



Frankfort Plant Board

BID INVITATION #1758

ISSUED ON

June 24, 2022

BY

**THE ELECTRIC & WATER PLANT BOARD OF THE
CITY OF FRANKFORT, KENTUCKY**

FOR

Contract Labor- FTTH Fiber Optic Splicing

TO BE OPENED ON

July 7, 2022 at 1:30PM

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CONTRACT LABOR FOR CABLE/TELECOM FTTH Fiber Optic Splicing

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III. ADVERTISEMENT FOR BID

**The Frankfort Plant Board
305 Hickory Drive
Frankfort, KY 40601**

Separate sealed Bids for Contract Labor- Telecom FTTH Fiber Optic Splicing will be received by the Frankfort Plant Board until 1:30 p.m. local time July 7, 2022; and then opened and publicly read aloud.

Specifications may be examined at the following location:

Frankfort Plant Board
Service Center
305 Hickory Drive
Frankfort, KY 40601

No bidder may withdraw his bid for a period of ninety (90) days after closing time scheduled for the receipt of Bids.

The Plant Board reserves the right to waive informalities and to accept or to reject any and all bids.

For Bid Correspondence, contact:

**Jennifer Hellard
(502) 352-4422
jhellard@fewpb.com**

For Technical Correspondence, contact:

**Shane Holt
(502) 352-4546
sholt@fewpb.com**

IV. INTRODUCTION AND BACKGROUND

CONTRACT LABOR FOR TELECOM FTTH CONSTRUCTION

FPB issues this invitation for contract labor to continue the splicing of a new Fiber-to-the-Home (FTTH) network. The bidders will provide the supervision, labor, tools, vehicles, and equipment needed to accomplish projects. FPB will provide all materials.

FPB is a utility operating in and around Frankfort, the Capital of the state of Kentucky. The company provides Electric, Water, Cable TV and fiber optic services. FPB is a municipal instrumentality that has provided electric and water service for nearly 80 years, Cable TV service for 70 years and fiber-optic-connectivity services for more than 25 years. FPB's cable system is one of the largest municipally owned systems in the country and one of the first cable systems in operation of any kind.

FPB serves approximately 17,000 Cable Modem customers, 7,000 Cable TV customers, 4,500 telephone customers, and about 115 City, State and commercial buildings and 20 public schools with fiber optic service.

Its service area is approximately 400 square miles.

The contract period will begin when the contract is executed by both parties and will end one year from the date of contract execution. Upon mutual agreement by both parties, the term can be extended on a year to year basis.

V. INSTRUCTIONS TO BIDDERS

1. SUBMISSION OF BIDS

A. The following certificates or notices are included as a part of this documentation and shall be returned as a part of the bid response package.

- An Equal Employment Opportunity Compliance (EEOC) Certificate
- A Certification of Nonsegregated Facilities (CONF)
- A General Safety Program (GSP) Notice
- A Drug free Workplace Compliance (DWC)

B. Each bid should be in a SEPARATE SEALED ENVELOPE and have typed on the envelope the INVITATION NUMBER, OPENING DATE, AND TIME. No responsibility will be attached to the Frankfort Electric & Water Plant Board for the premature opening of or failure to open a bid not properly addressed or identified. Bids must be received in the office of the Frankfort Electric & Water Plant Board, 305 Hickory Drive, Frankfort, Kentucky, 40601, in a sealed envelope not later than the time specified for opening of bids, at which time all bids received will be publicly opened and read in the Bid Opening Room. It shall be the Bidder's responsibility that the bids are delivered to the above address no later than the time specified. Bidders are invited to attend public bid openings; also, to review complete bid files after awards have been made.

C. Bids may be rejected unless filled out in ink or typewritten and signed in ink by a proper agent of the firm.

D. Telegraphic bids, facsimile bids, or modifications of bids by telegram are not acceptable.

E. Any exceptions to the specifications must be identified on Page 29 of the Detail Bid Pricing Section and cross-referenced, if necessary, to supplement explanation if insufficient space is available on pricing form.

F. It is the responsibility of each Bidder before submitting a Bid to:

- Examine the Bid and Contract documents thoroughly.
- Consider federal, state, and local laws and regulations that may affect cost, progress, performance, or furnishing of the work.
- Study and carefully correlate Bidder's observations with the Bidding and Contract documents and notify Owner of all conflicts, errors, and/or the discrepancies.

G. All bids shall remain subject to acceptance for a period of ninety (90) days after the date of the Bid opening.

H. Retain one complete copy of the bid for your file and return original with your bid.

I. Bids may be withdrawn at any time prior to opening upon written request by the bidder. Negligence on the part of the bidder in preparing his bid shall not constitute a right to withdraw bid after it has been opened.

J. All materials for the project will be purchased and supplied by FPB. Quotations for labor must be submitted based on unit price only.

K. The vendor will invoice FPB weekly. Invoices will be emailed to Mike Harrod, mikeharrod@fewpb.com, and reference the Work Order assigned to the project by FPB. FPB is sales tax exempt, do not add or include tax. Purchase exemption number CT-37-103.

