

REQUEST FOR PROPOSAL

#8191

Independence Park Boardwalk Reconstruction at Independence Lake Park 3200 Jennings, Whitmore Lake, MI 48189

for

WASHTENAW COUNTY
PARKS and RECREATION COMMISSION
Ann Arbor, MI

Issued By:

Washtenaw County Purchasing
Administration Building
220 N. Main Street
Ann Arbor, MI 48104

Beth A. Duffy, CPPB
Senior Buyer
(734) 222-6761

on behalf of the

Washtenaw County
Parks and Recreation Commission
2230 Platt Rd., P. O. Box 8645
Ann Arbor, MI 48107-8645
Phone: (734) 971-6337



Proposal Submitted by:

Please type Bidder's Company Name & include as proposal cover



WASHTENAW COUNTY

Finance Department

Purchasing Division

220 N. Main, Ann Arbor, MI 48104
Phone (734) 222-6760, Fax (734) 222-6764
www.purchasing.washtenaw.org

RFP #8191

10/03/2021

Washtenaw County Purchasing Division on behalf of the Washtenaw County Parks and Recreation Commission (WCPARC) is issuing a Request for Proposal (RFP) #8191 for the **Independence Park Boardwalk Reconstruction**. The work will include all work and materials for the reconstruction of boardwalks at Independence Lake County Park. The project will include site preparation and SESC, demolition of the existing structures. Installation of helical piles, construction of support structure, concrete aprons, decking, toe rails/railing and site restoration.

The work shall be completed by Friday September 30, 2022 @ 5:00 p.m..

All required bid documentation for this project may be obtained at the Washtenaw County Purchasing Division website <https://www.washtenaw.org/2431/Open-Bids>

Sealed Proposals: As a result of the coronavirus Washtenaw County is receiving bids for projects electronically only. Therefore,

Contractor will deliver an electronic response to this solicitation in .pdf format to Beth Duffy at:

duffy@washtenaw.org

[Please include your company name & RFP# in the E-mail subject line](#)

BY: Tuesday October 26, 2021 at 10:00 a.m.

Proposals received after the above cited time will be considered a late bid and are not acceptable unless waived by the Purchasing Manager.

A **MANDATORY pre-bid site meeting** will held at Independence Lake Park, 3200 Jennings, Whitmore Lake 48189 @ Blue Heron Bay 1/2 Mile From Park Entrance. on **10/12/2021** at 10:00AM. This site is located within Independence Lake Park.

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In the event of a virtual pre-bid meeting , upon commencement please be prepared to provide the moderator with your company contact information including name, phone number and a valid e-mail address.

- Please direct purchasing and procedural questions regarding this RFP to Beth Duffy via e-mail to: duffy@washtenaw.org.
- Please direct technical project questions regarding this RFP via e-mail only to Brian Machemer, Park Superintendent, Washtenaw County Parks and Recreation Commission: machemeb@washtenaw.org, with a copy to the purchasing and procedural questions contact as well.
- Bidders or their representatives are prohibited from communicating with Washtenaw County employees regarding this RFP except as provided under TECHNICAL QUESTIONS.
- Violation of this provision by the bidders and/or their agent may lead to disqualification of the bidder's proposal from consideration.

Thank you for your interest.

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PROPOSAL INFORMATION

1. Proposal Definitions:

“Bidder”	An individual or business submitting a bid to Washtenaw County
“Contractor/Vendor”	One who Contracts to perform services in accordance with this legal agreement
“County”	Washtenaw County in Michigan
“OWNER-WCPARC”	Washtenaw County Parks & Recreation Commission
“OWNER’S REPRESENTATIVE”	A hired consultant as authorized representative of WCPARC given authority as assigned in the Contract Documents.

2. Proposal Terms:

A. Washtenaw County reserves the right to reject any and all proposals received as a result of this RFP. If a proposal is selected it will be the most advantageous regarding price, quality of service, the Contractors qualifications and capabilities to provide the specified service, and other factors that the County may consider. The County does not intend to award a contract fully on the basis of any response made to the proposal; the County reserves the right to consider proposals for modification at any time before a contract would be awarded, and negotiations would be undertaken with that contractor whose proposal is deemed to best meet the County’s needs, specifications, and interests.

B. The County reserves the right to reject any and all bids, to waive or not waive informalities or irregularities in bids or bidding procedures, and to accept or further negotiate cost, terms, or conditions of any bid determined by the County to be in the best interest of the County even though not the lowest bid.

C. Proposals must be signed by an official authorized to bind the contractor to its provision for at least a period of 90 days. Failure of the successful bidder to accept the obligation of the contact may result in the cancellation of any award.

D. In the event it becomes necessary to revise any part of the RFP, addenda will be provided. Deadlines for submission of RFP's may be adjusted to allow for revisions. To be considered, Vendor will deliver one (1) e-proposal in .pdf format to the County as indicated on or before the date specified.

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E. Proposals must be submitted on the forms provided within this Contract Document Proposal section. Proposal figures may be handwritten or typed, however, no erasures are permitted. Mistakes must be crossed out, corrected, and initialed in ink by the person signing the proposal. No changes shall be permitted in the wording or quantity numbers on the prepared Proposal Form(s).

F. CONFLICT OF INTEREST. Contractor warrants that to the best of contractor's knowledge, there exists no actual or potential conflict between contractor and the County, and its Services under this request, and in the event of change in either contractor's private interests or Services under this request, contractor will inform the County regarding possible conflict of interest which may arise as a result of the change. Contractor also affirms that, to the best of contractor's knowledge, there exists no actual or potential conflict between a County employee and Contractor.

G. The bidder shall be responsible for all costs incurred in the development and submission of this response. Washtenaw County assumes no contractual obligation as a result of the issuance of this RFP, the preparation or submission of a response by a bidder, the evaluation of an accepted response, or the selection of finalists. All proposals, including attachments, supplementary materials, addenda, etc. shall become the property of Washtenaw County and will not be returned to the bidder.

H. Any responses, materials, correspondence, or documents provided to Washtenaw County under this solicitation are subject to the State of Michigan Freedom of Information Act and may be released to third parties in compliance with that Act.

I. Local Vendor Preference – A policy adopted by the Washtenaw County Board of Commissioners (BOC) that shall govern the procurement of goods, services and food from local vendors located in Washtenaw County and the State of Michigan. The intent of the BOC is to encourage and promote economic growth and regional job development. The policy shall be applied to Washtenaw County operated programs as allowed, except those that are federally funded directly or indirectly. All other Procurement Policies and Procedures remain in full effect. Please see “**Local Vendor Certification Application & Affidavit**” enclosed in this RFP.

J. Vendor Appeal Process – Unsuccessful bidders may appeal an award of contract, lease or purchase order to the County Administrator. All appeals shall be made in writing to the County Administrator with a copy to purchasing within five (5) business days of the Notice to Award. The County Administrator shall take necessary actions to review the appeals and respond to the individual submitting an appeal within five (5) business days. This response shall be documented in writing in the bid file.

K. Any oral responses to any questions shall be unofficial and not binding on Washtenaw County. The County's procurement staff will make such interpretation or correction, as well as any additional RFP provisions that the County may decide to include, only as an RFP addendum. Any addendum issued by the County shall become a part of the RFP. Submitters should consider issued addendums in preparing his or her proposal submission. Questions may not be responded to if received within seven (7) business days prior to bid opening.

LOCAL VENDOR PREFERENCE DEFINITIONS:

Federal funded programs, whether they are receiving the funds directly or as a State pass through are exempt as mandated by the Federal Register 2 CFR Chapter I, Chapter II Part 200 section 200.319 Competition 7(b) effective December 26, 2014.

A. Washtenaw County Company – must meet all criteria listed:

- 1) Its headquarters is physically located within Washtenaw County, or it has been conducting business at a location with a permanent street address in the County on an ongoing basis for not less than one taxable year (12 consecutive months) prior to its bid or response to a Request for Proposals (RFP).
- 2) It has made payment of property taxes on real or personal property within the past year on property which is ordinarily needed to perform the proposed contract. Or it has leased property for its Headquarters or business with in Washtenaw County for more than one year (12 consecutive months).
- 3) It has been dealing for at least one year (12 consecutive months) on a regular commercial basis in the kind of goods or services which are the subject of the bid or proposal.

B. Michigan Company - must meet all criteria listed:

- 1) Its headquarters is physically located within the State of Michigan, or it has been conducting business at a location with a permanent street address in the State of Michigan on an ongoing basis for not less than one taxable year prior to its bid or response to a Request for Proposals (RFP).
- 2) It has made payment of property taxes on real or personal property within the past year on property which is ordinarily needed to perform the proposed contract. Or it has leased property for its Headquarters or business in the State of Michigan for more than one year (12 consecutive months).
- 3) It has been dealing for at least one year (12 consecutive months) on a regular commercial basis in the kind of goods or services which are the subject of the bid or proposal.

Local Vendor Certification Application & Affidavit

Background: To increase economic opportunity in Washtenaw County and the state of Michigan, the County provides a local vendor preference (when determining the award) as follows:

Washtenaw County based companies- A 5% bid discount for purchases greater than \$5,000 and up to \$200,000 and a 2% discount for purchases over \$200,000.

State of Michigan based companies – A 3% bid discount for purchases greater than \$25,000 and up to \$200,000 and a 1% discount for purchases over \$200,000.

Local vendor preference bid discount is used for the determination of award only. Full bid amount will be granted to vendor, if awarded.

Instructions: To qualify as a Washtenaw County or State of Michigan company, the following information must be provided:

1. If you are not an existing Washtenaw County vendor, complete the Washtenaw County Vendor Application available at: <https://www.washtenaw.org/678/How-to-Become-a-Vendor> The resulting e-mail confirmation must be printed and submitted.
2. Provide proof that you are a company registered in the State of Michigan by searching for your business on the State of Michigan Corporation Division Business Entity Search (http://www.dleg.state.mi.us/bcs_corp/sr_corp.asp). The resulting **business Details page** must be printed and submitted.
3. Provide proof that your local taxes are up to date by searching for the municipality in which your business is located on the BS&A Software website (<https://is.bsasoftware.com/bsa.is/SelectUnit.aspx#W>) (may need to copy and paste link to open). After selecting the municipality, select “Tax Information Search” on the left, and search for your business. The resulting **Detailed Tax Information page** must be printed and submitted. NOTE: If you cannot find your municipality on the BS&A website, call the municipality’s Treasurer and request a Detailed Tax Information Form showing local business tax status. Submit this form instead.
4. Provide the following Affidavit of Qualified Local Vendor by filling out the attached affidavit.

All required application materials must be included in the RFP bid response.

For more information, contact: Kaitlyn Sewell
Administrative Coordinator/Purchasing
734-222-6845

Washtenaw County, Michigan Local Vendor Affidavit

Legal Name of Business _____

Federal Taxpayer Identification Number:

Type of services provided

Construction

Professional Services

Goods & Services

Physical Address of Business Headquarters:

Street Address

City, State

Zip

Is this business headquartered in Washtenaw County?

Yes

No

Has this business been dealing for at least one year (12 consecutive months) on a regular commercial basis in the kind of goods or services which are the subject of the bid or proposal?

Yes

No

Are this business's local and state tax filings up to date?

Yes

No

If no, please explain:

Any material misrepresentation of information in this document will be grounds for denial of certification and exclusion from all Washtenaw County contracts for a period of one (1) year.

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The undersigned hereby affirms that the applicant firm believes it is qualified for certification as a Local Vendor, as set forth in the certification guidelines established by Washtenaw County. The undersigned agrees to hold Washtenaw County harmless in any claim arising out of this application or information provided by the applicant and agrees to indemnify Washtenaw County for any liability incurred in connection with this application or with the certification of the applicant firm. Further, the undersigned agrees to inform the County immediately of any changes that result in a change of the certification status of the firm.

Name of Business

Owner or Managing Partner, and Title

Name of Contact Person, and Title

Email Address for Contact Person

Phone Number for Contact Person

Signature of Owner or Managing Partner, and Title

Date

Washtenaw County Purchasing Department reserves the right to request additional documentation as deemed necessary.

PART I
CONTRACT FORMS

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INSTRUCTIONS TO BIDDERS

GENERAL SCOPE OF WORK

Washtenaw County Parks and Recreation Commission (WCPARC) needs to completely remove and reconstruct three existing boardwalks at Independence Lake County Park. Design calls for the use of Helical Piles, concrete approaches, construction of decking, structure, toe rails/railing using pressure treated lumber. Work must be completed by an experienced, State of Michigan licensed contractor.

SECURING DOCUMENTS

Copies of the Proposal Documents may be obtained from the Washtenaw County Purchasing Department website:

http://www.washtenaw.org/government/departments/finance/purchasing/online_bids/open_bids.html .

DELIVERY OF PROPOSALS

Proposals shall be delivered to:

Beth Duffy @ duffyb@washtenaw.org
By Tuesday, October 26, 2021 at 10:00 a.m.

Each Bidder shall furnish, as part of the Proposal, the following documentation:

1. Local Vendor **Proof AND Affidavit**
2. Bidder's Qualifications and Experience Statement
2. Proposal Form(s)
3. Bid Bond

Only the cover page, original signed bid proposal, and the above accompanying documents need be submitted in the sealed bid envelope. Bids shall be delivered to the location as indicated above on or before the time and date indicated.

It is the sole responsibility of the Bidder to insure that his/her Bid is received on time at the location indicated in the Request for Proposal. Any Bid received after the time and date specified may not be considered and may be returned to the originator unopened if so decided by the OWNER.

