

## **GENERAL TERMS AND CONDITIONS**

### **A. DEFINITIONS**

Wherever used in the Contract Documents, the following term shall be applicable to both the singular and plural thereof:

1. Addendum or Addenda - Written or graphic instruments issued prior to the Bid Opening of the Contract which modify or interpret the Contract Documents.
2. Approval - Written approval from the Project Manager.
3. Bid -The offer or proposal of the Bidder submitted in the prescribed manner on the prescribed form setting forth the prices for the Work to be performed.
4. Bidder - Any person, firm or corporation submitting a Bid for the Work.
5. Bonds - Bid Bond, Performance Bonds, Labor and Material Payment Bonds, Maintenance Bonds, and other instruments of security furnished by the Contractor and his surety in accordance with the Contract Documents.
6. Change Order - A written order to the Contractor signed by the Project Manager authorizing an addition, deletion or revision in the Work within the general scope of the contract Documents, authorizing an adjustment in the Contract Price or Contract Time.
7. City – City of College Park, Maryland
8. Commission - Washington Suburban Sanitary Commission or WSSC
9. Contract/Contract Documents - The Contract, including Request for Bid Proposals, Information for Bidders, Bid Form, Contract, Bonds, Notice of Award, Notice to Proceed, Change Orders, Plans, Drawings, Certificate of Substantial Completion, Standard Specifications, Addenda, General Provisions, Standard Details, Geotechnical Report, Proposal, Information Regarding the Bidder, Bidder's Questionnaire, Vendor's Certification, Financial Disclosure Statement, Corporate Acknowledgement, Supplemental General Conditions, Special Conditions, Special Provisions, Affidavits, Insurance Certificates, and Federal Contract Provisions when appropriate.
10. Contract Price - The total monies payable to the Contractor under the terms and conditions of the Contract Documents.
11. Contract Specifications Book - A set of documents issued by the City of College Park for the Project which includes the Request for Bid Proposals, Information for

Bidders, Bonds, Supplemental General Conditions, Special Conditions, Special Provisions, Addenda, technical specifications, drawings and other forms and attachments.

12. Contract Time - The specific date or the number of days stated in the contract for the completion of the Work.
13. Contractor - The person, firm or corporation with whom the City has executed the Contract.
14. County - Prince George's County, Maryland and any department thereof.
15. Day - A calendar day of 24 hours lasting from midnight one day to midnight the next day.
16. Environmental Pollution - Presence and action of physical, chemical, biological, and human agents that adversely affect individual and community health and welfare; unfavorably alter or destroy ecosystems of importance to man; or degrade significant aesthetic and recreational values.
17. Field Order - A written order to the Contractor issued during construction by the Project Manager or his agent for interpretations, clarifications and other instructions as to the intent of the Contract Documents.
18. Inspector - The authorized representative of the Project Manager assigned to make detailed inspection of any or all portions of the Work or materials therefor.
19. Manufacturer - Any person or organization who changes the form of a commodity or creates a new commodity and supplies it for the Work at any time, but who does not perform labor at the site.
20. Notice of Award - The written notice of the acceptance of the Bid from the Mayor and Council of the City of College Park to the successful Bidder.
21. Notice to Proceed - Written communication issued by the Project Manager to the Contractor, authorizing him to proceed with the work and establishing the dates of commencement and completion of the work.
22. Project - The undertaking to be performed as provided in the Contract Documents.
23. Project Manager – The person so designated by the City, or designee.
24. Provide - Means furnish and install as specified in Contract Documents.

26. Special Provisions - Clauses contained under the heading Special Provisions setting forth the requirements peculiar to the specific work included in the Contract.
27. Specifications - Contract Documents under the contract.
28. Standard Specifications - Maryland Department of Transportation, State Highway Administration, "Standard Specifications for Construction and Materials", as amended.
30. Subcontractor - An individual, firm or corporation having a direct contract with the Contractor or with any other subcontractor at any time for the performance of a part of the work at the site.
31. Substantial Completion - That date as certified by the Project Manager and/or Construction Manager when the construction of the Project or a specified part thereof is sufficiently completed in accordance with the Contract Documents so that the Project or specified part can be utilized for the purposes for which it is intended.
32. Supplier - Any person or organization who supplies materials or equipment for the Work at any time, including that fabricated to a special design, duty who does not perform labor at the site.
33. Work - Any and all obligations, duties, and responsibilities necessary to the successful completion of the Project assigned to or undertaken by the Contractor under the Contract Documents, labor, materials, equipment and other incidentals and the furnishing thereof.

Whenever, in the Contract Documents, the words DIRECTED, REQUIRED, PERMITTED, ORDERED, DESIGNATED, PRESCRIBED or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the Project Manager is intended. Similarly, the words APPROVED, ACCEPTABLE, SATISFACTORY or words of like import shall mean approved, acceptable or satisfactory to the Project Manager unless otherwise expressly stated.

**B. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS**

The work under this Contract shall be built of the materials, sizes, dimensions, on the lines and slopes, at the depths, and in the manner called for by the Contract Documents and/or shown on the Contract Drawings or in accordance with such changes as may be approved from time to time during the progress of the work, as hereinafter provided.