L. After award, the awardee will begin work on July 25, 2022, all price quotes must remain in effect thru July 25, 2023.

2. BID SCHEDULE/SIGNATURE PAGE

A. Bidders should quote on the basis of units stated in this invitation. Unit price should be entered and EXTENDED. In case of error in the extension of prices, the unit price will govern. For discrepancies between figures and written amounts, precedence will be given to the written amounts.

B. Bids by corporations must be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation must be shown below the signature.

C. Bids by partnerships must be executed in the partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

D. All names must be typed or printed below the signature.

E. The Bid shall contain an acknowledgement of receipt of all Addenda (the numbers of which must be filled in on the Bid Form).

F. The address, telephone number and contact person for communications regarding the Bid must be shown.

3. QUALIFICATIONS OF BIDDERS

To demonstrate qualifications to perform work, each Bidder must be prepared to submit within five (5) days of Owner's request, written evidence such as financial data, previous experience, present commitments and other such data as may be called for. The Owner may make an investigation as deemed necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish to the Owner all such information and data for this purpose, as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligations of the Contract and to complete the work contemplated therein.

3. **AWARD OF CONTRACT**

- A. The Owner reserves the right to reject any and all Bids and to waive informalities or minor defects. Any Bid may be withdrawn prior to the above scheduled time for the opening of Bids or authorized postponement thereof. Any Bid received after the time and date specified shall not be considered. No Bidder may withdraw a bid within 90 days after the actual date of opening thereof. Should there be reasons why the contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the Owner and the Bidder. In the event that the lowest responsive and responsible bid is within the Owner's budget, the Contract will be awarded to the lowest responsive and responsible Bidder which, in the Owners sole and absolute judgment, will best serve the interest of the Owner
- B. Bid responses will be evaluated on the following criteria by an evaluation committee:
- Bidder's qualification, experience, and available staffing.
 - If the bidder's response to the minimum requirements of this bid includes any qualifying statement, or in any way indicates an intent to provide less than the minimum requirements, the bid will be subject to disqualification.
 - Ability to complete the projects in a timely manner.
 - Price quoted.
 - FPB reserves the right to waive informalities and accept or reject any and all bids.
- C. Award will be made on an "ALL OR NONE" basis.

In evaluating the bids, the selection will be made based on the bid response that provides the best value to FPB and is judged the best bid, which does not necessarily mean the lowest bid.

4. **LAWS AND REGULATIONS**

The Bidder's attention is directed to the fact that all applicable State Laws, municipal ordinance, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written out in full. Bidder shall comply with any applicable COVID testing or vaccination requirements.

VI. TECHNICAL SPECIFICATIONS/ SCOPE OF WORK SECTION

CONTRACT LABOR FOR TELECOM FTTH CONSTRUCTION

A. INTRODUCTION

FPB is entering the third year of its FTTH project to overbuild the existing HFC network with the goal of completion in the next 3-4 years. Over the next year this project will construct 30 new PON service groups, with the total coverage of over 500,000' of existing plant footage. The fiber placement is performed by others. FPB will provide materials and system maps. Contractors will provide the workforce, tools, equipment, and any other items necessary to perform the splicing of fiber optic cable and related components. Contractors shall coordinate with FPB staff to make every attempt to minimize disruptions to the existing and active coax plant. FPB will attempt to aggregate projects and work with the Contractor in a manner to make the extent of work feasible.

B. Standards

All work will meet the TIA/EIA Installation standards, National Electric Codes (NEC) and National Electric Safety Codes (NESC).

C. Warranty

The contractor shall warrant all labor and workmanship for a period of one year after the installation and acceptance of workmanship and promptly correct any defects at the expense of the Contractor thirty days after notification from FPB. The Contractor agrees to communicate with the customer and respond within a 24-hour time period from the time of the first notice. The warranty term shall begin upon FPB's acceptance of work performed by payment of invoice. The contractor will not be responsible for any repairs during the warranty period incurred by environmental factors such as rodent or weather-related damage.

D. Holiday and Weekend Work

The Contractor will generally be expected to adhere to FPB’s workweek and work hour schedule (Monday through Friday 7:30 a.m. to 4:00 p.m.). The official holidays are shown below.

New Year’s Day	Independence Day
Martin Luther King Jr.’s Birthday	Labor Day
Good Friday (1/2 Day)	Thanksgiving (2 Days)
Memorial Day	Christmas (2 Days)
Juneteenth	New Year’s Eve

However, if the Contractor wants to work outside the normal FPB schedule, it is the responsibility of the Contractor to obtain prior approval from FPB contract coordinator.

E. Contractor’s Employee Background Checks, Conduct and Appearance

Contractor shall perform criminal background checks on its employees. Employees found to have convictions shall be reviewed with FPB project managers prior to being assigned work on the Project. FPB reserves the right to reject any employee of Contractor after review of past convictions.

The appearance and conduct of the Contractor’s employees must meet FPB standards.

F. Materials

FPB will provide all materials for the project. The Contractor will provide the workforce, vehicles, fuel, cell phones and tools/equipment needed to perform the work.

Materials supplied by FPB will be the responsibility of the contractor to secure after checkout and to the project site. Materials provided by FPB that are subsequently damaged, stolen or vandalized and deemed unusable shall be replaced with like materials at the contractor’s expense.

