

GENERAL CONDITIONS

ARTICLE 1 - WORK INCLUDED:

- 1.1 The work included in this Contract covers all that is necessary for the complete and proper installation at said facility which includes, but is not limited to supplying all equipment, materials and labor to construct this project. Any and all terms referenced as “existing”, “future”, “N.I.C.” (not in contract), or “by others” are not included in this Contract. See Section 01010, Summary of the Work.

ARTICLE 2 - DEFINITIONS:

- 2.1 The Contract Documents consist of: PART I - Bidding Information and Contract Requirements, Form of Bid, Bonds and Insurance, the Contract, City of Bellevue Standard Provisions and Contractual Supplementary General Conditions; PART II – Technical Specifications (including Special Provisions); Part III - Drawings; and Part IV - Appendix. In addition, Contract Documents include all addenda issued prior to bidding and all modifications and/or Change Orders thereof incorporated in the documents.
- 2.2 The Owner, Contractor, and Owner’s Representative are those mentioned as such in the agreement. They are treated throughout the Contract Documents as if each were of the singular number.
- 2.3 The term Subcontractor, as employed herein, includes only those having a direct contract with the Contractor and it includes one (i.e. manufacturer) who furnished the material worked to a special design according to the plans or specifications of this contract work.
- 2.4 Written notice shall be deemed to have been duly serviced if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by U.S. Mail postage prepaid to the last business address known to the one giving notice.
- 2.5 The term “work” of a Contractor or Subcontractor includes labor or material or both.
- 2.6 The term “site” refers to the area indicated in the working drawings.
- 2.7 Where the words “approved” or “for approval” is used, they shall mean “approved by the Owner, by and through the Owner’s Representative,” and “for the Owner’s approval, by and through the Owner’s Representative.”
- 2.8 Where the word “Owner’s Representative” appears herein it shall mean Landscape Architect, Architect, and/or Engineer as deemed appropriate by the Owner.
- 2.9 This contract shall be construed for all purposes as a contract entered into pursuant to the laws of the State of Washington.
- 2.10 The term “furnished” shall mean delivered to the job sites.
- 2.11 The term “install” shall mean entered permanently into the project.
- 2.12 The term “provide” shall mean to furnish and install.
- 2.13 The date of “final acceptance” shall mean the date of formal action by the Owner accepting the work.
- 2.14 The term “shall” shall mean “mandatory.”
- 2.15 The term “selected” shall mean “as chosen by the Owner or Owner’s Representative from manufacturer’s recognized standard grade of materials and colors, unless another grade is called for in the documents.”
- 2.16 The term “as directed” shall mean “as directed by the Owner or Owner’s Representative.”
- 2.17 The term “coordinate” means satisfactorily combine the work of all trades for a complete and operating

- installation.
- 2.18 Where the terms “or approved equal” or “or approved” are used, the Owner is the sole judge of the quality and suitability.
- 2.19 The term “indicated” means “as indicated in these Contract Documents.”
- 2.20 “Concealed” means items referred to are hidden from normal sight. This includes items in partly excavated or crawl spaces and in service tunnels used solely for repairs and maintenance.
- 2.21 “Exposed” means items are not concealed.
- 2.22 “Recognized manufacturer” means an individual, firm or corporation of recognized ability engaged in manufacturing the specified equipment for a minimum of 3 years unless otherwise specified.
- 2.23 Where the term “unless otherwise specified” is used, the Owner may specify something different within the Contract Documents and shall take precedence over those in the General Conditions.

ARTICLE 3 - EXECUTION, CORRELATION AND INTENT OF DOCUMENTS:

- 3.1 Drawings and Specifications: The Contract agreement between the Owner and the Contractor is supplemented to include the following:
- A. It is mutually agreed and understood between the Owner and the Contractor that in any instance of contradiction between drawing details of different scales, or between drawings and specifications, or between sections of the specifications, the more stringent and/or expansive requirements to the Contractor as interpreted by the Owner’s Representative will be included in Basic Contract Sum.
- B. Intent: The Contract Documents are intended to cooperate, to be complementary, and to include everything needed for the complete work. Any part of the material or labor called for on the drawings, but not described in the specifications, or vice versa, shall be deemed included in the Contract as though the material or labor were both shown on the drawings and described in the specifications. Should instructions or references in one part of the Contract Documents differ from what is called for in another part, the Owner’s Representative will determine the intent, and settle the difference.
- C. Correlation: The Contractor shall carefully examine the drawings, specifications, and the work site, and verify all the conditions and dimensions as stated in the Contract Documents at the start of this work. Written dimensions shall be followed; drawings shall not be scaled. Large scale and detail drawings shall be followed in preference to drawings at a smaller scale. Should any error or discrepancy be found in the Contract Documents, the questions shall be settled by the Owner’s Representative. The Contractor shall not make changes to the drawings or specifications without approval and direction of the Owner’s Representative. Where discrepancies occur, the Contractor shall not proceed until the discrepancy has been resolved by the Owner’s Representative.

ARTICLE 4 - DETAIL DRAWINGS AND INSTRUCTIONS

- 4.1 The Owners Representative shall furnish with reasonable promptness additional instructions by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions shall be consistent with the Contract Documents, true developments thereof and reasonably inferable therefrom.
- 4.2 The work shall be executed in conformity therewith and the Contractor shall do no work without approved permit, drawings and instructions from the City of Bellevue.
- 4.3 At the pre-construction meeting the Contractor shall have prepared and submitted an estimated Project Schedule for the Owner’s Representative’s approval. See Article 43.

