inches. In cases where equipment is leased or where affixing a legible sign to the equipment is impractical, the CONTRACTOR may place a temporary stationary sign, with the information required pursuant to this section, at the main entrance of the Project in place of affixing the required information on the equipment so long as such sign is not in

CONTRACTOR

I hereby certify that I have the authority to execute
this document on behalf of CONTRACTOR.

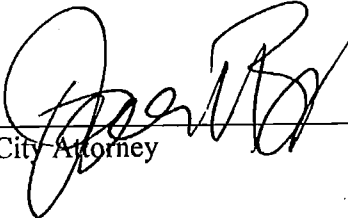
Contractor: Kingston Environmental Services, Inc.

By: *Edward J. Cronin, Jr.*

Title: President & CEO

Date: September 1, 2009

APPROVED AS TO FORM



Assistant City Attorney

(Date)

KANSAS CITY, MISSOURI

By: *Cedric Rowan*

Title: *Manager of Procurement*

Date: *9/4/09*

Teddy Ballard

From: Thomas J. Wyrsh
Sent: Tuesday, April 26, 2011 9:13 AM
To: Teddy Ballard
Subject: RE: compliance report attached

I will enter data and they will be in compliance. Renewal date will be 12/31/2011. Thanks.

-----Original Message-----

From: Teddy Ballard
Sent: Tuesday, April 26, 2011 7:46 AM
To: Thomas J. Wyrsh
Subject: compliance report attached

Tom,

Attached please find the completed compliance report from Kingston Environmental.

Thank you.

Teddy
Ext 13465

Teddy Ballard

From: David L. Davis
Sent: Friday, April 15, 2011 2:39 PM
To: Teddy Ballard
Subject: RE: tax status - Kingston

Paid in Full.
\$10,406.82 in Personal Property. The Real Estate is in a different name but it is paid as well.

David Davis
Delinquent Tax Unit
Jackson County Collection Department
816-881-3186

From: Teddy Ballard
Sent: Friday, April 15, 2011 2:37 PM
To: David L. Davis
Subject: tax status - Kingston

David,

Please send tax status for the following vendor:

Kingston Environmental Services Inc.
15450 Hanger Road
Kansas City, MO 64147

Thank you.

Teddy
Ext 13465