G. Insurance / Indemnification

1. Insurance

The Contractor shall take out and maintain during the life of this Contract such Public Liability (Bodily Injury and Property Damage) insurance as to protect himself/herself and any Subcontractor performing work covered

under this Contract, from claims for damages because of bodily injury, including accidental death, and from claims for property damages, which may arise from operations under this Contract, whether such operations by him/her or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The Contractor's insurance shall likewise protect FPB and save them or either of them harmless for acts of the Contractor.

FPB's contract requires that you return to us a signed contract and Certificate of Insurance showing commercial general liability, business auto liability, and employer's liability insurance.

Moreover, FPB's contract requires that you provide a copy of any endorsement issued by your insurance company naming us as an additional insured on a primary and non-contributory basis. FPB must receive these before the contractor begins work on the project.

Your policies should also:

Include at least \$1,000,000.00 limits for commercial general liability, business auto liability and employer's liability with umbrella limits of \$4,000,000.00.

Be issued by an insurance carrier that maintains an A.M. Best's rating of "A-" or better, is duly admitted in the State of Kentucky and is reasonably acceptable to us.

The commercial general liability policy should:

Include commercial general liability aggregate limits of at least \$2,000,000.00 with the general aggregate limit applicable per project.

Be an occurrence coverage form equivalent to ISO's CG 00 01 10 01.

Include coverage for liability arising from premises-operations, independent contractors, products-completed operations, personal and advertising injury and liability assumed under an insured contract (including tort liability of another assumed in a business contract).

Include no endorsements or modifications arising from explosion, collapse, underground property damage or work performed by subcontractors.

Include a waiver of subrogation.

Name FPB as an additional insured on a primary and non-contributory basis for ongoing and completed work using ISO form, CG 20 10 11 85 or a combination of ISO forms, CG 20 10 10 01 and CG 20 37 10 01.

Additionally, we require that your business will:

Provide at least thirty (30) days written notice prior to cancellation or termination of your commercial general liability, business auto liability and employer's liability policies.

Insurance, Workmen's Compensation

The Contractor shall take out and maintain, during the life of this Contract, Workmen's Compensation Insurance, including occupational disease provisions, for all of the employees employed at the site of the project, and in case any work is sublet, the Contractor shall require his Subcontractors similarly to provide Workmen's Compensation Insurance, including occupational disease provisions, for all the latter employees unless such employees are covered by the protection afforded by the Contractor.

In case any class of employees engaged in hazardous work under this Contract at the site of the project is not protected under the Workmen's Compensation statute, the Contractor shall provide, and shall cause each Subcontractor to provide, adequate coverage for the protection of his employees not otherwise protected. The insurance policy shall contain a clause or endorsement to save the Owner harmless for any acts of the Contractor.

Certificate of Insurance

At a minimum, the Certificate of Insurance shall contain the following information: (1) name of insurance company, (2) policy number and liability limits on all policies, (3) date of expiration of all policies, (4) statement that thirty (30) days' notice of cancellation will be given to FPB, and (5) statement that coverage that will hold FPB harmless for acts of the Contractor is included.

2. Indemnification

The work performed by the Contractor shall be at the risk of the Contractor exclusively. To the fullest extent permitted by law, Contractor shall indemnify, defend (at Contractor's sole expense) and hold harmless the Owner ("FPB"), and its representatives, members, designees, officers, directors, employees, agents, successors, and assigns ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorneys' fees and

costs, and consultants' fees and costs) ("Claims") which arise out of or are in any way connected with the Work performed, Materials furnished, or Services provided under this Agreement by Contractor or its agents. These indemnity and defense obligations shall apply to any acts or omissions, whether negligent or willful, of Contractor, its employees or agents, and whether active or passive. Said indemnity and defense obligations shall further apply, whether or not said claims arise out of the concurrent act, omission, or negligence of the Indemnified Parties, whether active or passive. Contractor shall not be obligated to indemnify and defend Owner for claims found to be due to the sole negligence or willful misconduct of Indemnified Parties.

Contractor's indemnification and defense obligations hereunder shall extend to Claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated that any and all actions against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable laws.

G. Performance and Payment Bonds

Contractor shall provide FPB with performance and payment bonds in the amount of \$50,000 each guaranteeing faithful performance of and payment for the work. Such bonds will be provided within fourteen days of execution of the contract and before the work shall commence.

H. Laws and Regulations

Contractor is considered a nonaffiliated third party of the Electric and Water Plant Board of the City of Frankfort, KY as defined in KRS 61.931 and agrees to comply with all personal information security and breach investigation procedures and practices related to nonaffiliated third parties as described in KRS 61.931 to KRS 61.934. To the fullest extent permitted by law Contractor shall indemnify, defend and hold harmless the Electric and Water Plant Board of the City of Frankfort, KY from and against claims, damages, losses and expenses, including but not limited to attorneys' fees or IT consultants, arising out of or resulting from the loss of any personal information supplied by the Electric and Water Plant Board of the City of Frankfort, KY required for the performance of this agreement. This provision shall survive the termination of this agreement.

