

Exhibit C: GENERAL
CONDITIONS

GENERAL CONDITIONS

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GENERAL CONDITIONS

ARTICLE 1 DEFINITIONS

Wherever used in the Contract Documents, the following terms shall have the meaning indicated, which shall be applicable to both the singular and plural thereof.

- 1.1 Addenda – Written or graphic instruments issued prior to the Bid Opening of the Contract which modify or interpret the Contract Documents.
- 1.2 Approval – Written approval from the Owner and/or Engineer.
- 1.3 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.
- 1.4 Bidder – Any person, firm or corporation submitting a Bid for the Work.
- 1.5 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.
- 1.6 Change Order – A written order to the Contractor signed by the Owner authorizing an addition, deletion or revision in the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.
- 1.7 Owner – Redevelopment Authority of Prince George's County, Maryland or its duly authorized representative.
- 1.8 Contract Documents – The Contract, including Invitation for Bids, Information for Bidders, Bid Form, Contract, Bonds, Notice of Award, Notice to Proceed, Change Orders, Drawings, Specifications, Addenda, these General Conditions, Standard Details, and Anti-Bribery Affidavit Certificates.
- 1.9 Contract Price – The total monies payable to the Contractor under the terms and Conditions of the Contract Documents.
- 1.10 Contract Specifications Book – A set of documents issued by the Owner for the Project which includes the Invitation to Bid, Information for Bidders, Bid Bond, Bid Form, General Conditions, General Requirements, Specifications, and other forms and attachments.

- 1.11 Contract Time – The specific date or the number of days stated in the Bid Form for the completion of the Work.
- 1.12 Contractor – The person, firm or corporation with whom the Owner has executed the Contract.
- 1.13 Contractor's Drawings - Shall include but not be limited to all shop, layout and working drawings, diagrams, illustrations, catalog data, brochures, calculations, and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.
- 1.14 Day - A calendar day of 24 hours lasting from midnight one day to midnight the next day.
- 1.15 Contract Drawings - The part of the Contract Documents which show the characteristics and scope of the Work to be performed and which have been prepared by or for the Owner. The term is used interchangeably with the word "Plans" and includes Standard Details and Drawings bound with the Specifications.
- 1.16 Engineer - An authorized agent of the Owner, who shall be Paul Woodburn, P.E., Ben Dyer Associates, Inc., said agent acting within the scope of the particular duties assigned to them or of the authority given. The Owner shall have the right to appoint a successor to said Engineer, at any time, by providing written notice to the Contractor.
- 1.17 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.
- 1.18 Field Order - A written order to the Contractor issued during construction by the Engineer for interpretations, clarifications, and other instructions as to the intent of the Contract Documents.
- 1.19 Inspector - The authorized representative of the Engineer assigned to make detailed inspection of any or all portions of the Work or materials therefore.
- 1.20 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 tier, but who does not perform labor at the site.
- 1.21 Notice of Award - The written notice of the acceptance of the Bid from the

Owner to the successful Bidder.

- 1.22 Notice to Proceed - Written communication issued by the Owner to the Contractor authorizing him to proceed with the Work and establishing the dates of commencement and completion of the Work.
- 1.23 Or Equal - A material, article or method is specified or described by using the name of a proprietary product or name of a particular manufacturer or vendor in the Contract Documents and gives the Contractor an opportunity to provide an equal substitution.
- 1.24 Pollutant - Any chemical or physical substance that when introduced into a natural aquatic, atmospheric or soil system will cause adverse impact on that system. Includes grease, oil, bitumens, sewage, salts, adhesives, fuels and, when considering aquatic or atmospheric systems, soil.
- 1.25 Project - The undertaking to be performed as provided in the Contract Documents.
- 1.26 Provide - Means furnish and install, complete in place.
- 1.27 Rock - Any indurated material that requires drilling, wedging, blasting, or other methods of brute force to excavate.
- 1.28 Specifications - The data, measurements, material requirements and other specific information furnished by the Owner, which provide detailed descriptions of the nature of the Work required. They may refer to trade standards.
- 1.29 Standard Details - Details showing standard elements of construction, methods and materials for use on this contract.
- 1.30 Structure - Structural entity including but not limited to building, manhole, duct bank, tank, foundation, road, pavement, pipe conductor, substation, pumping station.
- 1.31 Subcontractor - An individual, firm or corporation having a direct contract with the Contractor or with any other subcontractor at any tier for the performance of a part of the Work at the site. Subcontractor shall not mean supplier.
- 1.32 Substantial Completion - That date as certified by the Engineer 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. For this contract substantial completion shall mean final completion.

- 1.33 Supplier - Any person or organization who supplies materials or equipment for the Work at any tier, including that fabricated to a special design, but who does not perform labor at the site.
- 1.34 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.
- 1.35 Written Notice - Any notice to any party of the Contract relative to any part of the Contract in writing and considered delivered and the service thereof completed when posted by mail to the said party at his last given address, or delivered in person to said party or his authorized representative of the Project.

ARTICLE 2 FIELD ORDERS

- 2.1 At the request of the Contractor, the Engineer may issue Field Orders that contain interpretations, clarifications and other instructions as to the intent of the Contract Documents. In addition, the Engineer may at any time issue additional instruction, explain details of the Work and issue detail drawings in the form of Field Orders, as necessary to perform the Work required by the Contract Documents. Upon receipt of a Field Order, the Contractor shall proceed with the performance of the Work in accordance with all instructions contained therein.
- 2.2 There shall be no additional Contract Cost or Time to the Owner resulting from a Field Order unless the Contractor believes that the Field Order entitles it to a change in the Contract Price or Time or both, and so notifies the Owner, in writing, within seven days after receipt of the Field Order. Request for a Change Order arising out of a Field Order will not be considered without the attachment thereto of a copy of the referenced Field Order. Thereafter the Contractor shall document the basis for change in the Contract Price and Time within 30 days. Failure to notify the Engineer within seven days after receipt of the Field Order and to adequately document the basis for change within prescribed time shall constitute an abandonment of all entitlement. The Contractor shall proceed with the performance of the work in accordance with the Field Order.
- 2.3 Failure to proceed shall constitute a breach of Contract and shall be cause for termination of the Contract.

ARTICLE 3 SCHEDULES, REPORTS AND RECORDS

- 3.1 The Contractor shall submit to the Owner such schedule of quantities and costs, construction progress schedules, payrolls, breakdown of lump sum items, reports, estimates, records and other data where applicable, as are required by the Contract Documents or which are necessary to keep the Owner informed of the progress of the Contractor's work.