- 4.4 Where the word “similar” occurs on the drawings, it shall be used in its general sense and not as meaning identical, and all details shall be worked out in relation to their location and their connection to other parts of the work.
- 4.5 Where on any drawing a portion of the work is drawn out and the remainder is indicated in outline, the drawn out parts shall apply also to other like portions of the work. where ornament or other detail is indicated by starting only, such detail shall be continued throughout the courses or parts in which it occurs and shall apply to all other similar parts of the work, unless otherwise indicated.

ARTICLE 5 - DRAWINGS AND SPECIFICATIONS OF THE WORK

5.1 As-Built Records

- A. The Contractor shall keep at the site of work an accurately marked record set of drawings and specifications as the job progresses, with all changes or deviations from the original Contract Documents recorded thereon for work under the Contract. Ensure entries are complete and accurate, enabling future reference by Owner.
- B. Accurate measurements referenced to two “permanent” structures shall be recorded to show exact location and changes in direction of all underground services and utilities, as well as the approximate depth below finished grade. In addition, the drawings and specifications shall be marked to record all materials used where options, alternates and/or change orders were indicated, specified, or authorized.
- C. The specification section shall be legibly marked and recorded at each product section, the description of actual products installed, including the following:
1. Manufacturer’s name and product model number.
 2. Product substitutions or alternates utilized.
 3. Changes made by addenda and modifications.
- D. The record drawings and shop drawings shall be legibly marked to record actual construction, including the following:
1. Measured depths of foundation grade beams in relation to the finish floor elevations/datum.
 2. Measured horizontal and vertical locations of underground utilities and appurtenances referenced to permanent surface improvements.
 3. Measured locations of internal utilities and appurtenances concealed in construction, referenced to permanent surface improvements.
 4. Field changes of dimension and detail.
 5. Details not in original Contract Drawings.
- E. Record information concurrent with construction progress and store record documents separate from documents used for construction. The record set shall be kept up to date at all times and shall be reviewed by the Owner and the Owner’s Representative at each pay request meeting. Failure to have the record set up to date shall, at the discretion of the Owner’s Representative, be reason to withhold payment in accordance with “PAYMENT AND COMPLETION” until such information is recorded.
- F. The Owner will provide a CAD file, mylar or reproducible plan set for the Contractor to transfer as-built information on to.
- G. Upon completion of the project and prior to final payment, the Contractor shall forward the record set

of drawings (CAD file or reproducible mylars and three sets of prints) and three sets specifications showing the as-built notations to the Owner's Representative for their approval and use. Such record set shall be clean, easily readable and carry the Contractor's name, date and notation that it is the as-built record set for the project.

5.2 Permit Set of Documents

- A. The Contractor shall maintain the stamped permit set of documents at the site of work during construction, in good condition as required by local ordinances. Just prior to final acceptance of the work, the Contractor shall deliver said documents to the Owner.

ARTICLE 6 - OWNERSHIP OF DRAWINGS

- 6.1 All drawings, and specified copies thereof, furnished by the Owner's Representative and the Contractor are the property of the Owner and are not to be used on other work.

ARTICLE 7 - ROYALTIES AND PATENTS

- 7.1 The Contractor shall pay all royalties and license fees. He/she shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, but if the Contractor has information that the process or article specified is an infringement of a patent, he/she shall be responsible for such loss unless he/she promptly gives such information to the Owner's Representative or Owner.

ARTICLE 8 - PERMITS, LAWS, AND REGULATIONS

- 8.1 All permits and licenses necessary for the execution of the work shall be secured and paid for by the Contractor unless otherwise specified.
- 8.2 Any re-inspection fees charged to the Owner for inspection of work that fails to pass the initial inspection will be deducted from the Contract amount.
- 8.2 The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the drawings and specifications are at variance therewith, he/she shall promptly notify the Owner's Representative in writing and any necessary changes shall be adjusted as provided in the Contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner's Representative, he/she shall bear all costs arising therefrom.

ARTICLE 9 - ACCESS TO WORK

- 9.1 The Owner's Representative, the Owner or their chosen representatives shall at all times have access to the work wherever it is in preparation or progress and the Contractor shall provide facilities for such access so that the Owner's Representative or Owner may perform their functions under the Contract Documents. If the specifications, the Owner's Representative instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, the Contractor shall give the Owner's Representative timely notice of its readiness for observation by the Owner's Representative or inspection by another authority, and if the inspection is by an authority other than the Owner's Representative, of the date fixed for such inspection, required certificates of inspection being secured by the Contractor. Observations by the Owner's Representative shall be promptly made, and where practicable at source of supply.
- 9.2 If any work should be covered up without approval or consent of the Owner's Representative, it must, if required by the Owner's Representative, be uncovered for examination at the Contractor's expense.

- 9.3 Re-examination of questioned work may be ordered by the Owner's Representative and if so ordered, the work must be uncovered by the Contractor. If such work be found in accordance with the Contract Documents, the Owner shall pay the cost of re-examination and replacement.

ARTICLE 10 - SUPERINTENDENCE: SUPERVISION AND EMPLOYEES

- 10.1 The Contractor shall keep on his/her work, during its progress, a competent superintendent, and any necessary assistants, all satisfactory to the Owner's Representative. The superintendent shall not be changed except with the consent of the Owner's Representative, unless the superintendent proves to be unsatisfactory to the Contractor, or ceases to be in his/her employ. The superintendent shall represent the Contractor in his/her absence and all directions given to him shall be as binding as if given to the Contractor. All directions shall be confirmed in writing to the Contractor. The Owner's Representative shall not be responsible for the acts or omissions of the superintendent or his/her assistants.
- 10.2 The Contractor shall give efficient supervision to the work, using his/her best skill and attention. He/she shall carefully study and compare all drawings, specifications and other instructions and shall at once report to the Owner's Representative any errors, inconsistencies or omissions which he/she may discover but he/she shall not be liable to the Owner for any damage resulting from any errors or deficiencies in the Contract Documents or other instructions by the Owner's Representative.
- 10.3 The Contractor shall enforce strict discipline and good order among his/her employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him/her.

