



**City of
Fairfax, Virginia**

Invitation for Bid

IFB Number: 22032 VBO: 5701

**City of Fairfax Old Town Hall Phase 1 Rehabilitation
Commodity Code: 90930**

**Issue Date: November 17, 2021
Pre-Bid Conference Date: November 30, 2021 @ 10:00 am
Old Town Hall
3999 University Drive
Fairfax, VA 22030**

**Due Date for Questions: December 7, 2021
Sealed Bids are Due: December 14, 2021 by 3:00 PM**

PAPER OR HAND-DELIVERED BIDS WILL NOT BE ACCEPTED IN RESPONSE TO THIS SOLICITATION. ALL BIDS MUST BE SUBMITTED ELECTRONICALLY VIA THE VIRGINIA PROCUREMENT SITE WHICH CAN BE FOUND AT [HTTPS://EVA.VIRGINIA.GOV](https://eva.virginia.gov). ANY ASSISTANCE SUBMITTING BIDS THROUGH THIS SYSTEM MUST BE DIRECTED SOLELY TO EVA SUPPORT/HELPDESK.

- Your business must be eVA registered and in active status.
- Start by clicking the Register Now link on the eVA website (www.eVA.virginia.gov).

**City of Fairfax
10455 Armstrong Street
Fairfax, Virginia 22030**

The City of Fairfax does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment in the performance of its procurement activity.

GENERAL CONDITIONS

1. STATEMENT OF WORK..... 1

2. PRE-BID MEETING..... 1

3. COMPETITION INTENDED 1

4. QUALIFICATION OF BIDDERS 1

5. CITY OF FAIRFAX BUSINESS LICENSE..... 2

6. ACCURACY OF SOLICITATION DOCUMENTS..... 2

7. QUESTIONS AND ADDITIONAL INFORMATION 3

8. BID FORM SUBMISSION..... 3

9. NONCONFORMING TERMS AND CONDITIONS..... 4

10. UNBALANCED BIDS 4

11. ERRORS IN EXTENSION 4

12. EXPENSES INCURRED IN PREPARING BID 4

13. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK 4

14. INFORMALITIES..... 4

15. BID WITHDRAWAL: 4

16. INTEREST IN MORE THAN ONE BID AND COLLUSION 4

17. INSURANCE REQUIREMENTS..... 5

18. FAILURE TO COMPLETE ON TIME General 5

19. BID SURETY REQUIRED 5

20. ALTERNATE SURETY 5

21. ESCROW ACCOUNT FOR RETAINED FUNDS..... 5

22. EXECUTION OF AGREEMENT 6

23. BID FORM..... 6

TERMS AND CONDITIONS

1. PURPOSE:..... 7

2. SCOPE OF WORK:..... 7

3. CONTRACT TERM:..... 7

4. BID SUBMISSION:..... 7

5. AWARD: 7

6. BID ACCEPTANCE PERIOD:..... 7

7. PROMPT PAYMENT DISCOUNTS:..... 7

8. PURCHASE ORDER: 8

9. APPLICABLE LAWS AND COURTS: 8

10. ANTI-DISCRIMINATION:..... 8

11. ETHICS IN PUBLIC CONTRACTING:..... 9

12. DEBARMENT STATUS:..... 9

13. ANTITRUST:..... 9

14. PAYMENT:..... 9

15. UNREASONABLE CHARGES:..... 9

16. PRECEDENCE OF TERMS: 10

17. QUALIFICATIONS OF BIDDERS: 10

18. ASSIGNMENT OF CONTRACT:..... 10

19. CHANGES TO THE CONTRACT:.....	10
20. DEFAULT:	10
21. TAXES:	10
22. ANNOUNCEMENT OF AWARD:.....	10
23. DRUG-FREE WORKPLACE:.....	11
24. NONDISCRIMINATION OF CONTRACTORS:	11
25. AVAILABILITY OF FUNDS:.....	11
26. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:.....	11
27. AUDIT:.....	12
28. INDEMNIFICATION:.....	12
29. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:	12
30. CONTRACTOR’S LICENSE:.....	12

CONTENT OF GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT:.....	13
1. CONTRACT DOCUMENTS:.....	13
2. LAWS AND REGULATIONS	13
3. BUILDING PERMIT:.....	14
4. PROHIBITION OF ALCOHOL AND OTHER DRUGS.....	15
5. TIME FOR COMPLETION	16
6. CONDITIONS AT SITE.....	17
7. MATERIALS OR EQUIPMENT STORED OFF THE SITE.....	18
8. CONTRACT SECURITY – PERFORMANCE BOND	18
9. SUBCONTRACTS.....	19
10. SEPARATE CONTRACTS	20
11. CONTRACTOR’S AND SUBCONTRACTOR’S INSURANCE	20
12. “ALL RISK” BUILDER’S RISK INSURANCE	21
13. TAXES, FEES AND ASSESSMENTS	22
14. ARCHITECT/ENGINEER’S STATUS.....	23
15. INSPECTION	24
16. SUPERINTENDENCE BY CONTRACTOR.....	26
17. CONSTRUCTION SUPERVISION, METHODS AND PROCEDURES	27
18. SCHEDULE OF THE WORK	27
19. SCHEDULE OF VALUES AND CERTIFICATE FOR PAYMENT	31
20. ACCESS TO WORK	31
21. SURVEYS AND LAYOUT	31
22. PLANS AND SPECIFICATIONS	32
23. SUBMITTALS AND PROJECT RECORDS.....	33
24. FEES, SERVICES AND FACILITIES.....	36
25. EQUALS	37
26. AVAILABILITY OF MATERIALS.....	37
27. CONTRACTOR’S TITLE TO MATERIALS	37
28. STANDARDS FOR MATERIALS INSTALLATION & WORKMANSHIP	37
29. WARRANTY OF MATERIALS AND WORKMANSHIP	39

30. USE OF SITE AND REMOVAL OF DEBRIS	39
31. SIGNS	40
32. PROTECTION OF PERSONS AND PROPERTY.....	40
33. CLIMATIC CONDITIONS.....	41
34. PAYMENTS TO CONTRACTOR	41
35. CHANGES IN THE WORK	44
36. EXTRAS.....	45
37. CONTRACTOR’S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT	46
38. OWNER’S RIGHT TO TERMINATE THE CONTRACT FOR CAUSE	46
39. TERMINATION BY OWNER FOR CONVENIENCE	47
40. DAMAGES FOR DELAYS; EXTENSION OF TIME.....	48
41. INSPECTION FOR SUBSTANTIAL COMPLETION & FINAL COMPLETION.....	50
42. GUARANTEE OF WORK AND INDEMNIFICATION	51
43. ASSIGNMENTS	53
44. CONTRACTUAL DISPUTES	53
45. ASBESTOS.....	54
46. PROJECT MEETINGS.....	54
47. DEFINITIONS	57

GENERAL CONDITIONS

1. STATEMENT OF WORK

The City of Fairfax (“City” or “Owner”) is soliciting competitive bids from licensed, qualified firms for the Work as described in the “Summary” (Section 01 10 00). The awarded Contractor shall provide all necessary labor, supervision, equipment, tools, material, transportation and resources necessary to complete the described Work in accordance with the Contract Documents.

This solicitation is being conducted in accordance with the guidelines of the Competitive Sealed Bidding method of contractor selection per Fairfax City Purchasing Resolution, which is incorporated herein by reference.

All bids submitted shall be binding for forty five (45) calendar days following the bid opening date, unless extended by mutual consent of both parties.

All references to the Owner shall be interpreted to mean the City of Fairfax, Virginia.

2. PRE-BID MEETING

A voluntary Pre-Bid Meeting will be held at the Project Site on Tuesday, November 30, 2021 at 10:00 AM for the purpose of identifying the Project and providing information that will assist bidders in completing the Bid Form and all necessary documents. Questions will be received by the City during the meeting and an addendum containing summary minutes will be posted on the Commonwealth of Virginia eVA website.

For those bidders wishing to examine the crawlspace beneath the portico, access will be made available on December 2, 2021. Bidders interested in seeing the crawlspace shall make an appointment at the pre-bid conference. 45-minute inspection intervals will be provided. During the pre-bid conference interested bidders will be allowed to select a time slot when they can visit the crawlspace on their own. Bring your own flashlight. No questions will be answered during the visits. Any questions shall be directed to the Architect who will provide answers in an addendum.

3. COMPETITION INTENDED

The City intends to promote competition for this solicitation. It shall be the bidder’s responsibility to advise the City if any language, requirements or specifications have the effect of restricting or limiting the purchase to a single source. Such notification must be received by the City’s Purchasing Agent no later than ten (10) calendar days prior to the date and time set for bid opening. A review of such notifications will be completed, and the bidder notified of the results of the review and revisions if necessary.

4. QUALIFICATION OF BIDDERS

Each bidder may be required, before the award of contract, to show to the complete satisfaction of the City that it has the necessary facilities, ability, and financial resources to comply with the contract and furnish the Work specified herein in a satisfactory manner. Attention is called to the fact that the bidder in signing the bid, represents that he has the financial ability and experience to carry out the work throughout its several stages within the time for completion set forth on the Bid Form.

The City of Fairfax Old Town Hall is a contributing building in the Fairfax Historic District which is listed on the National Register of Historic Places. All work done on this project must conform to the Secretary of the Interior’s Standards for the Treatment of Historic Properties and shall therefore be directed towards its preservation and protection.

Bidders must demonstrate the following to the satisfaction of the Owner:

GENERAL CONDITIONS

- a. Applicable experience of the firm including verifiable, successful experience in Project Supervision and Administration of historic preservation projects (minimum 3 projects).
- b. The bidder's project superintendent/manager has verifiable, successful experience in Project Supervision and Administration of Historic Preservation Projects.
- c. That the bidder has staff, either on the payroll or through the use of qualified subcontractors, to carry out the special requirements of this project including 1) stone masonry restoration and cleaning, 2) wood flooring installation, 3) finish carpentry including wood repair, 4) surface preparation and painting of historic structures, and 5) landscaping.

To demonstrate the preservation qualifications of the bidder's team, including project superintendent/manager and specialty subcontractors, as called for in paragraph 8.2, submit the following information with the bid:

- a. A list showing successful experience in Project Supervision and Administration of similar Historic Preservation Projects. This experience shall include at least three (3) projects involving historic buildings of similar scope of work as this project, completed within the past five (5) years. At least one of the projects must have been reviewed by a State Historic Preservation Office, or the historic review body of a county or municipal authority. Each project must have cost at least \$500,000. The list shall include location, cost, date completed, owner's name and address, and architect's name.
- b. For purposes of this Qualification, "similar project" shall be understood to include the following elements: 1) repointing and reconstruction of historic masonry, 2) repair of historic wood finish members, including partial replacement of damaged members, and reproduction of new members to match existing, and 3) stripping of paint from a historic wood substrate with chemical strippers.

A resume of the bidder's proposed project superintendent/manager who will be directly involved in the execution of the project showing experience on at least three (3) historic preservation projects of similar scope and size for which the individual had similar responsibilities either with the bidder or with another company, and which have been completed within the past five (5) years. Include location, cost, date completed, owner's name and address, and architect's name.

If the following items of work will be accomplished by subcontractors the list shall include their names and information indicating their experience with this type of historic preservation work, 1) restoration of historic stone masonry, stripping of existing paint and application of paint on historic materials, and 3) finish carpentry including repair of historic wood finish members, wood flooring, and wood columns.

5. CITY OF FAIRFAX BUSINESS LICENSE

Contractor must comply with the City's required business license for Contractors working within the City. For information regarding this requirement, contact the City's Commissioner of the Revenue's office, Suite 234, 10455 Armstrong Street, Fairfax, Virginia 22030; telephone number (703) 385-7905.

6. ACCURACY OF SOLICITATION DOCUMENTS

Each bidder is responsible for having determined the accuracy and/or completeness of the solicitation documents upon which it relied in making its bid, and has an affirmative obligation to notify the City's

GENERAL CONDITIONS

Purchasing Agent immediately upon discovery of an apparent or suspected inaccuracy, error in, or omission of any pages, drawings, sections, addenda whose omission from the documents was apparent from a reference or page numbering or other indication in the solicitation documents.

Failure to acknowledge all addenda issued during the solicitation process on the "ADDENDUM RECEIVED" section of the Bid Form may cause the bid to be deemed incomplete.

7. QUESTIONS AND ADDITIONAL INFORMATION

All questions relating to this solicitation shall be submitted via email to Procurement@fairfaxva.gov.

Please include IFB No. 22032 Questions on the subject line of the e-mail. Questions should be succinct and must include the submitter's name, title, company name, company address, and telephone number. Prior to the award of a contract resulting from this solicitation, bidders are prohibited from contacting City staff other than the Purchasing Agent.

Inquiries must be received by the City Purchasing Agent prior to seven (7) days of the Due Date set for the opening of bids, will be given full consideration. Any material question or interpretation of a requirement or specification, as determined by the City Purchasing Agent, will be expressed in the form of an addendum which will be posted on the eVA website. Questions received later than seven (7) days before the Due Date set for receipt of bids will not be answered.

Oral answers, or answers provided by other than the City Purchasing Agent, will not be authoritative and will not be honored in a forthcoming contract.

8. BID FORM SUBMISSION

The required Bid Form is provided with the solicitation. Timely submission is solely the responsibility of the bidder. Bid Forms received after 3:00 PM on the specified date will be rejected. A bidder's failure to submit a bid with a fully completed Bid Form, using the Bid Form provided with this solicitation, shall be cause for rejection of that bidder's bid. A bid will be rejected if its corresponding Bid Form is not signed in the designated space by a person authorized to legally bind the bidder.

The Bid Form shall be accompanied by the resumes and qualification statements required in Paragraph 4 of this IFB. Modification of or additions to the Bid Form may be cause for rejection of the bid; however, the City reserves the right to decide, on a case by case basis, in its sole discretion, whether or not to reject such a bid as nonresponsive.

Any estimate of quantities in the Contract Documents is approximate only and shall be the basis for receiving unit price bids for each item, but shall not be considered by the Bidder as the actual quantities that may be required for the completion of the proposed work. Bidder shall state a unit price for every item of work named in the Proposal. Bidder shall include, in the unit prices, furnishing of labor, materials, tools, equipment, and apparatus of every description to construct, erect, and finish the Work. The unit price bid for the items shall be shown numerically and in the appropriate spaces provided on the Bid Form. Such figures shall be clear and distinctly legible so that no question can arise as to their intent or meaning. Unit price bids and totals shown in the Bid Form shall not include costs of engineering, advertising, printing and appraising.

GENERAL CONDITIONS

9. NONCONFORMING TERMS AND CONDITIONS

If a bidder submits with its bid alternate terms and conditions that do not conform to the terms and conditions in this solicitation, the bid will be subject to rejection for being non-responsive. The City reserves the right to permit the bidder to withdraw nonconforming terms and conditions from its bid prior to a determination by the City of being non-responsive as a result of the submission of nonconforming terms and conditions.

10. UNBALANCED BIDS

“Unbalanced bid” is a bid which includes a number of unit prices quoted in the Bid Form for which a bidder quotes higher prices on items expected to be ordered in higher quantities than those used for bid evaluation, and/or low prices on items the bidder believes will be ordered in smaller quantities. Bidders are cautioned not to unbalance their bids. The City reserves the right to reject any bid that is decisively unbalanced.

11. ERRORS IN EXTENSION

Where the written Unit Price and the numerical Unit Price are at variance, the numerical Unit Price will prevail.

12. EXPENSES INCURRED IN PREPARING BID

The City accepts no responsibility for any expense incurred by any bidder in the preparation and presentation of a bid. All expenses related to a bid are the sole responsibility of the bidder.

13. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK

Each bidder acknowledges by submitting a bid that it has taken steps reasonably necessary to ascertain the nature and locations of the Work of the solicitation, and that it has investigated and satisfied itself as to the general and local conditions and factors which can affect the Work or its cost.

14. INFORMALITIES

The City reserves the right to waive minor defects or variations from the exact requirements of the solicitation in a bid insofar as those defects or variations do not affect the price, quality, quantity, or delivery schedule of the Work being procured. If insufficient information is submitted for the City to properly evaluate the bid by a bidder, the City reserves the right to require such additional information as it may deem necessary after the bid opening time and date, provided that the information requested does not change the price, quality, quantity, or delivery schedule for the Work being procured.

15. BID WITHDRAWAL:

- a. Bids may be withdrawn after it is filed with the City providing the bidder makes a request in writing to the City prior to the time and date set for the opening of bids.
- b. Bids may be withdrawn after opening of the bid in accordance with the Fairfax City Purchasing Resolution Article 4.

16. INTEREST IN MORE THAN ONE BID AND COLLUSION

Multiple bids received in response to this solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected. Reasonable grounds for believing that a bidder is interested in more than one (1) bid for a solicitation both as a bidder and as a subcontractor for another bidder will result in rejection of all bids in which the bidder is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two (2) or more bidders submitting a bid for the Work. Any or all bids may be rejected if reasonable grounds exist for

GENERAL CONDITIONS

believing that collusion exists among any bidders. Bidders rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.

17. INSURANCE REQUIREMENTS

Each bidder must review the insurance requirements section in the General Conditions of the Construction Contract with its insurance agent or broker prior to submitting a bid to ensure they can provide the specific coverage requirements and limits applicable to this solicitation.

18. FAILURE TO COMPLETE ON TIME GENERAL

For each calendar day the Project remains incomplete after the Contract Completion Date specified the City will assess liquidated damages against the Contractor. Liquidated damages will be assessed as specified below. Liquidated damages will be deducted from any monies due the Contractor, not as a penalty, but as liquidated damages. The Contractor waives any defense as to the validity of any liquidated damages stated in the Contract or these Specifications and assessed by the City against the Contractor on the grounds that such liquidated damages are void as penalties or are not reasonably related to actual damages.