The Contractor may be furnished additional instructions and detail drawings by the Project Manager as necessary to carry out the work required by the Contract Documents. The additional drawings and instructions thus supplied will become a part of the Contract Documents.

The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

C. WARRANTY – MAINTENANCE PERIOD

1. Unless otherwise provided in the specifications, the Contractor guarantees all work to be in accordance with contract requirements and free from defective or inferior materials, equipment, and workmanship for the period required in the Contract, to begin after the date of Substantial Completion.

2.. If, within any guarantee period, the City finds that warranted work must be repaired or changed because of the use of materials, equipment, or workmanship which, in the City's opinion are inferior, defective, or not in accordance with the terms of the contract, the Contractor will be notified in writing and the Contractor shall promptly and without additional expense to the City:

- a. Place in satisfactory condition all of such warranted work.
- b. Satisfactorily correct all damages to equipment, the building or contents thereof, which is the result of such unsatisfactory warranted work; and
- c. Satisfactorily correct any work, materials, and equipment that are disturbed in fulfilling the guarantee, including any disturbed work, materials, and equipment that may have been warranted under another contract.
- d. Should the Contractor fail to proceed promptly in accordance with the guarantee, the City may have such work performed at the expense of the Contractor.

3. Any special warranties that may be required under the contract shall be subject to the stipulations set forth herein, insofar as they do not conflict with the provisions of such special guarantees.

4. The Contractor shall obtain each transferable warranty of equipment, materials or installation thereof which is furnished by any manufacturer, supplier or installer. In addition, the Contractor shall obtain and furnish to the City all information which is required in order to make any such warranty legally binding and effective, and shall submit both the information and the guarantee to the City in sufficient time to permit the City to meet any time limit requirements specified in the warranty or, if no time limit is specified, prior to completion and acceptance of all work under this contract.

D. SCHEDULES, REPORTS AND RECORDS

**A tentative construction schedule has been provided by the Contractor.** The Contractor shall submit to the Project Manager, in a timely manner, such schedules of

quantities and costs, construction progress schedules, breakdown of lump sum items, reports, estimates, records and any other data, as requested by and acceptable to the Project Manager.

E. CONTRACT REQUIREMENTS

The Contractor shall furnish all labor, materials, tools, equipment and transportation necessary for the proper execution of the Work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy or operation by the City.

F. MATERIALS, SERVICES AND FACILITIES

The Contractor shall do all of the work as stated in the Contract Documents. The Contractor shall provide and pay for all materials, taxes, labor, tools, equipment, light, power, transportation, supervision, temporary construction of any nature, and all other services or facilities of any nature whatsoever necessary to execute, complete and deliver the work within the specified time. Any temporary construction done to execute the work under contract shall be removed and the area shall be left in original condition or as specified in the Contract Documents. The Contractor shall complete the entire work together with such extra work as may be required, at the price fixed therefor, but at a total price not to exceed that provided for in the Contract, unless otherwise agreed in writing.

Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the work. Stored materials and equipment to be incorporated in the work shall be located so as to facilitate prompt inspection. The Contractor may request that materials required for this project be delivered to and stored at the College Park Public Works Facility, located at 9217 51st Avenue, College Park, Maryland 20740 and/or the project site, and the Project Manager may approve this request prior to execution of the Contract.

The Contractor shall provide a proposed written plan for any storage of materials and equipment, which must be approved in writing by the Project Manager before commencement of the work.

All construction and storage sites shall be kept clean and free of debris and trash. The Contractor shall provide sufficient trash receptacles with lids for use by its employees on site. The receptacles shall be emptied on a regular basis at Contractor's expense, with the contents disposed of properly.

Manufactured articles, materials and equipment shall be stored, applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer and as approved by the Project Manager.

G. PATENTS

The Contractor shall indemnify and save harmless the City from all suits, actions and damages or costs to which the City may be subjected by reason of the use of any patented article or process in the work under this Contract.

H. SURVEYS, PERMITS, LAWS AND REGULATIONS

1. SURVEYS - Unless otherwise specified, Contractor will furnish all boundary surveys and establish all baselines for locating the principal component parts of the work together with a suitable number of bench marks adjacent to the Work as shown in the Contract Documents.

2. PERMITS – The permits required for the work will be obtained by the Contractor. The Contractor shall give all notices and comply with all permits, laws, ordinances, rules and regulations applicable to the conduct of the work as drawn and specified. If the Contractor observes that the Contract Documents are at variance therewith, he shall promptly notify the Project Manager in writing.

If any permit, license, or certificate expires, or is revoked, terminated or suspended, as a result of any action or omission on the part of the Contractor, he shall not be entitled to any additional compensation, nor to any extension of the completion date, by reason thereof.

3. LAWS AND REGULATIONS - The Contractor and his agents, servants, and employees shall strictly comply with the ordinances and regulations of the City, and all other applicable laws, when performing the work on this project. The Contractor shall protect and indemnify the City and its officers, employees and agents, against any claim or liability arising from or based on the violation of any such law, ordinance or regulation, whether by himself or by his agents, servants, or employees.

I. PROTECTION OF WORK, PROPERTY AND PERSONS

1. GENERAL - The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work according to the accepted practices, and applicable rules, regulations and laws. The Contractor 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 thereby, all the work and all materials or equipment to be incorporated therein, whether in storage, or on or off the site, and 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 during the entire course of construction.