ARTICLE 11 - CHANGES IN THE WORK

- 11.1 A Change Order is a written order to the Contractor signed by the Owner or Owner's Representative, issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates his/her agreement therewith, including the adjustment in the Contract Sum or the Contract Time.
- 11.2 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the contract consisting of additions, deletions, or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents.
- 11.3 The cost or credit to the Owner resulting from a change in the Work shall be determined in one or more of the following ways:
- A. By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation.
 - B. By unit prices subsequently agreed upon.
 - C. By cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed percentage fee.
 - D. By the method provided in the following paragraph:
 - i. If none of the methods set forth in Clauses 11.1, 11.2, or 11.3 is agreed upon, the Contractor, provided he/she receives a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of such work shall then be determined by the Owner's Representative on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change. Included in the case of an increase in the Contract Sum, a total maximum 10% allowance for combined overhead and profit. In such case and also under Clauses 11.1, 11.2, and

- 11.3 above, the Contractor shall keep and present, in such form as the Owner's Representative may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of material, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; cost of workers' or workman's compensation insurance; cost of other insurance required by the Contract; bond premiums; rental value of equipment and machinery; the additional costs of supervision and field office personnel directly attributable to the change; and cost of subcontractor's invoices (subcontractor's overhead and profit combined is limited to 10%).
- 11.4 Pending final determination of cost to the Owner, payment on account shall be made on the Owner's Representative's Certificate for Payment. The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Owner's Representative. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase with respect to that change.
- 11.5 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or the Contractor, the applicable unit prices shall be equitably adjusted. Should concealed conditions encountered in the performance of the work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract be encountered, then the Contract Sum shall be equitably adjusted by Change Order upon claim by either party made within fifteen (15) working days after the first observance of the conditions.
- 11.6 The Owner's Representative will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with intent of the Contract Documents. Such changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 12 - CLAIMS FOR EXTRA COST

- 12.1 If the Contractor claims that any instructions by drawings or otherwise involve extra cost under this Contract, he/she shall give the Owner's Representative written notice thereof no longer than ten (10) working days after the receipt of such instructions, and in any event before proceeding to execute the work, except in emergency endangering life or property, and the procedure shall then be as provided for changes in the work. **NO CLAIM SHALL BE VALID UNLESS SO MADE.** Amount of cost claim shall be finalized with Owner's Representative within fifteen (15) working days of receipt of notice.

ARTICLE 13 - DEDUCTIONS FOR UNCORRECTED WORK

- 13.1 If the Owner's Representative and Owner deem it inexpedient to correct work not done in accordance with the Contract, an equitable deduction from the contract price shall be made therefor.

ARTICLE 14 - DELAYS AND EXTENSION OF TIME

- 14.1 If the Contractor is delayed at any time in the progress of the work by any act or neglect of the Owner or the Owner's Representative, or of any employee of either, by any separate contractor employed by the Owner, or by changes ordered in the work, or by strikes, lockouts, fire, weather conditions, unusual delay in transportation, unavoidable casualties, or by delay authorized by the Owner's Representative, or by any cause which the Owner shall decide justifies the delay, then the time of completion shall be extended for

such reasonable time as the Owner's Representative may decide.

- 14.2 Weather related delays are defined as delays due to unusually severe conditions. Inclement weather, such as rain, is a normal occurrence in our geographic region, such weather is not considered unusually severe. The Contractor should consider normal inclement weather in the preparation of any schedules and if the Contractor elects not to perform work during normal inclement weather, the Contractor will not be entitled to an extension of time for these periods of non-work. Unusually severe conditions include, but are not limited to, prolonged periods of snow, freezing temperatures, substantially above average rainfall or any other highly unusual weather disturbance. Weather conditions that render work impossible or that may impair the quality of work will be evaluated if those days qualify as delay days and resulting time of completion extension.
- 14.3 Contract time period from Notice to Proceed to Final Completion includes a total of fifteen (15) workdays for weather-related delays unless otherwise specified. Weather-related delays beyond fifteen (15) workdays (unless otherwise specified) will require the Contractor to file a claim for extension of time per Contract provisions defined in Section 00700, Article 11, CHANGES IN THE WORK.
- 14.4 No delays and extension of time will be made because of strikes or lockouts at plants of suppliers if there is another source of supply available. No delays and extension of time will be granted on account of work performed in a grossly negligent manner by a supplier.
- 14.5 Any claims for extension of time shall be made in writing to the Owner's Representative no more than five (5) working days after the commencement of the delay; otherwise IT SHALL BE WAIVED WITHOUT EXCEPTION. Claims for any additional costs to the Owner related to delays shall be brought forth by the Contractor in writing to the Owner's Representative no more than five (5) working days after the commencement of the delay; otherwise IT SHALL BE WAIVED WITHOUT EXCEPTION. In the case of an ongoing delay, weekly notification is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the work.
- 14.6 If no schedule or agreement stating the dates upon which drawings shall be furnished is made, then no claim for delay shall be allowed on account of failure to furnish drawings until fifteen (15) working days after demand for such drawings and then not unless such claim is reasonable.