Liquidated Damages: The following amount of Liquidated Damages, representing the cost of loss of use of building, relocation of the event, administration, engineering, supervision, inspection and other expenses, will be charged against the Contractor for each calendar day beyond the Contract time limit that the Contract remains in an incomplete state: \$750 per day

19. BID SURETY REQUIRED

A fully completed and properly executed original Bid Bond, cashier's check, certified check, money order, or cash escrow in the amount of five percent (5%) of the amount of the bid made payable to the Treasurer of the City shall accompany each bid. Bid Surety may be retained until after the award to the successful bidder is made. The Bid Surety of the successful bidder shall be retained until completion of the Contract or the posting of a Performance Bond, whichever occurs sooner. A bid submitted without a bid surety, or with a bid surety in an amount less than the required amount, shall be rejected. The attached form shall be utilized for submission of bid bonds.

20. ALTERNATE SURETY

If approved by the City Attorney, a bidder may furnish a personal bond, property bond, or bank or savings and loan association's letter of credit on certain designated funds in the face amount required for the bid bond, payment bond or performance bond. Approval shall be granted only upon a determination by the City that the alternative form of security proffered affords protection to the City equivalent to a corporate surety's bond.

21. ESCROW ACCOUNT FOR RETAINED FUNDS

Subject to Article 2 Section 3 of the Fairfax City Purchasing Resolution, the bidder shall have an option for the contractor to use an escrow account procedure for utilization of the political subdivision's retainage funds by so indicating in the space provided in the proposal documents. In the event the contractor elects to use the escrow account procedure, the escrow agreement form included in the Bid Proposal and Contract shall be executed and submitted to the City within fifteen calendar days after notification. If the escrow agreement form is not submitted within the fifteen-day period, the contractor shall forfeit his rights to the use of the escrow account procedure.

GENERAL CONDITIONS

22. EXECUTION OF AGREEMENT

Within fifteen (15) calendar days after the Agreement forms are presented by the City to the successful Bidder for signature, the Contractor shall deliver to the City Purchasing Agent three (3) copies of the executed Agreement. Within the same fifteen (15) day period, the Contractor shall deliver to the City Purchasing Agent executed performance and payment bonds and the required certificate(s) of insurance. Failure by the Contractor to execute the Agreement and to supply any required bonds and certificates within the stipulated fifteen (15) day period, or within such extended period as the City Purchasing Agent may grant, shall constitute a default, and the City may award the Contract to the next lowest responsive and responsible bidder or solicit new bids. The City may then charge the Contractor's bond for the difference between the amount of the Contract award and the amount for which a Contract is subsequently executed, up to the total amount of the Contractor's bid security.

23. BID FORM

The Bid Form is due no later than 3:00 PM on December 14, 2021 via the eVA procurement portal eva.virginia.gov.

A separate Bid Form is included as Exhibit A and is part of the Contract Documents and shall be used to submit bids along with the Bid Bond.

END OF SECTION

TERMS AND CONDITIONS

1. PURPOSE:

The intent of this solicitation is to establish a single project contract for Old Town Hall Rehabilitation Phase 1 for the City of Fairfax, VA.

2. SCOPE OF WORK:

The scope of services in this solicitation is provided in the Summary section of Division 1 (01 10 00).

3. CONTRACT TERM:

The term of the contract shall be **225 Calendar Days** MEASURED FROM THE NOTICE TO PROCEED INCLUDING ALL TEMPORARY WORK STOPPAGES for the events described in the Project Manual, Division 1, "Summary" Section 01 10 00.

4. BID SUBMISSION:

Sealed Bids shall be received and time stamped online through the eVA website, no later than the date stipulated in the Bid Form, ("Bid Closing") and will be publicly posted, following the Bid Closing. Bidders are responsible for ensuring its submission prior to Bid Closing. The time a Bid is received shall be determined by the time stamp on the Bid receipt by the time clock on the eVA Sourcing and Contracting website. The City of Fairfax is not responsible for any technical difficulties which may result in the Bidders response not uploading in time, or any responses that are not properly uploaded. **The City will not receive any bids in person. The Fairfax City Hall is open for appointments only; therefore, paper bids will not be accepted.** Any paper bids received will be not be considered and will be returned, unopened, to the bidder. Bids received after the Bid Closing shall not be considered.

The successful Bidder will be required to execute an Agreement with the Owner on a form identical to the Agreement Form included with the Contract Documents and the Performance and Payment Bond and Certification of Insurance within fifteen (15) days after receipt of the Agreement. Failure of the Bidder to do so may result in the Bidder being rejected and could result in disqualification and forfeiture of bid bond.

5. AWARD:

An award will be made to the lowest responsive and responsible bidder. Evaluation will be based on the Base Bid. Unit prices, extensions and total must be shown. In case of arithmetic errors, the unit price will govern. If cash discount for prompt payment is offered, it must be clearly shown in the space provided. Discounts for prompt payment will not be considered in making awards. The City reserves the right to reject any and all bids in whole or in part, to waive any informality, and to negotiate or delete items prior to making an award.

6. BID ACCEPTANCE PERIOD:

Any bid in response to this solicitation shall be valid for forty five (45) days. At the end of this period the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.

7. PROMPT PAYMENT DISCOUNTS:

The City will pay within 30 days after acceptance and receipt of a proper invoice. A prompt payment discount offered for prompt payment of (15) calendar days or less will not be calculated in determining lowest Base Bid.

TERMS AND CONDITIONS

8. PURCHASE ORDER:

A purchase order must be issued prior to issuing the Notice to Proceed. The period specified for performance of the purchase order may extend past the term of the Contract. If a notice terminating this Contract is issued, the notice shall be construed as applying only to the Contract and not to any existing purchase order, unless the notice expressly states the intent to terminate the purchase order.

9. APPLICABLE LAWS AND COURTS:

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia, without regard to its choice of law provisions, and any litigation with respect thereto shall be brought in the circuit courts of the Commonwealth. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

10. ANTI-DISCRIMINATION:

By submitting their bids, bidders certify to the City that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia, § 2.2-4343.1E*).

1. During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

d. The requirements of these provisions 1. and 2. are a material part of the contract. If the Contractor violates one of these provisions, the City may terminate the affected part of this contract for breach, or at its option, the whole contract. Violation of one of these provisions may also result in debarment regardless of whether the specific contract is terminated.

2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

TERMS AND CONDITIONS

11. ETHICS IN PUBLIC CONTRACTING:

By submitting their bids, bidders certify that their bids are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

12. DEBARMENT STATUS:

By participating in this procurement, the vendor certifies that they are not currently debarred by the City of Fairfax from submitting a response for the type of goods and/or services covered by this solicitation. Vendor further certifies that they are not debarred from filling any order or accepting any resulting order, or that they are an agent of any person or entity that is currently debarred by the City of Fairfax.

If a vendor is created or used for the purpose of circumventing a debarment decision against another vendor, the non-debarred vendor will be debarred for the same time period as the debarred vendor.

13. ANTITRUST:

By entering into a contract, the contractor conveys, sells, assigns, and transfers to the City of Fairfax all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the City of Fairfax under said contract.

14. PAYMENT:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the contract number and/or purchase order number.
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. Invoices shall be submitted to:
City of Fairfax – Accounts Payable or accountspayable@fairfaxva.gov
andrewm@jmapreservation.com and andrew.wilson@fairfaxva.gov
10455 Armstrong Street, Suite 312
Fairfax, VA 22030

15. UNREASONABLE CHARGES:

Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be resolved in accordance the Fairfax City Purchasing Resolution.

TERMS AND CONDITIONS

16. PRECEDENCE OF TERMS:

The following Contract Terms and Conditions, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other Contract Terms and Conditions and any General Conditions of the Construction Contract in this solicitation, the General Conditions shall apply.

17. QUALIFICATIONS OF BIDDERS:

In addition to the resumes and qualification statement required in Paragraph 4 of the IFB, the City may make such reasonable investigations as deemed proper and necessary to determine the ability of the bidder to perform the services/furnish the goods and the bidder shall furnish to the City all such information and data for this purpose as may be requested. The City reserves the right to inspect bidder's physical facilities prior to award to satisfy questions regarding the bidder's capabilities. The City further reserves the right to reject any bid if the evidence submitted by, or investigations of, such bidder fails to satisfy the City that such bidder is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

18. ASSIGNMENT OF CONTRACT:

A contract shall not be assignable by the contractor in whole or in part without the written consent of the City.

19. CHANGES TO THE CONTRACT:

The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.

20. DEFAULT:

In case of failure to deliver goods or services in accordance with the contract terms and conditions, the City, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the City may have.

21. TAXES:

Sales to the City are normally exempt from State sales tax when the purchase is made by the City. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The City's excise tax exemption registration number is A-212973.

22. ANNOUNCEMENT OF AWARD:

Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the City will publicly post such notice on the Virginia Business Opportunities website (www.eva.virginia.gov).

TERMS AND CONDITIONS

23. DRUG-FREE WORKPLACE:

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "*drug-free workplace*" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

24. NONDISCRIMINATION OF CONTRACTORS:

A bidder, offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

25. AVAILABILITY OF FUNDS:

It is understood and agreed between the parties herein that the City shall be bound hereunder only to the extent that the City Council has appropriated funds that are legally available or may hereafter become legally available for the purpose of this agreement.

26. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:

A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

TERMS AND CONDITIONS

27. AUDIT:

The contractor shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the City of Fairfax, whichever is sooner. The City its authorized agents, and/or City auditors shall have full access to and the right to examine any of said materials during said period.

28. INDEMNIFICATION:

Contractor agrees to indemnify the City of Fairfax, its officers, agents, and employees for any loss, liability, cost, or reasonable settlement cost incurred as a result of any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the contractor/any services of any kind or nature furnished by the contractor, provided that such liability is not attributable to the sole negligence of the using agency or to failure of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the contractor on the materials, goods or equipment delivered.

29. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:

Pursuant to Code of Virginia, §2.2-4311.2 subsection B, a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of Contractor's statement describing why the bidder or offeror was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.

30. CONTRACTOR'S LICENSE:

Class A contractor's license required.

END

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

CONTENT OF GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT:

The following General Conditions are taken from the Virginia Department of General Services, Division of Engineering and Buildings, document DGS-30-054. Unless noted paragraphs match DGS-30-054. Definitions are included under paragraph 46 herein.

1. CONTRACT DOCUMENTS:

Contract Documents are specified in the Agreement.

2. LAWS AND REGULATIONS

- a. The Contractor shall comply with the Virginia Uniform Statewide Building Code and all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work and shall give all notices required thereby. The Contractor shall assure that all Subcontractors and tradespeople who perform Work on the Project are properly licensed by the Department of Professional and Occupational Regulation as required by Title 54.1, Chapter 11, and Article 1 of the *Code of Virginia* and by applicable regulations.
- b. This Contract and all other contracts and Subcontracts are subject to the provisions of Article 3, Chapter 4, Title 40.1, *Code of Virginia*, relating to labor unions and the "right to work." The Contractor and its Subcontractors, whether residents or nonresidents of the Commonwealth, who perform any Work related to the Project shall comply with all of the said provisions.
- c. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By signing the bid, the Contractor certifies that it does not and shall not during the performance of this Contract knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986, or otherwise violate its provisions.
- d. E-VERIFY PROGRAM: Pursuant to *Code of Virginia*, § 2.2-4308.2, any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with the City of Fairfax to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions may be debarred from contracting with the City of Fairfax for a period up to one year. Such debarment may cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.
- e. In performing the Work under this Contract, the Contractor shall comply with the provisions of all rules and regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia and as issued by the Department of Labor and Industry under Title 40.1 of the *Code of Virginia*. Inspectors from the Department of Labor and Industry shall be granted access to the Work for inspection without first obtaining a search or administrative warrant.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

3. BUILDING PERMIT:

The City of Fairfax, codes or zoning ordinances apply to Work at the Site. The Building Permit will be obtained and paid for by the Owner. All other permits, local license fees, business fees, taxes, or similar assessments imposed by the appropriate political subdivision and the Department of Environmental Quality shall be obtained and paid for by the Contractor.

- a. The Contractor shall include in each of its Subcontracts a provision requiring each Subcontractor to include or otherwise be subject to the same payment and interest requirements Section 33 of these General Conditions with respect to each lower-tier Subcontractor and Supplier.
- b. The Contractor, if not licensed as an asbestos abatement contractor in accordance with *Code of Virginia*, § 54.1-514, shall have all asbestos-related Work performed by Subcontractors who are duly licensed as asbestos contractors for the Work required.
- c. Lead-Based Paint Activities: If the Contract Documents indicate that lead-based paint is present on existing materials, components, or surfaces, the Contractor shall conform to the following:
 1. The requirements set forth in 40 CFR 745.233 – Lead-Based Paint Activities Requirements in selecting and performing the means, methods and procedures for performing the Work. This includes, but is not limited to, training of personnel, lead abatement, encapsulation of lead-containing materials, removal and handling of lead-containing materials, and methods of disposal.
 2. The requirements for employee protection contained in 29 CFR Part 1926, Subpart D, and the requirements for record-keeping contained 29 CFR Part 1910.
 3. The Virginia Department of Labor and Industry's (DLI) Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees published in the Virginia Administrative Code, 16 VAC25-35, requiring, among other things, that a permit be issued to the lead abatement contractor, or any subsequent regulation issued by DLI pertaining to lead-based paint abatement.
- d. If the Contractor violates laws or regulations that govern the Project, the Contractor shall take prompt action to correct or abate such violation and shall indemnify and hold the Owner harmless against any fines and/or penalties that result from such violation. The Contractor also shall indemnify and hold the Owner harmless against any third-party claims, suits, awards, actions, causes of action or judgments, including but not limited to attorney's fees and costs incurred thereunder, that arise or result from Contractor's violation of laws or regulations.
- e. If the Work includes any land-disturbing activities, the Contractor shall have on-Site an individual certified by the Department of Environmental Quality as a Responsible Land Disturber in accordance with *Code of Virginia*, § 62.1-44.15:51.
- f. The Contractor is neither required nor prohibited from entering into or adhering to agreements with one or more labor organizations, or otherwise discriminating against

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Subcontractors for becoming or refusing to become, or remaining signatories to or otherwise adhering to, agreements with one or more labor organizations. This section does not prohibit Contractor or Subcontractors from voluntarily entering into agreements with one or more labor organizations. Both the Agency and Contractor are entitled to injunctive relief to prevent any violation of this section.

This section does not apply to any public-private agreement for any construction in which the private body, as a condition of its investment or partnership with the state agency, requires that the private body have the right to control its labor relations policy and perform all work associated with such investment or partnership in compliance with all collective bargaining agreements to which the private party is a signatory and is thus legally bound with its own employees and the employees of its contractors and subcontractors in any manner permitted by the National Labor Relations Act, 29 U.S.C. § 151 *et seq.*, or the Railway Labor Act, 45 U.S.C. § 151 *et seq.*

This section does not prohibit an employer or any other person covered by the National Labor Relations Act or the Railway Labor Act from entering into agreements or engaging in any other activity protected by law.

This section shall not be interpreted to interfere with the labor relations of persons covered by the National Labor Relations Act or the Railway Labor Act.

4. PROHIBITION OF ALCOHOL AND OTHER DRUGS

The Contractor shall establish a written policy to maintain and enforce a drug-free workplace, to specify actions that will be taken against persons for violations of the policy, and to require that such policy be binding on each of its employees, Subcontractors, and Suppliers performing Work of the Contract.

The Contractor's policy shall prohibit the following acts by all Contractor, Subcontractor, and Supplier personnel at the Site:

The manufacture, distribution, dispensation, possession, or use of a controlled substance or marijuana, except possession and medically prescribed use of prescription drugs; and the impairment of judgment or physical abilities due to the use of a controlled substance or marijuana, including impairment from prescription drugs.

The Contractor shall post a copy of this policy in a conspicuous place at the Site and assure that all personnel, including potential hires, are advised of the policy. A violation of this policy will be recognized as a breach of Contract and may result in termination of the Contract.

The Contractor shall include in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace.

The Contractor shall include the foregoing provisions as binding upon each Subcontractor and Supplier in every subcontract or purchase order over \$10,000.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter,

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

5. TIME FOR COMPLETION

- a. The Contractor shall achieve Substantial Completion on or before the Completion dates specified in the Agreement. Unless otherwise specified, the Contractor shall achieve Final Completion within thirty (30) days after Substantial Completion.
- b. The Contractor acknowledges and agrees that the Owner is relying upon the Time for Substantial Completion for the use and Beneficial Occupancy of the Work. If the Contractor fails to achieve Substantial Completion by the Completion Date, the Contractor shall be subject to liquidated damages as provided in the Bid Form.
- c. The Contractor shall commence Work under the Contract on or before the date specified in the Contract and shall substantially complete within the number of consecutive calendar shown in the Agreement.
- d. The Contractor shall increase its forces, work overtime, double shifts, or take other measures necessary in order to protect the Work or to substantially complete the Work within the established time limit.
- e. The Contractor, in submitting its bid or proposal, acknowledges that the Time for Completion is a reasonable duration and period for performing the Work and that it has taken into consideration normal weather conditions for the period of performance. Normal weather does not mean statistically average weather, but rather means a range of weather patterns which might be anticipated based on weather conditions and events for the past ten (10) years. Normal weather conditions shall be determined from the public historical records available, including the U.S. Department of Commerce, Local Climatological Data Sheets, National Oceanic and Atmospheric Administration Environmental Data and Information Service, National Climatic Center and National Weather Service. The data sheets to be used shall be those for the locality or localities closest to the Site. No additional compensation, costs or damages will be paid to the Contractor because of normal weather conditions, including normal adverse weather to be anticipated during the Project. An extension of time for abnormal adverse weather conditions which directly impact the Work will be considered by the Owner upon under the following conditions, all of which must be strictly complied with and demonstrated by the Contractor:
 1. A request for extension of time-based on abnormal adverse weather conditions must be made in writing within fourteen (14) Days of the completion of the calendar month during which the abnormal adverse weather conditions impacted the Work at the Site. The request for additional time shall be substantiated by weather data collected during the period of delay at the Site. Said data must demonstrate an actual departure from weather conditions that could have been anticipated at the Site during the dates in question.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

2. The abnormal adverse weather must have caused a delay to the Contract Completion Date as a result of a delay to the Critical Path as depicted on the accepted "critical path method" schedule or the approved bar graph schedule current at the time of the weather event. No extension will be considered for any portion of any delay which consumes only Float.
3. All of the evidence and data supporting the request (including both historical data and the recordings at the Site during the time of delay) must be furnished to the Owner before the end of the calendar month following the month for which the request is made.