In case of suspension of work for any cause whatever, the Contractor shall be responsible for the Project and shall take such precautions as may be necessary to prevent damage to the work, and provide for proper drainage, and shall erect any necessary temporary structure, signs, or other facilities at his expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in acceptable growing condition all living material in newly established plantings, seedings and sodding furnished under this Contract, and shall take adequate precautions to protect new growth and other important growth against injury.

The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. The Contractor shall erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. The Contractor shall notify owners of adjacent utilities when prosecution of the work may affect them.

2. ACCIDENT PREVENTION - Precaution shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery and equipment and other hazards shall be guarded in accordance with the safety provisions of the most recent version of the Manual of Accident Prevention in Construction, as published by the Associated General Contractors of America, to the extent that such provisions are not inconsistent with applicable laws and regulations.
3. LIGHT, RAILINGS AND WATCHMEN - The Contractor shall place sufficient lights to light the work and work area to protect workers and public, and shall erect suitable railings, fences or other protection around the work zone, and provide all watchmen during the work, at all times, if they become necessary for the public safety. The Contractor shall place proper guards and lights for the prevention of accidents during and after delivery of materials and supplies, and shall at all times take all necessary precautions to avoid accidents or injury to persons or property.

The Contractor shall, upon notice from the Project Manager that he has not satisfactorily complied with the foregoing requirements, immediately take such measures and provide such means and labor to comply therewith as the Project Manager may direct. The Contractor shall not be relieved of his obligations under the Contract by any such notice or directions given by the Project Manager, or by his neglect, failure or refusal to give such notice or directions. In case the Contractor shall not comply with any order with respect to guarding the work, or public and private properties, the Project Manager may provide the required protection and the cost thereof will be deducted from any monies due or to

become due the Contractor under the Contract Documents. The Contractor shall not be relieved of his obligations under the Contract Documents by any such action of the Project Manager.

4. CARE AND PROTECTION OF WORK - From the commencement of the Contract until its completion, the Contractor shall be solely responsible for the care of the work and all injury or damage to same, from whatever cause, shall be made good by him, at his own expense, before the final estimate is made. The Contractor shall provide suitable means of protection for all materials intended to be used in the work and for work in progress, as well as for completed work.
5. PROTECTION OF STRUCTURES FROM MATERIALS - It shall be the responsibility of the Contractor to adequately protect the adjacent structures during the course of the project. The Contractor may use any protection method that is a normal practice. If any of the structures are defaced, they shall be repaired at the Contractor's expense.
6. INJURY TO PROPERTY - In case of any direct or indirect damage done to public or private property by or because of the work, or in consequence of any act or omission on the part of the Contractor, his agents, servants or employees, the Contractor shall, at his own cost and expense, restore such property to a condition similar or equal to that existing before such damage was done. In case of failure on the part of the Contractor to so restore such property or properties, the cost of such restorations shall be deducted from any monies due or to become due the Contractor under the contract, or the City may deduct from any monies due the Contractor, a sum sufficient, in the judgment of the Project Manager, to reimburse the owners of the property so damaged. This remedy shall be in addition to, and not in place of, any other remedy allowed by law.

J. CHANGES IN THE WORK

1. INCREASE OR DECREASE OF QUANTITIES - The City reserves the right to increase or decrease the quantity of materials to be furnished or of work to be done under this Contract whenever it is deemed advisable or necessary. Such increase or decrease shall in no way void this Contract and the total price of the contract shall be adjusted accordingly. The City reserves the right to increase or decrease quantities based on a per unit price for the specific item, amount, or work requested without affecting the contract prices for any item or remaining work. Unit prices shall not be increased or decreased regardless of changes in quantity and shall be based solely on the unit price quotation.
2. ALTERATIONS - The City reserves the right to change the alignment, form, length, dimensions or materials of the work under the Contract whenever any conditions or obstructions are met that render such changes desirable or necessary. In the event such alterations make the work less expensive for the



Contractor, a proper deduction shall be made from the Contract price and the Contractor shall have no claim on this account for damages or for anticipated profits on the work that may be dispensed with. In the event such alterations make the work more expensive for the Contractor, a proper addition shall be made to the Contract price as shall be determined by the Project Manager.

3. **IMPLIED WORK** - All incidental work required by the Contract Documents for which no payment is specifically provided and any work or materials not therein specified which are required to complete the work, and which may fairly be implied as included in the Contract and which the Project Manager shall judge to be so included, shall be done or furnished by the Contractor without extra compensation.
4. **EXTRA WORK/CHANGE ORDERS** - The Contractor shall do such extra work as may be approved by the Project Manager in writing as a change order. No claim for extra work shall be considered or allowed unless the said work has been so ordered. The extra work will be paid for on the basis of the unit prices agreed upon in the Contract Documents. In the event the extra work is not priced by unit in the Contract Documents, then the payment shall be as agreed upon by the Contractor and the Project Manager. The amount to be paid to the Contractor for extra work shall be determined in the following manner:
  - a. Wages of necessary day laborers and foremen actually employed on extra work, for such time as they are so employed, plus 15 percent.
  - b. Actual purchase price, as paid by the Contractor for materials actually incorporated into the extra work, plus 0 percent.
  - c. Actual rental price for vehicles equipment or machinery, as paid by the Contractor for their use in connection with extra work, plus 0 percent.