VII. Bidder's Background, Qualifications and Reference Section

CONTRACT LABOR FOR TELECOM FTTH Construction

Please provide the following information:

1. Provide references of at least three completed projects, which are similar in character and in magnitude to that required in this bid invitation:

	Year	Owner	Telephone	Location	Amount
1)					
2)					
3)					

4. Our organization has been in business since year _____.
5. Our organization has had experience in comparable work to that required under this bid invitation as a prime contractor for _____ years and as a subcontractor for _____ years
6. The organization is properly licensed for providing the goods/services specified in this bid. Identify the applicable license # _____ and type _____.
7. Our organization has _____ employees on staff and contracts with _____ Subcontracting companies.

8. Identify any subcontractors that you plan to utilize and what percentage of work they will perform.

9. List key personal that will be involved with this project. Also provide their background and relative experience. (insert page if necessary)

VIII. DETAILED BID PRICING SECTION

CONTRACT LABOR FOR TELECOM FTTH CONSTRUCTION

1. **The quantities listed in the Bid Pricing Form are the estimated footages/units to be completed over the next year unless stated below.**
2. **FPB utilizes PLP / Coyote Dome enclosures, models 9.5"x28, 6.5"x22", and Coyote One, as well as, some Channell G4, G5, and G6 enclosures.**
3. **All distribution fiber cables are armored, loose tube, and no larger than 288 count. Flat dielectric cable is also used.**
4. **Item #8 –** These units are to be used when situations arise for work that cannot be calculated with the above units.
5. **Item #9 –** These units are to be used during situations of "Emergency" when fiber splicer responds during non-working hours.
6. **Traffic Control**
Contractor is required to have or be able to obtain all necessary traffic control devices (cones, arrow board, signs, flags, and paddles). Traffic control plans shall comply with the Manual on Uniform Traffic Control Devices (MUTCD).

BID PRICING FORM

Item #	Work	Quantity	Unit	Price
1	Splice Fiber Optic Cable, 1-12 Fibers	1,248	Per Splice	
2	Splice Fiber Optic Cable, 13-48 Fibers	2,048	Per Splice	
3	Splice Fiber Optic Cable, 49-96 Fibers	2,148	Per Splice	
4	Splice Fiber Optic Cable, 97-288 Fibers	3,744	Per Splice	
5	Ring cut/Mid-Entry Fiber Splice	288	Per Splice	
6	Install Splice Enclosure	104	Per Each	
7	Lash Fiber Splice Case	80	Per Each	
8	Fiber Splicer per hour	1	Per Hour	
9	Emergency Response - Fiber Splicer per hour	1	Per Hour	
10	Traffic Control	100	Per Hour	

IX. BID AMOUNT & SIGNATURE PAGE

PROJECT TITLE: Contract Labor for FTTH Fiber Optic Splicing

CONTRACT IDENTIFICATION: BID INVITATION # 1758

THIS BID IS SUBMITTED TO: FRANKFORT PLANT BOARD
ATTN: JENNIFER HELLARD
305 HICKORY DRIVE
FRANKFORT, KY 40601
(502) 352-4422

BIDDER has examined copies of all the bidding documents and of the following addenda (receipt of all which is hereby acknowledge):

DATE	NUMBER
_____	_____
_____	_____

CONTRACTOR: _____ **SUBMITTED BY:** _____

NAME: _____

ADDRESS: _____ **TITLE:** _____

_____ **DATE:** _____

PHONE NUMBER: _____ **ATTEST:** _____

*******Required certificates and notices have been executed and returned as a part of this bid response package**

- EEOC Certificate**
- CONF Certificate**
- GSP Notice**
- DWC Certificate**



CONTRACT APPLICABLE TO FPB BID INVITATION #1758

CONTRACT LABOR FOR TELECOM FTTH CONSTRUCTION

This contract dated _____ is between The Electric & Water Plant Board of the City of Frankfort, Kentucky (hereafter referred to as the FPB) located at 151 Flynn Ave, Frankfort, Kentucky 40601 and _____ (hereafter referred to as the Contractor) located at _____.

WHEREAS, the FPB offers CATV, Internet and Telecommunications services to serve new and existing customers.

WHEREAS, the FPB needs a contractor to perform contract labor for telecom FTTH construction.

WHEREAS, the Contractor has the personnel, resources, and expertise to perform the work needed by FPB,

ACCORDINGLY, the FPB and Contractor agree to the terms and conditions described in Bid Invitation # 1758 and incorporated by reference as if set forth fully herein as well as those described hereafter.

1. **Term**

This contract begins July 25, 2022 and ends July 25, 2023.

2. **Contract Amount**

The contract amount will fluctuate based on the number of units worked. FPB agrees to compensate the Contractor based on the unit rates contained in the Detail Bid Pricing Section for the units satisfactorily completed.

3. **Invoicing & Compensation**

In general, the Contractor will invoice FPB every week for the units completed at the unit rates contained in Section VIII. FPB's contract Coordinator and Contractor will, on a weekly basis, exchange

documentation to allow a timely verification of units completed by FPB before the Contractor includes these units on the invoice. FPB will pay the invoices within 30 days. The Contractor will not bill FPB for any corrective work necessary because of Contractor error.