FORMAT OF CONTRACT DOCUMENTS

The Contract Documents are divided into sections and divisions in keeping with accepted industry practice to separate categories of subject matter for convenient reference.

INTERPRETATION OF CONTRACT DOCUMENTS

The Contract Documents are intended to provide provisions and details reasonably required for the execution of the proposed work. Any person contemplating the submission of a Bid shall have thoroughly examined all parts of the said Contract Documents. Should there be any doubt as to the meaning or intent of the contract language, the Bidder should immediately request an interpretation sufficiently in advance of the Bid due date to allow for changes, if necessary, in the Contract Documents. All questions about the meaning and intent of the Contract Documents shall be submitted to WCPARC in writing via email. Replies will be issued by Addenda emailed to parties who have attended the Mandatory Prebid or posted on the Purchasing website. Questions received less than seven (7) days prior to the date of Opening of Bids will not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. Verbal statements and/or instructions issued regarding the meaning or intent of any aspect of the Contract Documents prior to the Bid due date will be considered unofficial, will not be binding of the OWNER and shall not be considered as modifying any provision of the Contract Documents.

Any change in the Contract Documents required as the result of an interpretation will be made only in the form of an addendum to the Contract Documents. It shall be the Bidders responsibility to check the Washtenaw County Purchasing website for potential addendum issuance prior to submittal of their Bid. All addenda issued prior to the Bid due date will become a part of the Contract Documents and all Bids are to include the work described therein. Each Bid submitted shall list by number, all addenda which have been received prior to the time scheduled for Bid submittal and acknowledge as such on the form included in the Proposal. Failure to acknowledge receipt of addenda will result in rejection of a Bid as non-responsive.

BIDDER'S UNDERSTANDING

Examination of Contract Documents: Each Bidder must carefully inform themselves of the conditions relating to the performance of the work and assure they are thoroughly familiar with all of the Contract Documents. Failure to do so will not relieve the successful Bidder of their obligation to enter into a contract and complete the contemplated work in strict accordance with the Contract Documents.

Examination of Project Site: Each Bidder must visit the site during the mandatory pre-bid site meeting to obtain first-hand knowledge of existing conditions, including the presence of structures, utilities, services and obstacles which may be encountered as well as any other conditions relative to the work to be performed.

Compliance with Laws and Regulations: Each Bidder shall also inform themselves of, and the Bidder(s) awarded a contract shall fully comply with, all Federal, State, and local laws, statutes, and ordinances affecting the execution of the work. This requirement includes, but is not limited to, applicable regulations concerning minimum wage rates, non-discrimination in the employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, funding programs, permits and fees, inspections, and licensing.

Additional Compensation: Bidders shall not receive additional compensation for conditions which can be determined by thoroughly examining the site, existing drawings, and the Contract Documents prior to submitting their bid.

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PREPARATION OF BIDS

In order to receive consideration, make all Bids in strict accordance with the following:

Complete sets of Contract Documents shall be used in preparing Bids. The OWNER assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Contract Documents. The OWNER, in making available copies of the Contract Documents, do so only for the purpose of obtaining Bids on the work contemplated and do not confer a license or grant permission for any other use.

All blank spaces on the Bid Proposal Form(s) must be filled in handwritten or typewritten, and when required, in both words and figures. No changes shall be permitted in the wording or numbers on the Proposal Form(s). No exceptions or special conditions that are not required by the Bid requirements shall be made. Written amounts shall govern where the amount stated in writing and amount stated in figures does not agree. In case of a discrepancy between unit prices and totals, unit prices will prevail.

All submitted Bids shall be signed. If the Bidder is a corporation, the legal name of the corporation shall be set forth in the Bid together with the signature of the individual authorized to sign contracts on behalf of the corporation. If the Bidder is a partnership, the true name of the firm shall be set forth in the Bid, together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership. If the signature is by an agent, other than an officer of a corporation or a member of a partnership, a notarized power-of-attorney must be submitted with the Bid, otherwise the Bid may be rejected.

All Bids must be made out on the Proposal Form(s) without any modification whatsoever of the times, terms, quantities, conditions, and other requirements therein stated. Modifications to documents by bidders will not be accepted or acknowledge by the Owner.

Telegraphic bids will not be considered. Bids received via facsimile machine or email are not regarded as sealed bids and will not be accepted.

WITHDRAWAL OF BIDS

Bids may not be modified after submittal. Bidders may withdraw Bids at any time before the time and date the Bid is due, but will not be permitted to resubmit them. A Bid may only be withdrawn by written request executed by an authorized representative of the Bidder prior to the due date and hour designated for delivery of Bids.

Bids may not be withdrawn for a period of 90 days after the bids are received and opened.

BASIS OF AWARD –

See the Proposal Terms for the basis of award.

LICENSE REQUIREMENTS

The bidder shall provide a copy of their current state Business License and Specialty or General Contractor, as well as his Federal Tax Identification number, upon request from the OWNER.

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IMPLEMENTATION OF THE WORK

Unless otherwise provided in the Contract Documents, the CONTRACTOR shall not begin or resume the work to be performed under the Contract before receiving written notification from the OWNER to do so, and shall thereupon begin or resume the work within the number of days indicated in such notice.

All work included in this RPF must be completed by Friday, 5:00PM, September 30, 2022.

No work is to be performed without the express consent of the OWNER. In some instance, the CONTRACTOR may not be authorized to perform services prescribed in the Contract Documents without the OWNER or OWNER's designated representative being present on the job site. The CONTRACTOR shall be considered in default of the Contract should any work be performed in the absence of such authority.

The CONTRACTOR shall employ an ample work force and provide the necessary equipment of sufficient capacity to accomplish the work in a safe and workmanlike manner within the project timeline as requested by this RFP.

In the event work is undertaken during adverse weather conditions, the CONTRACTOR will be required to exercise precautions necessary to produce satisfactory work and shall protect the finished work from the elements. It is agreed and understood that the cost of these precautions has been included in the Bid for the various items of work in the Agreement and that no extra compensation will be allowed.

WORK BY OTHERS

Work by others may be ongoing during the execution of work under this Contract. The CONTRACTOR shall afford other CONTRACTORS and the OWNER reasonable opportunity to properly execute their work and shall coordinate his/her work with theirs. The CONTRACTOR shall arrange his/her work so that at no time will it cause unnecessary interruption to the operation of other work.

The Bidder is cautioned to thoroughly familiarize himself/herself with the entire project to determine the portions of work which may be in conflict with other work and to understand the responsibilities associated with working around other work, if necessary, as no additional compensation due to scheduling problems with other work will be allowed after opening of the Bids.

INSURANCE COVERAGE

The CONTRACTOR is reminded to review and become familiar with the insurance coverage and limitations included in this document. The successful CONTRACTOR will be required to submit a Certificate(s) of Insurance at the time of Contract award naming OWNER (WASHTENAW COUNTY PARKS AND RECREATION COMMISSION) as additional insured.

The Bidder is directed to Article VIII of the Service Contract and Article 5 of the General Conditions for specific requirements as to each of the required policies.

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BONDS

A Bid bond in the amount of five percent (5%) of the base bid must accompany each submitted bid. The required security must be in the form of a certified or bank cashier's check made payable to WCPARC or a Bid bond issued by a surety licensed to conduct business in the state of Michigan and named in the current list of "Surety Companies Acceptable to Federal Bonds" as published in the Federal Register by the Audit Staff Bureaus of Accounts, US Treasury Department.

The Bid Security of the successful Bidder will be retained until he/she has executed the Agreement and furnished the required Contract Security, whereupon it will be returned. If the Contractor fails to execute and deliver the Agreement and furnish the required Contract Security within ten (10) days, Sundays and legal holidays excepted, on receipt of the Notice of Award, WCPARC may annul the Notice to Award and the Bid Security of that Bidder will be forfeited. The Bid Security of any Bidder whom WCPARC believes to have a reasonable chance of receiving the Award may be retained by WCPARC until the earlier of the seventh day after the executed Agreement is delivered by WCPARC to CONTRACTOR and the required Contract Security is furnished. Bid Security of other Bidders will be returned within seven (7) days of the executed contract agreement.

The successful bidder will be required to furnish satisfactory Performance Bond and a Labor and Materials Bond in the amount of 100% of the contract price. These shall be provided as indicated on the form included in the Contract Document.

END OF SECTION

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BIDDER'S QUALIFICATIONS AND EXPERIENCE STATEMENT

Any organization contemplating bidding on this project shall have been an established business entity for at least ten consecutive year period prior to submission of the bid. They shall also provide 5 years of documented experience in these forms of work and provide satisfactory evidence of at least three (3) successful municipal projects of similar scope.

The Owner requires supporting evidence regarding Bidder's Qualifications and competency for the proposed project work elements. The Bidder is required to furnish all of the applicable information listed below, which must be submitted with the sealed bid at time of the Bid Opening. The Qualifications and Experience certificate must be type(computer) written and signed in ink.

QUALIFICATIONS AND EXPERIENCE CERTIFICATE

The Undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

Submitted To: Washtenaw County Parks and Recreation Commission

Address: 2230 Platt Rd., P.O. Box 8645, Ann Arbor, MI 48104

Submitted By: _____

Name: _____

Address: _____

Telephone: _____

Fax No. _____

Principal: _____

Corporation: _____

Joint Venture: _____

Partnership: _____ Other: _____

Individual: _____

Name of Project: Independence Lake Park Boardwalk Reconstruction

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ORGANIZATION

How many years has your organization been in business as a CONTRACTOR?

How many years has your organization been in business under its present business name?

Under what other or former name(s) has your organization operated?

If your organization is a corporation, answer the following:

Date of Incorporation: _____

State of Incorporation: _____

President's Name: _____

Vice President's name: _____

Secretary's Name: _____

Treasurer's Name: _____

If your organization is a partnership, answer the following:

Date of Organization: _____

Type of Partnership: _____

Name(s) of General Partner(s): _____

If your organization is individually owned, answer the following:

Date of Organization: _____

Name of Owner: _____

If the form of your organization is other than those listed above, describe it and name the principals:

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LICENSING

List jurisdiction and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable:

List jurisdiction in which your organization's partnership or trade name is filed:

EXPERIENCE

List the categories of work that your organization normally performs with its own forces:

On a separate sheet, list major construction projects your organization has completed in the past five (5) years, giving the name of project, OWNER, Architect/Engineer/Landscape Architect, Contract amount, date of completion and percentage of the cost of the work performed with your own forces.

On a separate sheet, list the construction experience and present commitments of any key individuals of your organization.

CLAIMS AND SUITS (if the answer to any of the questions below is yes, please attach details)

Has your organization ever failed to complete any work awarded to it? _____

Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or officers?

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REFERENCES

Trade References: _____

Bank References: _____

Surety: _____

Name of Bonding Company: _____

Name and Address of Agent:

Signature: _____

Dated at: _____ this _____ day of _____, 2016

Name of Organization: _____

By: _____

Title: _____

Mr/Mrs/Ms _____ being duly sworn
deposes and says that the information provide herein is true and sufficiently complete so as not
to be misleading.

Subscribed and sworn before me this _____ day of _____, 20____

Notary Public: _____

My Commission Expires: _____

**IF THIS INFORMATION IS NOT SUBMITTED WITH THE SEALED BID AT THE TIME OF BID,
THE BID MAY BE CONSIDERED INCOMPLETE.**

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Write in Bidding Company Name here:

NOTE: PLEASE SUBMIT ONE ORIGINAL AND TWO (2) COPIES OF THE PROPOSAL.

RFP #8191 FOR

Independence Lake Park Boardwalk Reconstruction
TO THE WASHTENAW COUNTY PARKS AND RECREATION COMMISSION

The undersigned as Bidder hereby declares that this Proposal is made in good faith without fraud or collusion with any person or persons bidding on the same Contract; that he has read and examined the Advertisement, Information for Bidders, Proposal, General Conditions, sample Service Contract, Forms of Bonds, Specifications and Plans, as prepared, and understands all of the same; that he or his representative has made personal investigation at the site and has informed himself fully with regard to the conditions to be met in the execution of this Contract, and the undersigned proposes to furnish all labor, materials, tools, power, transportation, and construction equipment necessary for the construction of the Project(s) and performing related work in full accordance with the aforesaid Contract Documents, including any and all addenda officially issued, the receipt of which is hereby acknowledged:

Addendum No. /Dated	Date of Receipt	Signature
_____	_____	_____
_____	_____	_____

AWARD OF CONTRACT:

Washtenaw County reserves the right to reject any and all proposals received as a result of this RFP. If a proposal is selected it will be the most advantageous regarding price, quality of service, the Vendors' qualifications and capabilities to provide the specified service, and other factors which the County may consider. The County does not intend to award a Bid fully on the basis of any response made to the proposal; the County reserves the right to consider proposals for modifications at any time before a Bid would be awarded, and negotiations would be undertaken with that Vendor whose proposal is deemed to best meet the County's specifications and needs.

RFP #8191 - Independence Park Boardwalk Reconstruction

Write in Bidding Company Name here:

PROPOSAL PRICES: The Bidder agrees to complete this portion of Project for the following unit prices:

BASE BID ITEMS, RFP #8191

Item	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
1.	Provide Performance Bond and Labor and Materials Bond for Project	1	LS	\$	\$
2.	Remove and Dispose Existing Boardwalk.	455	Ft	\$	\$
3.	Structure, Timber, Boardwalk, Toe Rail/Railing	455	Ft	\$	\$
4.	Helical Pile	76	EA	\$	\$
5.	Helical Pile, Load Test	3	EA	\$	
6.	Helical Pile Equipment, Furn	1	EA	\$	
7.	Concrete approach Conc, Grade 3500	30	Cyd	\$	\$
8.	Benches	4	EA	\$	\$
9.	Excavation, Earth	30	Cyd	\$	\$
10.	Erosion Control, Silt Fence	1150	Ft	\$	\$

The undersigned agrees to enter into an Service Contract with the County to provide the services and/or materials required for:

Independence Park Boardwalk Reconstruction

TOTAL Bid Amount (Items 1 through 10): \$ _____

_____ Dollars

(Above Amount shall be shown in both words and figures. In case of a discrepancy, the amount shown in words shall govern.)