Payment for extra work shall not include an allowance for the time of superintendents, timekeepers, water-boys, flagmen or of any workmen or foremen not employed upon the extra work in question for a definitely and easily ascertainable period, or for insurance of employees or the public, or the use, maintenance or repair of tools or for the maintenance, operation and repair of machinery, or office accounting, project management or administrative expense, or any rent, interest, depreciation or bonding costs, or any other overhead, collateral or estimated expense, or any profit, and the costs of all such items shall be deemed to be included in the said allowance of 15 percent on labor.

All extra work shall be done as economically and expeditiously as possible, and under sufficient but not disproportionate supervision. Labor shall be furnished at the current rates and materials shall be charged at the lowest market prices. The

City may, at its option, furnish any material required for extra work and the Contractor shall not be entitled to any allowance or percentage on materials so furnished. Likewise, the City may supply any necessary machinery or equipment and the Contractor shall not be entitled to any allowance thereupon.

Separate itemized statements and itemized bills, covering the extra work done in each month on each change order for extra work shall be delivered to the Project Manager before the 5th day of the following month. All bills shall include vouchers showing the cost of materials supplied by the Contractor that have been actually incorporated into such extra work. The Contractor shall permit such examination of his books, bills, vouchers and accounts as the Project Manager may require in checking bills for extra work.

The decision of the Project Manager shall be final and binding upon all questions relating to extra work. If it is determined that any extra work bill is unreasonable or improperly performed, the Project Manager shall be empowered to require its revision and adjustment in accordance with such terms as they shall judge to be fair and reasonable.

The Project Manager will certify to the City those bills for authorized extra work, submitted in approved form and by the prescribed date, for which she recommends payment. Payment for approved extra work completed under the Contract during any month shall be subject to all the provisions of the Contract relating to the payment of current estimates. Should the work under any extra work order remain uncompleted during any month, the payment shall not be made until the correct estimate is determined for the month, or the entire work under said extra work order is completed. The Contractor shall not be entitled to any claim for interest on any bill for extra work on account of delay in its approval.

All approved extra work shall be considered a part of the Contract and shall be subject to all of the provisions thereof.

In case of neglect or refusal on the part of the Contractor to perform any required extra work, or to make satisfactory progress in its execution, the City may invoke the provisions of "O. Waiver of Contract and Right of Recovery of this Section". The Contractor shall not interfere with the prosecution of such work by the City.

During the progress of the extra work the Contractor shall carry forward all other parts of the work under the Contract, and may suspend any other part of the work only as approved by the Project Manager. No claim by the Contractor for extra compensation shall thereby be allowed. The Contractor, however, shall be entitled to an extension of time to the extent that the Project Manager shall certify that the work done under the Contract has been delayed by the performance of

said extra work, provided that a claim for such extension shall be submitted in a timely manner.

K. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

1. EXTENSION OF TIME - If the amount of work done under the Contract is greater than indicated by the statement of quantities, or if the Contractor is materially obstructed or delayed in the procedure of the work by delay on the part of the City, the Contractor shall be entitled to such extension of the Contract time for the completion of the work, or any phase of the work, as the Project Manager shall certify in writing to be just and proper. A claim for such extension shall be made by the Contractor by a written notice sent to the Project Manager within 10 days after the date when such alleged cause for extension of time occurred. The notice shall state specifically the amount of delay that the Contractor is claiming. If said statement, thus made out, is not received within the prescribed time, the claim for extension of time shall be forfeited and invalid.

No extension of time will be granted for ordinary delays, weather conditions or minor accidents.

2. DEFAULT IN COMPLETION - The Project Manager shall determine the number of working days that the Contractor is in default in completing the Contract, or any of its phases, within the specified period of time, and shall certify same to the City in writing. For each day so certified, the Contractor shall pay to the City the sum of \$500.00 per day, which sum is hereby agreed upon, not as a penalty, but as liquidated damages which the City will suffer by reason of such default, as the actual damage is difficult to quantify. The City, in its discretion, may extend the time for completion of the work beyond the Contract Time. The City shall be fully authorized and empowered to deduct and retain the amount of any such liquidated damages for each day that the Contractor shall be in default in completing the work after the time fixed in the Contract, or after any later date to which the time for completion may have been extended, from any monies due or to become due to the Contractor under the Contract at any time after such default has occurred. The permitting of the Contractor to finish the work or any part of it after the time fixed for its completion, or after the time to which completion may have been extended, shall in no way operate as a waiver on the part of the City of any of its rights under the Contract.

L. EXECUTION OF WORK

1. The execution of work shall begin within five calendar days from notice to proceed and be carried on continuously to completion, subject to such suspensions as are provided for herein. The progress of the work shall be at a rate sufficient to complete the Contract, and its phases, in an acceptable manner within the time specified. If it appears that the rate of progress is such that the Contract is not

being executed in a satisfactory and workmanlike manner, the Project Manager may order the Contractor to take such steps as he considers necessary to complete the contract within the time provided, or to prosecute the work in a satisfactory matter. The Contractor shall prepare and submit a written construction schedule, indicating the manner and order in which the work is to be accomplished, prior to beginning construction. The schedule must be approved by the Project Manager.