ARTICLE 4 CONTRACT DOCUMENTS

- 4.1 The intent of the Contract Documents is that 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 Owner.
- 4.2 The Contract Documents are complementary; what is required by one is as binding as if required by all. In resolving conflicts, errors and discrepancies within the Contract Documents shall be given precedence in the following order:

Change Orders
Addenda (if applicable)
Agreement Form
Drawings and Specifications General Conditions
Information for Bidders
Engineer's Notes (if applicable)
Bid Form
Invitation to Bid

Anything mentioned in the Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Specifications shall be of like effect as if shown or mentioned in both. Figure dimensions on Drawings shall govern over scale dimensions and detailed Drawings shall govern over general Drawings.

- 4.3 Any discrepancies found between the Drawings and Specifications or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the Engineer, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Contractor after his discovery of such discrepancies, inconsistencies or ambiguities prior to corrections directed by the Engineer shall be done at the Contractor's risk.

ARTICLE 5 CONTRACTOR'S DRAWINGS

- 5.1 The Contractor shall provide all drawings as may be necessary for the prosecution of the Work as required by the Contract Documents.

ARTICLE 6 MATERIALS, SERVICES AND FACILITIES

- 6.1 It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete and deliver the Work within the specified time.
- 6.2 Manufactured articles, materials and equipment shall be new, and shall be stored, applied, installed, connected, erected, used, cleaned, and conditioned as directed by the manufacturer, and as approved by the Engineer. Manufactured articles, materials and equipment shall meet all specified requirements, and their manufacturers and suppliers shall be approved by the Engineer before delivery to the Contract site. When manufactured articles, materials and equipment, and their manufacturers and suppliers are named in the Specifications, only those named will be considered and accepted. When the named manufactured articles, materials and equipment are followed by the phrase "or equal," the provisions of Article 1.23 shall apply.
- 6.3 Deliveries of material, equipment and supplies to the Contractor or Subcontractors at the contract site shall be specifically addressed to the Contractor or Subcontractor and not to the Owner, Engineer, or Engineer's. Owner's, Engineer's, or Engineer's personnel will not accept deliveries for the Contractor or Subcontractors.
- 6.4 Materials and equipment shall be stored 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 and stored to facilitate prompt and safe inspection. Temporary fence shall be provided, when required. Mechanical and electrical equipment delivered to the Contract site shall be stored under roof or other approved covering, and on platforms above the ground. Enclosures for equipment shall be weatherproof and motors which are not totally enclosed shall be stored in a heated area with a minimum temperature of 50 degrees F. Electric control equipment that has internal electric heaters shall be stored in a dry heated area with electric heaters energized in accordance with manufacturer's recommendations. Valves shall be stored under roof or other approved cover and on wood platforms above the ground. All written instructions

and recommendations of the manufacturer for lubrication, protection and maintenance of equipment shall be performed during storage, installation, and until it is accepted as substantially complete by the Engineer. Materials and equipment damaged including those damaged internally from moisture, improper storage or otherwise shall be replaced or repaired as directed by the Engineer at no additional cost to the Owner.

- 6.5 Materials, supplies and equipment shall be in accordance with samples, drawings and catalog cuts submitted by the Contractor and approved by the Engineer and shall not be delivered to the Work site prior to the Engineer's approval of samples and Contractor's drawings.
- 6.6 Materials, supplies or equipment to be incorporated into the Work shall be new and shall not be purchased by the Contractor or the Subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.
- 6.7 The Contractor shall submit to the Owner an invoice for each movable item furnished, including tools, office furniture and equipment and laboratory equipment.
- 6.8 All Work included in this Contract shall be performed in a skillful and workmanlike manner. The Contractor shall employ no plant, equipment, materials, methods or persons to which the Engineer or Engineer objects, and shall remove no plant, equipment or other facilities from the site of the Work without permission of the Engineer.

ARTICLE 7 INSPECTION AND TESTING

- 7.1 All materials and equipment used in the construction of the Project shall be subject to inspection and testing in accordance with generally accepted standards as required and defined in the Contract Documents.
- 7.2 If the Contract Documents, laws, ordinances, rules, regulations or order of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor shall give the Engineer three working days notice of readiness. The Contractor shall then furnish the Engineer the required certificates of inspection, testing or approval.
- 7.3 Inspection, tests or approvals by the Engineer or others will not relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.
- 7.4 The Engineer and Engineer and his representatives shall have access to the Work at all times. In addition, authorized representatives of the Owner

or agents of any participating Federal, State or local agency shall be permitted from time to time, as in their sole discretion they may deem necessary, to inspect all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records. All such records shall remain available and accessible during performance of the Contract and until three years from the date of Final Payment, or, in case of dispute, for a period of three years after resolution of said dispute whichever is later. The Contractor shall provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof.

7.5 If any work is covered without the approval of the Engineer or Owner or contrary to requirements elsewhere in the Contract Documents, it shall, if requested by the Engineer or Owner, be uncovered for his observation and recovered at the Contractor's expense.

7.6 If the Engineer or Owner considers it necessary or advisable that approved covered work be inspected or tested, the Contractor, at the Engineer's or Owner's request, shall uncover, expose or otherwise make that portion of the Work available for observation, inspection or testing as the Engineer or Owner may require by furnishing all necessary labor, materials, tools and equipment. If it is found that such work is defective, the Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction. If, however, such Work is not found to be defective, the Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction and an appropriate Change Order will be issued. Any additional compensation or extension of time shall be determined as provided in Article 14.

ARTICLE 8 SUBSTITUTIONS

8.1 Substitutions for named and specified materials, articles and methods followed by the phrase "or equal" will only be allowed within the parameters set forth elsewhere in the Contract Documents.

ARTICLE 9 PATENTS

9.1 The Contractor shall pay all applicable royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and save the Owner, Engineer and Engineer harmless from loss on account thereof, except that the Owner will be responsible for any such loss when a particular process, design or the product of a particular manufacturer or manufacturers as specified is an infringement of a patent.

ARTICLE 10 SURVEYS, PERMITS, REGULATIONS

- 10.1 The Contractor shall furnish all survey layout for all work included in this Contract from the dimensioning and benchmarks shown on the Contract Drawings.
- 10.2 Unless otherwise specified, permits, licenses and easements for permanent structures and permanent modifications to existing facilities will be secured and paid for by the Owner.
- 10.3 The Contractor shall give all notices and comply with all permits, laws, ordinances, rules and regulations bearing on the conduct of the Work as shown and specified. If there is a conflict between requirements specified in the Contract Documents and the permits, laws, ordinances, rules and regulations, the requirements of the permits, laws, ordinances, rules and regulations shall govern.
- 10.4 If any permit, license or certificate, expire, be revoked, terminated or suspended as a result of any action on the part of the Contractor, he shall not be entitled to any additional compensation, neither will he be entitled to an extension of the completion date.