4. **Scope Of Work**

The scope of work is defined in FPB's Bid Invitation #1758, Section VI and is hereby incorporated by reference. Also incorporated by reference herein is the Contractor's detailed bid pricing quote as contained in the contractor's response to Section VIII of Bid Invitation #1758. The Contractor will perform such items of work as identified in FPB's Bid Invitation #1758, Section VIII, Part A. The Contractor further agrees that, at the discretion of FPB, the Contractor may be requested to furnish items of labor and equipment as set forth in Section VIII.

5. **Work By Owner and Others**

FPB reserves the right to perform various activities with its own forces and to let other contracts in connection with Project.

If any part of Contractor's work depends for proper execution or results upon the work of FPB or any other separate contractor, Contractor shall inspect such work immediately upon its completion, or as soon thereafter as it is available to him, and promptly report to FPB any defect in such work that renders it unsuitable for such proper execution and results. His failure to so inspect and report within ten days after the work is available or not less than thirty days before the scheduled start of any of his work affected thereby shall constitute an acceptance of FPB's or other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in such work during or after the execution of Contractor's work.

6. **Legal Restrictions, Permits and Regulations**

Contractor shall be responsible for all licenses, permits, and governmental inspections required by public authorities for performing the work and shall otherwise comply with all federal, state, and local laws, regulations and ordinances including any applicable COVID vaccination requirements.

Contractor shall give due and adequate notices to those in control of all properties which may be affected by his operations, and shall comply with all laws, ordinances, rules and regulations bearing on the conduct of the work. If Contractor observes that the Contract Documents are at variance therewith, he/she shall give FPB prompt written notice thereof, and any necessary changes will be adjusted

as provided for herein.

If contractor performs any work knowing it to be contrary to such law ordinances, rules and regulations, and without such notice to FPB, he shall bear all costs arising therefrom.

Contractor is considered a nonaffiliated third party of the Electric and Water Plant Board of the City of Frankfort, KY as defined in KRS 61.931 and agrees to comply with all personal information security and breach investigation procedures and practices related to nonaffiliated third parties as described in KRS 61.931 to KRS 61.934. To the fullest extent permitted by law Contractor shall indemnify, defend and hold harmless the Electric and Water Plant Board of the City of Frankfort, KY from and against claims, damages, losses and expenses, including but not limited to attorneys' fees or IT consultants, arising out of or resulting from the loss of any personal information supplied by the Electric and Water Plant Board of the City of Frankfort, KY required for the performance of this agreement. This provision shall survive the termination of this agreement.

7. **Supervision**

Contractor shall supervise and direct the work efficiently and with his/her best skill and attention. He/she shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction used.

Contractor shall keep at the project site, during its progress, a competent person in charge against whom FPB has no reasonable objection.

8. **Duty to Examine and Compare Contract Documents**

Before starting and throughout progress of the work, Contractor shall carefully re-examine and compare the contract documents and check and verify all figures shown thereon. He/she shall at once report in writing to FPB any conflict, error, or discrepancy which he may discover and obtain an interpretation from FPB before proceeding with any work affected thereby.

Any conflict, error, or discrepancy discovered by Contractor, or which he/she should have discovered through proper examinations and comparisons and which is not reported at least ten days before the date scheduled for starting that portion of the work affected thereby, will not be grounds for claims for extensions of the contract time.

9. Safety and Protection

Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and loss prevention programs in connection with the work. He/she shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

**All employees on the work and other persons who may be affected.
All the work and all materials and equipment to be incorporated therein, whether in storage on or off the site.**

He/she shall comply with the Department of Labor Safety and Health Regulations for Construction, the Safety Standards Act; or with any federal, state, or municipal safety laws or building codes, which supplement or extend said regulations.

He/she shall designate a responsible member of his organization on the site whose duty shall be the enforcement of Safety and Health Regulations.

10. Emergencies

In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, contractor, without special instruction or authorization from owner, is obligated to act at his discretion to prevent threatened damage, injury or loss. He/she shall give owner prompt written notice of any significant changes in the work or deviations in the contract documents caused thereby. A modification may be issued covering the changes and deviations involved.

11. Owner's Responsibilities and Rights

A) Communications With Contractor

All communications from FPB to Contractor pertaining to performance of the work will be issued through FPB's contract manager.

B) Owner's Right to Correct or Complete the Work

If Contractor should neglect to execute the work properly or fail to perform any provision of this Contract or otherwise fail to comply with any federal, state or, municipal laws, regulations or ordinances, FPB, after ten days written notice to Contractor, may, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due Contractor or may, at its sole discretion, elect to terminate this agreement.

12. Use of Completed Work

FPB shall have the right to take possession and put into service or otherwise use any equipment or materials at any time after such items are installed, tested and ready for their intended use, whether or not entire work has been completed.

Such use shall not be deemed an acceptance of any work not completed in accordance with the contract documents.

FPB's use of any facilities shall not be grounds for extension of the contract time, change in the contract price, or claims for any retainage of monies for portions placed in service.

After all tests and instruction of FPB's personnel have been satisfactorily completed, FPB shall assume responsibility for and operation of all equipment and materials used as provided herein except for portions of the work not yet completed by Contractor.

13. Owner's Project Representatives

Communications pertaining to compliance submittals, written interpretations and change orders shall be directed to the designated FPB contract manager.