Compliance with the requirements of this section is a condition precedent to the Contractor's entitlement to any change or adjustment to the Contract Completion Date for impacts from abnormal weather conditions.

- f. The Contractor's execution of the Contract is a representation and agreement that the Contractor has visited the Site and reviewed the requirements of the bid documents, the Contract Documents, local conditions, availability of materials, equipment, and labor, the reasonable time required for the Owner to respond to Submittals, and any other factors which may affect the performance of the Work, and has taken all these factors into consideration in submitting its bid and executing this Contract.

6. CONDITIONS AT SITE

The Contractor shall have visited the Site prior to bidding or submitting its proposal and is totally responsible for having ascertained pertinent local conditions such as location, accessibility and general character of the Site, and the character and extent of existing conditions, improvements and work within or adjacent to the Site. The Contractor shall not submit any claims or any request for adjustments of the Contract Price or Contract Completion Date which result from its failure to consider such conditions. (see Project Manual 01 70 00).

If in the performance of the Work the Contractor encounters (i) hidden physical conditions of a building being modified which are materially different from those ordinarily encountered or generally recognized as inherent in the activities being performed or (ii) subsurface or concealed latent conditions which are materially different from those frequently present in the locality or from those indicated in the Contract Documents, the Contractor shall promptly provide Notice to the Owner and A/E before the conditions are disturbed and not later than seven (7) Days after discovery. The A/E shall promptly review the conditions and propose such changes or adjustments, if any, in the Contract Documents that may be necessary to address the conditions. The Contractor must request any change in the Contract Price or Contract Completion Date for such conditions pursuant to the applicable requirements of these General Conditions. Compliance with the requirements of this section is a condition precedent to the Contractor's entitlement to any change or adjustment in the Contract Price or Contract Completion Date as a result of such Site conditions.

If the Contractor, during the course of the Work, observes the existence of any material which he knows, should know, or has reason to believe is hazardous to human health, the Contractor shall promptly notify the Owner in writing before the material is disturbed further or the affected work is performed. The Owner will provide the Contractor with instructions regarding the disposition of the material. The Contractor shall not perform any Work involving the material or any Work causing the

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

material to be less accessible prior to receipt of special instructions from the Owner. The Contractor must request any change in the Contract Price or Contract Completion Date for such conditions pursuant to the applicable requirements of these General Conditions. Compliance with the requirements of this section is a condition precedent to the Contractor's entitlement to any change or adjustment in the Contract Price or Contract Completion Date as a result of such Site conditions.

7. MATERIALS OR EQUIPMENT STORED OFF THE SITE

The Owner will pay for materials and equipment stored off the site provided the following requirements are met:

- a. Material or equipment is stored in a secure, weathertight storage facility within the city limits of Fairfax, Virginia, or proximity thereof.
- b. Proof of insurance covering the stored materials is provided.
- c. Materials and equipment stored is segregated from other stored items and is tagged for this project.
- d. A bill of sale which indicates that the materials are for this project accompanies the request for payment.

8. CONTRACT SECURITY – PERFORMANCE BOND

The Contractor shall deliver to the Owner or its designated representative, a City of Fairfax Standard Performance Bond and a City of Fairfax Standard Labor and Material Payment Bond each fully executed by the Contractor and one or more surety companies legally licensed to do business in Virginia and each in an amount equal to one hundred percent (100%) of the Contract Price. If more than one Surety executes a bond, each shall be jointly and severally liable to the Owner for the entire amount of the bond. Sureties shall be selected by the Contractor, subject to approval by the Owner. No payment on the Contract shall be due and payable to the Contractor until the bonds have been approved by the Owner and the Office of the City Attorney.

For the purposes of all Standard Labor and Material Payment Bonds entered into, the term "subcontractors" as used in § 2.2-4337(A)(2) of the Code of Virginia is interpreted to mean any Subcontractors at any tier who participated in the prosecution of the Work undertaken by the Contractor (referred to in § 2.2-4337(A)(2) of the Code of Virginia as the "prime contractor"), whether such Subcontractor had a direct contract with the Contractor (prime contractor) or another Subcontractor, regardless of whether there were one or more other intervening Subcontractors contractually positioned between it and the Contractor (prime contractor).

Code of Virginia § 2.2-4338 allows for alternative forms of security in lieu of payment and/or performance bonds. No alternative forms of security shall be allowed unless approved in writing by Owner prior to Contractor's submission of its Bid or proposal.

Mechanic's liens may not be filed or recorded on Owner, Agency, or City property. The Contractor shall keep the Owner's property free and clear from all mechanic's liens. The Contractor shall, upon Notice from the Owner, cause any liens filed or recorded to be released within ten (10) Days from Notice at its cost and expense; and if the Contractor fails to do so, the Owner shall have the right, but

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

not the obligation, to cause such lien to be released by bonding or otherwise, and the Contractor shall indemnify and hold harmless the Owner from all costs and expenses incurred or to be incurred as a result, including bond premiums, court costs and attorneys' fees arising from or related to such liens. At the Owner's option, it may withhold payment of any sums due the Contractor until any such liens are released, and may deduct such costs or expenses from any payment then due or thereafter becoming due from the Owner to the Contractor.

9. SUBCONTRACTS

The Contractor shall, as soon as practicable after the signing of the Contract, notify the Owner and A/E in writing of the names of all Subcontractors proposed for the principal parts of the Work and of such others as the A/E may direct. Where the Specifications establish qualifications or criteria for Subcontractors, manufacturers, or individuals performing Work on the Project, the Contractor shall be responsible for ascertaining that those proposed meet the criteria or qualifications. The Contractor shall not employ any Subcontractor that the Owner may, within a reasonable time, object to as unsuitable. Neither the Owner nor the A/E shall direct the Contractor to contract with any particular Subcontractor unless provided in the Specifications or Invitation for Bids.

The Owner may select a particular Subcontractor for a certain part of the Work and designate on the Invitation for Bids or Request for Proposal that the Subcontractor shall be used for the part of the Work indicated and that the Subcontractor has agreed to perform the Work for the subcontract amount stipulated on the bid or Proposal form. The Contractor shall include the stipulated amount plus its markups in the bid or Proposal. In such case, the Contractor shall be responsible for that Subcontractor and its work and the Subcontractor shall be responsible to the Contractor for its work just as if the Contractor had selected the Subcontractor. If the Contractor has a reasonable objection to the Subcontractor designated, then the Contractor shall note the exception in its bid or proposal and the reason for the exception and maintain appropriate provisions for coordinating the work of the Subcontractor. The Owner, at its sole discretion, may accept the Contractor's bid or proposal with the exception noted and contract separately with the Subcontractor under the provisions of Section 10 of the Contract or designate a different Subcontractor.

The Owner shall, on request, furnish to any Subcontractor, if practicable, the amounts of payments made to the Contractor, the Schedule of Values and Requests for Payment submitted by the Contractor, and any other documentation submitted by the Contractor which would tend to show what amounts are due and payable by the Contractor to the Subcontractor.

The Contractor shall be fully responsible to the Owner for all acts and omissions of its agents and employees and all tiers of Subcontractors and Suppliers performing or furnishing any of the Work. Nothing in the Contract Documents shall create any contractual relationship between Owner or A/E and any Subcontractor, Supplier or other Person, nor shall it create any obligation on the part of Owner or A/E to pay for or to see to the payment of any moneys due any Subcontractor, Supplier or other Person, except as may otherwise be required by law.

The Contractor shall be fully responsible for its invitees at the Site and for those of its Subcontractors, Suppliers, and their employees, including any acts or omissions of such invitees.

The Contractor agrees that it is responsible for all dealings and coordination with Subcontractors and Suppliers, and their subcontractors, employees and invitees, including, but not limited to, the

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Subcontractors' or Suppliers' claims, demands, actions, disputes and similar matters unless specifically provided otherwise by the Contract or by statute.

10. SEPARATE CONTRACTS

The Owner reserves the right to let other contracts in connection with the Project, the work under which may proceed simultaneously with the execution of this Contract. The Contractor shall afford separate contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work. The Contractor shall cooperate with them and shall take all reasonable action to coordinate its Work with that of separate contractors. If the Owner has listed other separate contracts in the Invitation for Bids or Requests for Proposal which it expects to proceed simultaneously with the Work of the Contractor, and has included the estimated timing of such other contracts in the Invitation for Bids or Requests for Proposal, the Contractor shall integrate the schedule of those separate contracts into its scheduling. The Contractor shall make every reasonable effort to assist the Owner in maintaining the schedules for all separate contracts. If the work performed by a separate contractor is Defective or performed so as to prevent or threaten to prevent the Contractor from carrying out its Work according to the Contract, the Contractor shall immediately notify the Owner and the A/E upon discovering such conditions.

If a dispute arises between the Contractor and any separate contractor(s) as to their responsibility for cleaning up the Site, the Owner may clean up and charge the cost thereof to the respective contractors in proportion to their responsibility. If the Contractor disputes the Owner's apportionment of clean-up costs, it shall be the Contractor's burden to demonstrate and prove the correct apportionment. (see Project Manual 01 70 00).

11. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

The Contractor shall not commence Work under this Contract until all insurance required hereunder has been obtained from an insurer authorized to do business in Virginia and such insurance has been approved by the Owner. The Contractor shall provide to the Owner Certificates of Insurance for all required coverage and, upon request, shall provide full copies of the Contractor's insurance policies. Approval of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.

The Contractor shall procure and maintain, as required herein, the following insurance coverages:

1. Workers' Compensation and Employer's Liability Insurance to cover all employees engaged in the Work of a type and in an amount to meet all Commonwealth of Virginia statutory requirements and regulations to provide all benefits to which employees may be entitled, with limits no less than \$1,000,000 bodily injury by accident or disease, each employee. Where applicable, coverage shall be extended to cover any claims under the United States Longshoreman's Act and Harbor Workers Act and Jones Act as may be appropriate for the work.
2. Comprehensive General Liability insurance, including coverage for Broad Form Contractual, Premises/Operations, Product and Completed Operations, Independent Contractor's Liability, and Personal Injury Liability, with limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate, applicable on a per-project basis. The policy shall not exclude or limit

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

the amount of coverage for the Work of the Project or for explosion, collapse, underground operations, mold, or exterior insulation and finish system ("EIFS").

3. Automobile Liability Insurance with a limit of not less than \$1 million combined single limit for bodily injury and property damage per occurrence, covering all owned, non-owned, hired and borrowed vehicles, whether on-Site or off-Site.
4. Contractor or the Asbestos Subcontractor shall provide occurrence-based liability insurance with asbestos coverages in an amount not less than \$1,000,000. The following shall be named as additional insureds on this policy: the City of Fairfax, its officers, employees and agents; the A/E (if not the Asbestos Project Designer); and the Contractor (where the asbestos work is being performed by the Asbestos Subcontractor).

Unless otherwise specified, Contractor shall ensure that all insurance required by Subsection (b) above contains the following provisions:

5. With the exception of Workers' Compensation insurance, the City of Fairfax, the Owner, and their officers, employees and agents and the Architect shall be named as additional insureds on all policies. The additional insureds as stated for the asbestos coverage shall be as stated in Section 10 above.
6. All insurance coverage shall be considered primary and non-contributory with respect to other insurance that might be available to the Contractor, A/E, Owner, or Agency.
7. All insurers shall waive rights of subrogation against the City of Fairfax, Owner and Agency for any claims covered by the insurance required herein.
8. All deductibles or self-insured retentions shall be the sole responsibility of the Contractor.

No insurance will be canceled, dropped, replaced, or materially changed without at least thirty (30) Days' prior written Notice to, and consent of, the Owner.

Contractor shall require each Subcontractor to carry the same insurance, and in the same amounts, required by Section 10(5)-(7) above. The Contractor shall not allow any Subcontractor to commence Work on the Project until all insurance required of the Subcontractor by this Contract has been obtained by the Subcontractor and approved by the Contractor.

Prior to award of the Contract, the Contractor shall submit, on the form provided by the Owner, a Certificate of Coverage verifying Workers' Compensation insurance is in place. The Contractor shall likewise obtain a Certificate of Coverage for Workers' Compensation insurance from each Subcontractor and shall provide a copy to the Owner prior to the Subcontractor beginning Work at the Project.

12. **"ALL RISK" BUILDER'S RISK INSURANCE**

The Contractor shall procure and maintain, at its cost, all-risk Builder's Risk insurance with minimum coverage and limits as follows:

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

1. **Contractor Controlled During Construction:** If the Site is controlled by the Contractor during the Project, the Contractor shall maintain "all-risk" Builder's Risk insurance for the Work and the entire structure or structures, if any, on which the Work is to be done with a minimum limit of not less than the insurable value of the structure(s) plus one hundred percent (100%) of the Contract Price and the value of all Change Orders, to represent the total value of the structure(s) and the Work on a replacement cost basis.
2. **Owner Controlled During Construction:** If the Site is controlled by the Owner during the Project, the Owner will maintain insurance coverage on its building(s). The Contractor shall maintain "all risk" Builder's Risk insurance in an amount equal to one hundred percent (100%) of the Contract Price and the value of all Change Orders, to represent the total value of the Work on a replacement cost basis.

Builder's risk insurance shall be provided on an "all risk" or equivalent policy form and shall include, without limitation, insurance against all perils. The insurance shall cover the costs of debris removal, temporary buildings, legal requirements, and compensation for A/E services and Contractor services required following an insured loss. The insurance shall cover portions of the Work stored off-Site, Work in transit, and all materials, supplies, equipment, machinery, and fixtures that are or will be part of the Project.

Such insurance may include a deductible provision if the Owner so provides in the Supplemental General Conditions, in which case the Contractor will be liable for such deductible whenever a claim arises. Any loss payable under the Builder's Risk insurance shall be payable to the Owner, in accordance with its interests, as they may appear, and then to any other persons insured thereunder.

Written evidence of this insurance and a copy of the policy shall be provided to the Owner no later than thirty (30) Days following the award of the Contract. The policy shall not be canceled, dropped, replaced, or materially changed without at least thirty (30) Days' prior written Notice to and consent of the Owner.

Builder's risk insurance shall include the interest of the Contractor, the Owner, the City, and all Subcontractors and Sub-subcontractors. Contractor shall maintain the builder's risk insurance until Final Payment by the Owner or until no person other than the Owner has an insurable interest in the Work, whichever is later.

Any insurance provided through the Department of Treasury, Division of Risk Management, on buildings, construction, additions or renovations will not extend to Contractor's nor Subcontractors' buildings, equipment, materials, tools or supplies unless these items are to become property of the Owner upon completion of the Project and the Owner has assumed responsibility for such items at the time of the loss.

13. **TAXES, FEES AND ASSESSMENTS**

The Contractor shall, without additional expense to the Owner, pay all applicable federal, state, and local taxes, fees, and assessments arising out of the Work, except the taxes, fees and assessments on the real property comprising the Site.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

14. ARCHITECT/ENGINEER'S STATUS

The A/E shall have authority to endeavor to secure the faithful performance of the Work by Contractor. The A/E shall review the Contractor's Submittals for conformance to the requirements of the Contract Documents and return copies to the Contractor with appropriate notations. The A/E shall interpret the requirements of the Plans and Specifications and issue Field Orders to the Contractor as may be required. The A/E shall recommend to the Owner suspension of the Work (in whole or in part) whenever such suspension may be necessary to ensure the proper execution of the Work or the requirements of the Contract. The A/E shall have authority to reject, in writing, Work, including material, installation or workmanship, which does not conform to the Contract Documents or is Defective. The A/E shall determine the progress and quality of the Work, subject to the right of the Owner to make an overriding decision to the contrary. Upon request by the Contractor, the A/E shall confirm, in writing within fourteen (14) Days, any verbal order or determination made by the A/E.

The A/E shall have no authority to approve or order changes in the Work which alter the design concept or which call for an extension of the Contract Completion Date or Final Completion or a change in the Contract Price.

The Owner shall have the right, but not the duty, to countermand any decision of the A/E and to follow or reject the advice of the A/E, including but not limited to acceptance of the Work, as it deems best in its sole discretion. In those instances where the A/E has been given authority to act, the A/E shall promptly do so, but in the case of disagreement between the A/E and the Owner, the decision of the Owner shall be final. The Contractor shall not be bound by any determination, interpretation or decision of the A/E contrary to the A/E's authority or that is not consistent with the Contract Documents. The party taking issue with the determination, interpretation or decision of the A/E shall give the other party written notice of such fact within fourteen (14) days after the determination, interpretation or decision is communicated by the A/E. In the actual performance of the Work, the Contractor shall proceed in accordance with instructions given by the A/E unless the Owner and the Contractor mutually agree in writing or by Change Order that the Contractor shall proceed otherwise.

All orders from the Owner to the Contractor shall either be transmitted through the A/E or communicated directly to the Contractor and the A/E by the Owner.

Should the Owner choose to employ another or different A/E, the status of the A/E so employed shall be the same as that of the former A/E.