ARTICLE 11 PROTECTION OF WORK, PROPERTY AND PERSONS

- 11.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. It 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 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 in the course of construction. The Contractor shall conduct his operations to insure the least amount of disruption to the public.

In case of suspension of Work for any cause, the Contractor shall be responsible for the Project and shall take such precautions as may be necessary to prevent damage to the Work, all material or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, provide for proper drainage, provide temporary heat, light, and other required utilities and services, and shall erect any necessary temporary structures, signs, or other facilities at his expense. In addition, the Contractor shall properly and continuously maintain in acceptable growing condition all living material in newly established plantings, seedlings, and sodden furnished under this

Contract, and shall take adequate precautions to protect new and existing growth against injury.

- 11.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction. It shall erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. It shall notify Owners of adjacent utilities when prosecution of the Work may affect them.
- 11.3 In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, shall act, at its discretion, to Prevent threatened damage, injury or loss.
- 11.4 When of emergency situations require in the Owner's opinion, immediate attention and rectification, the Owner will so notify the Contractor. Should the Contractor not commence work to rectify the situation within one hour after notification, the Owner may perform the required work and deduct the costs thereof from monies owed the Contractor.

ARTICLE 12 SUPERVISION BY CONTRACTOR

- 12.1 The Contractor shall supervise and direct the Work. It shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor shall employ and maintain on the Work a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The supervisor shall have full authority to act on behalf of the Contractor and all communications given to the supervisor shall be as binding as if given to the Contractor. The supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the Work as determined by the Owner.

ARTICLE 13 CHANGE ORDERS

- 13.1 The Contractor shall not vary in any manner from the drawings and specification except as approved in writing by the Engineer and the Owner. Any extra work done without written authority or any work done beyond the established limits of the contract will be considered unauthorized and at the expense of the Contractor and will not be approved by the Engineer or paid for by the Owner. Work so done may be ordered removed by the Engineer at the Contractor's expense.
- 13.2 Without invalidating the Contract, the Owner may, at any time or from time to time by written order and without notice to the sureties, order additions, deletions or revisions in the Work. These will be authorized by Change Orders. Upon receipt of the Change Order, the Contractor shall promptly

and diligently proceed with the work involved. If any Change Order causes an increase or decrease in the Contract Price, or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 14, subject to the conditions hereinafter stated.

- 13.3 The Contractor shall proceed with the performance of any changes in the Work so ordered by the Owner. Failure to proceed shall constitute a breach of Contract and shall be cause for termination of the Contract. Should the Contractor believe that a Change Order entitles him to a change in Contract Price or Time, or both, it shall give the Owner Written Notice within seven days after receipt of the Change Order. Thereafter the Contractor shall document the basis for change in the Contract Price and Time within thirty days. Failure to notify the Owner within seven days after receipt of the Change Order and to adequately document the basis for change within prescribed time shall constitute an abandonment of all entitlement.

ARTICLE 14 CHANGES IN CONTRACT PRICE AND TIME

- 14.1 The Contract Price may be changed only by a Change Order. The value of work covered by a Change Order for increase or decrease in the Contract Price shall be determined in the manner provided herein, in the following order of precedence.

Unit prices listed in the Bid Schedule
An agreed lump sum

On the basis of the Cost of the Work determined as provided in Article 14.1.1 plus a Contractor's Fee as provided in Article 14.1.2.

- 14.1.1 The Cost of the Work shall be determined as follows:

- (a) For all labor and foreman in direct charge of the specific operations, the Contractor shall receive the actual rate of wage in effect at the time the work is performed for each and every hour that said worker and foreman are actually engaged in such work. Said agreed rate shall be no higher than that regularly paid the employee. A foreman shall not be used where there are fewer than two workers employed except with the written consent of the Owner.

The Contractor shall receive the actual costs paid to or in behalf of workers by reason of fringe benefits including but not limited to social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, sick leave, vacation and holiday pay.

Expenses of working after hours, on holidays or on Saturdays and Sundays shall be included to the extent authorized by the Owner.

- (b) For cost of materials accepted by the Engineer and used as an integral part of the finished work, the Contractor shall receive the actual cost of such materials delivered to the work, including transportation charges paid by him, exclusive of equipment rentals as hereinafter set forth.

For other materials used in the construction which are not an integral part of the finished work, such as but not limited to sheeting, false work and form lumber, the Contractor shall be reimbursed in the amount agreed upon by the Owner before such work is begun. The salvage value of such material will be taken into consideration in determining the amount of reimbursement.

Cost of construction equipment shall be based on the actual time the equipment is required to perform the work and shall not exceed eight hours per day unless equipment is in operation for a longer time. Moving time, loading, unloading and hauling will not be paid for if the equipment is used at the site for other work.

For the use of equipment moved in on the work and used exclusively for this work, the Contractor will be paid the rates herein specified including moving time, loading, unloading and hauling. The time period shall begin at the time the equipment is unloaded at the site of the work, shall include each day or fraction thereof that the equipment is at the site of the work, excluding Saturdays and Sundays and other legal holidays unless the work is performed on such days, and shall terminate at the end of the day on which the Owner directs the Contractor to discontinue the use of such equipment.

The rates of payment for equipment used, regardless if owned or rented, including fuel and lubricants but excluding operators, shall be as agreed upon between the Owner and Contractor, in writing, before work begins, but shall be no higher than the current rates recommended by the Associated Equipment Distributors (AEI), based on the weekly rental rate converted into hours, assuming a 40 hour week with eight hour days.

No payment will be made for the small tools defined as individual pieces of equipment or tools having a new value of \$1,000 or less.

- (c) When the Owner is obligated to pay for idle equipment, the allowance will be 50 percent of the rate determined herein.
- (d) For cost of premiums for additional bonds and insurance required

because of changes in the work, the Contractor shall receive the actual cost. The Contractor shall furnish satisfactory evidence of the rate or rates paid for such bond and insurance.

14.1.2 The Cost of the Work shall not include any of the following.

- (a) Payroll costs and other compensation of the Contractor's Officers, executives, principles, general managers, engineers, Engineers, estimators, attorneys, auditors superintendents, foremen not engaged in the work, timekeepers, clerks and other personnel employed by the Contractor whether at the site or in the Contractor's principal or branch office, all of which are to be considered overhead costs covered by the Contractor's Fee.
- (b) Costs due to the negligence of the Contractor, Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.
- (c) Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Article 14.1.1.(a) through (d).
- (d) Cost of Subcontractors used on the work shall be computed in the manner set forth hereinabove in Article 14.1.1.(a) through (e).