The undersigned agrees that if the foregoing Proposal shall be accepted by the OWNER, he will, within five (5) days (Sundays and legal holidays excepted) after receiving notice of such acceptance, enter into the attached form of Service Contract (Agreement) and will complete the Project, ready for use, at the price and within the time stated in this Proposal, and that he will furnish the OWNER satisfactory Contract Bonds and certificates of insurance coverage.

RFP #8191 - Independence Park Boardwalk Reconstruction

Write in Bidding Company Name here:

The undersigned further agrees that if the foregoing Proposal shall be accepted, he will commence work immediately after the Contract has been awarded, the Agreement executed, received a Notice to Proceed, and complete the project by Friday, October 30, 2022.

The undersigned attaches hereto his Bid Security, as required by the Advertisement and Information for Bidders, and the undersigned agrees that in case he shall fail to fulfill his obligations under the foregoing Proposal and/or shall fail to furnish bonds, as specified, the OWNER may, at its option determine that the undersigned has abandoned his rights and interests in such Contract and that his Bid Security accompanying his Proposal has been forfeited to the said OWNER, but otherwise the Bid Security shall be returned to the undersigned upon the execution of the Contract and the acceptance of the bonds.

The Bidder shall acknowledge that he/she is an equal opportunity employer and adheres with the requirements of Article XII of the Service Contract.

In submitting this bid, it is understood that the right is reserved by the OWNER to accept any bid, to reject any or all bids, and to waive irregularities in bidding in the interest of the OWNER.

RFP #8191 - Independence Park Boardwalk Reconstruction

Write in Bidding Company Name here:

SIGNATURE PAGE

_____ Signature of Authorized Signer	_____ Date
_____ Print Name	_____ Federal Tax Identification Number
_____ Title	_____ Company Name
_____ Office Phone Number	_____ Company Address
_____ Cell Phone Number	_____ City State Zip
_____ Email Address for Purchase Orders	_____ County

The above individual is authorized to sign on behalf of company submitting proposal.

Proposals must be signed by an official authorized to bind the provider to its provisions for at least a period of 90 days. Signature page must be signed, box checked below, and returned as part of vendor proposal.

- By signing this bid submission, I certify that I and/or my corporation, company, limited liability company, business association, partnership, society, trust or any other non-governmental entity, organization or group is not an "Iran linked business" as defined by P.A. 517 of 2012 (MCLA 129.311 et seq)("Act").*

I understand that under the Act, an "Iran linked business means an individual or one of the above-listed groups who engages in investment activities in the energy sector of Iran, including, but not limited to, providing oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied gas for Iran's energy sector or a financial institution extending credit to another person to engage in investment activities in Iran's energy sector.

I further understand that "investment activity" is defined by the Act as an individual or one of the above listed groups that invests \$20,000,000.00 or more in Iran's energy sector or a financial institution that extends credit to another person, if that person uses the credit to engage in "investment activity" in Iran's energy sector.

END OF PROPOSAL SECTION

METHOD OF MEASUREMENT AND PAYMENT SCHEDULE

A. General

The method of measurement and the basis of payment for each item in the Proposal will be as specified in the schedule attached. The items are generally grouped by section of the Specifications under which the particular unit of work is detailed. There will be no payment allowed for any unit of work not specifically mentioned in the Proposal as a bid item, but work necessary for the completion of the Project, will be considered as incidental to the construction of the Project.

B. Measurement

Quantities of work completes under the Contract will be measured by the OWNER according to the United States standard measures. When tons are specified, the unit shall be the ton of 2000 pounds. When measurement are specified to be "in-place", they will be taken along the actual surface of the completed item to obtain lineal, area, or volume measurements.

C. Payment

In each and every instance in the scheduled attached, where a Basis of Payment is specified, it shall be understood to be prefaced by the following statement, "The contract unit price bid in the Proposal will be payment in full for all labor, materials, and equipment necessary to do the following according to the Plans and Specifications". Payment shall be made on the basis of the actual quantity of the item completed and accepted at the unit price for such item named in the Proposal.

RFP #8191 - Independence Park Boardwalk Reconstruction

<u>ITEM IN PROPOSAL</u>	<u>METHOD OF MEASUREMENT</u>	<u>BASIS OF PAYMENT</u>
Mobilization, All Bonds, Inspections, Insurance, Vegetation Protection Fence. (Item 1)	By the unit lump sum (LS).	Delivery of equipment and materials to site. Costs for Bonds and Insurance. For complete maintenance of protection materials.
Installation and management of all Soil Erosion and Sedimentation Control measures required by drawings, SESC Permit, and Turbidity Curtain. (Item 2)	By the unit lump sum (LS).	For a complete and functional system throughout extent of project work. Applying and paying for all required permits and inspections.
Demolition and Excavation, Removal of existing concrete "Turf-stone", soils and subbase to depth required for new materials, Sawcut pavement, Removal existing bollards (Item 3)	By the unit lump sum (LS).	For all work once complete. Lawful disposal of materials off-site. Includes all loading and hauling.
Concrete Planks (Item 4)	By the unit price each (EA).	For a complete installation as indicated.
A.R.E.A. #4 Stone under planks (Item 5)	By the unit TON (TON).	For a complete installation as indicated. Providing all load slips of materials delivered/used to OWNER.
21AA Limestone under slab and planks (Item 6)	By the unit TON (TON).	For a complete installation as indicated. Providing all load slips of materials delivered/used to OWNER.
Geotextile Fabric (Item 7)	By the unit square feet (SF).	For all required preparation and applying materials.

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<u>ITEM IN PROPOSAL</u>	<u>METHOD OF MEASUREMENT</u>	<u>BASIS OF PAYMENT</u>
Treated Wood Bollards (Item 8)	By the unit price each (EA).	For a complete installation as indicated.
Wood fence enclosure (Item 9)	By the unit price each (EA).	For a complete installation as indicated.
Skid Pier complete (Item 10)	By the unit price each (EA).	For a complete installation as indicated.
Concrete Ramp and slab (Item 11)	By the unit square feet (SF).	For all required preparation, forming, and applying materials.
Restoration and seeding, Site Clean-Up (Item 12)	By the unit lump sum (LS).	Removal of all equipment staging areas and all restoration of areas impacted by project work (to satisfaction of OWNER).
Testing Services (Item 13)	ALLOWANCE	For actual amount used to perform required testing, per invoice value.

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PERFORMANCE BOND

_____ as Principal, hereinafter called the CONTRACTOR, and _____, a corporation duly authorized to do business in the State of Michigan (referred to as "Surety"), are firmly bound unto

WASHTENAW COUNTY PARKS AND RECREATION COMMISSION

As obligee, hereinafter referred to as "OWNER", in the amount of

_____ Dollars (\$_____)

(Amount shall be shown in both words and figures. In case of discrepancy, amount shown in words shall govern).

for the payment whereof the CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The CONTRACTOR has entered a written contract with the OWNER dated _____, for the construction of

RFP #8191 Independence Park Boardwalk Reconstruction

This bond is given for that contract in compliance with Act No. 213 of the Michigan Public Acts of 1963, as amended, being MCL 129.201 et seq.

Whenever the CONTRACTOR is declared by the OWNER to be in default under the contract, the Surety may promptly remedy the default or shall promptly:

- (a) complete the contract in accordance with its terms and conditions; or
- (b) obtain a bid or bids for submission to the OWNER for completing the contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, arrange for a contract between such bidder and the OWNER, and make available, as work progresses, sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which Surety may be liable hereunder, the amount set forth in paragraph 1.

Surety shall have no obligation to the OWNER if the CONTRACTOR fully and promptly performs under the contract.

Surety agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed there under, or the specifications accompanying it

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shall in any way affect its obligations on this bond, and waives notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work, or to the specifications.

SIGNED AND SEALED this _____ day of _____, 2017.

In the Presence of:

WITNESS

(fill in contractor's name)

Principal

Title

WITNESS

Surety

Title

Address of Surety

City Zip Code

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LABOR AND MATERIAL PAYMENT BOND

_____ as Principal, hereinafter called the CONTRACTOR, and _____, a corporation duly authorized to do business in the State of Michigan (referred to as "Surety"), are firmly bound unto

WASHTENAW COUNTY PARKS AND RECREATION COMMISSION

As oblige, hereinafter referred to as "OWNER", in the amount of

_____ Dollars (\$_____)

(Amount shall be shown in both words and figures. In case of discrepancy, amount shown in words shall govern).

for the payment whereof the CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The CONTRACTOR has entered a written contract with the OWNER dated _____, for the construction of

RFP #8191 Independence Park Boardwalk Reconstruction

This bond is given for that contract in compliance with Act No. 213 of the Michigan Public Acts of 1963, as amended, being MCL 129.201 et seq.

If the CONTRACTOR fails to promptly and fully repay claimants for labor and material reasonably required under the contract, the Surety shall pay those claimants.

**SERVICE CONTRACT
CONTRACTORS NAME**

AGREEMENT is made this _____ day of _____, 2020, by the COUNTY OF WASHTENAW, a municipal corporation, with offices located in the County Administration Building, 220 North Main Street, Ann Arbor, Michigan 48107("County") and **CONTRACTOR** located at **XYZ STREET, ANYWHERE, USA 99999** ("Contractor").

In consideration of the promises below, the parties mutually agree as follows:

ARTICLE I - SCOPE OF SERVICES

The Contractor will **SPELL OUT SCOPE OF SERVICE**.....

ARTICLE II - COMPENSATION

Upon completion and acceptance of the above services and submission of proper invoices, the County will pay the Contractor, for full performance of the work, an amount not to exceed **\$ XX,XXX (SPELL OUT DOLLARS)**, subject to additions and deductions as documented through authorized change orders.

ARTICLE III - REPORTING OF CONTRACTOR

Section 1 - The Contractor is to report to the Director of the Washtenaw County Parks and Recreation Commission and will cooperate and confer with him/her as necessary to insure satisfactory work progress.

Section 2 - All reports, estimates, memoranda and documents submitted by the Contractor must be dated and bear the Contractor's name.

Section 3 - All reports made in connection with these services are subject to review and final approval by the County Administrator.

Section 4 - The County may review and inspect the Contractor's activities during the term of this contract.

Section 5 - When applicable, the Contractor will submit a final, written report to the County Administrator.

Section 6 - After reasonable notice to the Contractor, the County may review any of the Contractor's internal records, reports, or insurance policies.

ARTICLE IV - TERM

This contract begins on **XX/XX/XX** and ends on **XX/XX/XX** according to the project schedule and as modified through authorized change orders.

ARTICLE V - PERSONNEL

Section 1 - The contractor will provide the required services and will not subcontract or assign the services without the County's written approval.

Section 2 - The Contractor will not hire any County employee for any of the required services without the County's written approval.

Section 3 - The parties agree that all work done under this contract shall be completed in the United States and that none of the work will be partially or fully completed by either an offshore subcontractor or offshore business interest either owned or affiliated with the contractor. For purposes of this contract, the term, "offshore" refers to any area outside the contiguous United States, Alaska or Hawaii.

ARTICLE VI - INDEPENDENT CONTRACTOR

Contractor and the County shall, at all times, be deemed to be independent contractors and nothing herein shall be construed to create or imply that there exists between the parties a partnership, joint venture or other business organization. Contractor shall hold no authority, express or implied, to commit, obligate or make representations on behalf of the County and shall make no representation to others to the contrary.

Nothing herein is intended nor shall be construed for any purpose as creating the relationship of employer and employee or agent and principal between the parties. Except as otherwise specified in this contract, Contractor retains the sole right and obligation to direct, control or supervise the details and means by which the services under this contract are provided.

Contractor shall not be eligible for, or participate in, any insurance, pension, workers' compensation insurance, profit sharing or other plans established for the benefit of the County's employees. Contractor shall be solely responsible for payment of all taxes arising out of the Contractor's activities in connection with this Agreement, including, without limitation, federal and state income taxes, social security taxes, unemployment insurance taxes and any other tax or business license fees as required. The County shall not be responsible for withholding any income or employment taxes whatsoever on behalf of the Contractor.

ARTICLE VII - INDEMNIFICATION AGREEMENT

The contractor will protect, defend and indemnify Washtenaw County, its officers, agents, servants, volunteers and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the Contractor's own employees, and for loss or damage to any property, including property owned or in the care, custody or control of Washtenaw County in connection with or in any way incident to or arising out of the occupancy, use, service, operations, performance or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of contractor, any sub-contractor, or any employee, agent or representative of the contractor or any sub-contractor.

ARTICLE VIII - INSURANCE REQUIREMENTS

The Contractor will maintain at its own expense during the term of this Contract, the following insurance:

1. Workers' Compensation Insurance with Michigan statutory limits and Employers Liability Insurance with a minimum limit of \$100,000 each accident for any employee.
2. Commercial General Liability Insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage. The County shall be added as "additional insured" on general liability policy with respect to the services provided under this contract.
3. Automobile Liability Insurance covering all owned, hired and nonowned vehicles with Personal Protection Insurance and Property Protection Insurance to comply with the provisions of the Michigan No Fault Insurance Law, including residual liability insurance with a minimum combined single limit of \$1,000,000 each accident for bodily injury and property damage.