FPB's contract manager will conduct observations of the work in progress to determine that the work is proceeding in accordance with the contract documents.

14. Authority to Disapprove or Reject Defective Work

All work done shall at all times be subject to the inspection, tests, and approval of FPB or its authorized representatives.

FPB has authority to disapprove or reject work which it, in its sole discretion, deems "defective". FPB also has authority to require special inspection or testing of the work as provided in these general conditions whether or not the work is fabricated, installed or completed.

FPB's contract manager has authority, subject to final decision of FPB, to disapprove or reject any defective workmanship or equipment.

15. **Additional, Omitted, or Changed Work**

A) **Changes In the Work**

FPB, without invalidating the Agreement, may order additional work or make changes by altering, adding to, or deducting from the work, the contract price being adjusted accordingly. All such work shall be executed under the conditions of the contract documents and be subject to the same inspection and tests as though initially included therein. Any claim for extension of the contract time caused thereby will be adjusted at the time of ordering such change.

FPB has the right to make minor changes in the work to accommodate unforeseen circumstances and not inconsistent with the intent of the contract documents. Otherwise, all extra work or changes will be covered in a change order, which will state the location, character, amount and method of compensation. No extra work or change involving time or cost not provided for in the Agreement shall be made unless a change order is approved by FPB and no claim for an addition to the contract price or extension of the contract time will be valid unless so ordered.

16. **Changes to Contract Pricing**

The Contractor's unit installation rates may only be adjusted by a change order approved by the Board of FPB. The contract unit rates applied to the units completed, constitutes the total compensation payable to Contractor for performing the work. All duties, responsibilities and obligations assigned to and undertaken by Contractor in accomplishing the work shall be at his expense.

17. **Applicable Law**

This contract shall be governed by the laws of the State of Kentucky. In the event that either party hereto seeks to litigate any matters concerning this contract, then the parties hereby agree that the Franklin Circuit Court shall have sole jurisdiction and venue concerning any litigation arising out of this contract.

18. Entire Agreement

This document and its attachments as well as the terms and conditions set forth in Bid Invitation # 1758 which are incorporated by reference as if set forth fully herein constitute the entire Agreement between the FPB and Contractor and no terms, conditions, understandings, or agreements purporting to modify or vary the terms of the Agreement shall be binding unless made in writing and signed by the FPB and Contractor. No terms contained in Contractor's invoice or statement shall serve to modify the Agreement. The terms of this Agreement supersede any prior proposals, agreements, or contracts between the FPB and Contractor that may be in conflict with this Agreement.

19. Assignment

Contractor shall not assign this Agreement or any interest herein, including any performance or any amount which may be due or become due thereunder, without the FPB's prior written consent.

20. No Arbitration

This Agreement shall not be subject to arbitration.

21. Independent Contractor

Contractor is an independent contractor. Contractor does not have the authority to act, and will not act, as FPB's agent for any purpose. Contractor's employees or subcontractors are not employees or agents of the FPB and will not act as the FPB's employees or agents for any purpose. Contractor's employees will work solely under Contractor's director and supervision. The FPB will have absolutely no supervisory authority over Contractor's employees. Contractor is responsible for all materials and work of any of its suppliers or subcontractors.

Contractor may, with prior authorization from the Board of FPB, use such responsible sub contractors as it requires to perform its obligations. If Contractor sublets or assigns any work under this Agreement, Contractor remains responsible for accomplishing all work in accordance with this agreement and any amendments to this Agreement.

22. Notices

Any notices required under this Agreement shall be sent to the parties at the following addresses:

A) Frankfort Plant Board: Mr. Hance Price
Frankfort Plant Board
151 Flynn Ave.
Frankfort, Kentucky 40601

B) Contractor: _____

23. **Indemnity**

The Contractor shall indemnify FPB as required in Bid Invitation #1758 which is incorporated by reference as if set forth fully herein.

24. **Warranty**

A) The contractor warrants workmanship in accordance with warranty language defined in the Technical Specifications/Scope of Work Section (Section IX) of Bid Invitation #1758 which is incorporated as if set forth fully herein.

B) Contractor shall be held liable for all workmanship and installation procedures in accordance with accepted standards and a good faith effort.

C) Contractor shall not be liable for failure of FPB provided materials, if installed properly and in accordance with accepted standards.

25. **Termination of Agreement**

Termination for Cause

The FPB shall, for the duration of this Agreement, have the absolute right to terminate the Agreement for cause after written notification is given to Contractor and corrective action by the Contractor has not been completed within fourteen days of the notification. Cause shall be any of the following circumstances:

A) Contractor sub-contracts work or assigns the contract without prior FPB Board Contract Manager acceptance and approval;

- B) Contractor fails to correct defective work within 14 days after receiving written notice;
- C) Contractor has a receiver appointed because of insolvency; or Contractor files bankruptcy or has a petition for involuntary bankruptcy filed against it. When one involuntary petition is filed, Contractor will have ten days to have petition dismissed before it is considered cause for termination; or
- D) Any other contract breach.

The Contractor may terminate the contract for breach by FPB after written notification is given to FPB and corrective action by FPB has not been completed within 14 days of the notification.