The A/E shall provide a progress report to the Owner and the Contractor after each A/E visit to the Site. The report shall be in writing indicating the date, time of day, weather conditions and the names of the persons representing the A/E who participated in the visit. The report shall advise the Owner of any problems that were noted or observed and shall compare the A/E's observations of the actual progress of the Work with that reported by the Contractor. On the basis of its on-Site observations, the A/E will make every reasonable effort to guard the Owner against delays, defects, and deficiencies in the Work of the Contractor. The A/E shall have the authority to inspect the Work, to note and report Defective Work and deviations from the Contract Documents to the Owner, to reject Work, and to recommend to the Owner the suspension of the Work when necessary to prevent Defective Work from proceeding or being covered.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

The A/E shall not be responsible for construction means, methods, techniques, sequences or procedures (other than those expressly specified in the Contract Documents), or for safety precautions and programs in connection with the Work. The A/E shall not be responsible for the Contractor's failure to carry out the Contractor's own responsibilities.

The A/E generally conveys written decisions and Notices to the Contractor through the Project Manager and shall generally receive information and Notices from the Contractor through the Project Manager unless otherwise agreed. The Owner may delegate from the A/E to the Project Manager certain inspection, verification, acceptance, rejection, and administrative duties and authority, but any such delegation shall be in writing and a copy thereof provided to the Contractor.

The provisions of this Section are included as information only to describe the relationship between the Owner, A/E, and Contractor. No failure of the A/E to act in accordance with this Section shall relieve the Contractor from its obligations under the Contract or create any rights in favor of the Contractor against the Owner.

15. INSPECTION

All material and workmanship shall be subject to inspection, examination and testing by the Owner, the A/E, the Project Inspector, authorized inspectors and authorized independent testing entities at any and all times during manufacture and/or construction. The A/E and the Owner shall have authority to reject Defective Work and non-conforming material and require its correction. Rejected workmanship shall be satisfactorily corrected and rejected material shall be satisfactorily replaced with proper material without charge therefore, and the Contractor shall promptly segregate and remove the rejected material from the Site. If the Contractor fails to proceed at once with replacement of rejected material and/or the correction of Defective Work, the Owner may replace such material and/or correct such Work and charge the cost to the Contractor, or may terminate the Contract as provided in Section 37 of these General Conditions, the Contractor and surety being liable for any damage to the same extent as provided in Section 37 for termination thereunder.

Site inspections, tests conducted on Site and tests of materials gathered on Site which the Contract requires to be performed by independent testing entities shall be contracted and paid for by the Owner. Examples of such tests are the testing of cast-in-place concrete, foundation materials, soil compaction, pile installations, caisson bearings and steel framing connections. The Contractor shall promptly furnish, without additional charge, all reasonable facilities, labor and materials necessary and convenient for making such tests. Except as provided in (d) below, whenever such examination and testing finds Defective Work or non-conforming materials or equipment, the Contractor shall reimburse the Owner for the cost of reexamination and retesting. Although conducted by independent testing entities, the Owner will not contract and pay for tests or certifications of materials, manufactured products or assemblies which the Contract, codes, standards, etc., require to be tested and/or certified for compliance with industry standards such as Underwriters Laboratories, Factory Mutual or ASTM. If fees are charged for such tests and certifications, they shall be paid by the Contractor. The Contractor shall also pay for all inspections, tests, and certifications which the Contract specifically requires the Contractor to perform or to pay, together with any inspections and tests which it chooses to perform for its own purposes, but which are not required by the Contract.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Where Work is related to or dependent on Defective Work, the Contractor shall stop such related or dependent Work until the Defective Work is corrected or an alternative solution is presented that is satisfactory to the Owner. Where Work is rejected as Defective, the Contractor shall stop like Work in other areas or locations on the Project until the Owner has approved corrective measures.

Should it be considered necessary or advisable by the Owner or the A/E at any time before the Final Completion Date to make an examination of any part of the Work already completed, by removing or tearing out portions of the Work, the Contractor shall promptly furnish all necessary facilities, labor and material to expose the Work to be tested to the extent required. If such Work is found to be Defective in any respect, the Contractor shall bear all the expenses of uncovering the Work, of examination and testing, and of satisfactory reconstruction and correction of the Defective Work. If, however, such Work is found to meet the requirements of the Contract, the actual cost of the Contractor's labor and material necessarily involved in uncovering the Work, the cost of examination and testing, and Contractor's cost of material and labor necessary for replacement of the examined Work including a markup of fifteen (15%) percent for overhead and profit, shall be paid to the Contractor and, if the Contract Completion Date was delayed thereby, a time extension equivalent to the impact on the Critical Path shall be issued by Change Order. Notwithstanding the foregoing, the Contractor shall be responsible for all costs and expenses in removing and replacing the Work if the Contractor had covered the Work prior to any inspection or test required by the Contract Documents or contrary to the instructions of the A/E, Owner, Project Inspector, or Building Official.

The Project Inspector has the authority to recommend to the A/E and the Owner that the Work be suspended when in his or her judgment the Contract Documents are not being followed. Any such suspension shall be continued only until the matter in question is resolved to the satisfaction of the Owner. The cost of any such Work stoppage shall be borne by the Contractor unless it is later determined that the Work in question was in full compliance with the Contract Documents.

The Project Inspector has the right and the authority to:

1. Inspect all construction materials, equipment, and supplies for quality and for compliance with the Contract Documents and/or approved shop drawings and Submittals.
2. Inspect workmanship for compliance with the standards described in the Contract Documents.
3. Observe and report on all tests and inspections performed by the Contractor.
4. Recommend rejection of Work which does not conform to requirements of the Contract Documents or is Defective.
5. Keep a record of construction activities, tests, inspections, and reports.
6. Attend all Site construction meetings and inspections held by the Owner and/or the A/E with the Contractor.
7. Check materials and equipment, together with documentation related thereto, delivered for conformance with approved Submittals and the Contract.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

8. Check installations for proper workmanship and conformance with shop drawings and installation instructions.
9. Assist in the review and verification of the Payment Request Form, Schedule of Values and Certificate for Payment, submitted by the Contractor each month.
10. Do all things for or on behalf of the Owner as the Owner may direct in writing.

The Project Inspector has no authority to:

1. Authorize deviations from the Contract Documents;
2. Enter into the area of responsibility of the Contractor's superintendent;
3. Issue directions relative to any aspect of construction means, methods, techniques, sequences or procedures unless specifically required by the Contract Documents or in regard to safety precautions and programs in connection with the Work;
4. Authorize or suggest that the Owner occupy the Project, in whole or in part; or
5. Issue a certificate for payment.

The duties of the Project Inspector are for the benefit of the Owner only and not for the Contractor. The Contractor may not rely upon any act, statement, or failure to act on the part of the Project Inspector, nor shall the failure of the Project Inspector to properly perform his or her duties in any way excuse Defective Work, improper performance of the Work, or noncompliance with the Contract Documents by the Contractor.

INSPECTIONS BY THE ARCHITECT: The Architect will perform Substantial Completion Inspections and Final Inspections as called for in Section 01 70 00, Closeout Procedure. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for any additional inspections as described in this Section.

16. SUPERINTENDENCE BY CONTRACTOR

The Contractor shall have a competent foreman or superintendent, satisfactory to the A/E and the Owner, on the Site at all times during the performance of the Work. The superintendent shall be familiar with and be able to read and understand the Contract Documents and be capable of communicating verbally and in writing with the Owner's representatives, the A/E, and the Contractor's workers. The Contractor shall be responsible for all construction means, methods, techniques, sequences and procedures, for coordinating all portions of the Work except where otherwise specified in the Contract Documents, and for all safety and worker health programs and practices. The Contractor shall notify the Owner, in writing, of any proposed change in foreman or superintendent, including the reason therefore, prior to making such change.

The Contractor shall, at all times, enforce strict discipline and good order among the workers on the Project, and shall not employ on the Work, or contract with, any unfit person, anyone not skilled in

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

the Work assigned to him or her, or anyone who will not work in harmony with those employed by the Contractor, the Subcontractors, the Owner or the Owner's separate contractors and their subcontractors or anyone who will not interact appropriately with the public.

The Owner may, in writing, require the Contractor to remove from the Site any employee or Subcontractor's employee the Owner deems to be incompetent, careless, not working in harmony with others on the Site, not interacting appropriately with the public, or otherwise objectionable, but the Owner shall have no obligation to do so.

17. CONSTRUCTION SUPERVISION, METHODS AND PROCEDURES

The Contractor shall be solely responsible for supervising and directing the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract. The Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and for coordinating all portions of the Work, except where otherwise specified in the Contract Documents. The Contractor shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction expressly required by the Contract. The Contractor is solely responsible to the Owner that the finished Work complies with the Contract Documents.

The Contractor shall be solely responsible for health and safety precautions and programs for workers and others in connection with the Work. No inspection by, knowledge on the part of, or acquiescence by the A/E, the Project Inspector, the Owner, the Owner's employees and agents, or any other Person shall relieve the Contractor from its sole responsibility for compliance with the requirements of the Contract and its sole responsibility for health and safety programs and precautions for the Work.

If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, the Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the A/E, subject to the Owner's right to disapprove. The Contractor must submit its written request for the substitution to the A/E with sufficient information to allow the A/E to determine that the substitute proposed is equivalent to that indicated or required by the Contract.

The Plans and Specifications are divided into several parts, or sections, for convenience only and because the entirety of the Plans and Specifications must be considered and construed as a whole. The divisions of the Plans and Specifications are not intended to control the Contractor in dividing the Work among Subcontractors or to limit the Work performed by any trade. The Contractor shall be solely responsible for the coordination of the trades, Subcontractors and vendors engaged in the Work and for the compensation of the trades, Subcontractors and vendors for the Work performed.

18. SCHEDULE OF THE WORK

General: The Contractor is responsible for the scheduling and sequencing of the Work, for coordinating the Work, for monitoring the progress of the Work, and for taking appropriate action to keep the Work on schedule to finish on or before the Contract Completion Date. The Contractor may attempt to achieve Substantial Completion before the Contract Completion Date and receive payment in accordance with Section 33 for the Work completed each period. However, the Contract Completion Date shall be used in all schedules and schedule updates as the deadline for which

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Substantial Completion is to be achieved. The time (in Days) between the Contractor's planned early completion and the Contract Completion Date is part of the Float. Extensions of time allowed pursuant to the determination of any compensation for compensable delay, and all other matters between the Owner and the Contractor will be determined using the Contract Completion Date, not an earlier Substantial Completion date planned by the Contractor. (see Project Manual 01 77 00).

Within two (2) weeks after the Contractor signs the Contract, unless otherwise extended by the Owner at the time of the signing, the Contractor shall prepare and submit to the Owner, with a copy to the A/E, a schedule for achieving Substantial Completion by the Contract Completion Date. The preliminary schedule shall be in sufficient detail to show the sequencing of the various trades for each floor level, wing or work area. The Owner will notify the Contractor of any comments on the preliminary schedule within fifteen (15) Days of receipt by the Owner.

A fully complete Project Schedule meeting the requirements set forth in paragraph 17 shall be submitted no later than forty five (45) days after the Agreement is signed by the Owner.

1. For Contracts with a Contract Price less than \$1,500,000, a "critical path method" or bar graph schedule may be utilized. The schedule shall indicate the estimated starting and completion dates for each major element of the work and satisfy the requirements of the **Bar Graph Schedule** below.
2. For Contracts with a Contract Price of \$1,500,000 or more, a "critical path method" schedule shall be utilized to control the planning and scheduling of the Work. The "critical path method" schedule shall be the responsibility of the Contractor and shall be paid for by the Contractor and shall satisfy the requirements of the **Critical Path Method Schedule** below.

It is the Contractor's responsibility to submit a schedule that shows Substantial Completion of the Work by the Contract Completion Date and completion of any portions of the Work by any interim deadlines established by the Contract.

The Contractor shall allow sufficient time in the schedule for the A/E to conduct all reviews and inspections required under the A/E Contract with the Owner. If the A/E and the Contractor are unable to agree as to what constitutes sufficient time, the Owner shall determine the appropriate duration for such A/E activities.

The Owner and A/E review schedules and schedule-related submittals solely for compliance with the requirements of this Section. The Owner's failure to reject or its acceptance of any schedule, graph, chart, recovery schedule, updated schedule, plan of action, monthly status report, or similar schedule-related submittals, shall not constitute a representation, admission, or warranty by the Owner, including but not limited to a representation, admission, or warranty that the schedule is feasible or practical or that contents therein are true or accurate, nor shall any such acceptance or failure to reject relieve the Contractor from sole responsibility for completing the Work by the Contract Completion Date.

No progress payments will be payable to the Contractor until after it has submitted a preliminary schedule which is acceptable to the Owner. Neither the second progress payment nor any subsequent payment shall be payable to the Contractor until it has submitted a fully complete

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Project schedule accepted by the Owner. No subsequent progress payments will be payable to the Contractor unless it submits each monthly Project report required by the **Monthly Project Reports** section below in a form accepted by Owner and each recovery schedule required by Owner pursuant to the **Progress Delay** plan of action section below.

Failure to provide a satisfactory preliminary schedule, fully complete Project schedule, or monthly Project report within the time limits stated above shall be a material breach for which the Owner may terminate the Contract in the manner provided in Section 41 of these General Conditions.

Bar Graph Schedule: Where a bar graph schedule is allowed, it shall be time-scaled in weekly increments, shall indicate the estimated starting and completion dates for each major element of the Work by trade and by area, level, or zone, and shall schedule dates for all salient features and activities, including but not limited to the placing of orders for materials, submission of Shop Drawings and other Submittals for review, approval of Shop Drawings and Submittals by A/E, the manufacture and delivery of material, the testing and the installation of materials, supplies and equipment, and all Work activities to be performed by the Contractor. Each Work activity will be assigned a duration by the Contractor. One Day shall be the time unit used. The bar graph shall establish and show the Critical Path for the Work.

Critical Path Method Schedule: Where a Critical Path method schedule is required, it shall be in the time-scaled precedence format using the Contractor's logic and time estimates. The Critical Path method schedule shall be drawn or plotted with activities grouped or zoned by Work area or Subcontract rather than random (or scattered) format.

The Critical Path method schedule shall be time-scaled on a weekly basis and shall be drawn or plotted at a level of detail and logic which will schedule all salient features and activities of the Work, including not only the actual construction Work for each trade, but also the submission of Shop Drawings and Submittals for review, approval of Shop Drawings and Submittals by the A/E, placing of orders for materials, the manufacture and delivery of materials, the testing and installation of materials and equipment, and all Work activities to be performed by the Contractor. The Critical Path method schedule shall have no line-item activities longer than thirty (30) Days in duration, and activities shall be included to provide sufficient detail for effectively managing the sequence of the Work. Failure to include any element of Work required for the performance of this Contract shall not excuse the Contractor from completing all Work required within the Time for Completion and by the Contract Completion Date and any interim deadlines established by the Contract. Each Work activity will be assigned a duration by the Contractor.

When completed, the Critical Path method schedule shall be submitted to the A/E and the Owner for review. The Critical Path method schedule will identify and describe each activity, state the duration of each activity, the calendar dates for the early and late start and the early and late finish of each activity, any constraints placed upon the activity, and clearly depict all activities on the Critical Path for the Work. Float and Free Float shall be indicated for all activities. Float, whether Free Float or Total Float, shall not be considered for the exclusive use or benefit of either the Owner or the Contractor, but must be allocated in the best interest of completing the Work by the Contract Completion Date.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

On contracts with a price over \$5,000,000, each activity on the Critical Path method schedule shall also be attributable to, and correlate with, each activity on the Schedule of Values, the sum of which for all activities shall equal the Contract Price.

When accepted by the Owner and the A/E as compliant with the requirements of this Section, the schedule shall become the baseline Critical Path method schedule for the Project. Acceptance of the schedule by the Owner does not indicate agreement with, nor responsibility for, the proposed or actual duration of any activity or logic shown on the accepted schedule.

Monthly Project Reports: The Contractor shall review progress of the Work not less than each month, but as often as necessary to properly manage the Project and stay on schedule to finish before the Contract Completion Date. The Contractor shall collect and preserve information on Change Orders, including extensions of time. The Contractor shall evaluate this information and update the latest accepted schedule as often as necessary to finish before the Contract Completion Date. The Contractor shall submit to the A/E along with each Certificate for Payment a copy of the bar graph schedule annotated to show the current progress or, for projects requiring a Critical Path method schedule, a monthly report of the status of all activities. The bar graph schedule or monthly status report submitted with each Certificate for Payment shall show the Work completed to date in comparison with the Work scheduled for completion, including but not limited to the dates for the beginning and completion of the placing of orders and the manufacture, testing and installation of materials, supplies and equipment. The form for these reports shall be approved by the A/E and the Owner prior to submission of the first Certificate for Payment. If any elements of the Work are behind schedule, regardless of whether they may prevent the Work from being completed on time, the Contractor must indicate in writing in the report what measures it is taking and plans to take to bring each such element back on schedule and to ensure that the Work is completed before the Contract Completion Date.

Progress Delay: Should any of the following conditions exist, the Owner may require that the Contractor prepare, at no extra cost to the Owner, a plan of action and a recovery schedule for completing the Work by the Contract Completion Date:

1. The Contractor's monthly project report indicates delays that, in the judgment of the A/E or the Owner, call into question the Contractor's ability to complete the Work by the Contract Completion Date;
2. The Critical Path method schedule sorted by early finish dates shows the Contractor to be thirty (30) or more Days behind on the Critical Path schedule at any time during the Work, up to thirty (30) Days prior to the Contract Completion Date;
3. The Contractor desires to make changes in the logic or sequencing of Work activities or the planned duration of future activities of the Critical Path method schedule which, in the judgment of the A/E or the Owner, are of a significant departure from those of the baseline schedule or prior schedule updates.