14.1.3 No payment will be made until the Contractor furnishes the Owner itemized statements of the Cost of the Work detailed as to the following:

- (a) Name, classification, date, daily hours, total hours, -rate, and extension for each worker, foreman.
- (b) Designation, dates, daily hours, total hours, rental rate, and extension for each unit of machinery and equipment.
- (c) Quantities of materials, prices including transportation cost and extensions.
- (d) Cost of bonds and insurance premiums.

14.1.4 Requests for payment shall be accompanied by original receipted invoices for materials used and transportation charges. If, however, the materials used in the work are not specifically purchased for such work but are taken from the Contractor's stock, then in lieu of the original invoices the statements shall contain or be accompanied by an affidavit

of the Contractor which shall certify that such materials were taken from its stock, that the quantity claimed was actually used and that the price and transportation of the material as claimed represent actual cost.

14.1.5 The Contractor's Fee allowed to the Contractor for overhead and profit shall be determined as follows:

- (a) For costs incurred under Article 14.1.1.(a) the Contractor's Fees shall include any and all subcontractors fees.
- (b)(c) For costs incurred under Article 14.1.1.(a), the Contractor's Fee shall be one allowance of five percent regardless of the tier of the subcontractor.

No fee shall be payable on the basis of costs itemized under Article 14.1.1.(c) and (d).

The amount of credit to be allowed by the Contractor to the Owner for any such change which results in a decrease of cost to the Contract, will be the amount of the net decrease plus an added deduction for the Contractor's Fee in the amount equal to ten percent of the net decrease.

When both additions and credits are involved in any one change, the adjustment in Contractor's Fee (ten percent) shall be computed on the basis of the net change in accordance with increased cost or credit.

14.1.6 If directed, the Contractor shall submit to the Owner three qualified bids for extra or changed work and materials, if similar work is not being performed at the Project site. If directed, the Contractor shall submit daily time charges to the Owner each day for Change Order work.

14.2 The Contract Time may be changed only by a Change Order. Extensions of time, when granted, will be based upon the effect of delays to the Work as a whole. Extensions of time will not be granted for non-controlling delays to minor included portions of work unless it can be shown that such delays did, in fact, delay the progress of the Work as a whole. Request for time extensions shall be accompanied by a revised construction schedule or fragment thereof. Extensions of time will not be granted until the Owner is satisfied that the time extension is appropriate and justified.

ARTICLE 15 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

15.1 The date of beginning and the time for completion of the Work are essential conditions of the Contract Documents and the Work embraced shall be commenced on the date specified in the Notice to Proceed. Time

is of the essence for all periods of time specified in the Contract Documents.

- 15.2 The Contractor shall proceed with the Work at a rate of progress that ensures full completion within the Contract Time. It is expressly understood and agreed by the Contractor and Owner that the Contract Time for the completion of the Work described herein is a reasonable time, taking into consideration the average climate and economic conditions and other factors prevailing in the locality of the Work.
- 15.3 If the Contractor shall fail to complete the Work within the Contract Time, or extension of time granted by the Owner, then the Contractor shall pay to the Owner the amount for liquidated damages as specified in the Agreement Form for each calendar day that the Contractor shall be in default after the time or date stipulated thereon; and the Owner may deduct the same from monies due from current progress payments or to become due to the Contractor otherwise.
 - 15.3.1 Should the Contractor abandon performance of the Work, the Owner shall have the right to complete the Work with its own or other forces, and the liquidated damages provisions set forth herein as well as other provisions of the Contract shall remain in effect; and such liquidated damages provisions shall not be construed to be a substitute for damages caused by increased cost of the Work but shall be compensatory only for delay in completion of the Contract.
- 15.4 This Article does not exclude the recovery of damages by either party under other provisions of the Contract Documents.
- 15.5 The Contractor will not be charged with liquidated damages or any excess cost when the delay in completion of the Work as a whole is a controlling delay due to the following unforeseeable causes, and the Contractor has given Written Notice of such delay including reasons therefore to the Owner within seven days of the occurrence. Thereafter the Contractor shall present documentation of the unforeseeable cause in delay within thirty days. Failure to notify the Owner within seven days and to adequately document the basis of the delay within prescribed time shall constitute an abandonment of all entitlement.
 - 15.5.1 Unforeseeable causes include items beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of Subcontractors, or Suppliers, arising from unforeseeable causes beyond the control and without the fault or

negligence of both the Contractor and such subcontractors or suppliers so documented by the Contractor.

15.5.2 As used in paragraph 15.5.1, the terms subcontractors and suppliers means subcontractor or supplier at any tier.

ARTICLE 16 CORRECTION OF WORK

16.1 The Contractor shall promptly remove from the premises all Work rejected by the Engineer for failure to comply with the Contract Documents whether incorporated in the construction or not, and the Contractor shall promptly replace and reexecute the Work in accordance with the Contract Documents and without expense to the Owner and shall bear the expense of correcting all work of other Contractors destroyed or damaged by such removal or replacement.

16.2 All removal and replacement work shall be done at the Contractor's expense. If the Contractor does not take action to remove such rejected Work within ten days after receipt of Written Notice, the Owner may remove such Work, store the materials and replace the rejected Work at the expense of the Contractor.

16.3 Any work that may be done or materials ordered by the Contractor prior to receipt of the Notice to Proceed, incorporation of previously rejected Work, work done contrary to or regardless of the instructions of the Engineer or Owner, work done beyond the limits shown on the Plans, except as herein specified or any extra work done without written authority from the Owner, will be considered as unauthorized and will not be paid for. Work so done may be ordered removed or replaced at the Contractor's expense.

ARTICLE 17 CHANGED CONDITIONS

17.1 The Contractor shall within seven days, and before such conditions are disturbed, except in the event of an emergency, notify the Owner by Written Notice of:

- (a) Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or
- (b) Unknown physical conditions at the site 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 Documents.

17.2 The provisions of 17.1(a) and 17.1(b) shall not apply to rock and/or water conditions that may be encountered during the construction of this Project.

The provisions set forth in General Conditions, Article 18, "Physical Data"; shall apply.

- 17.3 The Owner will promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the cost of, or in the time required for performance of the Work, an equitable adjustment will be made and the Contract Documents will be modified by a Change Order as provided in Article 14. Any claim of the Contractor for adjustment hereunder shall not be allowed unless it has given the required Written Notice.

ARTICLE 18 PHYSICAL DATA

- 18.1 The Contractor shall determine to its own satisfaction the actual subsurface conditions including the character and type of soil and other material it will encounter in the Work to be done under the Contract. This investigation was revised as a pre-condition of bid submission and therefore will not justify a change order.