Insurance companies, named insureds and policy forms may be subject to the approval of the Washtenaw County Administrator, if requested by the County Administrator. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions which reduce coverage provided to Washtenaw County. Contractor shall be responsible to Washtenaw County or insurance companies insuring Washtenaw County for all costs resulting from both financially unsound insurance companies selected by Contractor and their inadequate insurance coverage. Contractor shall furnish the Washtenaw County Administrator with satisfactory certificates of insurance or a certified copy of the policy, if requested by the County Administrator.

No payments will be made to the Contractor until the current certificates of insurance have been received and approved by the Administrator. If the insurance as evidenced by the certificates furnished by the Contractor expires or is canceled during the term of the contract, services and related payments will be suspended. Contractor shall furnish the County Administrator's Office with certification of insurance evidencing such coverage and endorsements at least ten (10) working days prior to commencement of services under this contract. Certificates shall be addressed to Washtenaw County c/o: **Washtenaw County Parks & Recreation Commission & CR# _____**, P. O. Box 8645, Ann Arbor, MI, 48107, and shall provide for 30 day written notice to the Certificate holder of cancellation of coverage.

ARTICLE IX - COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor will comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act.

ARTICLE X - INTEREST OF CONTRACTOR AND COUNTY

The Contractor promises that it has no interest which would conflict with the performance of services required by this contract. The Contractor also promises that, in the performance of this contract, no officer, agent, employee of the County of Washtenaw, or member of its governing bodies, may participate in any decision relating to this contract which affects his/her personal

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interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested or has any personal or pecuniary interest. However, this paragraph does not apply if there has been compliance with the provisions of Section 3 of Act No. 317 of the Public Acts of 1968 and/or Section 30 of Act No. 156 of Public Acts of 1851, as amended by Act No. 51 of the Public Acts of 1978, whichever is applicable.

ARTICLE XI - CONTINGENT FEES

The Contractor promises that it has not employed or retained any company or person, other than bona fide employees working solely for the Contractor, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this contract. For breach of this promise, the County may cancel this contract without liability or, at its discretion, deduct the full amount of the fee, commission, percentage, brokerage fee, gift or contingent fee from the compensation due the Contractor.

ARTICLE XII - EQUAL EMPLOYMENT OPPORTUNITY

The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business).

The Contractor will take affirmative action to eliminate discrimination based on sex, race, or a handicap in the hiring of applicant and the treatment of employees. Affirmative action will include, but not be limited to: Employment; upgrading, demotion or transfer; recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship.

The Contractor agrees to post notices containing this policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for employees, placed by or on the behalf of the Contractor, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief.

ARTICLE XIII - PREVAILING WAGE RATES

The Contractor agrees that all craftsmen, mechanics and laborers it employs to work on this project shall, at a minimum, receive the prevailing wages and fringe benefits of the Building Trade Department for corresponding classes of craftsmen, mechanics and laborers for the Washtenaw County area, as determined and published by the Davis-Bacon Division of the United States Department of Labor. Contractor agrees that all subcontracts entered into by the Contractor shall contain a similar provision covering any sub-contractor's employees who perform work on this project.

ARTICLE XIV- EQUAL ACCESS

The Contractor shall provide the services set forth in Article I without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, physical handicap, or age.

ARTICLE XV - OWNERSHIP OF DOCUMENTS AND PUBLICATION

All documents developed as a result of this contract will be freely available to the public. None may be copyrighted by the Contractor. During the performance of the services, the Contractor will be responsible for any loss of or damage to the documents while they are in its possession and must restore the loss or damage at its expense. Any use of the information and results of this contract by the Contractor must reference the project sponsorship by the County. Any publication of the information or results must be co-authored by the County.

ARTICLE XVI - ASSIGNS AND SUCCESSORS

This contract is binding on the County and the Contractor, their successors and assigns. Neither the County nor the Contractor will assign or transfer its interest in this contract without the written consent of the other.

ARTICLE XVII - TERMINATION OF CONTRACT

Section 1 - Termination without cause. Either party may terminate the contract by giving thirty (30) days written notice to the other party.

ARTICLE XVIII - PAYROLL TAXES

The Contractor is responsible for all applicable state and federal social security benefits and unemployment taxes and agrees to indemnify and protect the County against such liability.

ARTICLE XIX- PRACTICE AND ETHICS

The parties will conform to the code of ethics of their respective national professional associations.

ARTICLE XX - CHANGES IN SCOPE OR SCHEDULE OF SERVICES

Changes mutually agreed upon by the County and the Contractor, will be incorporated into this contract by written amendments signed by both parties.

ARTICLE XXI - CHOICE OF LAW AND FORUM

This contract is to be interpreted by the laws of Michigan. The parties agree that the proper forum for litigation arising out of this contract is in Washtenaw County, Michigan.

ARTICLE XXII - EXTENT OF CONTRACT

This contract represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

RFP #8191 - Independence Park Boardwalk Reconstruction

ARTICLE XXIII – ELECTRONIC SIGNATURES

All parties to this contract agree that either electronic or handwritten signatures are acceptable to execute this agreement.

ATTESTED TO:

WASHTENAW COUNTY

By: _____
Lawrence Kestenbaum (DATE)
County Clerk/Register

By: _____
Coy P. Vaughn (DATE)
Director, Parks & Recreation

APPROVED AS TO FORM:

CONTRACTOR

By: _____
Michelle K. Billard (DATE)
Office of Corporation Counsel

By: _____
CONTRACTOR (DATE)

GENERAL CONDITIONS

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ARTICLE 1 - DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Agreement: The written agreement/contract between OWNER and CONTRACTOR covering the work to be performed; other Contract Documents are attached to the Agreement.

Application for Payment: The form furnished by OWNER which is to be used by CONTRACTOR in requesting progress payments and which is to include the schedule of values required by Paragraph 14.1 and an affidavit of CONTRACTOR that progress payments theretofore received on account of the work have been applied by CONTRACTOR to discharge in full all of CONTRACTOR's obligations reflected in prior Applications for Payment.

Bid: The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the work to be performed.

Bidder: Any person, firm, or corporation submitting a Bid for the work.

Bonds: Bid, performance and payment bonds, and other instruments of security, furnished by CONTRACTOR and his surety in accordance with the Contract Documents.

Change Order: A written order to CONTRACTOR signed by OWNER authorizing an addition, deletion, or revision in the work, or an adjustment in the Contract Price or the Contract Time issued after execution of the Agreement.

Contract Documents: The Agreement, Addenda (whether issued prior to the Opening of Bids or the execution of the Agreement), Instructions to Bidders, CONTRACTOR's bid, the bonds, the Notice of Award, these General Conditions, the Supplementary Conditions, the Specifications, Drawings, and Modifications.

Contract Price: The total monies payable to CONTRACTOR under the Contract Documents.

Contract Time: The number of days or date of completion as stated in the Agreement for the Completion of the Work, computed as provided in Paragraph 17.2.

CONTRACTOR: The person, firm, or corporation with whom OWNER has executed the Agreement.

Day: A calendar day of twenty-four (24) hours measured from midnight to the next midnight.

Drawings (Plans): The drawings, also commonly known or referred to as Plans, which show the character and Scope of Work to be performed and which have been prepared or approved by OWNER and are referred to in the Contract Documents.

Field Order: A written order issued by OWNER which clarifies or interprets the Contract Documents in accordance with Paragraph 9.3 or orders minor changes in the work in accordance with Paragraph 10.2.

Modification (Amendment): (a) A written amendment of the Contract Documents signed by both parties; (b) A Change Order; (c) A written clarification or interpretation issued by OWNER in accordance with Paragraph 9.3; or (d) A written order for a minor change or alteration in the work

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issued by OWNER pursuant to Paragraph 10.2. A Modification may only be issued after execution of the Agreement.

Notice of Award: The written notice by OWNER to the apparent successful Bidder stating that upon compliance with the conditions precedent to be fulfilled by him within the time specified, OWNER will execute and deliver the Agreement to him.

Notice to Proceed: A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform his obligations under the Contract Documents.

OWNER: The Washtenaw County Parks and Recreation Commission or Washtenaw County as named in the Agreement for whom the work is to be performed.

OWNER'S REPRESENTATIVE: The authorized representative of OWNER who is assigned to the project site or any part thereof.

Project: The entire construction to be performed as provided in the Contract Documents.

Resident Project Representative: The authorized representative of OWNER who is assigned to the Project site or any part thereof.

Shop Drawings: All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by CONTRACTOR, subcontractor, manufacturer, supplier, or distributor and which illustrate the equipment, material, or some portion of the work.

Specifications: Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the work. The Specifications are customarily organized in 18 divisions in accordance with the Uniform System for Construction Specifications endorsed by the Construction Specifications Institute.

Subcontractor: An individual, firm, or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the work at the site.

Substantial Completion: The date as certified by OWNER 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 was intended; or if there be no such certification, the date when final payment is due in accordance with Paragraph 14.13.

Work: Any and all obligations, duties, and responsibilities necessary to the successful completion of the Project assigned to or undertaken by CONTRACTOR under the Contract Documents, including all labor, materials, equipment, and other incidentals, and the furnishing thereof.

ARTICLE 2 - PRELIMINARY MATTERS

Execution of Agreement

2.1. At least three counterparts of the Agreement and such other Contract Documents as practicable will be executed and delivered by CONTRACTOR to OWNER within ten days of the Notice of Award and the OWNER will execute and deliver one counterpart to CONTRACTOR within ten days of receipt of the executed Agreement from CONTRACTOR. OWNER will identify those portions of the Contract Documents not so signed and such identification will be binding on all parties. The CONTRACTOR, and OWNER shall each receive an executed counterpart of the Contract Documents and additional conformed copies as required.

Delivery of Bonds

2.2. When the CONTRACTOR delivers the executed Agreements to OWNER, he/she shall also deliver to OWNER such Bonds as may be required to furnish in accordance with Paragraph 5.1.

Copies of Documents

2.3. OWNER shall furnish to CONTRACTOR up to two copies (unless otherwise provided in the Supplementary Conditions) of the Contract Documents as are reasonably necessary for the execution of the work. Additional copies will be furnished, upon request, at the cost of reproduction.

Contractor's Pre-Start Representations

2.4. CONTRACTOR represents that he has familiarized himself with, and assumes full responsibility for having familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and Federal, State, and local laws, ordinances, rules, and regulations that may in any manner affect performance of the work, and represents that he has correlated his study and observations with the requirements of the Contract Documents. CONTRACTOR also represents that he has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the General Requirements (Division 1) of the Specifications and made such additional surveys and investigations as he deems necessary for the performance of the work at the Contract Price in accordance with the requirements of the Contract Documents and that he has correlated the results of all such data with the requirements of the Contract Documents.

Commencement of Contract Time, Notice to Proceed

2.5. The Contract Time will commence to run on the thirtieth day after the day on which the executed Agreement is delivered by OWNER to CONTRACTOR; or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed; but in no event shall the Contract Time commence to run later than the ninetieth day after the day of Bid Opening or the thirtieth day after the day on which OWNER delivers the executed Agreement to CONTRACTOR. A Notice to Proceed may be given at any time within thirty days after the day on which OWNER delivers the executed Agreement to CONTRACTOR.

Starting the Project

2.6. CONTRACTOR shall start to perform his obligations under the Contract Documents on the date when the Contract Time commences to run. No work shall be done at the site prior to the date on which the Contract Time commences to run.

Before Starting Construction

2.7. Before undertaking each part of the work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. He shall at once report in writing to OWNER any conflict, error, or discrepancy which he may discover; however, he shall not be liable to OWNER for his failure to discover any conflict, error, or discrepancy in the drawings or Specifications.

2.8. Within ten days after delivery of the executed Agreement by OWNER to CONTRACTOR, CONTRACTOR shall submit to OWNER for approval, an estimated progress schedule indicating the starting and completion dates of the various stages of the work, and a preliminary schedule of shop drawing submissions.

2.9. Before starting the work at the site, CONTRACTOR shall furnish OWNER Certificates of Insurance as required by Article 5 of these General Conditions and Article VIII of the Agreement. Within twenty days after delivery of the executed Agreement by OWNER to CONTRACTOR, but before starting the work at the site, a conference will be held to review the above schedules, to establish procedures for handling shop drawings and other submissions and for processing Applications for Payment, and to establish a working understanding between the parties as to the Project. Present at the conference will be OWNER or his representative, Resident Project Representative(s), CONTRACTOR, and his Superintendent.

ARTICLE 3 - CORRELATION, INTERPRETATION, AND INTENT OF CONTRACT DOCUMENTS

3.1. It is the intent of the Specifications and drawings to describe a complete Project to be constructed in accordance with the Contract Documents. The Contract Documents comprise the entire Agreement between OWNER and CONTRACTOR. They may be altered only by a Modification.

3.2. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, he shall call it to OWNER's attention in writing at once and before proceeding with the work affected thereby; however, he shall not be liable to OWNER for his failure to discover any conflict, error, or discrepancy in the Specifications or drawings. In resolving such conflicts, errors, and discrepancies, the Documents shall be given precedence in the following order: Agreement, Modifications, Addenda, Supplementary Conditions, Instructions to Bidders, General Conditions, Specifications, and Drawings. Figure dimensions on drawings shall govern over scale dimensions, and detailed drawings shall govern over general drawings. Any work that may reasonably be inferred from the Specifications or drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials, or equipment described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards.