ARTICLE 15 - CORRECTION OF WORK BEFORE FINAL COMPLETION

- 15.1 The Contractor shall promptly remove from the premises all work condemned by the Owner's Representative as failing to conform to the Contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute his/her own work in accordance with the Contract and without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.
- 15.2 If the Contractor does not remove such condemned work within a reasonable time, fixed by written notice, the Owner may remove it and may store the material at the expense of the Contractor. If the Contractor does not pay the expenses of such removal within ten (10) working days' time thereafter, the Owner may upon ten (10) working days' written notice, sell such materials at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

ARTICLE 16 - GUARANTEE OF WORK

- 16.1 Neither Project Acceptance by the Owner, Final Certificate of Completion issued by the Owner's Representative, nor final payment by the Owner, shall be a waiver by the Owner of defects in either materials or workmanship in any part of the Contractor's work which are discovered within one (1) year from Final Completion except where longer guarantee periods are specified in the General and Technical Sections of these specifications. The Owner shall give notice of observed defects with reasonable promptness and the Contractor shall correct the defects with reasonable promptness. The Contractor shall

save the Owner harmless from any and all damages and expenses suffered or incurred by reasons of any such defects and any damages the consequence of such defects, and he/she shall repair such defects and consequences.

- 16.2 Obtain warranties and bonds, executed in duplicate by responsible Subcontractors within ten (10) working days after completion of the applicable item of work.
- 16.3 See ARTICLE 22 – COMPLETION, for Contract Closeout for initiation of Guarantee period.

ARTICLE 17 - INSURANCE DURING GUARANTEE PERIOD

- 17.1 In the event the Contractor is required to make corrections on the premises after the project has been inspected and accepted, he/she shall obtain at his/her own expense, and prior to commencement of any corrective work, such insurance coverage as is required by the City Of Bellevue Standard Provisions and Appendix B (unless otherwise specified) of this contract and which shall be carried only during period corrective operations are being performed.

ARTICLE 18 - THE OWNER'S RIGHT TO DO WORK

- 18.1 If the Contractor should neglect to prosecute the work properly or fail to perform any provision of this contract, the Owner after three (3) working days' written notice to the Contractor may, without prejudice to any other remedy he/she may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.
- 18.2 The Owner retains the right to work on the site while construction is underway.

ARTICLE 19 - OWNER'S RIGHT TO TERMINATE CONTRACT

- 19.1 If the Contractor should make a general assignment for the benefit of his/her creditors, or if a receiver should be appointed on account of his/her insolvency, or if he/she should persistently or repeatedly refuse or should fail except in cases for which extension of time is provided, to supply enough properly skilled worker or proper materials, or if he/she should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or the instructions of the Owner's Representative or otherwise be guilty of a substantial violation of any provision of the Contract, then the Owner upon the certificate of the Owner's Representative that sufficient cause exists to justify such action, may without prejudice to any other right or remedy and after giving the Contractor, and his/her surety if any, seven (7) working days' written notice, terminate the employment of the Contractor and take possession of the premises and all materials, tools, and appliances thereon and finish the work by whatever method he/she may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work including compensation for additional architectural, managerial and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Owner.

ARTICLE 20 - CONTRACTOR'S RIGHT TO STOP OR TERMINATE THE CONTRACT

- 20.1 If the work should be stopped under an order of any court, or other public authority, for a period of thirty (30) working days, through no act or fault of the Contractor or of anyone employed by him, then the Contractor may, upon seven (7) working days' written notice to the Owner and the Owner's Representative, terminate this contract and recover from the Owner payment for all work executed and any proven loss sustained.

ARTICLE 21 - PAYMENTS

- 21.1 The Contract Sum is stated in the Owner-Contractor Agreement and, including authorized adjustments thereto, is the total amount payable by the Owner to the Contractor for the performance of the Work under the Contract Documents. Before the first Application for Payment, the Contractor shall submit to the Owner's Representative a schedule of values allocated to the various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner's Representative may require. This schedule, unless objected to by the Owner's Representative, shall be used only as a basis for the Contractor's Applications for Payment.
- 21.2 At least ten (10) working days (unless otherwise specified) before the date for each progress payment established in the Owner- contractor Agreement, the Contractor shall submit three (3) copies to the Owner's Representative an itemized Application for Payment, notarized if required, supported by such data substantiating the Contractor's right to payment as the Owner or the Owner's Representative may require and reflecting a 5% retainage of the total Contract. Progress payments, not exceeding one payment every thirty (30) calendar days, will be made to the Contractor during the working period but not after the specified project completion date. Unless otherwise provided on the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site and if approved in advance by the Owner, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site.
- 21.3 The Contractor warrants that title to all Work, materials and equipment covered by an Application Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interest or encumbrances, hereinafter referred to in "PAYMENTS AND COMPLETION" as "liens", and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials and equipment of the Project subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.
- 21.4 The Owner's Representative will, within seven (7) working days after the receipt of the Contractor's Application for Payment, either issue a Certificate for Payment to the Owner, with a copy to the Contractor, for such amount as the Owner's Representative determines is properly due, or notify the Contractor in writing his/her reasons for withholding a Certificate. The issuance of a Certificate for Payment will constitute a representation by the Owner's Representative to the Owner, based on his/her observations at the sites, and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that to the best of his/her knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract documents correctable prior to completion, and to any specific qualification stated in his/her Certificate); and that the Contractor is entitled to payment in the amount certified.
- A. However, by issuing a Certificate for Payment, the Owner's Representative shall not thereby be deemed to represent that he/she has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work or that he/she has reviewed the construction means, methods, techniques, sequences or procedures, or that he/she has made any examination to ascertain how or for what purpose the Contractor has used the moneys previously paid on account of the Contract Sum.
- 21.5 After the Owner's Representative has issued a Certificate for Payment, the Owner, if satisfied as to the accuracy of the Certificate of Payment, shall make payment in the manner provided in the Contract Documents.