Information and data referred to herein is available for the Contractor's information and for whatever use the Contractor may find therefore. The subsurface and other physical data such as those mentioned herein and contained in the Contract Documents or otherwise made available to the Contractor by the Owner or Engineer are not intended as representations or warranties. It is expressly understood that the Owner or Engineer will not be responsible for the completeness or accuracy thereof nor for any deductions, interpretations or conclusions drawn therefrom. The information is made available in order that the Contractor may have the same information as is available to the Owner. The provisions of Article 17 and 18 shall not apply to rock and/or water conditions that may be encountered during construction of this Project.

ARTICLE 19 SUSPENSION OF WORK, TERMINATION AND DELAY

- 19.1 The Owner may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as it may determine to be appropriate for the convenience of the Owner.
- 19.1.1 If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Owner in administration of this Contract, or by its failure to act within a reasonable time; or Work is suspended, delayed or interrupted by others, due to erosion and sediment control violations not the fault of the Contractor or attributable to its negligence; an adjustment will be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by such unreasonable suspension, delay or interruption and the

Contract modified by Change Order accordingly. However, no adjustment shall be made under this clause for any suspension, delay or interruption to the extent: (1) that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or (2) for which an equitable adjustment is provided for or excluded under any other provision of these Contract Documents.

19.1.2 No claim under this Article shall be allowed: (1) for any costs incurred more than seven days before the Contractor shall have notified the Owner in writing of the act or failure to act involved (but this requirement shall not apply to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing within 30 days after the termination of such suspension, delay or interruption, but not later than the date of final payment under the Contract.

19.2 If the Contractor is adjudged bankrupt or insolvent, or if it makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the Contractor or for any of its property, or if it files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if it repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or if it repeatedly fails to make prompt payments to subcontractors for labor, materials or equipment, or if it refuses or fails to prosecute the Work or any separable part thereof, with such diligence as will insure its completion within the Contract Time, or if it fails to complete said Work within said time, or if it disregards laws, ordinances, rules, regulations, directions or orders of any public body having jurisdiction over the Work or if it disregards the authority of the Owner, Engineer or Engineer, or if it otherwise violates any provision of the Contract Documents, then the Owner may, without prejudice to any other right or remedy and after giving the Contractor and its surety a minimum of ten days from delivery of a Written Notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, and finish the Work by whatever method it may deem expedient. In such case, the Contractor will not be entitled to receive any future payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess will be paid to the Contractor except that the maximum payment will not exceed ten percent of the original contract. If such costs exceed such unpaid balance, the Contractor shall pay the difference to the Owner. Such costs incurred by the Owner will be determined by the Engineer and incorporated in a Change Order.

19.3 Where the Contractor's services have been so terminated by the Owner,

said termination shall not affect any right of the Owner against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the Owner due the Contractor will not release the Contractor from compliance with the Contract Documents.

- 19.4 After ten days from delivery of a Written Notice to the Contractor, the Owner may, without cause and without prejudice to any other right or remedy, elect to terminate the Contract for its convenience. In such case, the Contractor shall be paid for all Work executed and any expense sustained therefrom plus reasonable profit for that portion of the Work completed at the date of termination.
- 19.5 If through no act or fault of the Contractor, the Work is suspended for a period of more than 90 days by the Owner or under an order of court or other public authority, then the Contractor may, after ten days from delivery of a Written Notice to the Owner, terminate the Contract and recover from the Owner payment for all Work executed and all expenses sustained.
- 19.6 If the Owner fails to respond to any request for payment within 30 days after it is submitted, or the Owner fails to pay the Contractor substantially the sum approved by the Engineer or awarded by arbitrators within 45 days of its approval and presentation, the Contractor may upon ten days Written Notice to the Owner stop the Work until he has been paid all amounts then due, in which event and upon resumption of the Work, Change Orders will be issued for adjusting the Contract Price, extending the Contract Time, or both to compensate for the costs and delays attributable to the stoppage of the Work.

ARTICLE 20 USE OF THE PREMISES

- 20.1 The Owner 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, except such as may be caused by agents or employees of the Owner.
- 20.2 Prior to the date of Substantial Completion, the Owner, with the concurrence of the Contractor, may use any completed or substantially completed portion of the Work. Such use shall not constitute an acceptance of such portions of the Work.

ARTICLE 21 SUBSTANTIAL COMPLETION FOR A PORTION OF THE WORK

- 21.1 The Contractor will be paid for each unit only after the Engineer in his sole

discretion, determines that the unit is complete.

- 21.2 All written conditions, if any, of the certificate of Substantial Completion are binding to the Contractor. Failure to comply with such conditions within the time stated therein will be cause for revision of certification of Substantial Completion and revision of commencement of the guarantee. Substantial Completion and commencement of the guarantee may be reinstated upon reissuance of a certificate of Substantial Completion by the Engineer as set forth above.

Certificate of Substantial Completion does not relieve the Contractor of his responsibility under any of the provisions of these Contract Documents unless explicitly noted herein and/or in the written certificate of Substantial Completion.

- 21.3 Until approval of the final estimate for the entire Contract by the Owner, it shall be the Contractor's responsibility to protect and insure all portions of the Work in beneficial operation against damages resulting from vandalism, theft, floods, fires and malfunction due to other equipment or Work not yet placed into beneficial operation, unless such damage is the direct result of negligence on the part of Owner personnel or fair wear and tear. Should repairs be required due to any reasons other than the exceptions stated above, they shall be performed at no expense to the Owner, and the guarantee commitment date shall be modified to coincide with the date of re-acceptance in accordance with the provisions set forth herein.
- 21.4 Should the Contractor be unable to perform repairs, the Engineer may direct that the necessary repairs be performed by others, and the cost therefore be deducted from monies owed the Contractor. In such an ease, the guarantee commitment date shall be modified to coincide with the date of completion of repairs by others.

ARTICLE 22 PAYMENTS TO THE CONTRACTOR

- 22.1 At least ten days before each progress payment falls due (unless otherwise stated, the date shall be the end of each month), the Contractor shall submit to the Engineer a partial payment estimate, filled out in ink or typewritten and signed by the Contractor, covering Work completed during the period of the partial payment estimate and supported by such data as the Engineer may reasonably require to include schedule updates. If payment is requested on the basis of materials and equipment not incorporated in the Work, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the Engineer, as will protect the Owner's interests therein, including applicable insurance. The Engineer will, within ten days after receipt of each partial payment

estimate, either indicate in writing his approval of payment and present the partial payment estimate for processing, or return the partial payment estimate to the Contractor indicating in writing his reasons for refusing to approve payment. In the latter case, the Contractor may make the necessary corrections and resubmit the partial payment estimate. The Owner will, within 45 days of an Engineer approved partial payment estimate, pay the Contractor a progress payment on the basis of the approved partial payment estimate. The Owner will retain ten percent of the amount of each payment until final completion and acceptance of all Work covered by the Contract Documents. The Owner at any time after 50 percent of the Work has been completed, if it finds that satisfactory progress is being made, will forego retainage on remaining estimates. When the Work is substantially complete, the retained amount may be further reduced to that amount necessary to assure completion.