ARTICLE 4 - AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS

Availability of Lands

4.1. OWNER shall furnish, as indicated in the Contract Documents, and not later than the date when needed by CONTRACTOR, the lands upon which the work is to be done, rights-of-way for access thereto, and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise specified in the Contract Documents. If CONTRACTOR believes that any delay in OWNER's furnishing these lands or easements entitles him to an extension of the Contract Time, he may make a claim therefor as provided in Article 12. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

Physical Conditions - Surveys and Reports

4.2. Reference is made to the General Requirements (Division 1) of the Specifications for identification of those surveys and investigation reports of subsurface and latent physical conditions at the Project site or otherwise affecting performance of the work which have been relied upon by OWNER in preparation of the drawings and Specifications.

Unforeseen Physical Conditions

4.3. CONTRACTOR shall promptly notify OWNER in writing of any subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents. OWNER will promptly investigate those conditions and determine whether further surveys or subsurface tests are necessary. Promptly thereafter, OWNER shall obtain the necessary additional surveys and tests then furnish copies to CONTRACTOR. If OWNER finds that the results of such surveys or tests indicate that there are subsurface or latent physical conditions which differ materially from those intended in the Contract Documents, and which could not reasonably have been anticipated by CONTRACTOR, a Change Order shall be issued incorporating the necessary revisions.

Reference Points

4.4. The construction drawing shall provide sufficient data for CONTRACTOR to establish reference points which are necessary to enable CONTRACTOR to proceed with the work. CONTRACTOR shall be responsible for surveying and laying out the work (unless otherwise provided in the Supplementary Conditions), and shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. He shall report to OWNER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. CONTRACTOR shall replace and accurately relocate all reference points so lost, destroyed or moved.

4.5. All elevations shown on the Plans or referred to herein are in feet above mean sea level datum as established by the United States Geological Survey, unless otherwise noted. The CONTRACTOR shall verify all the existing structure locations and elevations at points of connection or possible interference between his work and the existing structures and shall report at once to the OWNER any interferences or discrepancies discovered.

4.6. The CONTRACTOR shall cause to be replaced by a Registered Land Surveyor all survey monuments and/or property irons damaged or destroyed by his operations or the operations of his Subcontractor.

ARTICLE 5 - BONDS AND INSURANCE

Performance, Payment and Other Bonds

5.1. CONTRACTOR shall furnish performance and payment bonds as security for the faithful performance and payment of all his obligations under the Contract Documents. These bonds shall be in amounts at least equal to the Contract Price, and (except as otherwise provided in the Supplementary Conditions) in such form and with such sureties as are licensed to conduct business in the State of Michigan and are named in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

5.2. If the surety on any bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located, CONTRACTOR shall within five days thereafter substitute another bond and surety, both of which shall be acceptable to OWNER.

Insurance Required of the CONTRACTOR

5.3. Prior to commencement of the work, the CONTRACTOR shall purchase and maintain during the term of the Project such insurance as will protect him, the OWNER, and/or OWNER'S REPRESENTATIVE from claims arising out of the work described in this Contract and performed by the CONTRACTOR, Subcontractor(s), or Sub-subcontractor(s) consisting of:

5.3.1. Worker's Compensation Insurance including Employer's Liability to cover employee injuries or disease compensable under the Worker's Compensation Statutes of the states in which work is conducted under this Contract; disability benefit laws, if any; or Federal Compensation Acts such as U.S. Longshoremen or Harbor Workers, Maritime Employment, or Railroad Compensation Act(s), if applicable. Self-insurance plans approved by the regulatory authorities in the state in which work on this Project is performed are acceptable.

5.3.2. A Comprehensive General Liability policy to cover bodily injury to persons other than employees and for damage to tangible property, including loss of use thereof, including the following exposures:

- (a) all premises and operations;
- (b) explosion, collapse, and underground damage;
- (c) CONTRACTOR's Protective Coverage for independent CONTRACTORS and subcontractors employed by him;
- (d) Contractual Liability for the obligation assumed in the indemnification or hold harmless agreement found in the General Conditions section of this Contract;
- (e) the usual Personal Injury Liability endorsement with no exclusions pertaining to employment;

- (f) products and completed operations coverage -- this coverage shall extend through the Contract Guarantee period.

5.3.3. A Comprehensive Automobile Liability policy to cover bodily injury and property damage arising out of the ownership, maintenance, or use of any motor vehicle, including owned, non-owned, and hired vehicles. In light of standard policy provisions concerning:

- (a) loading and unloading; and
- (b) definitions pertaining to motor vehicles licensed for road use vs. unlicensed or self-propelled construction equipment, it is strongly recommended that the Comprehensive General Liability and the Comprehensive Auto Liability be written by the same insurance carrier, though not necessarily in one policy.

5.3.4. The CONTRACTOR will purchase for the OWNER an OWNER's Protective Liability policy to protect the OWNER, the OWNER, their consultants, agents, employees, and such public corporations in whose jurisdiction the work is located for their contingent liability for work performed by the CONTRACTOR, the Subcontractor(s), and the Sub-subcontractor(s) under this Contract.

5.3.5. The CONTRACTOR shall purchase a Builder's Risk-Installation Floater in a form acceptable to the OWNER covering property of the Project for the full cost of replacement as of the time of any loss which shall include as named insureds:

- (a) the CONTRACTOR;
- (b) all Subcontractors;
- (c) all Sub-subcontractors;
- (d) the OWNER, the OWNER's Representative;

as their respective interests may prove to be at the time of loss, covering insurable property which is the subject of this Contract, whether in place, stored at the job site, stored elsewhere, or in transit at the risk of the insured(s). Coverage shall be effected on an "All Risk" form including, but not limited to, the perils of fire, wind, vandalism, collapse, theft, and earthquake, with exclusions normal to the coverage. The CONTRACTOR may arrange for such deductibles as he deems to be within his ability of self-assume, but he will be held solely responsible for the amount of such deductible and for any non-insurance penalties. Any insured loss shall be adjusted with the OWNER and the CONTRACTOR and paid to the OWNER and CONTRACTOR as trustee for the other insureds.

5.3.6. Umbrella or Excess Liability: The OWNER or its representative may, for certain projects, require limits higher than those stated in Paragraph 5.4. which follows. The CONTRACTOR is granted the option of arranging coverage under a single policy for the full limit required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability policy equal to the total limit(s) requested. Umbrella or Excess policy wording shall be at least as broad as the primary or underlying policy(ies) and shall apply both to the CONTRACTOR's general liability and to his automobile liability insurance.

5.3.7. Railroad Protective Liability: Where such an exposure exists, the CONTRACTOR will provide coverage in the name of each railroad company having jurisdiction over rights-of-way

across which work under the Contract is to be performed. The form of policy and the limits of liability shall be determined by the railroad company(ies) involved. See Supplemental General Conditions for limits and coverage requested.

Limits of Liability

5.4. The required limits of liability for insurance coverages requested in Paragraph 5.3 shall be NOT LESS than the following:

5.4.1. Worker's Compensation:

Coverage A - Compensation	Statutory
Coverage B - Employer's Liability	\$100,000

5.4.2. Comprehensive General Liability:

Bodily Injury - Each Occurrence	\$1,000,000
Bodily Injury - Aggregate	\$1,000,000
(Completed Operations)	
Property Damage - Each Occurrence	\$1,000,000
Property Damage - Aggregate	\$1,000,000
or Combined Single Limit	\$1,000,000

5.4.3. Comprehensive Automobile Liability:

Bodily Injury	\$1,000,000
Property Damage	\$1,000,000
or Combined Single Limit	\$1,000,000

5.4.4. Umbrella or Excess Liability: \$3,000,000

Insurance - Other Requirements

5.5. The following conditions shall also be required in regard to insurance coverage.

5.5.1. Notice of Cancellation or Intent Not to Renew: Policies will be endorsed to provide that at least 30 days written notice of cancellation or of intent not to renew shall be given to the OWNER and to the OWNER.

5.5.2. Evidence of Coverage: Prior to commencement of the work, the CONTRACTOR shall furnish to the OWNER, Certificates of Insurance in force on the OWNER's form of certificate provided. Other forms of certificate are acceptable only if:

- (a) they include all of the items prescribed in the OWNER's form of certificate, including agreement to cancellation provisions outlined in Paragraph 5.5.1. above; and
- (b) they have written approval of the OWNER. The OWNER reserves the right to request complete copies of policies if deemed necessary to ascertain details of coverage not provided by the certificates. Such policy copies shall be "originally signed copies," and so designated.

5.5.3. Evidence of Insurance Required for the CONTRACTOR:

- (1) Worker's Compensation and Employer's Liability Comprehensive General Liability including:
 - (a) all premises and operations;
 - (b) explosion, collapse, and underground damage;
 - (c) CONTRACTOR's Protective;
 - (d) Contractual Liability for obligations assumed in the Indemnification-Hold Harmless Agreement of this Contract;
 - (e) Personal Injury Liability;
 - (f) products and completed operations;
- (2) Comprehensive Automobile Liability including owned, non-owned, and hired vehicles
- (3) Umbrella or Excess Liability

5.5.4. Qualification of Insurers: In order to determine financial strength and reputation of insurance carriers, all companies providing the coverages required shall be licensed or approved by the Insurance Bureau of the State of Michigan and shall have a financial rating not lower than XI and a Policyholder's service rating no lower than B+ as listed in A.M. Best's Key Rating Guide, current edition. Companies with ratings lower than B+:XI will be acceptable only upon written consent of the OWNER.

Additional Bonds and Insurance

5.6. Prior to delivery of the executed Agreement by OWNER to CONTRACTOR, OWNER may require CONTRACTOR to furnish such other bonds and such additional insurance, in such form and with such sureties or insurers as OWNER may require. If such other bonds or such other insurance is specified by written instructions given prior to Opening of Bids, the premiums shall be paid by CONTRACTOR; if subsequent thereto, they shall be paid by OWNER (except as otherwise provided in Article 11).

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence

6.1. CONTRACTOR shall supervise and direct the work efficiently and with his best skill and attention. He shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but he shall not be solely responsible for the negligence of others in

the design or selection of a specific means, method, technique, sequence, or procedure of construction which is indicated in and required by the Contract Documents. CONTRACTOR shall be responsible to see that the finished work complies accurately with the Contract Documents.

6.2. CONTRACTOR shall keep on the work site at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the site and shall have authority to act on behalf of the CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

Labor, Materials, and Equipment

6.3. CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the work and perform construction as required by the Contract Documents. He shall at all times maintain good discipline and order at the site.

6.4. CONTRACTOR shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation, and completion of the work.

6.5. All materials and equipment shall be new, except as otherwise provided in the Contract Documents. If required by OWNER, CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

6.6. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, or processors, except as otherwise provided in the Contract Documents.

Substitute Materials or Equipment

6.7. Whenever a material, article, or piece of equipment is identified on the drawings or Specifications by reference to brand name or catalog number, it shall be understood that this is referenced for the purpose of defining the performance or other salient requirements and that other products of equal capacities, quality, and function may be considered.

The CONTRACTOR may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the Contract Documents by reference to brand name or catalog number, and if, in the opinion of the OWNER, such material, article, or piece of equipment is of equal substance and function to that specified, the OWNER may approve its substitution and use by the CONTRACTOR. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order. The CONTRACTOR warrants that if substitutes are approved, no major changes in the function or general design of the project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the CONTRACTOR without a change in the Contract Price or Contract Time.

Concerning Subcontractors

6.8. CONTRACTOR shall not employ any Subcontractor or other person or organization (including those who are to furnish the principal items of materials or equipment), whether initially or as a substitute, against whom OWNER may have reasonable objection. A Subcontractor or

other person or organization identified in writing to OWNER prior to the Notice of Award will be deemed acceptable to OWNER. Acceptance of any Subcontractor, other person, or organization by OWNER shall not constitute a waiver of any right of OWNER to reject defective work or work not in conformance with the Contract Documents. If OWNER after due investigation has reasonable objection to any Subcontractor, other person or organization proposed by CONTRACTOR after the Notice of Award, CONTRACTOR shall submit an acceptable substitute and the Contract Price shall be increased or decreased by the difference in cost occasioned by such substitution, and an appropriate Change Order shall be issued. CONTRACTOR shall not be required to employ any Subcontractor, other person or organization against whom he has reasonable objection. CONTRACTOR shall not without the consent of OWNER make any substitution for any CONTRACTOR, other person, or organization that has been accepted by OWNER and determines that there is good cause for doing so.

Nothing contained in these Contract Documents shall create any contractual relationship between the OWNER and any Subcontractor or Sub-Subcontractor.

6.9. CONTRACTOR shall be fully responsible for all acts and omissions of his Subcontractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between OWNER and any Subcontractor or other person or organization having a direct contract with CONTRACTOR, nor shall it create any obligation on the part of OWNER to pay or to see to the payment of any monies due any Subcontractor or other person or organization, except as may otherwise be required by law. OWNER may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to CONTRACTOR on account of specific work done in accordance with the Schedule of Values.

6.10. The divisions and sections of the Specifications and the identifications of any drawings shall not control CONTRACTOR in dividing the work among Subcontractors or delineating the work to be performed by any specific trade.

6.11. CONTRACTOR agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER.

6.12. All work performed for CONTRACTOR by a Subcontractor shall be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which shall contain provisions that waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by insurance provided in accordance with Article 5 of these General Conditions and Article VIII of the Agreement, except such rights as they may have to the proceeds of such insurance held by OWNER as trustee under Paragraph 5.3.5.