- 21.6 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's work. The Contractor shall, by an appropriate agreement with each subcontractor, require each Subcontractor to make payments to his/her Subcontractors in similar manner.
- 21.7 The Owner's Representative may, on request and at his/her discretion, furnish to any Subcontractors, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Owner's Representative on account of Work done by such subcontractor.
- 21.8 Neither the Owner nor the Owner's Representative shall have any obligation to pay or to see to the payment of any moneys to any Subcontractor except as may otherwise be required by law.
- 21.9 No Certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the Project by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.
- 21.10 The Owner's Representative may decline to certify payment and may withhold his/her Certificate in whole or in part, to the extent necessary and reasonable to protect the Owner, if in his/her opinion he/she is unable to make representations to the Owner as provided herein. If the Owner's Representative is unable to make representations to the Owner as provided herein and to certify payment in the amount of the Application, he/she will notify the Contractor as provided herein. If the Contractor and the Owner's Representative cannot agree on a revised amount, the Owner's Representative will promptly issue a Certificate for Payment for the amount for which he/she is able to make such representations to the Owner. The Owner's Representative may also decline to certify payment or, because of subsequently discovered evidence or subsequent observations, he/she may nullify the whole or any part of any Certificate for Payment previously issued to such extent as necessary in his/her opinion to protect the Owner from loss because of:
- A. Defective work not remedied.
 - B. Third party claims filed or reasonable evidence indicating probable filing of such claims.
 - C. Failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment.
 - D. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum.
 - F. Damage to the Owner or another contractor.
 - F. Reasonable evidence that the Work will not be completed within the Contract Time.
 - G. Persistent failure to carry out the work in accordance with Contract Documents.

When the above grounds herein are removed, payment shall be made for amounts withheld because of them.

- 21.11 If the Owner's Representative does not approve a Certificate for Payment, through no fault of the Contractor, within seven (7) working days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven (7) working days after the date established in the Contract Documents, any amount certified by the Owner's Representative, then the contractor may, upon seven (7) additional working days' written notice to the Owner and the Owner's Representative, stop the Work until payment of the amount owing has been received. The Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be effected by Change Order.

ARTICLE 22 COMPLETION**22.1 Preliminary and Final Punch Lists**

- A. When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the Owner, is complete, the Contractor shall inform the Owner's Representative who shall schedule a preliminary punch list inspection. The Owner's representative and/or Owner will perform inspections of the work and provide to the Contractor a list of items found to be deficient, if any exist.
- B. All items appearing on any punch list shall be corrected and the City notified.

22.2 Substantial Completion:

- A. When the Owner's Representative on the basis of an inspection determines that the Work or designated portion thereof is substantially complete, he/she will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, and shall state the responsibilities of the Owner and the Contractor for completion of remaining punch list items, security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete any remaining Contract requirements. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.
- B. Project is Substantially Complete when the majority of punch list items are complete, the facility is safe for public use/occupancy, all permits are signed-off as being complete or a Temporary Certificate of Occupancy is issued by the City Building Official, City staff training period/commissioning is complete, utilities are in service, and Owner's representative's Certificate of Substantial Completion receives all required signatures.

22.3 Final Completion

- A. At such time the Contractor has fulfilled all conditions of the Contract Documents, the Owner shall determine the date of Final Completion. All Contract requirements are to be 100% complete-this includes final inspection, repair/completion of newly discovered punch list items, O&M manuals, as-built record drawings, issuance of Final Certificate of Occupancy, all permits/utility requirements signed-off, extra stock delivered to Owner, Owner's representative's Certificate of Final Completion issued, and final pay request delivered to Owner's representative.
- B. Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner's Representative will promptly make such inspection, and, when he/she finds Work is found acceptable under the Contract Documents and the Contract fully performed, the Owner's Representative will promptly issue a final Certificate for Payment stating that to the best of his/her knowledge, information and belief, and on the basis of his/her observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable. If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting final completion, and the Owner's Representative so confirms, the Owner shall, upon application by the Contractor and certification by the Owner's Representative, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Contract Documents, and if bonds have been furnished (covering the faithful performance of the Contract and the payment of all obligations arising thereunder if and as required in the Bidding Documents or in the Contract Documents), the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the contractor to the Owner's Representative prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

- C. The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:
 - 1. Unsettled liens.
 - 2. Faulty or defective Work appearing after completion.
 - 3. Failure of the Work to comply with the requirements of Contract Documents.
 - 4. Terms of any special warranties required by the Contract Documents.
- D. The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.
- E. Upon Final Completion of the Work or designated portion thereof and upon application by the contractor and certification by the Owner's Representative, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof, as provided in the Contract Documents.

22.4 Project Acceptance

- A. Project is accepted by the City as being 100% complete after Department review and internal financial audit. Final payment request is processed.
- B. The City sends letters to the State Department of Revenue, Labor and Industry, Employment Security, and any other department or agency having jurisdiction over activities of the Contractor.

22.5 Retainage Release

Retainage will be released when the City receives notification from the State Departments approving the City's release of retainage. Retainage release schedule is subject to State timetable.

ARTICLE 23 - ASSIGNMENT

- 23.1 Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any moneys due to him hereunder, without the previous written consent of the Owner.

ARTICLE 24 - MUTUAL RESPONSIBILITY OF CONTRACTORS

- 24.1 Should any separate contractor on the work make claim against the Owner which arises as a result of any wrongful act, omission or failure to perform on the part of the Contractor, the Contractor agrees upon due notice to defend the Owner thereon, including submitting such claim to arbitration if demanded, and to pay all costs on account thereof, including but not limited to an arbitration award or court judgement, provided, however, that the Contractor shall be reimbursed by the Owner all of his/her costs and expenses in the event it is ultimately determined that the Contractor is not responsible for payment of such claim of any separate Contractor. Should the Contractor on the work make claim against the Owner which arises as a result of any wrongful act, omission, or failure to perform on the part of a separate contractor, the Contractor agrees to arbitrate such claim with such separate contractor if arbitration is demanded, and in the event the Contractor shall bring any arbitration proceedings or other action against the Owner, the Contractor agrees to reimburse the Owner for all costs and expenses incurred in the defense of such action in the event it is determined that the Contractor is not entitled to recover such claim.