2. **SUPERVISION AND DIRECTION OF WORK** - The Contractor shall supervise the Work. The Contractor is solely responsible for the means, methods, techniques, sequences and procedures of construction. At all times when work is progressing within the City, the Contractor shall provide one or more supervisors on site who are capable of communicating with all parties involved. The supervisor(s) shall be designated by the Contractor in writing, and shall have full authority to act on behalf of the Contractor, to bind the Contractor, and to stop work. Communications given to the designated supervisor(s) shall be as binding as if given to the Contractor. In the absence of a supervisor on site, no work on the project will proceed. A fine of \$200.00 shall be assessed against the Contractor for each occasion on which a designated supervisor is not present on site as required.

While it is intended that the Contractor shall be allowed, in general, to carry out the Contract in accordance with the approved schedule, the Project Manager shall have the discretion to direct the manner in which the work shall be prosecuted, and may exercise such general control over the conduct of the work at any time or place as shall be necessary to safeguard the interests of the City. The Contractor shall have no claim for damages or extra compensation by reason of any such change in scheduling or conduct of the work. The Contractor shall immediately comply with any and all orders and instructions given by the Project Manager, provided however that nothing herein contained shall be considered such an assumption of control over the work by the City or the Project Manager as to relieve the Contractor of any of its obligations or liabilities under this Contract.

3. **LINES, GRADES AND ELEVATIONS** - Unless otherwise specified the Project Manager will give all necessary lines, grades and elevations for the guidance of the Contractor and the Contractor shall conform his work thereto. Such lines, grades and elevations will be given as needed, but if for any reason minor delays should occur, the Contractor shall have thereby no claim for damage or extra compensation.

The Contractor shall preserve and maintain the position of all stakes, grade-boards and lines until authorized to remove same. If the Contractor fails to do so, any stakes or grade-boards that are moved shall be reset at the Contractor's expense. The Contractor shall furnish, when required, all necessary materials, labor and assistance, except for Project Manager assistance, for the setting of all stakes,

grade-boards, line forms, etc., which may be required for the proper construction of the work.

Any work done without utilizing lines, levels and instructions provided by the Project Manager or without the supervision of any inspector will not be estimated or paid for except when such work is authorized by the Project Manager. Work so done without lines, levels, and instructions of the Project Manager or without supervision of an inspector may be ordered removed and replaced at the Contractor's cost.

4. NOTIFICATION OF PROJECT MANAGER - The Contractor must notify the Project Manager or designee at least 24 hours prior to commencing work, if work has been suspended for any reason other than normal non-working days. Failure to so notify the Project Manager may result in material or work being declared unsatisfactory and being removed or redone at the Contractor's expense. The Contractor must obtain written approval from the Project Manager or her representative at least 24 hours prior to suspending work, except for normal non-working days. In the event that work that scheduled commencement or suspension of work is delayed by inclement weather, the Project Manager must be notified immediately. The sum of \$100.00 for each such failure to notify shall be assessed against the Contractor. The monies will be deducted from any monies due to the Contractor under the Contract.
5. SATURDAY, SUNDAY AND HOLIDAY WORK - No material may be placed on Saturdays, Sundays, or holidays, or before 7:00 a.m. and after 7:00 p.m. on workdays, without the written consent of the Project Manager. A violation of this requirement may result in the removal of material at the Contractor's expense.
6. MAINTENANCE OF TRAFFIC - The Contractor shall carry on the work in such a manner so as to cooperate with all pedestrian and vehicular traffic in the vicinity. Access to the site for contractor equipment shall be arranged with the City prior to the beginning of work.
7. WATER SUPPLY - The Contractor shall provide at his own expense such quantities of clean, potable water as may be required for any and all purposes under this Contract.
8. SANITARY ARRANGEMENTS - Approved sanitary conveniences for the use of laborers and others employed on the work, properly screened from public observation, shall be furnished and maintained at the Contractor's expense. The collections in the same shall be disinfected or removed on a regular basis.
9. WORKMANSHIP - All materials furnished and all work done shall be of the quality and character required by the drawings and/or Contract Documents.

Where no standard is specified, such work or materials shall be of a kind acceptable to the Project Manager. Any unsatisfactory materials furnished or work done at whatever time they may be discovered, shall be immediately removed and satisfactorily replaced by the Contractor when notified to do so by the Project Manager. If the Contractor shall neglect or refuse to remove such unsatisfactory work or material within 48 hours after the receipt of the notice to do so, or if he does not make satisfactory progress, the Project Manager may cause said work or material to be removed and satisfactorily replaced by other means. The expense thereof shall be charged to the Contractor. Such expense shall be deducted from any monies due or to become due to the Contractor under the Contract. Upon completion of the Contract, the entire work shall be delivered to the City in a satisfactory working condition.