Patent Fees and Royalties

6.13. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the work and if to the actual knowledge of OWNER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. CONTRACTOR shall indemnify and hold

harmless OWNER and anyone directly or indirectly employed by either of them from and against all claims, damages, losses and expenses (including attorney's fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work or resulting from the incorporation in the work of any invention, design, process, product or device not specified in the Contract Documents, and shall defend all such claims in connection with any alleged infringement of such rights.

Permits

6.14. CONTRACTOR shall obtain and pay for all construction permits and licenses and shall pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of his Bid. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall also pay all public utility charges.

Laws and Regulations

6.15. CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the work. If CONTRACTOR observes that the Specifications or drawings are at variance therewith, he shall give OWNER prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate Modification. If CONTRACTOR performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to OWNER, he shall bear all costs arising therefrom; however, it shall not be his primary responsibility to make certain that the Specifications and drawings are in accordance with such laws, ordinances, rules and regulations.

Taxes

6.16. CONTRACTOR shall pay all sales, consumer use, and other Federal, State and Local taxes required to be paid by him in accordance with the law of the place where the work is to be performed.

Use of Premises

6.17. CONTRACTOR shall confine his equipment, the storage of materials and equipment, and the operations of his workmen to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with materials or equipment. CONTRACTOR shall restore the areas to their original condition.

6.18. CONTRACTOR shall not load nor permit any part of any structure to be loaded with weights that will endanger the structure, nor shall he subject any part of the work to stresses or pressures that will endanger it.

Record Drawings

6.19. CONTRACTOR shall keep one record copy of all Specifications, drawings, Addenda, Modifications, and shop drawings at the site in good order and annotated to show all changes made during the construction process. These shall be available to OWNER and shall be delivered to him for OWNER upon completion of the Project. (Note: Further provisions in respect of such record drawings may be included in the General Requirements (Division 1).)

Safety and Protection

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

- (a) all employees on the work and other persons who may be affected thereby;
- (b) all the work and all materials or equipment to be incorporated therein, whether in storage on or off the site;
- (c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. He shall erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for its safety and protection. He shall notify OWNERS of adjacent utilities when prosecution of the work may affect them. All damage, injury or loss to any property referred to in Paragraph 6.20(b) or 6.20(c) caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR; except damage or loss attributable to the fault of drawings or Specifications or to the acts or omissions of OWNER or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR. CONTRACTOR's duties and responsibilities for the safety and protection of the work shall continue until such time as all the work is completed and OWNER has issued a notice to OWNER and CONTRACTOR in accordance with Paragraph 14.13 that work is acceptable.

6.21. CONTRACTOR shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be CONTRACTOR's superintendent unless otherwise designated in writing by CONTRACTOR to OWNER.

6.22. It is the CONTRACTOR's sole responsibility to comply with the rules and regulations of the Occupational Safety and Health Act (OSHA). OWNER shall not be responsible for safety on the job.

Emergencies

6.23. In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, CONTRACTOR without special instruction or authorization from OWNER, is obligated to act, at his discretion, to prevent threatened damage, injury, or loss. He shall give OWNER prompt written notice of any significant changes in the work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If CONTRACTOR believes that additional work done by him in an emergency which arose from causes beyond his control entitles him to an increase in the Contract Price or an extension of the Contract Time, he may make a claim therefor as provided in Articles 11 and 12.

Shop Drawings and Samples

6.24. After checking and verifying all field measurements, CONTRACTOR shall submit to OWNER for approval, in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 2.8) three copies (or at OWNER's option, one reproducible copy) of all Shop Drawings, which shall have been checked by and stamped with the approval of CONTRACTOR and identified as OWNER may require. The data shown on the shop drawings will be complete with respect to dimensions, design criteria, materials of construction, and the like to enable OWNER to review the information as required.

6.25. CONTRACTOR shall also submit to OWNER for approval with such promptness as to cause no delay in work, all samples required by the Contract Documents. All samples will have been checked by and stamped with the approval of CONTRACTOR, identified clearly as to material, manufacturer, any pertinent catalog numbers, and the use for which intended.

6.26. At the time of each submission, CONTRACTOR shall in writing call OWNER's attention to any deviations that the Shop Drawing or sample may have from the requirements of the Contract Documents.

6.27. OWNER will review and approve with reasonable promptness Shop Drawings and samples, but his review and approval shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make any corrections required by OWNER and shall return the required number of correct copies of shop drawings and resubmit new samples, until approved. CONTRACTOR shall direct specific attention in writing or on resubmitted shop drawings to revisions other than the corrections called for by OWNER on previous submissions. CONTRACTOR's stamp of approval on any shop drawing or sample shall constitute a representation to OWNER that CONTRACTOR has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data or he assumes full responsibility for doing so, and that he has reviewed or coordinated each shop drawing or sample with the requirements of the work and the Contract Documents.

6.28. Where a shop drawing or sample submission is required by the Specifications, no related work shall be commenced until the submission has been approved by OWNER. A copy of each approved shop drawing and each approved sample shall be kept in good order by CONTRACTOR at the site and shall be available to OWNER.

6.29. OWNER's approval of shop drawings or samples shall not relieve CONTRACTOR from his responsibility for any deviations from the requirements of the Contract Documents unless CONTRACTOR has in writing called OWNER's attention to such deviation at the time of submission and OWNER has given written approval to the specific deviation, nor shall any approval by OWNER relieve CONTRACTOR from responsibility for errors or omissions in the shop drawings.

(Note: Further provisions in respect to shop drawings and samples may be included in the General Requirements (Division 1).)

Cleaning

6.30. CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the work, and at the completion of the work he shall

remove all waste materials, rubbish, and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by OWNER. CONTRACTOR shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents. (Note: Further provisions in respect of cleaning may be included in the General Requirements (Division 1).)

Indemnification

6.31. CONTRACTOR shall indemnify and hold harmless OWNER and their agents, directors, officers, and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense is:

- (a) attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom; and
- (b) caused in whole or in part by any negligent act or omission of 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 a party indemnified hereunder.

6.32. In any and all claims against OWNER or any of their agents or directors, officers, and employees by any employee of CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 6.31 shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR, or any Subcontractor under Worker's Compensation Acts, disability benefit acts, or other employee benefit acts.

6.33. The obligations of CONTRACTOR under Paragraph 6.30 shall not extend to the liability of OWNER, his agents or directors, officers, and employees arising out of:

- (a) the preparation of approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
- (b) the giving of or the failure to give directions or instructions by OWNER, his agents or directors, officers and employees provided such giving or failure to give is the primary cause of injury or damage.

ARTICLE 7 - WORK BY OTHERS

7.1. OWNER may perform additional work related to the Project by himself, or he may let other direct contracts therefor which shall contain General Conditions similar to these. CONTRACTOR shall afford the other contractors who are parties to such direct contracts (or OWNER, if he is performing the additional work himself), 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.

7.2. If any part of CONTRACTOR's work depends for proper execution or results upon the work of any such other CONTRACTOR (or OWNER), CONTRACTOR shall inspect and promptly report to OWNER in writing any defects or deficiencies in such work that render it unsuitable for such

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proper execution and results. His failure so to report shall constitute an acceptance of the other work as fit and proper for the relationship of his work except as to defects and deficiencies which may appear in the other work after the execution of his work.

7.3. CONTRACTOR shall do all cutting, fitting, and patching of his work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of OWNER and of the other contractors whose work will be affected.

7.4. If the performance of additional work by other contractors or OWNER is not noted in the Contract Documents prior to the execution of the contract, written notice thereof shall be given to CONTRACTOR prior to starting any such additional work. If CONTRACTOR believes that the performance of such additional work by OWNER or others involves him in additional expense or entitles him to an extension of the Contract Time, he may make a claim therefor as provided in Articles 11 and 12.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.1. At any given time, OWNER may issue communications to CONTRACTOR through an OWNER's Representative hired to act on his behalf.

8.2. OWNER shall furnish the data required of him under the Contract Documents promptly and shall make payments to CONTRACTOR promptly after they are due as provided in Paragraphs 14.4 and 14.13.

8.3. OWNER's duties in respect to providing lands and easements and providing engineering surveys to establish reference points are set forth in Paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER's identifying and making available to CONTRACTOR copies of surveys and investigation reports of subsurface and latent physical conditions at the site or otherwise affecting performance of the work which have been relied upon by OWNER in preparing the drawings and Specifications.

8.4. OWNER's responsibilities in respect of liability and property insurance are set forth in Article 5.

8.5. In addition to his rights to request changes in the work in accordance with Article 10, OWNER (especially in certain instances as provided in Paragraph 10.4) shall be obligated to execute Change Orders.

8.6. OWNER's responsibility in respect of certain inspections, tests, and approvals is set forth in Paragraph 13.2.

8.7. In connection with OWNER's right to stop work or suspend work, see Paragraphs 13.8 and 15.1. Paragraph 15.2 deals with OWNER's right to terminate services of CONTRACTOR under certain circumstances.

8.8. Under some conditions a CONSULTANT may be contracted by OWNER to serve as OWNER's representative during the construction period.

ARTICLE 9 - OWNER'S STATUS DURING CONSTRUCTION

OWNER's Representative

9.1. The duties and responsibilities and the limitations of authority of OWNER's representative during construction are set forth in Articles 1 through 17 of these General Conditions and shall not be extended without written consent of OWNER.

Visits to Site

9.2. OWNER may make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the Contract Documents. He will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. His efforts will be directed toward providing assurance for OWNER that the completed Project will conform to the requirements of the Contract Documents. On the basis of his on-site observations as an experienced and qualified design professional, he will keep OWNER informed of the progress of the work and will endeavor to guard OWNER against defects and deficiencies in the work of CONTRACTORS.

Clarifications and Interpretations

9.3. OWNER will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents (in the form of drawings or otherwise) as he may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. If CONTRACTOR believes that a written clarification and interpretation entitles him to an increase in the Contract Price, he may make a claim therefor as provided in Article 11.

Rejecting Defective Work

9.4. OWNER will have authority to disapprove or reject work which is "defective" (which term is hereinafter used to describe work that is unsatisfactory, faulty, or defective, or does not conform to the requirements of the Contract Documents or does not meet the requirements of the inspection, test, or approval referred to in Paragraph 13.2 or has been damaged prior to approval of final payment). He will also have authority to require special inspection or testing of the work as provided in Paragraph 13.7, whether or not the work is fabricated, installed, or completed.

Shop Drawings, Change Orders, and Payments

9.5. In connection with OWNER's responsibility for shop drawings and samples, see Paragraphs 6.24 through 6.28 inclusive.

9.6. In connection with OWNER's responsibility for Change Orders, see Articles 10, 11, and 12.

9.7. In connection with OWNER's responsibilities in respect of Applications for Payment, etc., see Article 14.

Resident Project Representatives

9.8. The OWNER may elect to provide one or more full-time resident project representatives to assist the OWNER in carrying out his responsibilities at the site. The duties, responsibilities, and limitation of authority of any such resident project representative shall be to endeavor to further protect the OWNER against defects and deficiencies in the work. But the furnishing of such resident project representatives shall not make the OWNER responsible for construction means,

methods, techniques, sequences, or procedures or for any safety precautions or programs in connection with the work.

Decisions on Disagreements

9.9. OWNER will be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder. In his capacity as interpreter and judge he will exercise his best efforts to insure faithful performance by both OWNER and CONTRACTOR. He will not show partiality to either and will not be liable for the result of any interpretation or decision rendered in good faith. Claims, disputes, and other matters relating to the execution and progress of the work or the interpretation of or performance under the Contract Documents shall be referred to OWNER for decision, which he will render in writing within a reasonable time.

Limitations on OWNER's Responsibilities

9.10. Neither OWNER's authority to act under this Article 9 or elsewhere in the Contract Documents nor any decision made by him in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of OWNER to CONTRACTOR, any Subcontractor, any materialman, fabricator, supplier, or any of their agents or employees or any other person performing any of the work.

9.11. OWNER will not be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, and he will not be responsible for CONTRACTOR's failure to perform the work in accordance with the Contract Documents.

9.12. OWNER will not be responsible for the acts or omissions of CONTRACTOR or any Subcontractors, or any of his or their agents or employees, or any other persons at the site or otherwise performing any of the work.

ARTICLE 10 - CHANGES IN THE WORK

10.1. Without invalidating the Agreement, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the work; these will be authorized by Change Orders. Upon receipt of a Change Order, CONTRACTOR shall proceed with the work involved. All such work shall be executed under the applicable conditions of the Contract Documents. 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 11 or Article 12 on the basis of a claim made by either party.

10.2. OWNER may authorize minor changes or alterations in the work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If CONTRACTOR believes that any minor change or alteration authorized by OWNER entitles him to an increase in the Contract Price, he may make a claim therefor as provided in Article 11.

10.3. Additional work performed by CONTRACTOR without authorization of a Change Order will not entitle him to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency and as provided in Paragraphs 10.2 and 13.7

10.4. OWNER shall execute appropriate Change Orders covering changes in the work to be performed as provided in Paragraph 4.3, and work performed in an emergency as provided in

Paragraph 6.23 and any other claim of CONTRACTOR for a change in the Contract Time or the Contract Price which is then approved by OWNER.

10.5. It is CONTRACTOR's responsibility to notify his Surety of any changes affecting the general Scope of Work or change in the Contract Price and the amount of the applicable bonds shall be adjusted accordingly. CONTRACTOR shall furnish proof of such adjustment to OWNER.