22.1.1 With each payment, the Contractor, when signing the payment form, must certify that he has made payment from proceeds of prior payments and that it will make timely payments from the proceeds of progress and final payment then due it, to its subcontractors and suppliers in accordance with its Contractual arrangement with them.

22.1.2 No payments for installation of equipment requiring Operation and Maintenance Manuals will be made prior to receipt of final approved copies of the Operation and Maintenance Manuals.

22.2 Prior to making a request for final payment, the Contractor shall have completed all Work.

The Engineer will issue a certificate attached to the final payment request with a copy sent to the Contractor that the Work has been accepted by him under the conditions of the Contract Documents. The entire balance found to be due the Contractor, including the retained percentages but except such sums as may be lawfully retained by the Owner, will be paid to the Contractor within 45 days of completion and acceptance of the Work.

22.4 The Contractor shall indemnify and save the Owner and its official, employees and agents harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workers, mechanics, materialmen and furnishers of machinery and parts thereof, equipment, tools and all supplies incurred in the furtherance of the performance of the Work. The Contractor shall, at the Engineer's request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged or waived. If the Contractor fails to do so the Owner may, after having notified the Contractor, either pay unpaid bills or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably

sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor will be resumed in accordance with the terms of the Contract Documents, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor, his Surety, or any third party. In paying any unpaid bills of the Contractor, any payment so made by the Owner will be considered as a payment made under the Contract Documents by the Owner to the Contractor and the Owner will not be liable to the Contractor for any such payments made in good faith.

ARTICLE 23 ACCEPTANCE OF FINAL PAYMENT AS RELEASE

- 23.1 The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner and Engineer from any and all claims of any nature, and the failure to mention a particular type of claim does not reflect an intention to allow the claim to survive, and all liability to the Contractor other than claims submitted as specified elsewhere in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with the Work and for every act and neglect of the Owner and Engineer and others relating to or arising out of this Work.
- 23.2 The Owner shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the Work and payment therefore, from showing the true amount and character of the work performed and materials furnished by the Contractor, nor from showing that any such measurement, estimate or certificate is untrue or is incorrectly made, nor from showing that the work or materials do not in fact conform to the Contract. The Owner shall not be precluded or estopped, notwithstanding any such measurement, estimate or certificate and payment in accordance therewith, from recovering from the Contractor or his Sureties, or both, such damage as it may sustain by reason of his failure to comply with the terms of the Contract.
- 23.3 Neither the acceptance by the Owner or any representative of the Owner nor any payment of or acceptance of the whole or any part of the Work, nor any extension of time, nor any possession taken by the Owner, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or of any right to recover damages. The waiver of any breach of the Contract shall not be held to be waiver of any other or subsequent breach.

ARTICLE 24 INSURANCE

24.1 The Contractor shall purchase and maintain insurance with companies acceptable to the Owner meeting requirements specified herein as will protect Owner & Engineer, and Engineer from consequential liability which may arise out of or result from the Contractor's execution of the Work, whether done personally or by any Subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

24.1.1 Certificates of insurance shall be filed within ten (10) days after receipt of the Notice of Award. These certificates shall contain a provision that policy coverages will not be canceled, altered or materially changed without thirty days prior written notice provided to the Owner, via registered or certified mail, to the address below:

Redevelopment Authority of Prince George's County
5200 Basil Court, Suite 504
Largo, Maryland 20774

24.2 The Contractor shall provide the following:

24.2.1 Comprehensive General Liability Insurance

(a) Such coverage to protect the Contractor and the Owner and Engineer from any claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

Such insurance shall include:

Independent Contractor's coverage;
Products and Completed Operations coverage;
Blanket Contractual Liability coverage;
Fire Legal Liability coverage;
Broad Form Property Damage coverage;
No Water Damage Exclusion;

(b) The Comprehensive General Liability Policy shall contain an endorsement indicating that the XCU (Explosion, collapse and underground damage) exclusions applicable to a Contractor's Policy have been deleted.

(c) Policy limits shall be as specified herein for each occurrence of

Property Damage;

- (d) There shall be no "Employee Exclusion" with respect to personal injury coverage; and
- (e) The Owner and Engineer shall be named as an additional insured as their interest may appear.
- (f) Limits of Liability to be not less than \$500,000 Each Occurrence and Aggregate (where usually applicable) Combined Personal Injury and Property Damage Liability.

24.2.2 Automobile Liability Insurance

- (a) Such coverage shall protect the Contractor and the Owner and Engineer from any claims arising out of the use of any owned, non owned and hired automobiles.
- (b) Limit of Liability to be not less than \$500,000 Each Accident Combined Bodily Injury and Property Damage Liability.

24.2.3 Workers' Compensation and Employers' Liability Insurance Statutory coverage for place and type of work to be performed.

Employers' Liability Insurance Limits - Not Less Than; \$100,000 Each Accident - Bodily Injury by Accident \$100,000 Each Employee - Bodily Injury by Disease \$500,000 Policy Limit - Bodily Injury by Disease.

24.2.4 Umbrella Liability Insurance

Limit of Liability \$2,000,000 Each Occurrence and Aggregate (where usually applicable), unless otherwise specified.

24.2.5 All shall be made payable to the Owner.

24.3 Supplemental Coverages:

Where so indicated in Contract Documents, the Contractor shall supply the following additional insurance coverages:

24.3.1 Builders' Risk or equivalent coverage affording "All Risk" coverage acceptable to the Owner.

Required for Contracts which include erection of a structure or facility or an addition to or renovation of an existing structure or facility.

The amount of coverage shall be based upon the 100 percent projected completed value of the Work and shall be in effect prior to Work commencing and stay in effect until the Contract is completed by the Contractor and accepted by the Owner.

ARTICLE 25 CONTRACT SECURITY

ARTICLE 26 ASSIGNMENTS

- 26.1 Neither the Contractor nor the Owner shall sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of its right, title or interest therein, or its obligations thereunder, without written consent of both parties.