10. **ADJUSTMENT OF STRUCTURES** - It shall be the Contractor's responsibility well in advance of the beginning of work to notify all public utility corporations, municipal bureaus or owners to make all necessary adjustments to public utility fixtures and appurtenances within or adjacent to the limits of the construction. Unless otherwise specified, these adjustments will be made by the owners and in advance of construction.
11. **EMPLOYMENT OF SKILLFUL WORKMEN** - The Contractor shall employ only competent, skillful workers to do or supervise the work. Whenever the Project Manager shall, in writing, notify the Contractor that any person employed on the work is, in his opinion, incompetent, disobedient, disorderly, discourteous or otherwise unsatisfactory, such person shall be removed and shall not again be employed on the work except with the consent of the Project Manager.
12. **TIMBER AND BRUSH** - All brush and/or timber cut during the course of work shall be removed from the work site in a timely fashion unless otherwise directed.
13. **CONSTRUCTION OUTSIDE CITY PROPERTY** - Where construction may occur outside City property, the Project Manager will obtain the permission from the owner to occupy the property during construction. The Contractor shall confine his operations strictly within the limits of the City property, unless he has the written permission of the owner of the property to occupy additional ground. Trees within the limits of the City property shall not be cut down without the written permission of the Project Manager.

The Contractor shall so conduct his work that there will be a minimum of disturbance of adjacent properties crossed. Fences shall be disturbed as little as possible and, if damaged or removed, shall be replaced to the satisfaction of the owner.

14. CONSTRUCTION IN VICINITY OF TREES – The City has control over trees in public areas such as roads, streets and public rights of way. Permission for roadside trees that require removal, within the work area, must be obtained from the City Arborist prior to removal. Any other trees may be cut down only with the written permission of the Project Manager or other owner of the property. The Contractor shall exercise due care not to unnecessarily injure any trees.

All required tree pruning needed to complete mechanical driving of posts, shall be the responsibility of the City.

15. UTILITIES - The Contractor shall be responsible for contacting all agencies relative to their installations and for locating them in the field. The Contractor shall be prepared to modify operations in order to accommodate utilities and shall bear the expense of all repairs to utilities damaged as a result of activities undertaken as part of the project.

M. REMOVAL OF DEFECTIVE WORK AND CONDEMNED MATERIAL

1. DEFECTIVE WORK - Neither the inspection or supervision of the work, nor the presence or absence of any employee of the City during the execution of any part of the work, shall relieve the Contractor of any of his obligations under the Contract or of conforming his work to the lines, grades and elevations given by the Project Manager. Defective work shall be made good and unsuitable material will be rejected, notwithstanding that such work and material may have been previously overlooked and accepted or estimated for payment. If the work or any part thereof shall be found defective or to have been damaged at any time before the final acceptance of the whole work, the Contractor shall make good such defective and damaged work at his own cost, even though said defect or injury may not have been due to any act, default or neglect on the Contractor's part. All materials shall be carefully examined by the Contractor for defects just before placing, and any material found defective shall not be placed in the work.
2. REMOVAL OF CONDEMNED MATERIAL - If any material brought upon the site or selected for use in the work shall be condemned by the Project Manager as unsuitable or not in conformity with the Contract Documents, the Contractor shall forthwith remove it from the City. Condemned materials not removed within 48 hours after the receipt of notice by the Contractor, may be removed by the City and the cost of said removal shall be deducted from any monies due or to become due to the Contractor under the Contract.

N. SUSPENSION, ABANDONMENT OR DELAY IN THE WORK

1. SUSPENDING WORK - The City may suspend the whole or any part of the work under this Contract, if in its judgment such action is necessary or advisable.

2. **ABANDONMENT OR DELAY IN THE WORK** - If the work under this Contract shall be abandoned by the Contractor, or if at any time the Project Manager shall determine, that the performance of the Contractor is unnecessarily or unreasonably delayed, or that the Contractor is violating one or more provisions of the Contract, or is executing the same in bad faith, or if the work is not fully completed within the time allowed for its completion, together with such extensions of time as may have been granted, the City, by written notice, may order the Contractor to discontinue all work under the Contract, or any part thereof. Upon receipt of such notice, the Contractor shall discontinue the work, or such part thereof, and the City shall have the right to complete said work and charge the Contractor for same. The City may deduct the entire cost of said work from any monies due or to become due the Contractor under the Contract. For such completion of the work, the City may take possession of and use any or all materials, tools, machinery and appliances found on the site of the work.

When any part of the Contract is carried out by the City under this section, the Contractor shall continue the remainder of the work in conformity with the terms of the Contract and in such manner as not to interfere with the workmen employed by the City.

O. WAIVER OF CONTRACT AND RIGHT OF RECOVERY

1. **WAIVER** - Neither the acceptance of the whole or any part of the work by the Project Manager or the City or any of its employees, or any order, measurement or certified by the Project Manager, or any order of the City for the payment of money, or any payment by the City for the whole or any part of the work, or any extension of time, or any possession taken by the City or its employees, shall operate as a waiver of any portion of the Contract or of any power therein reserved to the City, or any right to damages therein provided. Nor shall any waiver of any breach of the Contract be held to be a waiver of any other or subsequent breach.
2. **RIGHT OF RECOVERY** - The City shall not be precluded or estopped by any certificate made or given by the City or any of its agents, servants, or employees, under any provision of the Contract, from showing the true and correct amount and character of the work done and materials furnished by the Contractor or any other person under the Contract, at any time before or after the final completion and acceptance of the work and payment therefore, or from showing at any time that any such certificate is untrue and/or incorrect or improperly made in any particular, or that the work, or any part thereof, does not in fact conform to the Contract Documents. Notwithstanding any such certificate, or payment made by reason thereof, the City shall not be precluded or be estopped from demanding and recovering from the Contractor such damages as it may sustain by reason of his failure to comply with the terms of the Contract.