ARTICLE 11 - CHANGE OF CONTRACT PRICE

11.1. The Contract Price constitutes the total compensation payable to CONTRACTOR for performing the work. All duties, responsibilities, and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

11.2. The Contract Price may only be changed by a Change Order. Any claim for an increase in the Contract Price shall be based on written notice delivered to OWNER within fifteen days of the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data shall be delivered within forty-five days of such occurrence unless OWNER allows an additional period of time to ascertain accurate cost data. Any claims, not delivered to OWNER within forty-five days or within any additional period allowed by OWNER in writing, shall be forfeited by the CONTRACTOR and shall not be honored by the OWNER. All claims for adjustments in the Contract Price shall be determined OWNER and CONTRACTOR cannot otherwise agree on the amount involved. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order.

11.3. The value of any work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

- (a) where the work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved;
- (b) by mutual acceptance of a lump sum;
- (c) on the basis of the Cost of the Work (determined as provided in Paragraph 11.4.).

Cost of the Work

11.4. The term Cost of the Work means the sum of all costs necessarily incurred and paid by the CONTRACTOR in the proper performance of the work. Except as may be otherwise agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Paragraph 11.5.

11.4.1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the work under schedules of job classifications agreed upon by OWNER and CONTRACTOR: Payroll costs for employees not employed full time on the work shall be apportioned on the basis of their time spent on the work. Payroll costs shall include, but not be limited to salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by the OWNER.

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11.4.2. Cost of all materials and equipment furnished and incorporated in the work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith: All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

11.4.3. Payments made by CONTRACTOR to the Subcontractors for work performed by Subcontractors: If required by OWNER, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to him and shall deliver such bids to OWNER who will then determine which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Cost of the Work shall be determined in accordance with Paragraphs 11.4 and 11.5. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

11.4.4. Costs of special consultants (including, but not limited to, engineers, landscape architects, architects, testing laboratories, surveyors, lawyers, and accountants) employed for services specifically related to the work.

11.4.5. Supplemental costs including the following:

- (a) The proportion of necessary transportation, traveling and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the work;
- (b) Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR;
- (c) Sales, use or similar taxes related to the work, and for which CONTRACTOR is liable, imposed by any governmental authority;
- (d) Deposits lost for causes other than CONTRACTOR's negligence, royalty payments and fees for permits and licenses;
- (e) Losses, damages and expenses, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the execution of and to the work, provided they have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's Fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is placed in charge thereof, he shall be paid for his services a fee proportionate to that stated in Paragraph 11.6.2;
- (f) The cost of utilities, fuel and sanitary facilities at the site;
- (g) Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the work;

(h) Cost of premiums for bonds and insurance which OWNER is required to pay.

11.5. The term Cost of the Work shall not include any of the following:

11.5.1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, landscape architects, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in his principal or a branch office for general administration of the work and not specifically included in the schedule referred to in Subparagraph 11.4.1. -- all of which are to be considered administrative costs covered by the CONTRACTOR's Fee.

11.5.2. Expenses of CONTRACTOR's principal and branch offices other than his office at the site.

11.5.3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the work and charges against CONTRACTOR for delinquent payments.

11.5.4. Cost of premiums for all bonds and for all insurance policies whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except as otherwise provided in Subparagraph 11.4.5(h)).

11.5.5. Costs due to the negligence of CONTRACTOR, any 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.

11.5.6. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 11.4.

11.5.7. Temporary shut down of work due to unknown existing condition. CONTRACTOR shall not charge OWNER for equipment of labor for idled operations due to unforeseen condition at the work site.

CONTRACTOR's Fee

11.6. The CONTRACTOR's Fee which shall be allowed to CONTRACTOR for his overhead and profit shall be determined as follows:

11.6.1. A fixed mutually acceptable. If no mutually acceptable fixed fee can be agreed upon, then,

11.6.2. A fee based on the following percentages of the various portions of the Cost of the Work:

(a) for costs incurred under Paragraphs 11.4.1. and 11.4.2.; the CONTRACTOR's Fee shall be ten (10) percent;

(b) for costs incurred under Paragraph 11.4.3., the CONTRACTOR's Fee shall be five (5) percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall be ten (10) percent; and

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(c) no fee shall be payable on the basis of costs itemized under Paragraphs 11.4.4., 11.4.5., and 11.5.

11.7. The amount of credit to be allowed by CONTRACTOR to OWNER for any such change which results in a net decrease in cost, will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any.

11.8. Whenever the cost of any work is to be determined pursuant to Paragraphs 11.4 and 11.5, CONTRACTOR will submit in form prescribed by OWNER an itemized cost breakdown together with supporting data.

Cash Allowances

11.9. It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the work so covered to be done by such materialmen, suppliers, or Subcontractors and for such sums within the limit of the allowances as OWNER may approve. Upon final payment, the Contract Price shall be adjusted as required and an appropriate Change Order issued. CONTRACTOR agrees that the original Contract Price includes such sums as he deems proper for costs and profit on account of cash allowances. No demand for additional cost or profit in connection therewith will be allowed.

ARTICLE 12 - CHANGE OF THE CONTRACT TIME

12.1. The Contract Time may only be changed by a Change Order and/or Amendment. Any claim for an extension in the Contract Time shall be based on written notice delivered to OWNER within fifteen days of the occurrence of the event giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within forty-five days of such occurrence unless OWNER allows an additional period of time to ascertain more accurate data. All claims for adjustment in the Contract Time shall be determined by OWNER. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

12.2. The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if he makes a claim therefor as provided in Paragraph 12.1. Such delays shall include, but not be restricted to, acts or neglect by any separate CONTRACTOR employed by OWNER, fires, floods, labor disputes, epidemics, abnormal weather conditions, or Acts of God.

12.3. All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 12 shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party.

ARTICLE 13 - WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

Warranty and Guarantee

13.1. CONTRACTOR warrants and guarantees to OWNER that all materials and equipment will be new unless otherwise specified and that all work will be of good quality and free from faults or defects and in accordance with the requirements of the Contract Documents and of any inspections, tests, or approvals referred to in Paragraph 13.2. All unsatisfactory work, all faulty or defective work, and all work not conforming to the requirements of the Contract Documents at the time of acceptance thereof or of such inspections, tests, or approvals, shall be considered defective. Prompt notice of all defects shall be given to CONTRACTOR. All defective work, whether or not in place, may be rejected, corrected, or accepted as provided in this Article 13.

Tests and Inspections

13.2. If the Contract Documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any work to specifically be inspected, tested, or approved by some public body, CONTRACTOR shall assume full responsibility therefor, pay all costs in connection therewith and furnish OWNER the required certificates of inspection, testing, or approval. All other inspections, tests and approvals required by the Contract Documents shall be performed by organizations acceptable to OWNER and CONTRACTOR and the costs thereof shall be borne by CONTRACTOR unless otherwise specified.

13.3. CONTRACTOR shall give OWNER timely notice of readiness of the work for all inspections, tests, or approvals. If any such work required so to be inspected, tested, or approved is covered without written approval of OWNER, it must, if requested by OWNER, be uncovered for observation, and such uncovering shall be at CONTRACTOR's expense unless CONTRACTOR has given OWNER timely notice of his intention to cover such work and OWNER has not acted with reasonable promptness in response to such notice.

13.4. Neither observations by OWNER, nor inspections, tests, or approvals by persons other than CONTRACTOR shall relieve CONTRACTOR from his obligations to perform the work in accordance with the requirements of the Contract Documents.

Access to Work

13.5 OWNER and his representatives and other representatives of OWNER will at reasonable times have access to the work. CONTRACTOR shall provide proper and safe facilities for such access and observation of the work and also for any inspection or testing thereof by others.

Uncovering Work

13.6. If any work is covered contrary to the written request of OWNER, it must, if requested by OWNER, be uncovered for his observation and replaced at CONTRACTOR's expense.

13.7. If any work has been covered which OWNER has not specifically requested to observe prior to its being covered, or if OWNER considered it necessary or advisable that covered work be inspected or tested by others, CONTRACTOR at OWNER's request shall uncover, expose, or otherwise make available for observation, inspection, or testing as OWNER may require, that portion of the work in question, furnishing all necessary labor, material, and equipment. If it is found that such work is defective, CONTRACTOR shall bear all the expenses of such uncovering,

exposure, observation, inspection, and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such work is not found to be defective, CONTRACTOR shall 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 if he makes a claim therefor as provided in Articles 11 and 12.

OWNER May Stop the Work

13.8. If the work is defective, or CONTRACTOR fails to supply sufficient skilled workmen or suitable materials or equipment, or if CONTRACTOR fails to make prompt payments to Subcontractors or for labor, materials, or equipment, OWNER may order CONTRACTOR to stop the work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any other party.

Correction or Removal of Defective Work

13.9. If required by OWNER prior to approval of final payment, CONTRACTOR shall promptly, without cost to OWNER and as specified by OWNER, either correct any defective work, whether or not fabricated, installed or completed, or, if the work has been rejected by OWNER, remove it from the site and replace it with non-defective work. If CONTRACTOR does not correct such defective work or remove and replace such rejected work within a reasonable time, all as specified in a written notice from OWNER, OWNER may have the deficiency corrected or the rejected work removed and replaced. All direct and indirect costs of such correction or removal and replacement, including compensation for additional professional services, shall be paid by CONTRACTOR, and an appropriate deductive Change Order shall be issued. CONTRACTOR shall also bear the expenses of making good all work of others destroyed or damaged by his correction, removal or replacement of his defective work.

One-Year Correction Period

13.10. If, after the approval of final payment and prior to the expiration of one year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions, either correct such defective work, or, if it has been rejected by OWNER, remove it from the site and replace it with non-defective work. If CONTRACTOR does not promptly comply with the terms of such instructions, OWNER may have the defective work corrected or the rejected work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by CONTRACTOR.

Acceptance of Defective Work

13.11. If, instead of requiring correction or removal and replacement of defective work, OWNER (and, prior to approval and final payment) prefers to accept it, they may do so. In such case, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price; or, if the acceptance occurs after approval of final payment, an appropriate amount shall be paid by CONTRACTOR to OWNER.

Neglected Work by CONTRACTOR

13.12. If CONTRACTOR should fail to prosecute the work in accordance with the Contract Documents, including any requirements of the progress schedule, OWNER, after seven days written notice to CONTRACTOR may, without prejudice to any other remedy he may have, make good such deficiencies and the cost thereof (including compensation for additional professional services) shall be charged against CONTRACTOR if OWNER approves such action, in which case a Change Order shall be issued incorporating the necessary revisions in the Contract Documents including an appropriate reduction in the Contract Price. If the payments then or thereafter due CONTRACTOR are not sufficient to cover such amount, CONTRACTOR shall pay the difference to OWNER.

ARTICLE 14 - PAYMENTS AND COMPLETION

Schedules

14.1. At least ten days prior to submitting the first application for a progress payment, CONTRACTOR shall submit a progress schedule, a final schedule of shop drawing submissions and a schedule of values of the work. These schedules shall be satisfactory in form and substance to OWNER. The schedule of values shall include quantities and unit prices aggregating the Contract Price, and shall subdivide the work into component parts in sufficient detail to serve as the basis for progress payments during construction. Upon approval of the schedules of values by OWNER, it shall be incorporated into the form of Application for Payment furnished to OWNER.

Application for Progress Payment

14.2. At least ten days before each progress payment falls due (but not more often than once a month), CONTRACTOR shall submit to OWNER for review an Application for Payment filled out and signed by CONTRACTOR covering the work completed as of the date of the application and accompanied by such data and schedules as OWNER may reasonably require. If payment is requested on the basis of material and equipment not incorporated in the work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by such data, satisfactory to OWNER, as will establish OWNER's title to the material and equipment and protect his interest therein, including applicable insurance. Each subsequent Application for Payment shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the work have been applied to discharge in full all of CONTRACTOR's obligations reflected in prior Applications for Payment. Except where greater retention is necessary pursuant to definite circumstances specifically provided for in the construction contract, the following schedule of retained amounts from progress payments shall be followed:

- (a) Not more than 10% of the dollar value of all work in place until work is 50% in place.
- (b) After the work is 50% in place, additional retainage shall not be withheld unless the OWNER determines that the CONTRACTOR is not making satisfactory progress, or for other specific cause relating to the CONTRACTOR's performance under the Contract. If the OWNER so determines, the OWNER may retain not more than 10% of the dollar value of work more than 50% in place.
- (c) The retained funds shall not exceed the pro rata share of the OWNER's matching requirement under the construction contract and shall not be co-mingled with other funds

of the OWNER and shall be deposited in an interest bearing account in a regulated financial institution in this state wherein all such retained funds are kept by the OWNER which shall account for both retainage and interest on each construction contract separately. An OWNER is not required to deposit retained funds in an interest bearing account if the retained funds are to be provided under a state or federal grant and the retained funds have not been paid to the OWNER.

- (d) Except as provided in 14.2.6 and 14.2.7, retainage and interest earned on retainage shall be released to the CONTRACTOR together with the final progress payment.
- (e) At any time after 94% of work under the Contract is in place and at the request of the original CONTRACTOR, the OWNER shall release the retainage plus interest to the original CONTRACTOR only if the original CONTRACTOR provides to the OWNER an irrevocable letter of credit in the amount of the retainage plus interest, issued by a bank authorized to do business in this state, containing terms mutually acceptable to the CONTRACTOR and the OWNER.

14.2.1. If a dispute regarding a matter described in 14.2.2. arises, the CONTRACTOR and the OWNER shall designate an agent who has background, training, and experience in the construction of facilities similar to that which is the subject of the Contract, as follows:

- (a) in an agreement reached within 10 days after a dispute arises;
- (b) if an agreement cannot be reached within 10 days after a dispute arises, the OWNER shall designate an agent who has background, training, and experience in the construction of facilities similar to that which is the subject of the Contract and who is not an employee of the OWNER.