Termination for convenience

Either party may terminate this Agreement upon thirty (30) days written notice to the other Party.

26. Force Majeure

Neither party is liable for failure to carry out any of its obligations under this Agreement caused by Force Majeure. A party rendered unable to fulfill any obligation under this Agreement by Force Majeure must make reasonable efforts to remove the inability in the shortest possible time. The other party will be excused from performing its obligations until party relying on the Force Majeure is again in full compliance with its obligations under the Agreement.

“Force Majeure” means any cause beyond the control of the party affected, and which the party affected is unable to overcome by reasonable efforts, including without limitations the following: acts of God, fire, flood, landslide, earthquake, hurricane, tornado, storm, freeze, volcanic eruption or drought; blight, famine, epidemic or quarantine; theft; casualty; war; invasion; civil disturbance; explosion; acts of public enemies or sabotage. Labor-related performance impediments such as labor strikes, disturbances, or shortages are not Force Majeure.

27. Other

A) Severability of Provisions

If a Court or other tribunal of competent jurisdiction at any time holds that any provision of this Agreement is invalid, the remainder

of the Agreement will not be affected and will continue in full force and effect.

B) No Waiver

The failure at any time of the FPB to enforce any provision of this Agreement or to require Contractor to perform any of the provisions of this Agreement does not waive or affect the validity or right of the FPB to enforce any provision of this Agreement.

C) Compliance with Laws & Government Regulations

Contractor shall comply with the provisions of all Federal, State, and local laws and regulations applicable to the Agreement, or to any goods or services to be furnished thereunder, and shall upon request by either party, furnish the other party with satisfactory proof of compliance with any designated law or regulation.

28. Insurance and Performance and Payment Bonds

- A) Contractor shall secure and maintain insurance as required in the bid specifications contained in Bid Invitation #1758 which are incorporated by reference herein.
- B) Contractor shall provide FPB with performance and payment bonds in the amount of \$50,000 each guaranteeing faithful performance and payment of the work. Such bonds will be provided within fourteen days of execution of the contract and before work commences.

29. Certificates/Compliance Documents

The following documents are hereby incorporated into the contract:

- A) Equal Employment Opportunity Compliance Certificate. (Exhibit #1)
- B) "Notice to Prospective Sub Contractor of Requirements for Certification of Non Segregated Facilities". (Exhibit #2)
- C) "Notice to Prospective Contractors of Requirements of General Safety Program". (Exhibit #3)
- D) Drug and Alcohol Testing Compliance Certificate. (Exhibit #4)
- E) Uniformed Services Employment and Reemployment Rights Act of 1994 (Exhibit #5)

30. **Order of Preference**

Any inconsistencies between the Contract's provisions and/or exhibits will be resolved using the following order of preference:

- A) Contract.
- B) Bid
 Invitation #1758 (Section VIII).
- B) Other provisions of Bid Invitation #1758.

31. **Modifications to Previous Contract Provisions**

The previous contract language is hereby modified as follows:

<u>PAGE/PARAGRAPH REFERENCE</u>	<u>DESCRIPTION OF CHANGE</u>

We hereby agree to the terms and conditions set forth herein:

CONTRACT APPLICABLE TO FPB BID INVITATION #1758

CONTRACT LABOR FOR FTTH FIBER OPTIC SPLICING

**The Electric & Water Plant Board
of the City of Frankfort, Kentucky**

**John Cubine,
Board Chairman**

(Name)

(Title)

Signature **Date**

Signature **Date**

**Steve Mason,
Secretary/Treasurer**

Signature **Date**

Exhibit #1

Equal Employment Opportunity Compliance Certificate

A. Has your company filed the required Employer Information Report, EEO-1 (Standard Form 100) with the Secretary of Labor's Joint Reporting Committee for the prior period ending March 31?

YES NO

If your answer to Question A above is "NO", check the following appropriate reasons for not filing:

- 1. Employ less than one hundred people company-wide.**
- 2. Have specific exemption from Secretary of Labor as provided in Section 20 of Executive Order 11246, as amended.**

Within Thirty (30) days after receipt of any order from the Frankfort Electric and Water Plant Board and prior to each March 31 thereafter, during the performance of work under said order, the undersigned firm agrees to file Standard Form 100, entitled "Equal Employment Opportunity Information Report EEO-1" in accordance with instructions contained therein, unless such firm has either filed such report within twelve months preceding the date of the award or is not otherwise required by law or regulations to file such a report.

B. In consideration of the undersigned being placed in the Frankfort Electric and Water Plant Board's "Supplier Document" for the year ending March 31 next, the undersigned certifies that he does not and will not maintain or provide for his employees any segregated facilities at any of his establishments and that he does not and will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The undersigned agrees that a breach of this certification is a violation of the Equal Opportunity Clause in any subcontract, contract, purchase order, or agreement that the undersigned may receive from the Frankfort Electric and Water Plant Board.

As used in this certification, the term "Segregated facilities" means any waiting room, work areas, rest room, and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated on the basis of race, creed, color or national origin, because of habit, local custom or otherwise.

Exhibit #1

The undersigned further agrees that he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he will retain such certification in his files and that he will forward the following notice to his proposed subcontractors (except when the proposed subcontractors have submitted identical certification for specific time periods).