P. USE OF THE PREMISES

The City of College Park will have the right to enter the premises for the purpose of doing work not covered by the Contract Documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Work or the restoration of any damaged work.

Prior to substantial completion, the City may use any completed or substantially completed portion of the work. Such use shall not constitute an acceptance of such portions of the work.

Q. PAYMENTS TO THE CONTRACTOR

1. **SCHEDULE OF VALUES** – If required by the Project Manager, within fifteen (15) calendar days after the Notice to Proceed, the Contractor shall submit for review and approval by the Construction Manager, a Schedule of Values for receiving progress payment during the construction period. A Schedule of values is a statement furnished by the Contractor allocating portions of the Contract Sum to various portions of the Work and used as the basis for reviewing the Contractor's Applications for Payment.

Each activity of the construction schedule shall be allocated a dollar value. Each activity's assigned cost shall consist of labor, equipment, material costs and a pro rata contribution to overhead and profit. The sum of the activities' costs shall be equal to the total contract price. In submitting cost data, the Contractor certifies that they are not unbalanced or front-end loaded and that the value assigned to each activity represents the Contractor's estimate of actual costs of performing that activity. The accepted schedule of values, in the best judgement of the Contractor and the Project Manager shall represent a fair, reasonable and equitable dollar cost allocation for each activity of the Contractor's construction schedule.

If, in the opinion of the Project Manager, the cost data does not meet the requirements for a balanced cost Bid breakdown, the Contractor will present documentation to the Project Manager substantiating any cost allocation on the cost data. Cost allocations shall be considered unbalanced if any activity of the construction schedule has been assigned a disproportionate allocation of direct costs, overhead and profit.

2. **CURRENT ESTIMATES** - The Project Manager will prepare, on a monthly basis, his written estimate of the amount of work completed under the Contract. Such estimate may be approximate and shall be subject to correction in later estimates. Current estimates shall not contain any allowance for materials delivered upon the site of the Work but not incorporated therein, and the Contractor shall not be entitled to receive any payment therefor.

Upon approval by the Project Manager, the City will pay to the Contractor up to 95% of the total amount of the estimate, provided, however, that the City may retain out of any such payments any or all sums it is authorized to retain by the terms of the Contract and/or any applicable law. The City shall be entitled to retain an additional 5% of the estimate pending receipt from the Contractor of any certificates required by the Project Manager from utilities. Further, payments on current estimates may be withheld at any time if, in the judgment of the Project Manager, the Contractor is not in compliance with the terms of the Contract.

3. **MEASUREMENT OF WORK AND MATERIAL** - All quantities, work and material to be paid for will be measured and determined by the Project Manager in his sole discretion, according to the specifications, drawings, additional instructions in writing, and detail drawings that may be given to carry out the work required by the Contract Documents. No allowance will be made for any excess above the quantities required by the specifications, additional instructions in writing, and detail drawings on any part of the Work, except where such excess material has been supplied or work done by order of the Project Manager and in the absence of default or negligence on the part of the Contractor. Should the dimensions of any part of the work or of the materials be less than those required by the drawings or the directions of the Project Manager, only the actual quantities placed will be allowed in the calculations of the total price to the City.
4. **EVIDENCE OF PAYMENT** - The Contractor shall certify to the City within 10 days after the final completion and acceptance of the whole work under the Contract, that all persons, partnerships and corporations who have done work or furnished materials under the Contract, or in or about the work contracted for, have been fully paid or secured. In the event such evidence is not furnished by the Contractor, such amount as may be deemed necessary by the City to pay such claims may be retained by the City out of any money due the Contractor under the Contract until such claims have been fully discharged.
5. **FINAL ESTIMATE AND RETAINAGE** - When the Project Manager shall deem that the Contractor shall have fully completed the work under the Contract, he shall make a written final estimate based upon actual measurements, of the whole amount of authorized work done by the Contractor and of the value thereof under the terms of the Contract, and shall certify to the City the completion of the work and the amount of the final estimate. All current estimates are subject to correction in the final estimate. The Project Manager's measurements upon which the final estimate is based, shall be deemed to be, and shall be, final and conclusive.

Upon approval of the final estimate, the City will notify the Contractor, in writing, of the acceptance of the work and transmit to him a copy of the final estimate. Out of the amount representing the total of the final estimate, the City shall deduct

5%, which shall be in addition to any and all other amounts which under the Contract it is entitled or required to retain, and shall hold said sum for a period of 6 months from and after the date of payment of the final estimate. Such part as may be necessary, or all of said retained sum, shall be applied to any expense which may be deemed to have been caused by failure of the Contractor to comply with the terms of the Contract, or to any breach of the Contract on the part of the Contractor. The City shall be empowered to make any required repairs or renewals during said period without notice to the Contractor if it shall judge such action to be necessary, or if after notice, the Contractor shall refuse or neglect to do said required work or make satisfactory progress thereon within such period as the Project Manager shall consider necessary or reasonable. Further, the City is entitled to retain 5% of said sum pending receipt from the Contractor of any certification required by the Project Manager from utilities. In addition, the City shall retain those sums equal to any outstanding unpaid amounts claimed by any suppliers, sub-contractors, or others for labor or materials contributed to the work.