14.2.2. The OWNER may request dispute resolution by the agent regarding the following:

- (a) at any time during the term of the Contract, to determine whether there has been a delay for reasons that were within the control of the CONTRACTOR, and the period of time that delay has been caused, continued, or aggravated by actions of the CONTRACTOR.
- (b) at any time after 94% of work under the Contract is in place, whether there has been an unacceptable delay by the CONTRACTOR in performance of the remaining 6% of work under the Contract. The agent shall consider the terms of the Contract and the procedures normally followed in the industry and shall determine whether the delay was for failure to follow reasonable and prudent practices in the industry for completion of the project.

14.2.3. This dispute resolution process shall be used only for the purpose of determining the rights of the parties to retained funds and interest earned on retained funds and is not intended to alter, abrogate, or limit any rights with respect to remedies that are available to enforce or compel performance of the terms of the Contract by either party.

14.2.4. The agent may request and shall receive all pertinent information from the parties and shall provide an opportunity for an informal meeting to receive comments, documents, and other relevant information in order to resolve the dispute. The agent shall determine the time, place, and procedure for the informal meeting. A written decision and reasons for the decision shall be given to the parties within 14 days after the meeting.

14.2.5. The decision of the agent shall be final and binding upon all parties. Upon application of either party, the decision of the agent may be vacated by order of the circuit court only upon a finding by the court that the decision was procured by fraud, duress, or other illegal means.

14.2.6. If the dispute resolution results in a decision:

- (a) that there has been a delay as described in 14.2.2.(a), all interest earned on retained funds during the period of delay shall become the property of the OWNER;
- (b) that there has been unacceptable delay as described in 14.2.2.(b), the OWNER may contract with a subsequent contractor to complete the remaining 6% of the work under the Contract, and interest earned on retained funds shall become the property of the OWNER. A subsequent contractor under this subdivision shall be paid by the OWNER from the following sources until each source is depleted, in the order listed below:
 - (1) the dollar value of the original Contract, less the dollar value of funds already paid to the original CONTRACTOR and the dollar value of work in place for which the original CONTRACTOR has not received payment;
 - (2) Retainage from the original CONTRACTOR, or funds made available under a letter of credit provided under 14.1.(e);
 - (3) interest earned on retainage from the original CONTRACTOR, of funds made available under a letter of credit provided under 14.1.(e).

14.2.7. If the OWNER contracts with a subsequent CONTRACTOR as provided in 14.2.6.(b), the final progress payment shall be payable to the original CONTRACTOR within the time period specified in 14.4.1. The amount of the final progress payment to the original CONTRACTOR shall not include interest earned on retained funds. The OWNER may deduct from the final progress payment all expenses of contracting with the subsequent CONTRACTOR. This act shall not impair the right of the OWNER to bring an action or to otherwise enforce a performance bond to complete work under a construction Contract.

CONTRACTOR's Warranty of Title

14.3. CONTRACTOR warrants and guarantees that title to all work, material and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER at the time of payment free and clear of all liens, claims, security interests and encumbrances (hereafter in these General Conditions referred to as "Liens").

Approval of Payments

14.4. OWNER will, within ten days after receipt of each Application for Payment, either indicate in writing his approval of payment, or return the application to CONTRACTOR indicating in writing his reasons for refusing to approve payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the application. OWNER shall, after presentation to him of an approved Application for Payment, pay CONTRACTOR the amount approved by OWNER as provided under 14.4.1.

14.4.1. Each progress payment requested, including reasonable interest if requested under 14.4.2. shall be paid within thirty (30) days after receipt by the OWNER of the Application for Payment.

14.4.2. Upon failure of the OWNER to make a timely progress payment pursuant to this section, the person designated to submit requests for progress payments may include reasonable interest on amounts past due in the next request for payment.

14.5. Approval of any payment requested in an Application for Payment will constitute a representation by OWNER, or OWNER's Representative based on on-site observations of the work in progress as an experienced and qualified design professional and on his review of the Application for Payment and the accompanying data and schedules that the work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the work is in accordance with the Contract Documents (subject to an evaluation of the work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and any qualifications stated in his approval); and that CONTRACTOR is entitled to payment of the amount approved. However, by approving any such payment OWNER will not thereby be deemed to have represented that he made exhaustive or continuous on-site inspections to check the quality or the quantity of the work, or that he has reviewed the means, methods, techniques, sequences, and procedures of construction, or that he has made any examination to ascertain how or for what purpose CONTRACTOR has used the monies paid or to be paid to him on account of the Contract Price, or that title to any work, materials, or equipment has passed to OWNER free and clear of any liens.

14.6. Approval of final payment will constitute an additional representation by OWNER that the conditions precedents to CONTRACTOR's being entitled to final payment as set forth in Paragraph 14.13 have been fulfilled.

14.7. OWNER may refuse to approve the whole or any part of any payment if, in his opinion, it would be incorrect to make such representation. He may also refuse to approve any such payment, or, because of subsequently discovered evidence of the results of subsequent inspections or tests, nullify any such payment previously approved, to such extent as may be necessary in his opinion to protect OWNER from loss because:

- (a) The work is defective, or completed work has been damaged requiring correction or replacement;
- (b) Claims or liens have been filed or there is reasonable cause to believe such may be filed;
- (c) The Contract Price has been reduced because of Modifications;
- (d) OWNER has been required to correct defective work or complete the work in accordance with Paragraph 13.11; or
- (e) Of unsatisfactory prosecution of the work, including failure to furnish acceptable submittals or to clean up.

Substantial Completion

14.8. Prior to final payment, CONTRACTOR may, in writing to OWNER, certify that the entire Project is substantially complete and request that OWNER issue a Certificate of Substantial Completion. Within a reasonable time thereafter, CONTRACTOR and OWNER shall make an inspection of the Project to determine the status of completion. If OWNER does not consider the Project substantially complete, he will notify CONTRACTOR in writing giving his reasons therefor. If OWNER considers the Project substantially complete, he will prepare and deliver a tentative

Certificate of Substantial Completion which shall fix the date of Substantial Completion and the responsibilities between OWNER and CONTRACTOR for maintenance, heat, and utilities. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment, and the certificate shall fix the time within which such items shall be completed or corrected, said time to be within the Contract Time.

14.9. OWNER shall have the right to exclude CONTRACTOR from the Project after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

Partial Utilization

14.10. Prior to final payment, OWNER may request CONTRACTOR in writing to permit him to use a specified part of the Project which he believes he may use without significant interference with construction of the other parts of the Project. If CONTRACTOR agrees, he will certify to OWNER that said part of the Project is substantially complete and request OWNER to issue a Certificate of Substantial Completion for that part of the Project which is substantially complete. Within a reasonable time thereafter CONTRACTOR and OWNER shall make an inspection of that Part of the Project to determine its status of completion. If OWNER does not consider that it is substantially complete, he will notify CONTRACTOR in writing giving his reasons therefor. If OWNER considers that part of the Project to be substantially complete, he will execute and deliver to CONTRACTOR a certificate to that effect, fixing the date of Substantial Completion as to that part of the Project, attaching thereto a tentative list of items to be completed or corrected before final payment and fixing the responsibility between OWNER and CONTRACTOR for maintenance, heat and utilities as to that part of the Project. OWNER shall have the right to exclude CONTRACTOR from any part of the Project which OWNER has so certified to be substantially complete, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

Final Inspection

14.11. Upon written notice from CONTRACTOR that the Project is complete, OWNER will make a final inspection with CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

Final Application for Payment

14.12. After CONTRACTOR has completed all such corrections to the satisfaction of OWNER and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, and other documents -- all as required by the Contract Documents -- he may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by such data and schedules as OWNER may reasonably require, together with complete and legally effective releases or waivers (satisfactory to OWNER) of all liens arising out of the Contract Documents and the labor and services performed and the materials and equipment furnished thereunder. In lieu thereof and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, material, and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which OWNER or his property might in anyway be

responsible, have been paid or otherwise satisfied; and consent of the Surety, if any, to final payment. If any Subcontractor, materialman, fabricator, or supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a bond or other collateral satisfactory to OWNER to indemnify him against any lien.

Approval of Final Payment

14.13. If, on the basis of his observation and review of the work during construction, his final inspection and his review of the final Application for Payment -- all as required by the Contract Documents -- OWNER is satisfied that the work has been completed and CONTRACTOR has fulfilled all of his obligations under the Contract Documents, he will, within ten days after receipt of the final Application for Payment, indicate in writing his approval of payment. Thereupon OWNER will give written notice to CONTRACTOR that the work is acceptable subject to the provisions of Paragraph 14.16. Otherwise, he will return the application to CONTRACTOR, indicating in writing his reasons for refusing to approve final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the application. OWNER shall within ten days of presentation to him of an approved final Application for Payment, pay CONTRACTOR the amount approved by OWNER.

14.14. If after Substantial Completion of the work, final completion thereof is materially delayed through no fault of CONTRACTOR, OWNER shall without terminating the Agreement make payment of the balance due for that portion of the work fully completed and accepted. If the remaining balance for work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if bonds have been furnished as required in Paragraph 5.1, the written consent of the Surety to the payment of the balance due for that portion of the work fully completed and accepted shall be submitted by the CONTRACTOR to the OWNER prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment except that it shall not constitute a waiver of claims.

CONTRACTOR's Continuing Obligation

14.15. CONTRACTOR's obligation to perform the work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment by OWNER, nor the issuance of a Certificate of Substantial Completion, nor any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Project or any part thereof by OWNER, nor any act of acceptance by OWNER nor any failure to do so, nor any correction of defective work by OWNER shall constitute an acceptance of work not in accordance with the Contract Documents.

Waiver of Claims

14.16. The making and acceptance of final payment shall constitute:

- (a) A waiver of all claims by OWNER against CONTRACTOR other than those arising from unsettled liens, from defective work appearing after final inspection pursuant to Paragraph 14.11, or from failure to comply with the requirements of the Contract Documents or the terms of any special guarantees specified therein; and
- (b) A waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

OWNER May Suspend Work

15.1. OWNER may, at any time and without cause, suspend the work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR which shall fix the date on which work shall be resumed. CONTRACTOR shall resume the work on the date so fixed. CONTRACTOR will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if he makes a claim therefor as provided in Articles 11 and 12.

OWNER May Terminate

15.2. If CONTRACTOR is adjudged bankrupt or insolvent, or if he makes a general assignment for the benefit of his creditors, or if a trustee or receiver is appointed for CONTRACTOR or for any of his property, or if he files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, or if he repeatedly fails to supply sufficient skilled workmen or suitable material or equipment, or if he disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if he disregards the authority of OWNER, or if he otherwise violates any provision of the Contract Documents, then OWNER may, without prejudice to any other right or remedy and after giving CONTRACTOR and his Surety seven days' written notice, terminate the services of CONTRACTOR and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by CONTRACTOR, and finish the work by whatever method he may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further 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 shall be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER shall be determined and incorporated in a Change Order.

15.3. Where CONTRACTOR's services have been so terminated by OWNER, said terminations shall not affect any rights of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies by OWNER due CONTRACTOR will not release CONTRACTOR from liability.

15.4. Upon seven days' written notice to CONTRACTOR, OWNER may without cause and without prejudice to any other right or remedy elect to abandon the Project and terminate the Agreement. In such case, CONTRACTOR shall be paid for all work executed and any expense sustained plus a reasonable profit.

CONTRACTOR May Stop Work or Terminate

15.5. If, through no act or fault of CONTRACTOR, the work is suspended for a period of more than ninety days by OWNER or under an order of court or other public authority, or OWNER fails to act on any Application for Payment within thirty days after it is submitted, or OWNER fails to pay CONTRACTOR any sum approved within thirty days of its approval and presentation, then CONTRACTOR may, upon seven days' written notice to OWNER, terminate the Agreement and recover from OWNER payment for all work executed and any expense sustained plus a reasonable profit. In addition and in lieu of terminating the Agreement, if OWNER has failed to act on an Application for Payment or OWNER has failed to make any payment as aforesaid,

CONTRACTOR may upon seven days' notice to OWNER and OWNER stop the work until he has been paid all amounts then due.

ARTICLE 16 - OFFICE SPACE (When Applicable)

16.1. The CONTRACTOR shall establish and maintain, at his own expense, office headquarters at the site of the Project. Telephone and fax service shall be provided. At the office headquarters shall be kept a complete set of the Contract Documents and shop drawings.

16.2. The CONTRACTOR shall arrange office space for the OWNER in a separate building or in a room completely partitioned off from the CONTRACTOR's office, if in the same building. The CONTRACTOR shall provide adequate heating and lighting telephone and fax service within the OWNER's office.

ARTICLE 17 - MISCELLANEOUS

Giving Notice

17.1. Whenever any provision of the Contract Documents requires the giving of written notice it shall be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to him who gives the notice.

Computation of Time

17.2. When any period of time is referred to in the Contract Documents by days, it shall be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation.

General

17.3. All monies not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project.

17.4. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by Paragraphs 6.30, 13.1, 13.10, and 14.3 and the rights and remedies available to OWNER thereunder, shall be in addition to and shall not be construed in any way as a limitation of any rights and remedies available to them which are otherwise imposed or available by law, by special guarantee, or by other Provisions of the Contract Documents.

17.5. Should OWNER or CONTRACTOR suffer injury or damage to his person or property because of any error, omission, or act of the other or of any of his employees or agents or others for whose acts he is legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

17.6. The Contract Documents shall be governed by the law of the place of the Project.

END OF SECTION

PART II
DETAILED SPECIFICATIONS

PART III
DRAWINGS
(see separate sheets)