Contractor _____

Mailing Address / Phone Number _____

Name of Authorized Representative
(Type or Print) _____

Title of Authorized Representative _____

Dated Signature of Authorized Representative _____

Date _____

Exhibit #2

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF
REQUIREMENT FOR CERTIFICATION OF
NONSEGREGATED FACILITIES**

"A certification of Nonsegregated Facilities, as required by the May 9, 1967 order on Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg. 7439, May 19, 1967) must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification for all subcontractors during a period (i.e., quarterly, semi-annually, or annually).

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

C. Do you have at each of your facilities a current written Affirmative Action Compliance Program as required by Title 41 of the Code of Federal Regulations (CFR) 60-1.40; and current written Affirmative Action Programs for disabled veteran, veterans of the Vietnam Era and Handicapped workers as required by CFR 60-250.4 and CFR 60-741.4?

YES NO

If "NO" within 120 days after receipt of any order resulting from attached quotation, the undersigned firm agrees to develop and maintain written Affirmative Action Compliance Programs as required. (Current law requires the contractor to develop a written Affirmative Action Compliance Programs in those cases where the contractor has received prime contract or subcontracts for \$50,000 or more and employs fifty (50) or more people).

Contractor _____
Mailing Address / Phone Number _____

Name of Authorized Representative _____
(Type or Print)

Title of Authorized Representative _____

Dated Signature of Authorized Representative _____

Date _____

Exhibit #3

**NOTICE TO PROSPECTIVE CONTRACTORS OF
REQUIREMENT FOR GENERAL SAFETY PROGRAM**

The Frankfort Plant Board requires that all contractors operate in compliance with standards set forth by federal, state, and local regulatory agencies, including but not limited to the Occupational Safety and Health Administration, Environmental Protection Agency and Department of Transportation. To comply with the regulations set forth by these agencies it is necessary for each contractor to operate under an established safety program pertaining to the contractor's specific line of business.

Does your organization operate under an established safety program that complies with all applicable federal, state and local regulations?

YES NO

Contractor _____

Mailing Address / Phone Number _____

Name of Authorized Representative _____
(Type or Print)

Title of Authorized Representative _____

Dated Signature of Authorized Representative _____

Date _____

Exhibit #4

DRUG AND ALCOHOL TESTING COMPLIANCE CERTIFICATE

PLEASE SIGN BELOW TO INDICATE: Contractor is in compliance with any applicable local, state or federal laws concerning mandatory Drug and Alcohol Programs

Contractor _____

Mailing Address / Phone Number _____

Name of Authorized Representative _____
(Type or Print)

Title of Authorized Representative _____

Dated Signature of Authorized Representative _____

Date _____

Exhibit #5

U.S. Department of Labor

**Assistant Secretary for
Veterans' Employment & Training
Washington, D.C. 20210**

June 22, 1998

Dear Federal Contractor/Sub-Contractor:

The purpose of this letter is to provide you information about the Uniformed Services Employment and Reemployment Rights Act of 1994, commonly known as USERRA, 38 U.S.C. Section 4301-4333. USERRA is essentially an employment law but, unlike other employment laws, applies to all U.S. employers, regardless of size. The Department of Labor administers and enforces the law.

USERRA provides reemployment rights with a pre-service employer following qualifying military service. Reemployment rights include full credit for seniority, seniority-related benefits and pay increases, pension credit, and other entitlements.

USERRA is also an anti-discrimination law, similar to those laws that prohibit discrimination based on, for example, gender, race, or national origin. Section 4311 of USERRA states in pertinent part that "[a] person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership. application for membership, performance of service, application for service, or obligation." This section became effective on October 13, 1994, and there is no applicable statute of limitations with respect to initiating an action under USERRA.

In a March 3, 1998, memorandum about USERRA to the heads of all Federal government departments and agencies, Secretary of Labor Alexis Herman wrote:

"The men and women who serve in the armed forces of the United States make a unique sacrifice for the people of this country. Some give their lives, others survive with permanent scars, all give years of their lives to service. Yet many of those who have served in the military or continue to serve in the National Guard and reserves while making their careers in the civilian sector find themselves years behind their peers in the civilian work force.

In an attempt to level the playing field for our Nation's veterans, Congress and our presidents have provided various legislative and legal protections for veterans. One of the most recent pieces of legislation is USERRA, which President Clinton signed into law on October 13, 1994."

Exhibit 5

My agency, the Veterans' Employment and Training Service, or VETS, administers the law for the Secretary of Labor and investigates claims involving possible violations. We also assist the Secretary in fulfilling her obligation under USERRA to inform protected persons and employers about the law's provisions. Information about USERRA is available on the Internet. The "Elaws" feature on the Department's home page provides access to information about USERRA as well as other laws administered by the Department. The home page can be found at www.dol.gov. Once on the home page, click on the "Elaws" logo. Within the "Elaws" directory, the USERRA advisor can be found under the Veterans' Employment and Training Service. Additionally, VETS has offices in each State where staff are available to answer inquiries concerning USERRA. Look under the "Labor, Department of" heading in the blue pages of your telephone directory to find the VETS office closest to you.

Sincerely,

Espiridion (Al) Borrego