The plan of action and recovery schedule, when required, shall contain a narrative explanation and display how the Contractor intends to regain compliance with the most current and Owner accepted Critical Path method schedule, as updated with approved Change Orders, if any.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

The plan of action shall be submitted to the Owner for review within two (2) business days of the Contractor receiving the Owner's written request. The recovery schedule, when required, shall be submitted to the Owner within five (5) Days of the Contractor's receiving the Owner's written request.

Early Completion of Project: The Contractor may attempt to achieve Substantial Completion before the Contract Completion Date. However, such planned early completion shall be for the Contractor's convenience only and shall not create any additional rights of the Contractor or obligations of the Owner under this Contract, nor shall it change the Time for Completion or the Contract Completion Date. The Contractor shall not be required to pay damages to the Owner because of the Contractor's failure to achieve Substantial Completion by any planned earlier date. Likewise, the Owner shall not pay the Contractor any additional compensation for achieving Substantial Completion prior to the Contract Completion Date nor will the Owner owe the Contractor any compensation should the Owner, its officers, employees, or agents cause the Contractor not to achieve Substantial Completion earlier than the Contract Completion Date.

Contractor may request or propose to change the Contract Completion Date to reflect an earlier Substantial Completion date. The Owner may, but is not required to, accept such proposal. However, a change in the Time for Completion or the Contract Completion Date shall be accomplished only by Change Order. If the Contractor's proposal to change the Time for Completion or the Contract Completion Date is accepted, a Change Order will be issued stating that all references in the Contract, including these General Conditions, to the Time for Completion or the Contract Completion Date shall thereafter refer to the date as modified, and all rights and obligations, including the Contractor's liability for actual damages, delay damages and/or liquidated damages, shall be determined in relation to the date, as modified.

19. SCHEDULE OF VALUES AND CERTIFICATE FOR PAYMENT

Before submittal of the first Certificate for Payment, the Contractor shall prepare for review and approval of the A/E and the Owner the Schedule of Values listed by trades or by specification division for the Work, the total for which equals the Contract Price. Where the Work has multiple phases the Contractor shall prepare appropriate Schedule of Values to facilitate reviews of Certificate for Payment submitted for each phase.

20. ACCESS TO WORK

The A/E, the Owner, the Project Manager, the Owner's inspectors and other testing personnel, the Building Official, inspectors from the Department of Labor and Industry, and others authorized by the Owner, shall have access to the Work at all times. The Contractor shall provide proper facilities for access and inspection.

21. SURVEYS AND LAYOUT

The Owner shall furnish the Contractor documents showing property lines and the location of existing buildings and improvements at the Site. The Contractor shall provide competent surveying and engineering services to execute the Work and shall be responsible for the accuracy of those surveying and engineering services.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

The Owner shall provide the general reference points and benchmarks on the Site as required of it by the Plans and Specifications. If the Contractor finds that any previously established reference points have been lost or destroyed, it shall promptly notify the A/E.

The Contractor shall protect and preserve the established benchmarks and monuments and shall make no changes in locations without prior written Notice to the A/E and prior written approval from the Owner. Benchmarks and monuments that are lost or destroyed or which require shifting because of necessary changes in grades or locations shall, subject to prior written approval of the Owner, be replaced and accurately located by the Contractor.

22. PLANS AND SPECIFICATIONS

The general character and scope of the Work are illustrated and described by the Plans and the Specifications. If the Contractor deems additional detail or information to be needed, the Contractor shall request the same in writing from the A/E. The request shall precisely state the detail or information needed and shall explain why it is needed. The Contractor shall also indicate a date by which the requested information is required. The A/E shall provide by Field Order such further detail and information as is necessary by the date required so long as the date indicated is reasonable. Any additional drawings and instructions supplied to the Contractor shall be consistent with the Contract Documents, shall be true developments thereof, and shall be so prepared that they can be reasonably interpreted as a part thereof. The Contractor shall carry out the Work in accordance with the additional detail drawings and instructions at no additional cost to the Owner and with no time extension.

If the Contractor finds a conflict, error, omission, or other discrepancy in the Plans or Specifications, he shall notify the A/E in writing as soon as possible, but before proceeding with any Work that is or may be impacted by the matter. The A/E shall issue a clarification by Field Order to the Contractor stating the correct requirements. If the Contractor deems the Field Order requires additional or extra Work, it shall provide Notice of its request for additional time and/or compensation to the Owner and A/E prior to proceeding with that Work. The Contractor also shall submit a request for Change Order along with a detailed substantiating cost proposal through the A/E to the Owner within fourteen (14) Days of the receipt of the Field Order or before proceeding with the Work, whichever is earlier.

If a conflict, error, omission or other discrepancy in Plans or Specifications was reasonably apparent or with reasonable diligence should have been apparent to the Contractor prior to submitting its bid or Proposal, and the Contractor failed to submit a question to the A/E in the time and manner required by the Instructions to Bidders, then the Contractor shall not be entitled to additional compensation or time or entitled to bring a claim against the Owner based on such conflict, error, omission or other discrepancy. If the Contractor performs any Work, or is delayed in performing any Work, where such Work involves a conflict, error, omission, or other discrepancy in the Plans or Specifications that the Contractor knew about, or with reasonable diligence should have known about, for which the Contractor failed to provide Notice to the A/E and Owner as required, the Contractor shall assume full responsibility for the Work or delay and shall bear all costs attributable to correcting any Work requiring correction or to any delay, and such conflict, error, omission, or other discrepancy shall not be the basis for a claim against or any recovery from the Owner.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

In case of differences between a small and large scale Drawing, the large scale Drawing shall govern. Where on a Drawing a portion of the Work is drawn out and the remainder is indicated in outline, the parts drawn out shall apply also to all other like portions of the Work.

Where the word "similar" appears on a Drawing, it shall be interpreted in its general sense and not as meaning "identical," and all details shall be worked out in relation to their location and their connection with other parts of the Work.

Measurements or dimensions shown on the Drawing for Site features, utilities, buildings, structures, or improvements shall be verified at the Site by the Contractor before commencing the Work. The Contractor shall not scale measurements or dimensions from a Drawing. If there are discrepancies among Drawings or the Plans, the Contractor shall notify and request clarification from the A/E before proceeding with the impacted Work. If new Work is to connect to, match with or be provided in existing facilities, buildings, or improvements, the Contractor shall verify the actual existing conditions and necessary dimensions prior to ordering or fabrication of materials or construction.

As-Built Drawings: The Contractor shall maintain at the Site for the Owner one copy of the As- Built Drawings in good order and marked to record all changes as they occur during construction. These shall be available to the A/E, the Owner, the Project Inspector, the Owner's other inspectors and to the Owner's testing personnel

Preparation of Record Drawings: Upon completion of the Work and prior to the final inspection, the Contractor shall deliver to the A/E, for preparation of the Record Drawings, one complete set of "As Built" Drawings depicting the Work in its as-built condition at Final Completion.

23. SUBMITTALS AND PROJECT RECORDS

The Contractor shall submit a listing of all Submittals required by the A/E or which the Contractor identifies as necessary, stating the dates for the submission of each Submittal. The listing shall be in a format acceptable to the A/E. The Contractor shall identify all Submittals with the Owner's Project Code Number (see Project Manual 01 30 00).

Submittals shall be forwarded to the A/E for approval if required by the Specifications or if requested by the A/E or the Owner. No part of the Work dealt with by a Submittal shall be ordered, fabricated or installed by the Contractor, except at its own risk, until the Submittal for that Work has been approved.

Working drawings, Shop Drawings and/or Submittals for fire protection, fire alarm, fire detection and security systems shall be submitted to, and approved by, first the A/E and then the Building Official prior to ordering, fabricating or installing such systems. The Contractor shall be solely responsible for obtaining such approvals. No part of the Work involving such systems shall be ordered, fabricated or installed by the Contractor until such approvals have been obtained.

The Contractor shall furnish to the A/E for approval, the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the Work. When Submittals are required by this Contract for materials, the Contractor shall furnish full information concerning the material or articles which the Contractor

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

intends to incorporate in the Work. When required, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material and articles installed or used without required approval shall be at the risk of subsequent rejection.

Unless otherwise indicated or required by the Specifications, Shop Drawings shall be submitted in the form of one reproducible tracing and three blue-line or black-line prints. Catalog cuts, product data and other non-reproducible literature, except certificates, shall be submitted in six (6) copies minimum, of which three (3) will be retained by the A/E and the remainder will be returned to the Contractor. The Contractor shall maintain one copy of all approved Shop Drawings and Submittals in the construction trailer for use by inspectors. If agreed by the Owner, A/E, and Contractor, Submittals may be provided in electronic format in lieu of hardcopy format.

Submittals shall be accompanied by a letter of transmittal which shall list the Project Code Number, the Submittals included, and the date. Submittals shall be complete in every respect and bound in sets. Each Submittal shall be clearly marked to show each item, component and/or optional feature proposed to be incorporated into the Work. Each Submittal shall contain specific references to the sections of the Plans and Specifications to which the item or component that is the subject of the Submittal relates.

The Contractor shall check Submittals for compliance with the requirements of the Contract Documents. The Contractor shall clearly note in writing any and all items which deviate from the requirements of the Contract Documents. Reasons for deviation shall be included with the Submittal. The Contractor shall be solely responsible for checking all dimensions and coordinating all materials and trades to ensure that the components or products proposed, individually or in combination, will fit in the space available and that they will be compatible with other components or products provided.

After checking each Submittal, the Contractor shall stamp each sheet of the Submittal with the Contractor's review stamp. Data submitted in a bound volume or on one sheet printed on two sides, may be stamped on the front of the first sheet only. The Contractor's review stamp shall be worded as follows:

<p>The equipment and material shown and marked in this Submittal is proposed to be incorporated into this Project, is in compliance with the Contract Plans and Specifications unless otherwise shown in bold-face type or lettering and listed on a page or pages captioned "DEPARTURES FROM PLANS AND SPECIFICATIONS", and can be installed in the allocated spaces.</p>

The person signing the review stamp shall be the person designated in writing by the Contractor as having that authority. The identity of such individual shall be forwarded to the A/E prior to or with the first Submittal. The signature on the review stamp shall be handwritten in ink, or in the case of electronic submittals, electronically signed in accordance with *Code of Virginia* § 59.1-479 *et seq.* Stamped signatures are not acceptable.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

The Contractor shall forward all Submittals sufficiently in advance of construction activities and requirements to allow sufficient time for checking, correcting, resubmitting and rechecking each Submittal.

If a Submittal indicates a departure from the Contract Documents, the A/E may reject the Submittal or recommend it to the Owner, who shall approve or reject it as the Owner, in its sole discretion, sees fit. Any departure from the Contract Documents must be authorized by a Change Order if it results in adjustment of the Contract Price or the Contract Completion Date.

The A/E is responsible to the Owner, but not to the Contractor, to verify that the information, equipment and materials depicted in Submittals conform to the design concept and functional requirements of the Plans and Specifications, that the detailed design portrayed in Shop Drawings and proposed equipment and materials shown in Submittals are of the quality specified and will function properly, and that the Submittals comply with the Contract Documents.

The Work shall be in accordance with approved Submittals. Approval of the Contractor's Submittals by the A/E does not relieve the Contractor from responsibility for complying with the Contract Documents.

The Plans and/or Specifications may indicate that the A/E designed or detailed a portion of the Work around a particular product. Should a different product be proposed by the Contractor and accepted, all modifications, rerouting, relocations and variations required for proper installation and coordination to comply with the design concept and requirements of the Contract Documents shall be the responsibility of the Contractor and shall be made at no extra cost to the Owner. If the plans were noted as designed or detailed around a particular product and/or if a product is named when a "brand name or equal" requirement has been used, other products may be utilized following Section 26 of these General Conditions.

Additional Submittal requirements are shown in the Specifications.

Ownership of all materials and documentation including Shop Drawings, BIM models, copies of any calculations and analyses prepared and other Project-specific details of building components created during the Submittal process shall belong exclusively to the Owner. These materials and documentation, whether completed or not, shall be the property of the City of Fairfax, whether the Work for which they are made is executed or not. The Contractor shall not use these materials on any other work or release any information about these materials without the express written consent of the Owner.

Such material may be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by a bidder, offeror, or contractor in connection with a procurement transaction shall not be subject to disclosure under the Virginia Freedom of Information Act, provided the bidder, offeror, or contractor timely invoked the protections of *Code of Virginia* § 2.2-4342(F).

- a. The Contractor shall maintain comprehensive records of all documentation produced in the performance of the Work and maintain a records management system to provide for document tracking, organization, storage and archiving of such documentation. The

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Contractor's records management system shall provide for the electronic storage and transmission of Project documents and information through one or more of the following methods: (1) web accessible project management software; (2) electronic files shared utilizing removable electronic media; (3) paper copies of documentation; or (4) in such manner agreed to by the Owner and Contractor. Such records shall be retained by the Contractor for a period of five (5) years following the Final Completion Date. The Contractor shall make the project documentation available to the Owner within five (5) Days of request in an orderly, indexed manner to allow individual documents to be easily located and reviewed. The Contractor shall ensure all documentation is kept current and stored in the records management system in a timely manner.

- b. Project Documentation shall include construction photographs taken by the Contractor to demonstrate progress and issues related to possible Change Order Requests or claims. Photographs shall be dated and titled and submitted with each Application and Certificate for Payment (Certificate for Payment). Provide reason for photograph if related to a possible Change Order Request.

24. FEES, SERVICES AND FACILITIES

The Contractor shall obtain all permits, except the Building Permit, and pay for all fees and charges necessary for temporary access, public right-of-way blockage or use, temporary connections to utilities, and the use of property (other than the Site) for storage of materials and other purposes, unless otherwise specifically stated in the Contract Documents.

Certain projects such as renovations and interior modifications of existing buildings will usually have water and electric service to the building. In those instances, water and electric power, if required for the Work under the Contract, will be furnished by the Owner subject to reasonable use by the Contractor, but only to the extent and capacity of present services. The Contractor shall be responsible for providing required connections, temporary wiring, piping, etc. to these services in a safe manner and in accordance with applicable codes. All temporary wire, pipe, etc. shall be removed before the Substantial Completion inspection. Acceptance by the Contractor of the use of Owner's water and electricity constitutes a release to the Owner of all claims and of all liability to the Contractor for any damages which may result from the use of such utilities and power and water outages or voltage variations.

The Owner shall pay any connection charges for permanent utility connections directly to the utility Supplier. The Contractor shall coordinate such connections with the utility Supplier.

It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor, either directly or through its Subcontractors, shall provide and pay for all material, labor, tools, equipment, water, light, power, telephone and other services or facilities of every nature whatsoever necessary to execute completely and deliver the Work before the Contract Completion Date.

The Contractor shall provide all required temporary facilities, including Contractor's office space, Owner's Project Inspector's office space (if required by the Specifications), sanitary facilities, and storage space, as required for the operations and the protection of the materials and the Work. Number, sizes and locations shall be subject to approval of the Owner. Sanitary facilities shall be

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

plumbed into an approved waste treatment system or shall be an approved type of chemical toilet and shall be regularly serviced.

25. EQUALS

Brand names: Unless otherwise stated in the Specifications, the identification of a certain brand, make or manufacturer denotes the characteristics, quality, workmanship, economy of operation and suitability for the intended purpose of the article to be supplied, but does not restrict the Contractor to the specific brand, make, or manufacturer indicated. Rather, the information conveys to the Contractor the general style, type, character and quality of the article to be supplied.

Equal materials, equipment or assemblies: Whenever in these Contract Documents a particular brand, make of material, device or equipment is shown or specified, such brand, make of material, device or equipment shall be regarded merely as a standard. Any other brand, make or manufacturer of a product, assembly or equipment which in the opinion of the A/E is the equal of that specified, considering quality, capabilities, workmanship, configuration, economy of operation, useful life, compatibility with design of the Work, and suitability for the intended purpose, will be accepted unless rejected by the Owner as not being equal.

Substitute materials, equipment or assemblies: The Contractor may propose to substitute a material, product, equipment, or assembly which deviates from the requirements of the Contract Documents but which the Contractor deems will perform the same function and have equal capabilities, service life, economy of operations, and suitability for the intended purpose. The proposal must include any cost differentials proposed. The Owner will have the A/E provide an initial evaluation of such proposed substitutes and provide a recommendation on acceptability and indicate the A/E's redesign fee to incorporate the substitution into the Contract Documents. The Owner shall have the right to limit or reject substitutions at its sole discretion. (see Project Manual 01 60 00).

The Contractor shall be responsible for making all changes in the Work necessary to adapt and accommodate any equal or substitute product approved for use by Owner. The necessary changes shall be made at the Contractor's expense.

26. AVAILABILITY OF MATERIALS

If a brand name, material, product, or model number included in the Contract Documents is not available on the present market, alternate equal materials, products or model numbers may be proposed by the Contractor through the A/E for approval by the Owner through the process set forth in Section 24.

27. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the Work shall be purchased by the Contractor, or by any Subcontractor or Supplier, subject to any security interest, installment or sales contract or any other agreement or lien by which an interest in the materials or supplies is retained by the seller or is given to a secured party. The Contractor warrants that it has clear and good title to all materials and supplies used in the Work or for which the Contractor accepts payment in whole or in part.

28. STANDARDS FOR MATERIALS INSTALLATION & WORKMANSHIP

Unless otherwise specifically provided in the Contract, all equipment, material, and accessories incorporated in the Work are to be new or Recycled and in first-class condition.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Unless specifically approved by the Owner or required by the Contract, the Contractor shall not incorporate into the Work any materials containing asbestos or any material known by the industry to be hazardous to the health of building construction workers, maintenance workers, or occupants, or harmful to other building components, materials or products. If the Contractor becomes aware that a material required by the Contract contains asbestos or other hazardous or harmful materials, it shall notify the Owner and the A/E immediately and shall take no further steps to acquire or install any such material without first obtaining Owner approval.