ARTICLE 27 INDEMNIFICATION

- 27.1 The Contractor shall defend, indemnify and hold harmless the Engineer and Owner and their official agents and employees from and against any and all claims, suits in law or equity, actions, damages, losses and expenses of every name, and description, including attorneys fees to which the Engineer and Owner and their agents and employees may be subject or put by reason of injury to persons (including bodily injury, death or any other form of personal injury) or property damage arising out of or resulting from the performance of the Work whether caused or alleged to be caused in whole or in part by any negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by the Engineer, the Owner and their official agents or employees, the party indemnified hereunder, or other cause.
- 27.2 Monies due or to become due the Contractor under the Contract as may be considered necessary by the Owner, shall be retained by the Owner until such suits or for damages shall have been settled or otherwise disposed of or satisfactory evidence to that effect furnished to the Owner.

ARTICLE 28 SEPARATE CONTRACTS

- 28.1 The Owner reserves the right to let other contracts in connection with this Project. 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 work with theirs. If the proper execution or results of any part of the Contractor's work depends upon the work of any other Contractor, the Contractor shall inspect and promptly report to the Owner any defects in

such work that render it unsuitable for such proper execution and results.

- 28.2 The Owner may perform additional work related to the Project by itself, or it may let other contracts containing provisions similar to these. The Contractor shall afford the other Contractors who are parties to such contracts, the Owner, if it is performing the additional work itself, reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate his work with theirs.
- 28.3 If the performance of additional work by other Contractors or the Owner is not noted in the Contract Documents prior to the execution of the Contract, Written Notice thereof shall be given to the Contractor prior to starting any such additional work. Should the Contractor believe that the performance of such additional work by the Owner or others results in additional expense to the Contractor or entitles him to an extension of the Contract Time, it shall give the Owner Written Notice within seven days after receipt of the Owner's notice.

ARTICLE 29 SUBCONTRACTING

- 29.1 The services of specialty subcontractors may be utilized on those parts the Work which, under normal contracting practices are performed by specialty subcontractors within the parameters set forth herein and in the Information for Bidders.
- 29.1.1 Before entering into any subcontracts, the Contractor shall submit a written statement to the Owner giving name and address of the proposed subcontractor, manufacturer and Supplier, the portion of the Work and material that it is to perform and furnish, and shall further certify that the proposed subcontractor, manufacturer or supplier has the necessary facilities, skill, integrity, past experience and financial resources to perform the Work in accordance with requirements of the Contract.
- 29.1.2 No substitution for any subcontractor, manufacturer or supplier, person or entity previously selected by the Contractor shall be made without written notification to the Owner.
- 29.2 The Contractor shall not award Work to subcontractors in excess of 50 percent of the Contract Price without prior approval of the Owner.
- 29.3 The Contractor shall be fully responsible to the Owner for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by hire.

The Contractor shall be fully responsible for the coordination of the work of the trades, subcontractors and suppliers and their officers, agents and employees.

- 29.4 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bond subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.
- 29.5 Nothing contained in the Contract Documents shall create any contractual arrangement between any subcontractor and the Engineer, Owner.

ARTICLE 30 ENGINEER'S AND INSPECTOR'S AUTHORITY

- 30.1 The Engineer will act as an Owner's representative during the construction period. It shall decide questions which may arise as to quality and acceptability of materials furnished and work performed. It will within a reasonable time, make decisions relative to interpretation of the Contract Documents in a fair and unbiased manner. The Engineer will make visits to the site and determine if the Work is proceeding in accordance with the Contract Documents. Work to be carried out under guidance of the Engineer and to its complete satisfaction.
- 30.2 The Contractor shall be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship and execution of the Work. Inspections may be made at the factory or fabrication plant of the source of material supply.
- 30.3 The Engineer will not be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.
- 30.4 Authority and Duties of Inspectors
 - 30.4.1 Inspectors are authorized agents of the Owner and shall be authorized to inspect all work done and all material furnished. Such inspection may extend to all or any part of the Work and to the preparation, fabrication or manufacture of the materials to be used. The Inspector is not authorized to revoke, alter or waive any requirements of the Contract, nor is he authorized to approve or accept any portion of the complete Project. It is authorized to call the attention of the Work or the Contractor to any failure of materials to conform to the Contract. It will have the authority to reject materials or suspend the Work until any questions at issue can be referred to and decided by the Engineer. Inspectors will perform their duties at such times and in such manner as will not unnecessarily impede progress

of the Contract.

30.4.2 The Inspector will in no case act as foreman or perform other duties for the Contractor, nor interfere with the management of the Work by the latter. Any advice which the Inspector may give the Contractor shall not be construed as binding the Owner or Engineer in any way, or releasing the Contractor from fulfilling all of the terms of the Contract.

30.4.3 Where there is disagreement between the Contractor and the Inspector, such as refusal by the Contractor to use properly approved materials; to perform work not in compliance with the Contract Documents; or refusing to suspend work until problems at issue can be referred to a decision by the Engineer, the Inspector will immediately direct the Engineer's attention to the issues of disagreement. If the Engineer concurs with the Inspector's position but, the Contractor still refuses to make corrections, comply or suspend work, the Owner will prepare and deliver in writing to the Contractor, by mail or otherwise, a written order stopping the Work and explaining the reason for such shutdown. As soon as the Inspector is advised of the delivery of the shutdown order, the Inspector will immediately leave the site of the Work. Work performed during the Inspector's absence will not be accepted or paid for and may be required to be removed and disposed of at the Contractor's expense.

ARTICLE 31 GUARANTY

31.1 The Contractor shall guarantee all materials, not provided by the Town, and equipment furnished and work performed for a period of one year from the date(s) of substantial completion, except that those items listed as exceptions on the certificate(s) of substantial completion shall be so guaranteed for a period of one year from the date of Contract Final Acceptance. The Contractor warrants and guarantees that the completed Work is free from all defects due to faulty materials, equipment and workmanship. This shall include but not necessarily be limited to the following. The Guarantee will include equipment warranties. No warranty and/or guarantee can be voided if the Town purchases material and/or equipment for use by the contractor or on the Contractors behalf.

31.1.1 The Contractor shall guarantee against all faulty or imperfect materials and equipment, subsidence of backfills, fills and embankments, vegetation stabilization, and against all imperfect, careless and/or unskilled workmanship.

31.1.2 The Contractor shall guarantee that the work performed under this Contract, including all mechanical and electrical equipment, and appurtenances, and each and every part thereof, shall operate, with proper care and maintenance, in a satisfactory and efficient manner in

accordance with the requirements of these Contract Documents and where manufacturer's warranty(s) are required elsewhere herein which are in effect for a period greater than the Contractor's warranty period, said warranty shall name the Owner as a beneficiary, and the Contractor shall furnish the Owner with a copy of the manufacturer's warranty.