ARTICLE 25 - SEPARATE CONTRACTS

- 25.1 The Owner reserves the right to let other contracts in connection with this work under similar General Conditions. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his/her work with theirs. If any part of the Contractor's work depends for proper execution or results upon the work of any other contractor, the Contractor shall inspect and promptly report to the Owner's Representative any defects in such work that render it unsuitable for proper execution and results. His/her failure so to inspect and report such shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his/her work, except as to defects which may develop in the other contractor's work after the execution of his/her work.
- 25.2 To insure the proper execution of his/her subsequent work, the Contractor shall measure work already in place and shall at once report to the Owner's Representative any discrepancy between the executed work and the drawings.

ARTICLE 26 - SUBCONTRACTS

- 26.1 As soon as practicable and before awarding any subcontracts, the Contractor shall notify the Owner's Representative in writing of the names of the subcontractors proposed for the work, and for such other parts as the Owner's Representative may direct, and shall not employ any to whom the Owner's Representative or the Owner may have a reasonable objection. The rejection of a Subcontractor based on his/her lack of qualifications, as perceived by the Owner's Representative, shall have no bearing on, and shall not affect the cost of the Work as bid. City and Federal Equal Opportunity Requirements are applicable in solicitation of subcontracts.
- 26.2 The Contractor agrees that he/she is as fully responsible to the Owner for the acts and omissions of his/her subcontractors and of persons either directly or indirectly employed by them as the Contractor is for the acts and omissions of persons directly employed by him/her.
- 26.3 Nothing contained in the Contract Documents shall create any contractual relation between subcontractor and the Owner.

ARTICLE 27 - RELATIONS OF CONTRACTOR AND SUBCONTRACTOR

- 27.1 The Contractor agrees to bind every Subcontractor and every Subcontractor agrees to be bound by the terms of the Contract Documents as far as applicable to his/her work, including the following provisions of this Article, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the Owner or Owner's Representative.
- A. The Subcontractor agrees:
1. To be bound to the Contractor by the terms of the Contract Documents and to assume toward the Contractor all the obligations and responsibilities that he/she, by those documents assumes toward the Owner.
 2. To submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment under "PAYMENTS AND COMPLETION" of the General Conditions.
 3. To make all claims for extras, for extensions of time and for damages for delays or otherwise to the Contractor in the manner provided in the General Conditions of the Contract for like claims by the Contractor upon the Owner.
- B. The contractor agrees:

1. To be bound to the Subcontractor by all the obligations that the Owner assumes to the Contractor under the Contract Documents and by all the provisions thereof affording remedies and redress to the Contractor from the Owner.
 2. To pay the Subcontractor, upon receipt of payment in accordance with "PAYMENTS AND COMPLETION", the amount allowed to the Contractor on account of the Subcontractor's work to the extent of the Subcontractor's interest therein.
 3. To pay the Subcontractor, upon the payment of certificates, if issued otherwise than in 2., that at all times his/her total payments shall be in proportion to the value of the work done by him as the total amount certified to the Contractor is to the value of the work done by him/her.
 4. To pay the Subcontractor to such extent as may be provided by the Contract Documents or the subcontract, if either of these provides for earlier or larger payments than the above.
 5. To make no demand for liquidated damages or penalty for delay in any sum in excess of such amount as may be specifically named in the subcontract.
 6. That no claim for services rendered or materials furnished by the Contractor to the Subcontractor shall be valid unless written notice thereof is given by the Contractor to the Subcontractor during the first ten (10) working days of the calendar month following that in which the claim originated.
 7. To give the Subcontractor an opportunity to be present and to submit evidence in any arbitration involving his/her rights.
 8. To name as arbitrator under arbitration proceedings as provided in the General Conditions the person nominated by the Subcontractor, if the sole cause of dispute is the work materials, rights or responsibilities of the Subcontractor, or if the Subcontractor and any other subcontractor jointly, to name as such arbitrator the person upon whom they agree.
- C. The Contractor and the Subcontractor agree that:
1. In the matter of arbitration, their rights and obligations and all procedures shall be analogous to those set forth in the Contract; provided, however, that a decision by the Owner's Representative shall not be a condition precedent to arbitration.
- 27.2 Nothing in the Article shall create any contractual relations between any Subcontractor and the Owner or create any obligation on the part of the Owner to pay or to see to the payment of any sums to any Subcontractor.

ARTICLE 28 - OWNER'S REPRESENTATIVE'S STATUS

- 28.1 The Owner's Representative is the person lawfully licensed to practice Landscape Architecture, Architecture or Engineering or an entity lawfully practicing Landscape Architecture, Architecture or Engineering identified as such in the Owner-Contractor Agreement, and is referred to throughout the Contract Documents as if singular in number.
- 28.2 The term Owner's Representative means the Landscape Architect, Architect or Engineer or his/her authorized representative.
- 28.3 The Owner's Representative will provide administration of the Contract as hereinafter described.
- A. The Owner's Representative will represent the Owner during construction and until final payment is due. The Owner's Representative will advise and consult with the Owner. The Owner's instruction to the Contractor shall be forwarded through the Owner's Representative. The Owner's Representative will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

ARTICLE 29 - OWNER'S REPRESENTATIVE'S DECISIONS

- 29.1 The Owner's representative will render interpretations necessary for the proper execution or progress of the work, with reasonable promptness and in accordance with any time limit agreed upon. Either party to the contract may make written request to the Owner's Representative for such interpretations.
- 29.2 Claims or disputes and other matters in question between the Contractor and the Owner relating to the execution or progress of the work or the interpretation of the Contract Documents shall be referred initially to the Owner's Representative for a decision which he/she will render in writing within a reasonable time.
- 29.3 All interpretations and decisions of the Owner's Representative shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. In the capacity as interpreter and judge, he/she will endeavor to secure faithful performance by both the Owner and the Contractor, will not show partiality to either, and will not be liable for the result of any interpretation or decision rendered in good faith in such capacity.
- 29.4 The Owner's Representative's decisions in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents. The Owner's Representative will have authority to reject work, which does not conform to the Contract Documents. Whenever, in his/her opinion, he/she considers it necessary or advisable for the implementation of the intent of the Contract Documents, he/she will have authority to require special inspection or testing of the work whether or not such work be then fabricated, installed or completed. However, neither the Owner's Representative's authority to act under this Article, nor any decision made by him/her in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Owner's Representative to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the work.