All workmanship shall be of the highest quality found in the building industry in every respect. All items of Work shall be done by Persons skilled in the particular task or activity to which they are assigned. In the acceptance or rejection of Work, no allowance will be made for lack of skill on the part of Persons performing the Work. Poor or inferior workmanship (as determined by the A/E, the Owner or other inspecting authorities) shall be removed and replaced at Contractor's expense such that the Work conforms to the highest quality standards of the trades concerned, or otherwise corrected to the satisfaction of the A/E, the Owner, and other inspecting authority, as applicable.

Where materials, supplies or equipment are supplied with the manufacturer's printed instructions, recommendations, or directions for installation, or where such instructions, recommendations, or directions are available, installation of the items shall be in strict accordance with the manufacturer's printed instructions unless those instructions contradict the Plans or Specifications, in which case the Contractor shall notify the A/E of the inconsistency and obtain written guidance from the A/E before proceeding with any Work involving the item.

Where the Specifications or Plans refer to specific codes or standards governing the installation of specified items, installation shall in all cases be in strict accordance with the referenced codes and standards. Where no reference is made to specific codes or standards, installation shall conform to the generally recognized applicable standards for first-class installation of the specific item to be installed. Contractors are expected to be proficient and skilled in their respective trades and knowledgeable of the Codes and Standards of the National Fire Protection Association ("NFPA"), National Electric Code ("NEC"), Occupational Safety and Health Act ("OSHA") and other codes and standards applicable to installations and associated work by trade.

Where the manufacturer's printed instructions are not available for installation of specific items, where specific codes or standards are not referenced to govern the installation of specific items, or where there is uncertainty on the part of the Contractor concerning the installation procedures to be followed or the quality of workmanship to be maintained in the installation of specific items, the Contractor shall consult, in advance, with the A/E for approval of the installation procedures or the specific standards governing the quality of workmanship the Contractor proposes to follow or maintain during the installation of the items in question.

During and/or at the completion of installation of any items, the tests designated in the Plans or Specifications necessary to assure proper and satisfactory functioning for its intended purpose shall be performed by the Contractor or by its Subcontractor responsible for the completed installation. All costs for such testing are to be included in the Contract Price. If required by the Contract Documents, the Contractor shall furnish prior to final inspection the manufacturers' certificates evidencing that

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

products meet or exceed applicable performance, warranty and other requirements, and certificates that products have been properly installed and tested.

29. WARRANTY OF MATERIALS AND WORKMANSHIP

The Contractor warrants that, unless otherwise specified, all materials and equipment incorporated in the Work shall be new or Recycled, in first-class condition, and in accordance with the Contract Documents. The Contractor further warrants that the Work shall be of the highest quality and in accordance with the Contract Documents and shall be performed by Persons qualified at their respective trades.

Work not conforming to these warranties shall be considered Defective.

This warranty of materials and workmanship is separate and independent from and in addition to any of the Contractor's other guarantees and obligations in the Contract Documents and under Virginia law.

30. USE OF SITE AND REMOVAL OF DEBRIS

The Contractor shall:

1. Perform the Work in such a manner as not to interrupt or interfere with the operation of any existing activity on, or in proximity to, the Site or with the Work of any other separate contractor;
2. Store its apparatus, materials, Supplies and equipment in such orderly fashion at the Site of the Work as will not unduly interfere with the progress of its Work or the work of any other separate contractor; and
3. Place upon the Work or any part thereof only such loads as are consistent with the safety of that portion of the Work.

The Contractor expressly undertakes, either directly or through its Subcontractor(s), to effect all cutting, filling or patching of the Work required to make the same conform to the Plans and Specifications, and, except with the consent of the A/E, not to cut or otherwise alter the work of any other separate contractor. The Contractor shall not damage or endanger any portion of the Work or Site, including existing improvements, unless called for by the Contract.

The Contractor expressly undertakes, either directly or through its Subcontractor(s), to clean up frequently all refuse, rubbish, scrap materials and debris caused by its operations, to ensure that at all times the Site shall present a neat, orderly and workmanlike appearance. No refuse, rubbish, scrap material or debris shall be left within the completed Work nor buried on the Site, but shall be removed from the Site and properly disposed of in a licensed landfill or otherwise as required by law.

The Contractor expressly undertakes, either directly or through its Subcontractor(s), before Final Payment or such prior time as the Owner may require: to remove all surplus material, false Work, temporary structures, including foundations thereof, plants of any description and debris of every nature resulting from its operations and to put the Site in a neat, orderly condition; to thoroughly clean and leave reasonably dust-free all finished surfaces, including all equipment, piping, etc., on the

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

interior of all buildings; and to clean thoroughly all glass installed under the Contract, including the removal of all paint and mortar splatters and other defacements.

If the Contractor fails to clean up as required herein, the Owner may do so and charge the costs incurred thereby to the Contractor in accordance with Section 10 .

The Contractor shall have, on-Site, an employee certified by the Department of Environmental Quality as a Responsible Land Disturber who shall be responsible for the installation, inspection and maintenance of erosion control and stormwater management measures and devices. The Contractor shall identify this employee to the Owner and the A/E in writing prior to any land disturbance on Site. The Contractor shall prevent Site soil erosion, the runoff of silt and/or debris carrying water from the Site, and the blowing of debris off the Site in accordance with the applicable requirements and standards of the Contract and the Virginia Department of Environmental Quality's Erosion and Sediment Control Regulations and the Virginia Stormwater Management Regulations.

31. SIGNS

The Contractor may, at its option and without cost to the Owner, erect signs acceptable to the Owner on the Site for the purpose of identifying and giving directions to the Project. No signs shall be erected without prior approval of the Owner as to design, content and location.

32. PROTECTION OF PERSONS AND PROPERTY

The Contractor expressly undertakes both directly and through its Subcontractors, to take every reasonable precaution at all times for the protection of all Persons and property at or near the Site or which may be affected by the Contractor's Work.

The Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Any violation of safety requirements or duties or any potential safety hazard that is known to the Contractor or which is brought to the attention of the Contractor by the A/E, the Owner, or any other Persons shall be immediately abated.

The provisions of all rules and regulations governing health and safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the *Code of Virginia*, shall apply to all Work under this Contract.

The Contractor shall continuously maintain adequate protection of all the Work and Site from damage and shall protect the Owner's property from injury or loss arising in connection with the Work. The Contractor shall make good any damage, injury or loss caused by its operations or the Work, except as may be directly and solely due to errors in the Contract Documents or caused by agents or employees of the Owner. The Contractor shall adequately protect adjacent property to prevent any damage to it or loss of use and enjoyment by its owners. The Contractor shall provide and maintain all passageways, guard fences, lights and other facilities for protection of Persons and the Site and the Work as required by public authority, local conditions, or the Contract.

In an emergency affecting the health, safety, or life of Persons, or threatening loss or damage to the Work or adjoining property, the Contractor, without special instruction or authorization from the A/E or the Owner, shall act promptly, at its discretion, to prevent such threatened loss or injury. The Contractor shall carry out any instructions or directives issued by the A/E or Owner, to prevent

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

threatened loss or injury, immediately, without appeal. Any additional compensation or extension of time claimed by the Contractor on account of any emergency actions or measures shall be submitted and determined as provided by Section 34.

When necessary for the proper protection of the Work, temporary heating of a type compatible with the Work must be provided by the Contractor, at the Contractor's expense, unless otherwise specified.

33. CLIMATIC CONDITIONS

The Contractor shall suspend activity on and protect any portion of the Work that may be subject to damage by climatic conditions.

34. PAYMENTS TO CONTRACTOR

Monthly Pay Meetings are not required and shall be substituted by Progress Meetings each month, or sooner, if the Work is of such a nature as to require higher levels of communication and decision-making. In preparing estimates, the material delivered to the Site and preparatory Work done shall be taken into consideration, if properly documented as required by Section 20 of these General Conditions, or as may be required by the A/E, so that actual quantities supplied or performed may be verified. Materials or equipment purchased specifically for the Project, but stored off the Site within the City of Fairfax, may be considered for payment provided all of the following are accomplished prior to the submission of the Certificate for Payment in which payment for such item is requested:

1. The Contractor must notify the Owner in writing, at least ten (10) Days prior to the submission of Certificate for Payment that specific items will be stored off-Site in a designated, secured place within the City of Fairfax. The Schedule of Values must be detailed to indicate separately both the value of the material and the labor/installation for trades requesting payment for stored materials. By giving such notification and by requesting payment for material stored off-Site, the Contractor warrants that the storage location is safe and suitable for the type of material stored and that the materials are identified as being the property of the Contractor, and agrees that loss of materials stored off the Site shall not relieve the Contractor of the obligation to timely furnish these materials for the Project and to achieve the Contract Completion Date. If the storage location is more than 20 miles from the Site, the Contractor may be required to reimburse the Owner for the cost incurred for travel to the storage location by Owner and/or the A/E to verify the Contractor's Certificate for Payment for materials stored off-Site. A supplementary agreement, acceptable to Owner, shall be required for payment for materials or equipment stored at a location that is not within the City of Fairfax.
2. Contractor's notification and Certificate of Payment regarding stored materials shall itemize the quantity of such materials and document with invoices showing the cost of said materials and identify the location of the materials for inspection by the A/E and the Owner.
3. The Contractor shall notify the Owner in writing, through the A/E, when the materials are to be transferred to the Site and when the materials are received at the Site.
4. Payment will not be made for materials or equipment stored on or off the Site which are not scheduled for incorporation into the Work within the six months next following submission

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

of the Certificate for Payment without the prior written consent of the Owner, which consent may be withheld by the Owner if, in the Owner's sole discretion, it is not necessary to procure the materials more than six months in advance of use to assure their availability when needed.

No payment shall be made to the Contractor until:

1. The Contractor furnishes to the Owner its Social Security Number (SSN), if an individual, or its Federal Employer Identification Number (FEIN), if a proprietorship, partnership, corporation or other legal entity.
2. Certificates of Insurance and required evidence of compliance by the Contractor with all the requirements of Section 11 and Section 12, if applicable, have been delivered to the Owner.
3. Certificates of Insurance and required evidence of compliance by each Subcontractor with the requirements of Section 11 and Section 12, if applicable, have been delivered to the Owner for payments based on Work performed by a Subcontractor.
4. The Contractor has: (i) submitted a preliminary schedule which is acceptable to the Owner in accordance with Section 19; (ii) submitted a fully complete Project schedule accepted by the Owner in accordance with Section 19; (iii) submitted all monthly Project reports required by Section 19; and (iv) timely provided a recovery schedule pursuant to Section 19, if requested by the Owner.

The Owner shall withhold five percent (5%) of each progress payment to the Contractor until the Final Payment, unless otherwise provided by any law, regulation or program of the federal government. Such retainage shall be held to assure faithful performance of the Contract and may also be used as a fund to deduct amounts due to or claimed by the Owner, including, but not limited to, payment to the Owner of all moneys due for deductive change orders, credits, uncorrected Defective Work, interest, damages, and the like. (*Code of Virginia § 2.2-4333*). The Owner may, at its sole discretion, agree on an item by item basis to release the retainage on items which are fully 100% complete and which have been accepted by the Owner as being tested and complete and on which no further action or work will be required. Retainage which is released by the Owner shall be distributed by the Contractor in conformance with Section 37.

All material and Work for which progress payments are made shall thereupon become the sole property of the Owner, but this provision shall not relieve the Contractor from the sole responsibility for all materials and Work, including those for which payment has been made, or for the restoration of any damaged materials or Defective Work. No payment shall waive any right of the Owner to require Contractor to fulfill all of the terms and conditions of the Contract Documents

The Final Payment, which shall include the retainage, less any amounts due to or claimed by the Owner, shall not become due until the A/E and the Owner agree that Final Completion has been achieved and until the Contractor shall deliver to the Owner through the A/E a Certificate of Completion by the Contractor and an Affidavit of Payment of Claims, stating that all Subcontractors and Suppliers of either labor or materials have been paid all sums claimed by them for Work performed and materials furnished in connection with this Project less retainage. Amounts due the

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Owner which may be withheld from the Final Payment may include, but are not limited to, amounts due regarding costs incurred to repair or replace Defective Work, costs incurred as a result of the Contractor's negligent acts or omissions or omissions of those for whom the Contractor is responsible, delay damages under Section 43, and any liquidated or actual damages.

If all Subcontractors and Suppliers of labor and materials have not been paid the full amount claimed by them, the Contractor shall list each to which an agreed amount of money is due or which has a claim in dispute. With respect to all such Subcontractors and Suppliers, the Contractor shall provide to the Owner, along with the Affidavit of Payment of Claims (DGS-CO-13), an affidavit from each such Subcontractor and Supplier stating the amount of their Subcontract or supply contract, the percentage of completion, the amounts paid to them by the Contractor and the dates of payment, the amount of money still due if any, any interest due the Subcontractor or Supplier, and whether satisfactory arrangements have been made for the payment of said amounts. If no agreement can be reached between the Contractor and one or more Subcontractors or Suppliers as to the amounts owed to the Subcontractors or Suppliers, the Owner may, in its discretion, interplead such portion of the moneys due to the Contractor which is claimed by the Subcontractor or Supplier into a Virginia Court or Federal Court sitting in Virginia, in the manner provided by law. Said interpleader and payment into court shall be deemed a payment to the Contractor. Nothing in this Section shall be construed as creating any obligation or contractual relationship between the Owner and any Subcontractor or Supplier, and the Owner shall not be liable to any Subcontractor or Supplier on account of any failure or delay of the Owner in complying with the terms hereof.

Upon successful completion of the final inspection and all Work required by the Contract, including but not limited to the delivery of Record Drawings, equipment manuals, written warranties, acceptance of the Work by the Owner and the delivery of the affidavits required in this section, the A/E shall deliver the written Certificate of Completion by the A/E to the Owner, with a copy to the Contractor, stating the entire amount of Work performed and compensation earned by the Contractor. The Owner may accept the Work for occupancy or use while asserting claims against the Contractor, disputing the amount of compensation due to the Contractor, disputing the quality of the Work, disputing Final Completion, disputing Contractor's compliance with the Contract Documents, or any other reason.

Unless there is a dispute about the compensation due to the Contractor, Defective Work, quality of the Work, compliance with the Contract Documents, Final Completion, claims by the Owner, other matters in contention between the parties, or unless monies are withheld pursuant to the Comptroller's Debt Setoff Program, within thirty (30) Days after receipt and acceptance of the Certificate for Payment in proper form by the A/E at the monthly pay meeting, the Owner shall pay to the Contractor the amount approved by the A/E, less all prior payments and advances whatsoever to or for the account of the Contractor. In the case of Final Payment, the completed Affidavit of Payment of Claims, the Certificate of Completion by the Contractor and the Certificate of Completion by the A/E shall accompany the final Certificate for Payment which is forwarded to the Owner for payment. The date on which payment is due shall be referred to as the Payment Date. Payment shall be mailed on or before the Payment Date for amounts and Work not in dispute, subject to any set offs claimed by the Owner; provided, however in instances where further appropriations are required by the City Council or where the issuance of further bonds is required, in which case, payment shall be made within thirty (30) Days after the effective date of such appropriation or within thirty (30) Days after the receipt of bond proceeds by the Owner. All prior estimates and payments, including

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

those relating to extra Work, may be corrected and adjusted in any payment and shall be corrected and adjusted in the Final Payment. In the event that any Certificate for Payment contains a defect or impropriety, the Owner shall notify the Contractor of any defect or impropriety which would prevent payment by the Payment Date within five (5) Days after receipt of the Certificate for Payment by the Owner from the A/E.

The acceptance by the Contractor of the Final Payment shall be and operate as a release to the Owner of all claims by the Contractor, its Subcontractors and Suppliers, and of all liability to the Contractor whatever, including liability for all things done or furnished in connection with the Work, except for things done or furnished which are the subject of unresolved claims for which the Contractor has filed a timely written Notice of intent and all other Notices and documentation required by the Contract Documents and provided a claim is submitted no later than sixty (60) Days after Final Payment. Acceptance of any interest paid by the Contractor shall be a release of the Owner from claims by the Contractor for late payment.

No Certificate for Payment authorized by the A/E, and no payment, final or otherwise, no certificate of completion, nor partial or entire use or occupancy of the Work by the Owner, shall be an acceptance of any Work or materials not in accordance with the Contract, nor shall the same relieve the Contractor of responsibility for nonconforming materials or Defective Work, or operate to release the Contractor or its Surety from any obligation under the Contract, the Standard Performance Bond and the Standard Labor and Material Payment Bond.

DOCUMENTS FOR FINAL PAYMENT: Prior to payment, and as a condition to payment, Contractor shall submit to the Architect the following documents on the AIA Forms indicated, duly filled out and executed:

1. Contractor's Affidavit of Payment of Debts and Claims - AIA Document G706.
2. Contractor's Affidavit of Release of Liens - AIA Document G706A.
3. Waiver of Liens from all Subcontractors, materialmen, and suppliers.

35. CHANGES IN THE WORK

- A. By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized only (1) by written Change Order signed by the Owner, and Contractor, or (2) by written Construction Change Directive signed by the Owner.
- B. Upon issuance of the Change Order or Construction Change Directive, the Contractor shall proceed promptly with such changes in the Work, unless otherwise provided in the Change Order or Construction Change Directive. Change Orders or Construction Change Directives changing the materials, layout, configuration or other physical characteristics of the Work as set out in the Construction Documents shall reference and be accompanied by a written modification of the Construction Documents prepared and issued by the A/E.
- C. Change Orders will be prepared using AIA Document G701.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

- D. Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Architect will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Architect will prepare a Change Order.
- E. In determining the cost or credit to the Contractor under Section 13.2 for performing changed Work, the following shall apply:
- a. the unit prices set in the Price and Payment Section of Division 1.
 - b. labor rates, as applicable; provided that no labor shall be billed or paid at overtime, double-time or other premium rate, regardless of the time of day or day of the week when such labor is performed, without the approval of the Owner in writing in advance.
 - c. rates for rental equipment owned by the Contractor or by affiliated or associated companies or firms shall be billed and paid at no more than seventy-five percent (75%) of standard rental rates for such equipment in the locale of the Project;
 - d. In calculating the cost or credit to the Owner from a change in the Work, a reasonable allowance for overhead and profit shall be twelve and one-half percent (12.5%) of the cost.
- F. The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time, not resulting in aesthetic effect, and not inconsistent with the intent of the Contract Documents. Such changes shall be by written order sent to the Owner and Contractor. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the A/E and shall proceed to implement the change in the Work and begin negotiations with the Owner on the time and value thereof.