31.1.3 That the structures shall be watertight and leak proof at every point and in every joint.

31.1.4 No use or acceptance by the Owner or Engineer of the Work or any part thereof, nor any failure to use same, nor any repairs, adjustments, replacements, or corrections made by the Owner due to the failure to comply with any of its contractor's other obligations under the Contract Documents or other corrections made by the Owner shall impair in any way the guarantee obligations assumed by the Contractor under these Contract Documents.

The Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the Work resulting from such defects and agrees to replace with proper workmanship, materials and equipment, and re-execute, correct or repair without cost to the Owner, any Work which may be found improper or imperfect and/or which does not operate in a satisfactory manner and fails to perform as specified, or in any other way does not conform to the Contract Documents, unless such damage is the direct result of negligence on part of Owner personnel, or fair wear and tear. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred.

ARTICLE 32 CLAIMS, DISPUTES, JURISDICTION & VENUE

32.1 All claims, disputes or other matters in question between the Contractor and the Owner arising under the terms and provisions of this Contract, including without limitation, a claim for breach of contract, shall be resolved pursuant to the processes set forth in this Article, which shall be mandatory. All claims by the Owner against the Contractor may be made directly to Circuit Court for Prince George's County Maryland or to the applicable surety, as appropriate. All claims by the Contractor against the Owner shall be initially submitted in writing to the Engineer within the time period established by other applicable provisions of these General Conditions, or if none is established, within thirty days of the event giving rise to the claim, dispute or other matter. A copy of said notice shall be forwarded to the Owner. Thereafter, the Contractor shall document his

position on the claim, dispute or other matter within thirty days of making notice of claim, by filing with the Engineer a written presentation setting forth in detail the basis for the claim, the contract provision or provisions relied on, a list specifically identifying all written documents and witnesses which support the claim, and the relief sought. The written presentation shall not be copied to the Owner before a determination by the Engineer as set forth herein. No claim, dispute or other matter may be asserted against the Owner unless the Contractor has provided the written notice required by this paragraph. Actual notice or knowledge of any such conditions by the Engineer, the Owner or any other person or entity shall not relieve the Contractor of the duty to give the written notice required by this paragraph. Failure to adequately document a claim, dispute or other matter in the thirty days required by this paragraph shall constitute an abandonment of the claim, dispute or other matter initially referred to the Engineer for decision.

32.2 Unless otherwise agreed by the parties, the Engineer will issue a Final Decision (in writing) of the Engineer within 30 days after receipt of the Contractor's written presentation. The Engineer's decision shall be final and binding upon the parties.

32.3 Litigation

32.3.1 Subject to the limitations and conditions imposed in this Article, any claim, dispute or other matter in question between the Contractor and the Owner arising under the terms and provisions of this Contract, including without limitations a claim for breach thereof, are subject to each parties' right to file a proceeding in the Circuit Court for Prince George's County, Maryland. The right to bring a proceeding in court is expressly limited by the conditions described in this Article 32.5.

32.3.2 All claims and disputes to be litigated in with respect to this contract shall be decided by the Circuit Court of Prince George's County, Maryland, which shall be the exclusive venue for all proceedings with respect to his contract. Both parties hereby stipulate that the Courts of Maryland have personal jurisdiction over each party.

32.3.3 The terms and provisions of the Contract Documents are subject to interpretation under the laws of the State of Maryland.

32.3.4 All actions in the Circuit Court for Prince George's County, Maryland shall be limited to issues specifically decided by the Engineer.

32.3.5 The Contractor shall not be permitted to present any evidence to the Circuit Court proceedings that was not included in the written presentations to the Engineer and Owner, required by Articles 32.1 and

32.3.

- 32.4 The time periods specified in this Article are essential conditions of the Contract Documents. Time is of the essence for all periods of time set forth in this Article. No claim by the Contractor will be allowed if asserted after Final Payment under this Contract.
- 32.5 The Contractor shall not be entitled to pre-decision interest on amounts found due the Contractor by decision of the Engineer or Owner or on amounts on an award by the Circuit Court for Calvert County, Maryland.
- 32.6 In any claim, dispute, or other matter in which a Contractor has filed a claim, the Contractor shall allow the Engineer or his representatives, the right to interview employees and witnesses, examine and audit books, records, documents, and supporting materials, including computations and projections, in order to evaluate the accuracy, completeness and currency of the costs being claimed and facts asserted.

The Contractor shall make available at his office at reasonable times, material and persons described above for examination, audit or reproduction. The Contractor shall obtain from all subcontractors, and file with its initial claim, authorization for the Architect to examine and audit all subcontractor costs and facts included in the claim.

The amounts included in the claim shall be limited to the direct actual costs incurred and paid by the Contractor and supported by such accounting records as job cost reports, payroll journals, paid invoices, canceled checks and ledgers.

- 32.7 The Contractor shall diligently carry on the Work and maintain the progress schedule during any dispute, appeal or court proceedings.

ARTICLE 33 TAXES

- 33.1 The Contractor shall pay any and all State sales and use taxes on materials and equipment to be resold to the Owner and incorporated in the Work. Said taxes shall be included in the Bid.

ARTICLE 34 OFFICIAL NOT TO BENEFIT

- 34.1 No officer or employee of the Owner shall be admitted to any share or part of the Contract or any benefit that may arise therefrom, and any Contract entered into by the Owner in which any officer or employee of the Owner shall be personally interested shall be void, and no payment shall be made thereon by the Owner or any officer thereof; but this provision shall not be construed to extend to the Contract if made with a corporation for

its general benefit.

ARTICLE 35 BRIBES

- 35.1 A bribe or attempt to bribe any employee or officer of the Owner by the Contractor shall be considered as execution of the Contract in bad faith, and shall thus empower the Owner to complete the Work and deduct the entire cost thereof from any monies due or to become due the Contractor under the Contract, all as set forth in Article 19.

ARTICLE 36 STANDARDS

- 36.1 Whenever in these contract documents reference is made to any of the following specifications, codes, standards and requirements by abbreviation or name; it shall be understood that the specifications, code, standards and requirements in effect on the date of advertisement for bids shall govern, except to the extent that said standards and/or requirements may be in conflict with applicable laws, ordinances, etc.

ACI	-	American Concrete Institute
RISC	-	American Institute of Steel Construction
ASTM	-	American Society for Testing and Materials
AWWA	-	American Water Works Association
BOCA	-	Building Officials and Code Administrators
NEC	-	National Electrical Code
NEMA	-	National Electrical Manufacturers Association
NFPA	-	National Fire Protection Association
USASI	-	Standards of the United States of America Standard Institute (formerly American Standards Association)
UL	-	Underwriters Laboratory