ARTICLE 30 - USE OF PREMISES

- 30.1 The Contractor shall confine his/her apparatus, the storage of materials, and the operation of his/her worker to limits indicated by law, ordinances, permits or directions of the Owner's Representative and shall not unreasonably encumber the premise with his/her materials.

ARTICLE 31 - CUTTING, PATCHING

- 31.1 The Contractor shall do all cutting, fitting, or patching of his/her work that may be required to make its several parts come together properly and fit it to receive or be received by work of other contractors shown upon, or reasonably implied by the Drawings and Specifications for the completed project, and the Contractor shall make good after them as the Owner may direct.
- 31.2 Any cost caused by defective or ill-timed work shall be borne by the party responsible therefore. The Contractor shall not endanger any work by cutting, excavating or otherwise altering the Work and shall not cut or alter the work of any other contractor save with the consent of the Owner.

ARTICLE 32 - CLEANING UP

- 32.1 The Contractor shall at all times keep construction sites, access points, public rights of ways and other areas free from accumulation of waste materials or rubbish caused by his/her employees or work, and at the completion of the work he/she shall remove all his/her rubbish from and about these areas and all his/her tools, scaffolding, and surplus materials and shall leave his/her work "broom-clean" or its equivalent, unless more exactly specified. In case of dispute, the Owner may remove the rubbish and charge the cost to the Contractor as the Owner's Representative shall determine to be just. BURNING IS NOT PERMITTED ON THE SITE.
- 32.2 The Contractor shall select his/her own sites for disposal of debris and unsuitable materials not upon the job site or any property contiguous thereto. The Contractor is solely and alone responsible for any and all

damages done or regulations violated in the disposal of waste material, and for any other actions which she/he performs. Contractor holds the Owner faultless and free from liability for any and all damages and costs incurred as a result of Contractor's actions. It shall be the responsibility of the Contractor to pay all fees and costs incurred in the disposal of waste material.

ARTICLE 33 - PRIOR OCCUPATION

- 33.1 The Owner shall have the right to occupy such part or parts of the project in or which the work is being done, as he/she may see fit, before the final acceptance of same, and such occupation shall not be construed as an acceptance by the Owner of the works.

ARTICLE 34 - LIST OF MATERIALS

- 34.1 Immediately after execution and delivery of the Contract and before orders are placed for materials and equipment to be incorporated in the work, the Contractor shall submit to the Owner and the Owner's Representative a complete list of items of equipment and materials, and the name of the manufacturer for approval by the Owner.
- 34.2 The Contractor shall notify the Owner of any capital personal inventory equipment at the time of installation; and shall furnish the make, model, serial number, complete description and cost.

ARTICLE 35 - TAXES

- 35.1 All applicable taxes which the Contractor is required to pay other than the Washington State retail sales tax as hereinafter specified shall be included by him/her in his/her various unit bid prices or any other compensation to be paid to him/her under the contract. No adjustment will be made in the amount to be paid by the Owner under the contract because of any change in law or regulations covering any applicable taxes, or because of any misunderstanding by the Contractor as to his/her liability for or the amount of any taxes.

ARTICLE 36 – SECURITY SERVICE

- 36.1 If the Contractor deems it necessary, the Contractor shall at his/her own expense employ and maintain a security service as to protect his/her equipment, work, and the property of the Owner from theft, vandalism, and unauthorized entry.

ARTICLE 37 - STORAGE AND HANDLING OF MATERIALS

- 37.1 Each Contractor shall be responsible for the proper care and protection of all his/her equipment, etc., delivered at the site.
- 37.2 Building materials, Contractor's equipment, etc., may be stored on the premises, but the placing of same shall be subject to approval of the Owner's Representative.
- 37.3 Each contractor shall protect and be responsible for any damage to his/her work or material from the date of the Agreement to the date of final acceptance, and shall make good without cost to the Owner any damage or loss, that may occur during this period.
- 37.4 Each contractor shall handle all material as directed, so it may be inspected by the Owner's Representative.
- 37.5 Lumber, plants, sod, topsoil, and other materials affected by the weather shall be covered and protected to keep them free from damage while they are being transported to the site.

- 37.6 Should any material be found defective, or in any way contrary to the contract, this material, no matter in what stage of completion, may be rejected by the Owner's Representative and shall be removed from the premises at once.