36. EXTRAS

If the Contractor claims that any instructions given to him by the A/E or by the Owner, by drawings or otherwise, require extra work outside the scope of the Contract, then, except in emergencies endangering life or property, he shall give the A/E and the Owner written Notice thereof before proceeding to execute the extra work. Said Notice shall be given promptly enough to avoid delaying the Work and in no instance later than fourteen (14) Days after the receipt of such instructions. If it is not immediately clear to the Contractor that a request or instruction involves extra Work outside the scope of the Contract, then written Notice shall be sufficient if it's given as soon as possible after Contractor's realization that a request or instruction involves extra Work, but in no event later than fourteen (14) Days after the start of such extra Work. If the Owner agrees, a Change Order shall be issued as provided in Section 34 for the extra work and any additional compensation shall be determined by one of the methods provided in Section 34, as selected by the Owner. If the Owner does not agree, then the Contractor may submit a claim for the disputed cost or time as provided for

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

in Section 43. No claim for additional compensation for extra work will be considered unless the Contractor timely has provided the required Notice.

37. CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT

If the Work should be stopped under an order of any court or other public authority for a period of ninety (90) Days through no fault of the Contractor or anyone employed by it, or if the Owner should fail to pay to the Contractor within thirty (30) Days any sum certified by the A/E when no dispute exists as to the sum due or any requirement of the Contract, then the Contractor may, upon ten (10) Days written Notice to the Owner and the A/E, stop Work or terminate the Contract and recover from the Owner payment for the cost of the Work actually performed, together with overhead and profit thereon, but profit on the Work performed shall be recovered only to the extent that the Contractor can demonstrate that it would have had profit on the entire Contract if it had completed the Work. The Contractor may not receive profit or any other type of compensation for parts of the Work not performed. The Contractor may recover the reasonable cost of physically closing down the Site, but no other costs of termination. The Owner may offset any claims it may have against the Contractor against the amounts due to the Contractor. In no event shall termination of the Contract by the Contractor terminate the obligations of the Contractor's surety on its payment and performance bonds.

38. OWNER'S RIGHT TO TERMINATE THE CONTRACT FOR CAUSE

If the Contractor should be adjudged as bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the Owner may terminate the Contract. If the Contractor should refuse or should repeatedly fail, except in cases for which extension of time is provided, to supply enough properly skilled tradespeople or laborers or proper materials and equipment, or if it should fail to perform the Work in a diligent, efficient, workmanlike, skillful, or careful manner, or if it should fail or refuse to perform the Work in accordance with the Contract Documents, or if it should fail to make prompt payment to Subcontractors or Suppliers of material or labor, or if it should disregard laws, ordinances, building codes or the written instructions of the A/E or the Owner, or otherwise be in substantial, willful or repeated violation of any provision of the Contract, then the Owner may terminate the Contract.

Prior to termination of the Contract, the Owner shall give the Contractor and its surety ten (10) Days' Notice of such termination and allow ten (10) Days during which the Contractor and/or its surety may rectify the basis for the Notice. If rectified to the satisfaction of the Owner within said ten (10) Days, the Owner may rescind its notice of termination. If the basis for the termination is not rectified within said ten (10) Days, the termination for cause shall become effective at the end of the ten (10) Day period without further Notice to the Contractor. At any time, the Owner may, in writing, postpone the effective date of the termination for cause, at its sole discretion, if it should receive reassurances from the Contractor and/or its surety that the basis for the termination will be remedied in a time and manner which the Owner finds acceptable. If at any time after such a postponement, the Owner determines that Contractor and/or its surety has not or is not likely to rectify the causes of termination in an acceptable manner or to do so within the time allowed, then the Owner may immediately terminate the Contract for cause, without the necessity of further ten (10) Day Notice, by notifying the Contractor and its surety in writing of the termination. In no event shall termination for cause terminate the obligations of the Contractor's surety on its payment and performance bonds.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Upon termination of the Contract becoming effective, the Owner shall take possession of the Site and of all materials, tools and equipment thereon and shall proceed as follows:

1. **No Security or Bonds Provided:** If no security has been required, the Owner shall finish the Work by whatever method the Owner deems reasonable or expedient. If the expense of finishing the Work, including compensation for additional managerial and administrative services, shall exceed the unpaid balance of the Contract Price, the Contractor shall pay the difference to the Owner, together with any other expenses of terminating the Contract and having it completed by others.
2. **Security or Bonds Provided:** If security has been required and, the Owner shall provide Notice to the Surety that termination of the Contract became effective and proceed as set forth in the Standard Performance Bond, and the Terms and Conditions therein. If the expense of finishing the Work, including compensation for additional managerial and administrative services, shall exceed the unpaid balance of the Contract Price and all amounts due under the Standard Performance Bond, the Contractor shall pay the difference to the Owner, together with any other expenses of terminating the Contract and having it completed by others.

If it should be judicially determined that the Owner improperly terminated this Contract for cause, then the termination shall be deemed to be a termination for the convenience of the Owner and the Contractor's rights and remedies shall be solely limited to those provided by Section 42 of these General Conditions.

Termination of the Contract for cause is in addition to and without prejudice to any other right or remedy of the Owner. Any actions by the Owner permitted herein shall not be deemed a waiver of any other right or remedy of the Owner under the Contract or under the law. The Owner may offset any claims it may have against the Contractor against the amounts due to the Contractor. The provisions of this Section shall survive termination of the Contract.

39. TERMINATION BY OWNER FOR CONVENIENCE

The Owner may terminate this Contract, in whole or in part, at any time without cause upon giving the Contractor written Notice of such termination. Upon Notice of termination for convenience, the Contractor shall immediately cease Work and remove from the Site all of its labor forces, equipment and such of its materials as Owner elects not to purchase or to assume in the manner hereinafter provided. The Contractor also shall take such steps as Owner may require to assign to the Owner the Contractor's interest in all Subcontracts and purchase orders designated by Owner. After all such steps have been taken to Owner's satisfaction, the Contractor shall receive as full compensation the following:

1. Amounts due for Work performed in accordance with the Contract subsequent to the latest approved Schedule of Values and Certificate for Payment through the date of termination; and
2. All amounts due under Contract for Work completed prior to the date of termination; and

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

3. Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of termination for convenience, plus overhead not to exceed 15 percent (15%) of the direct costs of demobilization.

The Contractor agrees it shall not be entitled to any additional compensation, including but not limited to loss of revenue, income, profit, business, reputation, or bonding capacity, consequential damages or lost profits, but shall only receive payment upon termination for convenience as stated in this section. The Owner may offset any claims it may have against the Contractor against the amounts due to the Contractor. Upon payment of the amounts stated in this section, Owner shall have no further obligations to Contractor of any nature.

In no event shall termination for the convenience of the Owner terminate the obligations of the Contractor's surety on the payment and performance bonds.

Any actions by the Owner permitted herein shall not be deemed a waiver of any other right or remedy of the Owner under the Contract or under the law. The provisions of this Section shall survive termination of the Contract.

40. **DAMAGES FOR DELAYS; EXTENSION OF TIME**

Excusable Non-Compensable Delays: If the Critical Path is delayed by strikes, fires, unusual delays in transportation, unavoidable casualties, or other causes outside the control of the Owner and the Contractor, with the exception of delays caused by weather which are addressed in Section 6, and the Contractor seeks an extension of the Contract Completion Date, then the Contractor shall give the Owner and A/E written Notice of the delay not later than fourteen (14) Days following the inception of the delay. The Contractor shall give written Notice to the Owner and A/E of the termination of the delay event not later than fourteen (14) Days after the delay has ceased. Within twenty (20) Days after the delay event has ceased, Contractor shall submit to the Owner and the A/E, the Contractors' written request for an extension of the Contract Completion Date, specifically stating the cause of the delay, the number of days of extension requested, and an analysis of the delay event's impact on the Critical Path. If the Owner agrees that the Critical Path has been impacted by the delay event, the Owner shall extend the Contract Completion Date for the length of time that the Critical Path was delayed. The Contractor shall not be charged with liquidated or actual damages for such period of Critical Path delay nor shall the Contractor be due compensation or damages of any kind, under any theory of law, as a result of such Critical Path delay, the impact of such delay, or its acceleration of Work as a result of such delay.

Excusable Compensable Delays: If the Critical Path unreasonably is delayed by acts or omissions of the Owner, or its agents, contractors, or employees due to causes within the Owner's control, and the Contractor seeks an extension of the Contract Completion Date and/or additional compensation due to the unreasonable delay, then the Contractor shall notify the Owner and the A/E immediately at the time of the occurrence giving rise to the delay by the fastest means available. The Contractors also shall give written Notice to the Owner and A/E no later than two (2) business days after inception of the delay. The Contractor's written Notice shall specify the nature of the delay claimed by the Contractor, the cause of the delay, and the impact of the delay on the Critical Path. The Owner shall have three (3) business days to respond to the Contractor's Notice with a resolution, remedy, direction to alleviate the delay, or rejection of the Contractor's requested relief. The Owner's failure to respond within the time required shall be deemed to be a denial of the Contractor's entitlement to

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

an extension of the Contract Completion Date and additional compensation. The Contractor shall also give written Notice to the Owner and A/E of the termination of the delay event not later than fourteen (14) Days after the delay has ceased. Within twenty (20) Days after the delay event has ceased, Contractor shall submit to the Owner and the A/E, the Contractor's written request for an extension of the Contract Completion Date, specifically stating the cause of the delay, the number of days of extension requested, a calculation of the additional compensation sought, and an analysis of the delay event's impact on the Critical Path. Requests for additional compensation must be substantiated by itemized data and records demonstrating that the costs incurred by the Contractor are directly attributable to the delay and shall be calculated from the Contract Completion Date, not using any early completion planned or scheduled by the Contractor unless a Change Order has been executed changing the Contract Completion Date to reflect such early completion. If and to the extent that a delay is caused by or due to the Owner or A/E taking any actions permitted or required by the Contract, the Contractor shall be entitled to an extension of the Contract Completion Date or additional compensation only for the portion of the delay that is unreasonable, if any.

Non-Excusable Non-Compensable Delays: The Contractor shall not be entitled to an extension of the Contract Completion Date or to any additional compensation if and to the extent a delay is: (1) caused by acts, omissions, fault, or negligence of the Contractor or its Subcontractors, agents or employees; (2) arises from foreseeable causes within the control of the Contractor or its Subcontractors, agents or employees, including, but not limited to, Defective Work, poor workmanship, improper or inferior materials, Defective Work which must be corrected before dependent work can proceed, Defective Work for which corrective action must be determined before like work can proceed, from incomplete, incorrect, or unacceptable Submittals or samples, or the failure to furnish enough or properly skilled workers, proper materials or necessary equipment to perform the work in a timely manner in accordance with the Project schedule; or (3) due to causes that would entitle the Owner to recover delay costs or other damages from Contractor.

No extension of time or additional compensation will be allowed unless the Contractor demonstrates that the delay directly impacted the Critical Path of the most current approved Project schedule and that all Float has been consumed. No extension of time or additional compensation will be allowed if the Contractor failed to provide all Notice and information in the manner and within the time periods set forth above, whichever applies. Failure to timely provide all required information and Notices shall preclude an extension of the Contract Completion Date or payment of additional compensation based upon that cause.

If the Contractor makes a claim against the Owner for costs or damages, the Contractor shall be liable to and shall pay to the Owner that percentage of all costs incurred by the Owner in investigating, analyzing, negotiating, and litigating or arbitrating that percentage of the claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact. (*Code of Virginia, § 2.2-4335*).

Any change in the Time for Completion or Contract Completion Date shall be accomplished only by issuance of a Change Order.

Agreed Compensation/Liquidated Damages for Contractor Delay: If liquidated damages are not established in the Supplemental General Conditions, the Contractor shall be liable for any and all actual damages sustained by Owner as a result of a delay for which Contractor is responsible. In

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

addition to damages for delay, whether liquidated or actual, the Contractor shall also be liable for any and all actual damages sustained by the Owner as a result of any other breach of the Contract, including, but not limited to, Defective Work or abandonment of the Contract.

41. INSPECTION FOR SUBSTANTIAL COMPLETION & FINAL COMPLETION

The Contractor shall advise the Owner using the Certificate of Partial or Substantial Completion by the Contractor of the date when the Work or designated portion thereof will be substantially complete and ready for inspection and testing by Owner to determine if Substantial Completion has been achieved. Contractor shall deliver Form the A/E at least ten (10) Days in advance of the date identified on the Form. The A/E shall then attach his or her written endorsement as to whether the Work will be ready for inspection and testing on the date identified on the Form. The A/E's endorsement is a convenience to the Owner only and shall not relieve the Contractor of its responsibility nor shall the A/E's endorsement be deemed to evidence or establish that the Work was substantially complete or ready for inspection and testing. Inspection and testing shall take place at a time(s) mutually agreeable to the Contractor, Owner, A/E, and Building Official.

The inspection shall include a demonstration by the Contractor that all equipment, systems and operable components of the Project function properly and in accordance with the Contract Documents. The Contractor shall furnish access for the inspection and testing as provided in these General Conditions. The inspection and testing shall determine whether Substantial Completion has been accomplished and shall result in a written list of unfinished Work and Defective Work, commonly referred to as a "punch list", which must be completed and corrected prior to Final Completion.

If, after successful completion of all testing, the Architect/ Engineer determines that the Work, either in whole or in part, has achieved Substantial Completion, the A/E shall notify the Owner of such, in writing, using the Certificate of Partial or Substantial Completion by the A/E.

The Owner shall notify the Contractor, in writing, of the date the Owner accepts the Work, or the specified portion thereof, as having achieved Substantial Completion or, if it is not, shall notify the Contractor of the deficiencies to be corrected or completed before such Work will be accepted as substantially complete.

The Contractor shall advise the Owner, in writing using the Certificate of Completion by the Contractor of the date when the Work has reached or will reach Final Completion and will be ready for final inspection and testing. Contractor shall deliver Form to the A/E at least five (5) Days in advance of the date identified on the Form. The A/E shall then attach his or her written endorsement as to whether the Work will be ready for inspection and testing on the date identified on Form. The A/E's endorsement is a convenience to the Owner only and shall not relieve the Contractor of its responsibility nor shall the A/E's endorsement be deemed to evidence or establish that the Work achieved Final Completion. Final Completion inspection and any necessary testing shall be conducted in the same manner as the inspection for Substantial Completion. The Owner shall not establish the Final Completion Date until the Work is finally and totally complete, including the completion of punch list items, submission of all required documentation, and elimination and correction of all Defective Work.

Representatives of the Contractor, Owner, A/E, and Building Official will participate in the Substantial Completion and/or Final Completion inspections. The A/E shall conduct and document the

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

inspections. The Owner may elect to have other persons of its choosing also participate in the inspections. If one or more Substantial or Final Completion re-inspections are required, the Contractor shall reimburse the Owner for all costs of re-inspection or, at the Owner's option, the costs may be deducted from payments due to the Contractor.

A representative of the City Fire Marshal's Office will either be present at the Substantial and Final Completion inspections or otherwise inspect the completed Work and report any fire safety deficiencies to the Building Official. The City Fire Marshal will advise the Owner and Contractor of those deficiencies.

Approval of Work at or as a result of any inspection required herein shall not release the Contractor or its surety from responsibility for complying with the Contract.

42. GUARANTEE OF WORK AND INDEMNIFICATION

Except as otherwise specified or required, the Contractor guarantees all Work, materials, equipment, and workmanship conform to the requirements of the Contract Documents and are free from defects, imperfections, or non-conformities, normal wear and tear excepted, for a period of one (1) year from the Final Completion Date. Equipment and facilities which have seasonal limitations on their operation (e.g. heating or air conditioning units) shall be guaranteed for one (1) full year from the date of the equipment's first seasonally appropriate test and acceptance, in writing, by the Owner. Where the Owner agrees to take Beneficial Occupancy of a portion or phase of the Work which has been determined to be substantially complete before the entire Work achieves Final Completion, the guarantee for that portion or phase shall begin on the date that the Owner takes Beneficial Occupancy, unless otherwise specified in the Supplemental General Conditions, Special Conditions, or by separate agreement. This guarantee is separate and apart from any manufacturers' warranties and the warranty set forth in Section 28. At six (6) months and eleven (11) months after Substantial Completion, the Contractor shall meet with the Owner to review the status of and assign value to any unresolved warranty, guarantee, and punch list items.

If, within any guarantee period, Work which is not in accordance with the Contract, Defective Work, or inferior material, equipment or workmanship is noted by the Owner or A/E which requires or renders necessary repairs or changes in connection with the guaranteed Work, the Contractor shall, promptly upon receipt of Notice from the Owner, such Notice being given not later than two weeks after the guarantee period expires, and without expense to the Owner:

1. Correct, repair, replace or otherwise place in satisfactory condition all Defective Work, defects, nonconformity, inferior materials, equipment or workmanship;
2. Make good all damage to the structure or Site or equipment or contents thereof, which, in the opinion of the Owner or the A/E, is the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the requirements of the Contract; and
3. Make good any Work or materials or the equipment and contents of structures and/or Site disturbance that results from fulfilling the requirements of the guarantee.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

In any case when in fulfilling the requirements of the Contract and this guarantee or any other guarantee or warranty the Contractor disturbs any work performed by a separate contractor, the Contractor shall restore such work to a condition satisfactory to the A/E and Owner and guarantee such restored work to the same extent as if it was guaranteed under this Contract.