Within 15 days after the approval of the final estimate, the City will pay to the Contractor those sums remaining after the deductions as set out herein.

6. FINAL PAYMENT - Upon the expiration of the aforesaid period of 6 months succeeding the payment of final estimate, the City will pay to the Contractor all sums reserved or retained, less such amounts as it may be entitled under the provisions of the Contract to permanently retain.

R. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of the final payment shall release the City and every officer, employee and agent thereof, from all claims by the Contractor made for work and/or materials provided under the Contract.

S. RESOLUTION OF CONTRACT QUESTIONS

The Project Manager shall decide any and all questions which may arise as to the quality and acceptability of materials furnished and work performed and as to the manner of performance and rate of progress of the work and shall decide all questions which may arise as to the interpretation of any or all plans relating to the work and of the specifications and all questions as to the acceptable fulfillment of the Contract on the part of the Contractor; and the Project Manager shall determine the amount and quantity of the several kinds of work performed and materials which are to be paid for under the Contract and such decision shall be final and conclusive, in case any question shall arise, shall be a condition precedent to the right of the Contractor to receive any money due under the Contract. Any doubt as to the meaning of the wording of the specifications, Contract, the intent of the plans and all directions and explanations requisite or necessary to complete the work, or make definite any of the provisions of the specifications,

Contract or plans and to give them due effect, will be interpreted by the Project Manager. The decision of the Project Manager shall be final.

T. ACCIDENT PREVENTION

Precautions shall be exercised at all times for the protection of persons and property. The safety provisions of all applicable laws, and building and construction codes shall be observed. Machinery and equipment and other hazards shall be guarded in accordance with the safety provisions of the latest editions of the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America, and the American Standard Safety Code for Building Construction, to the extent that such provisions are not inconsistent with applicable law or regulation.

W. APPROVAL BY THE CITY OF COLLEGE PARK

It is expressly understood and agreed that the selection of the Contractor, and any sub-Contractor, and acceptance of the Agreement for construction of the Project, is subject to the prior approval of the Mayor and Council of the City of College Park and to funding. The City may for any reason deemed to be in its best interest decide not to award the bid and/or to enter into an Agreement for construction of the Project.

X. MEETINGS

The Contractor, or designated Supervisor, shall be available to meet with the Project Manager, and any State, County or City or Commission representative on an as-necessary basis.

Y. GUARANTEE OF UNIT PRICE

The unit prices in the Contract shall be guaranteed by the Contractor for up to and until the completion of the project.

Z. CONSTRUCTION SCHEDULE

The Contractor shall prepare a schedule of procedure and sequence of construction that shall be submitted within 10 business days after the Contract is signed by the Contractor, which must be approved by the Project Manager. This schedule shall be reviewed periodically and adjusted as necessary.

AA. WAIVER OF LIENS

The Contractor shall provide a signed, notarized waiver of liens to the Project Manager upon completion of the work, and various phases of the work, which shall state that all liens have been fully paid.

BB. INTERIM AND FINAL INSPECTIONS

Upon completion of the work, or various phases of the work, as appropriate, the Project Manager, in conjunction with any required governmental inspector, as necessary, will inspect the completed project or part thereof, and if deficiencies are present, shall so inform the Contractor, who shall have all said deficiencies corrected. The Contractor is responsible for ensuring that all necessary inspections are scheduled and performed by the appropriate individual and/or agency. The Project Manager shall be notified immediately of any adverse or unexpected conditions located in the field in order to allow for inspection before further action is taken or work performed in that area.

CC. UTILITIES

The Contractor is responsible for locating all utilities in the field, and for appropriate and timely notice of intent to perform work to all utilities involved. The Contractor shall coordinate the work, including all adjustments, with all utilities in the area. All adjustments of utilities shall be performed at the Contractor's expense. The Contractor shall ensure that all work involving any utility shall be inspected, approved, and accepted by that utility. Damage caused to existing facilities by the Contractor's operations shall be repaired or replaced at Contractor's expense to the utility's acceptance.

DD. WORK RECORDS

The Contractor is responsible for maintaining all records necessary to demonstrate the cost, in terms of labor and materials, and for providing a final accounting of costs, of all phases of this Contract, as required by the City. The Contractor agrees to make all of its applicable records available to the City upon request.

EE. MISCELLANEOUS

1. Contractor to maintain a clean and safe site on a daily basis and provide a final clean for the building upon completion of work.

2. Contractor to conduct a final project walkthrough. City will develop a punch list for completion of work.

3. Contractor to keep site safe and clean on a daily basis with daily reports to be provided to the City.

4. Contractor is responsible for project management, site supervision, site electrical, water, port-a-pots, phones, and other general conditions to complete the above work independently. Contractor is responsible to contact Miss Utility prior to any excavation work. Contractor responsible for any and all site utility surveys prior to excavation work. Contractor shall provide copies of all tickets to the Project Manager.

5. Daily project management and site supervision from Contractor is required for the complete project. Contractor must meet all City security, safety and facility procedures for this project.