ARTICLE 38 - EQUAL PRODUCTS

- 38.1 Unless otherwise specifically provided in this contract, reference to any equipment, material, article, or patented process by trade, name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition and equal products may be substituted if approved in writing by the Owner's Representative. If deemed necessary by the Owner or Owner's Representative, the Contractor shall, at his/her own expense, have tests made to prove the equality of the products he/she wishes to substitute.
- 38.2 The Contractor shall furnish complete detailed specifications on all materials he/she wishes to substitute.
- 38.3 The Owner's Representative's decision as to the quality of the materials shall be final. The cost of any redesign caused by a substitution shall be borne by the Contractor.
- 38.4 When the Owner's Representative approves a substitution by the Contractor, it is with the understanding that the Contractor guarantees the substituted article or materials to be equal to, or better than those specified. Any item or material not specified or approved which is used in the Work is at the Contractor's own risk and the Owner's Representative has the right to order it removed and replaced by the specified item or material without challenge from the Contractor and without additional cost to the Owner. Requests may be submitted to the Owner's Representative for approval of substitute products, but such requests will be considered with proper identification of the proposed substitution and date substantiating its conformance with the Contract Documents.
- 38.4 After award of contract, the Contractor may submit written requests providing he/she specifically states his/her proposed changes to the Contract Sum for such substitution. However, the consideration of such request will be made only in rare instances when the specified product is no longer available or when such consideration will clearly be of benefit to the project as judged applicable by the Owner.

ARTICLE 39 - UNIT PRICES

- 39.1 If the Proposal Form contains separate Add and Deduct Unit Prices for a given operation, the appropriate unit cost figure shall be applied to the total net difference in quantity considering the item or operation as a whole and not to its individual parts.

ARTICLE 40 - PROTECTION OF PERSONS AND PROPERTY

- 40.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work.
- 40.2 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
- A. All employees on the site and other persons who may be affected thereby, including the general public.
 - B. All the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his/her Subcontractors or Sub-subcontractors.
 - C. Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation or replacement in the course

of construction.

- 40.3 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules and regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
- 40.4 The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.
- 40.5 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- 40.6 The Contractor shall promptly repair and/or replace all damage to any property referred to in this Article caused in whole or in part by the Contractor, any Subcontractor, and Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible except damage or loss attributable to the acts or omissions of the Owner or Owner's Representative or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable in the fault or negligence of the Contractor are in addition to his/her obligations previously stated herein. The Contractor shall designate a responsible member of his/her organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and the Owner's Representative.
- 40.7 The Contractor shall not load or permit any part of the work to be loaded so as to endanger its safety.
- 40.8 The Contractor shall ensure that the work site is free of workers and others whose job performance is impaired by the abuse of drugs and/or alcohol and that he/she shall comply with the provisions of the federal Drug Free Workplace Act of 1988 (P.L. 100-690).
- 40.9 In any emergency affecting the safety of persons or property, the Contractor shall act, at his/her discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in these General Conditions.

ARTICLE 41 - NOTICE OF AWARD

- 41.1. A notice of award will be forwarded by the Owner to the successful Contractor, which notice may also state the date of a pre-construction conference to be held between the Owner's Representative, Owner, Contractor, and major Subcontractors. The Notice of Award will be accompanied by the agreement to be signed by the Contractor and returned to the Owner within ten (10) working days from receipt, along with the required documents:
- 41.2 The award of contract, if made, will be made to the lowest responsible bidder. No award will be made until necessary investigations are made by the Owner as to the responsibility of the apparent low bidder. The Owner shall be the sole judge as to the responsibility of the bidder to satisfactorily perform the work as specified and within the time limit set. Upon failure of the Contractor to enter into a contract and to submit documents listed above within ten (10) working days after receiving notice of award the bid deposit shall be forfeited to the Owner. The award may then, at the discretion of the Owner, be made to the next lowest responsible bidder, or the work may be readvertised, or may be constructed by the Owner, in any legal manner.

ARTICLE 42 - NOTICE TO PROCEED

- 42.1 Notice to proceed is the official notice from the Owner to the Contractor to commence prosecution of the work, and commences the running of the time for completion of the work. Notice to proceed will be given

within fifteen (15) working days of notice unless otherwise specified to the Contractor of award of contract and receipt of executed contracts by the Contractor. No work shall be commenced by the Contractor prior to receipt of notice to proceed.

ARTICLE 43 - PROJECT SCHEDULE

- 43.1 The Contractor shall be required to file an approved project schedule with the Owner's Representative. The project schedule shall set forth the order in which the Contractor plans to perform the work. The schedule may be in graph or tabular form and shall include the date of submission for approval of drawings as may be required, starting dates for construction of the several parts of the work, and estimated completion dates of such parts, and completion date of the project.
- 43.2 The project schedule will be reviewed at the pre-construction conference between the Owner's Representatives, Owner, Contractor, and major Subcontractors. The Contractor shall furnish the Owner's Representatives with three (3) copies of accepted project schedule prior to commencement of the work.
- 43.3 The project schedule shall coordinate the work of the Contractor with the work of other contractors in respect to the availability of job sites upon completion of other work to be performed by other contractors. The project schedule may be altered or revised by Owner's Representative when deemed necessary in the opinion of the Owner's Representative in the interest of public safety, welfare or the interest of the Owner, or for coordination with any other activity of other contractors, the availability of all or portions of the job site, or special provisions of this contract, or to reasonably meet the completion date of the project.
- 43.4 The Contractor shall periodically check actual progress of the work against the project schedule and the Contractor shall promptly report to the Owner's Representative any conditions which the Contractor feels will require revision of the schedule and shall promptly submit proposed revisions in the progress schedule for acceptance by the Owner's Representative. When such changes are accepted by the Owner's Representative, the revised schedule shall be followed by the Contractor. Failure, without cause, to maintain progress in accordance with the schedule shall constitute a breach of contract and shall constitute reason for invoking the pertinent portions of the General Conditions of the Specifications.

ARTICLE 45 - PRE-CONSTRUCTION CONFERENCE

- 45.1. A pre-construction conference may be held at a time and place fixed by the Owner's Representative which will be within seven (7) working days from date of Notice to Proceed. The Contractor must be prepared for a thorough discussion and review, as well as revisions which may be deemed necessary in the opinion of the Owner's Representative, of the following agenda:

END, GENERAL CONDITIONS