If the Contractor, after Notice, fails to proceed promptly to comply with the obligations of this Section, and the surety, after Notice, fails to cure the Contractor's default, the Owner may undertake all needed corrections or repairs and the Contractor and its surety shall be liable for all expenses incurred.

All special warranties and guarantees applicable to definite parts of the Work that may be stipulated in or required by the Contract Documents shall be subject to the terms of this Section during the first year of such special warranty or guarantee. The guarantee of this Section shall be in addition to and not in lieu of all other warranties, express or implied, applicable to or arising from this Contract or by law.

Nothing contained in this Section shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including liability for Defective Work under Section 28, for indemnity or for breach of the Contract. This Section relates only to the specific obligation of the Contractor to correct the Work and does not limit the time within which its obligation to comply with the Contract Documents otherwise may be enforced, nor the time within which legal proceedings may be commenced to establish the Contractor's liability with respect to its obligations under the Contract Documents.

In the event the Work of the Contractor is to be modified by another contractor, either before or after the Final Inspection, the Contractor shall remain responsible in all respects under this Section's Guarantee of Work and under any other warranties or guarantees, express or implied, applicable to or arising from this Contract or by law. However, the Contractor shall not be responsible for any defects in material or workmanship introduced by another Contractor modifying Contractor's Work. The Contractor and any contractor making modifications shall each be solely responsible for its respective work. A contractor modifying the Contractor's Work shall be responsible for any damage to or defect introduced into the Work by its modification.

If Contractor claims that a subsequent contractor has introduced defects of materials and/or workmanship into its Work, Contractor shall demonstrate clearly the nature and extent of such introduced defects and the other contractor's responsibility for those defects. Any contractor modifying the work of another shall have the same burden if it asserts that defects in its work were caused by the contractor whose work is modified.

The Contractor shall indemnify and hold harmless the City of Fairfax, the Owner and the Owner's consultants, representatives, agents and employees from and against any and all claims, causes of action, losses, costs, expenses or damages, including but not limited to attorney's fees, of any kind or nature whatsoever, arising from or relating to any bodily injury, including sickness, disease or death, any property damage, and any monetary loss, that results from or arises out of the Work performed by the Contractor, or by or in consequence of the Contractor's neglect in safeguarding the Work, its use of unacceptable materials in the Work, or resulting from any act, omission, negligence, or misconduct of the Contractor, any of its subcontractors, anyone directly or indirectly employed by

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

them or anyone for whose acts the Contractor is or may be liable. The Owner may retain as much of the monies due the Contractor under the Contract as the Owner considers necessary to ensure that a fund will be available to pay a settlement or judgment of such suits, actions, or claims. If insufficient monies are or will become due, the Contractor's surety and/or insurers will not be released from liability until all such claims and actions have been settled and suitable evidence to that effect has been furnished the Owner.

43. ASSIGNMENTS

Neither party to the Contract shall assign the Contract in whole or any part without the written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder, without the prior written consent of the Owner. Consent to assignment shall not be unreasonably withheld. No assignment shall relieve any party from its obligations under the Contract.

44. CONTRACTUAL DISPUTES

A. Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment. However, written notice of the contractor's intention to file a claim shall be given no longer than seven days of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

1. Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after receipt of final payment; however, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or at the beginning of the work upon which the claim is based.

2. No written decision denying a claim or addressing issues related to the claim shall be considered a denial of the claim unless the written decision is signed by the City Manager or his designee. The contractor may not institute legal action prior to receipt of the final written decision on the claim unless the City fails to render a decision within 90 days of submission of the claim. Failure of the City to render a decision within 90 days shall not result in the contractor being awarded the relief claimed or in any other relief or penalty. The sole remedy for the City's failure to render a decision within 90 days shall be the contractor's right to institute immediate legal action.

B. A contractor may not institute legal action as provided in Code of Virginia § 2.2-4364, prior to receipt of the City's decision on the claim, unless the City fails to render such decision within the time.

C. The decision of the City shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by the City by instituting legal action as provided in Code of Virginia § 2.2-4364.

Legal actions.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

Alternative dispute resolution.

The City may enter into agreements to submit disputes arising from contracts entered into pursuant to Code of Virginia §2.2-4366 to arbitration and utilize mediation and other alternative dispute resolution procedures. Any such agreements shall be approved by the City Attorney.

45. ASBESTOS

This subsection applies to projects involving existing buildings where asbestos abatement is not a part of the Work, when the scope of the Project has been reviewed and a comprehensive survey conducted by an individual licensed by the Virginia Department of Professional and Occupational Regulation to conduct building inspections for asbestos-containing materials in buildings, and where the Owner has attempted to remove or encapsulate all asbestos-containing material that may become friable or damaged during this Project.

Prior to commencement of Work, the results of the comprehensive survey or any other asbestos survey shall be made available to the Contractor, who shall be responsible for performing his Work so as not to disturb any remaining asbestos, encapsulated or otherwise, identified in such survey or surveys.

If the Contractor discovers or inadvertently disturbs any material that he knows, should have known or has reason to believe, may contain asbestos that has not been previously identified, was overlooked during the removal, was deemed not to be friable or was encapsulated, the Contractor shall stop Work in the area containing or suspected to contain the asbestos, secure the area, and notify the Owner and the A/E immediately by telephone or in-person with written Notice as soon as possible. The Owner will have the suspect material sampled.

If the sample is positive and must be disturbed in the course of the Work, the Owner shall have the material repaired or removed and shall pay for the bulk sample analysis.

Except as provided in *Code of Virginia § 11-4.1*, if the material disturbed is not within the Contractor's authorized Work and/or Work area or under this Contract, the Contractor shall pay for all associated sampling and abatement costs.

If asbestos abatement is included as a part of the Work, the Contractor shall assure that the asbestos abatement work is accomplished by those duly licensed as described in Section 3 of these General Conditions and in accordance with the specific requirements of the Contract and all applicable laws and regulations.

If asbestos abatement is included as part of the Work, the licensed asbestos Subcontractor shall obtain the insurance required under Section 10 of these General Conditions.

46. PROJECT MEETINGS

The intention of this Section is that the Contractor, the Owner and the A/E have timely exchange of information and cooperate to accomplish the Work as required by the Contract Documents. The

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Contractor is responsible for managing the Work, obtaining approvals and requesting clarifications on a timely basis. The Owner and A/E are responsible for making a reasonable effort to provide timely responses to the Contractor.

Preconstruction Meeting: Prior to the start of construction and no later than 15 Days after the Notice to Proceed, a "Preconstruction" meeting shall be held with attendees to include the Owner's Project Manager and Project Inspector, the A/E's project manager and representatives of each design discipline involved in the Project, the Fire Marshal, the Contractor's project manager and superintendent (and scheduler, if Contractor desires), and representatives of the Contractor's major Subcontractors. The purpose of the meeting is to clarify and discuss the specifics related to, but not limited to, the following:

1. Persons involved from each entity and their chain of authority including the names of persons authorized to sign Change Orders and any limits to their authority. Name of Contractor's on-site certified Responsible Land Disturber.
2. Names, addresses, email addresses, telephone numbers and FAX numbers to be used for Requests for Information (RFI), Requests for Clarification (RFC), Requests for Proposals (RFP), shop drawings, Submittals, and Notice.
3. Contractor's proposed construction schedule, the requirements for schedule updates and recovery schedules, assessment and management of risks to on-time and on-budget completion, and Owner's sequencing requirements, if any.
4. Schedule of Values and Certificate for Payment requirements and procedures.
5. Procedures for shop drawings, product data and Submittals.
6. Procedures for handling Field Orders and Change Order.
7. Procedures for Contractor's request for time extension, if any.
8. Construction Site requirements, procedures and clarifications to include:
 - Manner of conducting the Work
 - Site specialties such as dust and erosion control, stormwater management, project signs, clean up and housekeeping, temporary facilities, utilities, security, and traffic
 - Safety
 - Layout of the Work
 - Quality control, testing, inspections, and notices required
 - Site visits by the A/E and others
 - Owner's Project Inspector duties
 - Running Punch List
 - As-Built Drawings
9. Procedures and documentation of differing or unforeseen Site conditions.
10. Assignment of responsibility for generation of meeting minutes of all project meetings.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

11. Project Close-Out requirements and procedures.
12. Project records.
13. Requirements for the Contractor to furnish the Owner a list of hazardous materials that may be brought onto the job site, and 48- hour notification requirement.

Monthly Pay Meeting: The Project Representatives and Monthly Pay Meeting topics described for such meetings are expected for the Progress Meetings. The requirement for a monthly pay meeting which will usually be held at or near the Site. In addition to Owner, A/E and Contractor representatives, the following representatives, at a minimum, should be available to attend portions of the meeting, as applicable or necessary:

- Owner's Project Inspector
- Contractor's project superintendent
- A/E representative of each discipline where Work was performed for the current pay request or where Work is projected to be performed in the coming month.
- A representative of each subcontractor who performed work included in the current pay request.
- A representative of each subcontractor who is projected to perform work in the coming month.

The following topics should be included, as a minimum, in the monthly pay meeting:

1. Observations of status, quality and workmanship of Work in progress
2. Validation of the Schedule of Values and Certificate for payment
3. Status of progress of the Work and conformance with proposed construction schedule and recovery schedule, if any
4. Outstanding Requests for Information, Requests for Clarification and Requests for Proposal
5. Submittals with action pending
6. Status of pending Change Orders
7. Status of Running Punch List items
8. Work proposed for coming pay period
9. Discussions of any problems or potential problems which need attention

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Other Meetings: Requirements for other meetings, such as progress meetings, coordination meetings, pre-installation meetings and/or partnering meetings, may be included in the Contract Documents (see project manual Section 01 30 00).

47. DEFINITIONS

Whenever used in in the Contract Documents, the following terms have the meanings indicated, which are applicable to both the singular and plural variations thereof:

A/E Services: The entirety of the services required of the A/E pursuant to the A/E's contract with the Owner for the Project.

As-Built Drawings: The As-Built Drawings is a set of all Drawings, Specifications, addenda, approved Shop and setting Drawings, Change Orders and other modifications which are updated by the Contractor throughout the performance of the Work to contemporaneously record all changes and variations made during construction. The representation of such variations shall be neatly and clearly marked in color and shall include such supplementary notes, symbols, legends, and details as may be necessary to clearly show the as-built construction of the Work.

Architect/Engineer ("A/E"): The Virginia licensed Architect or Engineer that contracts with the Owner to provide the A/E Services for the Project. The A/E is a separate contractor and not an agent of the Owner. The term includes any subcontractors, associates or consultants employed by the A/E to assist in providing the A/E Services.

Beneficial Occupancy: The time, following Substantial Completion, at which the Project or portion thereof, is sufficiently complete and systems operational such that the Owner could, after obtaining necessary approvals and certificates, occupy and utilize the space for its intended use. Guarantees and warranties applicable to that portion of the Work begin on the date the Owner accepts and occupies the Project, or a portion thereof, unless otherwise specified in the Supplemental General Conditions or by separate agreement.

Change Order: A document issued on or after the effective date of the Contract which is agreed to by the Contractor and approved by the Owner, and which authorizes an addition, deletion or revision in the Work, including any adjustment in the Contract Price and/or the Contract Completion Date. The term Change Order shall also include initiating and confirming change orders issued pursuant to Section 38(a)(3). A Change Order, once signed by all parties, is incorporated into and becomes a part of the Contract.

Change Order Proposal. A request by the Contractor requesting a change order and including the extended time and value.

Change Order Request. A request by the A/E for the Owner requesting a change order and including the extended time and value proposed by the Contractor.

Code of Virginia: Code of Virginia (1950), as amended. Sections of the Code referred to herein are noted by § xx-xx.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Construction: The term used to include new construction, reconstruction, renovation, restoration, major repair, demolition and all similar work upon buildings and ancillary facilities, including any draining, dredging, excavation, grading or similar work upon real property.

Construction Change Directive. A directive by the Owner requiring a change in the contract and requesting the Contractor's proposal for time and value.

Contract: The Contract between Owner and Contractor and the Contract Documents incorporated therein.

Contract Completion Date: The date by which the Work must achieve Substantial Completion. The Contract Completion Date is established in the Notice to Proceed, based on the Time for Completion, or set forth as a specific date in the Contract.

Contract Documents: The Contract and any documents expressly incorporated therein. Such incorporated documents customarily include the bid submitted by the Contractor, the General Conditions, any Supplemental General Conditions, any Special Conditions, the Plans and the Specifications, and all modifications, including addenda and subsequent Change Orders.

Contract Price: The total compensation payable to the Contractor for performing the Work in accordance with the Contract Documents, subject to modification by Change Order.

Contractor: The person or entity with whom the Owner has entered into the Contract for the Work.

Date of Commencement: The date as indicated in the written Notice to Proceed, the receipt of the earliest Building Permit, or a date mutually agreed to between the Owner and Contractor in writing, whichever is the latest.

Day: Calendar day unless otherwise noted.

Defective: An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, deficient, does not conform to the Contract Documents or does not meet the requirements of inspections, standards, tests or approvals required by the Contract Documents, or Work that has been damaged prior to the A/E's recommendation of Final Payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion or Beneficial Occupancy).

Drawing: A page or sheet of the Plans which presents a graphic representation, usually drawn to scale, showing the technical information, design, location, and dimensions of various elements of the Work. The graphic representations include, but are not limited to, plan views, elevations, transverse and longitudinal sections, large and small scale sections and details, isometrics, diagrams, schedules, tables and/or pictures.

Emergency: Any unforeseen situation, combination of circumstances, or a resulting state that poses imminent danger to health, life or property.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Field Order: A written order issued by the A/E which clarifies or explains the Plans or Specifications, or any portion or detail thereof, without changing the design, the Contract Price, the Time for Completion or the Contract Completion Date.

Final Completion: Completion and full performance of all Work in accordance with the terms and requirements of the Contract Documents, including the completion of all items identified on punch lists generated through the inspections set forth in Section 44(b) and submission of all information, manuals, warranties and documentation required by the Contract.

Final Completion Date: The date of the Owner's acceptance of the Work following Final Completion.

Final Payment: The final payment that the Contractor receives pursuant to the applicable provisions of Section 36, except in the event no final payment is made due to termination of the Contract under either Sections 41 or 42. In the event of a termination for cause under Section 41, the Final Payment shall be when the termination became effective. In the event of a termination for convenience under Section 42, the Final Payment shall be either the payment of compensation for termination that the Contractor receives according to the provisions of Section 42(a), or the Owner's determination that no compensation for termination is due the Contractor under Section 42(a), as the case may be.

Float: The excess time included in a construction schedule to accommodate such items as inclement weather and associated delays, equipment failures, and other such unscheduled events. It is the contingency time associated with a path or chain of activities and represents the amount of time by which the early finish date of an activity may be delayed without impacting the Critical Path and delaying the Contract Completion Date. Any difference in time between the Contractor's approved early completion date and the Contract Completion Date shall be considered a part of the Float.

Float, Free: The time (in Days) by which an activity may be delayed or lengthened without impacting the start day of any successor activity.

Float, Total: The difference (in Days) between the maximum time available within which to perform an activity and the duration of an activity. It represents the time by which an activity may be delayed or lengthened without impacting the Contract Completion Date.

Notice: Notice required by the Contract shall be given in writing to the email address or physical delivery location identified in the Contract Documents for receipt of Notice by the receiving party. A Notice is deemed to have been properly given and effective at the time such Notice is: (i) deposited with a nationally recognized overnight delivery service using no more than two (2) business day delivery service for delivery to the Notice address; (ii) hand delivered to the Notice address; (iii) enclosed in a postage prepaid envelope addressed to the Notice address and delivered to a United States Postal Service for delivery by prepaid certified or registered mail; or (iv) sent via email to the email address identified for Notice in the Contract Documents.

Notice to Proceed: A written Notice given by the Owner to the Contractor fixing the date on which the Time for Completion will commence for the Contractor to begin the execution of the Work.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

The Notice to Proceed will identify the Contract Completion Date if not otherwise established by the Contract.

Owner: The public body with whom the Contractor has entered into the Contract for the Work. The term Owner shall also mean the Agency.

Person: This term includes any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

Plans: The term used to describe the group or set of project-specific Drawings which are included in the Contract Documents.

Project: The term used instead of the specific or proper assigned title of the entire undertaking which includes, but is not limited to, the Work and the A/E Services.

Project Inspector: One or more persons employed by the Owner to inspect the Work for the Owner and/or to document and maintain records of activities at the Site to the extent required by the Owner. The scope of the Project Inspector's authority with respect to the Contractor is limited to that indicated in Section 16 (e) and (f) of the General Conditions and as supplemented by the Owner in writing to the Project Inspector and to the Contractor.

Project Manager: The Project Manager shall be the Owner's designated representative on the Project. The Project Manager shall be the person through whom the Owner generally conveys written decisions and instructions. All Notices to the Owner and all information required to be conveyed to the Owner shall be conveyed to the Project Manager unless otherwise stated in the Contract. The scope of the Project Manager's authority is limited to that authorized by the Owner. The Owner may change the Project Manager from time to time and may, in the event that the Project Manager is absent, disabled or otherwise temporarily unable to fulfill their duties, appoint an interim Project Manager.

Provide: Shall mean furnish and install ready for its intended use.

Record Drawings: Record Drawings are a final compilation set of drawings showing the "as built" condition of the Work, including all conditions, locations and dimensions based on the Contractor's As- Built Drawings. The Record Drawings shall contain the Plans, Specification, Addenda, approved shop drawings, and any other information needed to show the final condition of the work, actual location of piping and utilities, the depths of pilings or caissons if pilings or caissons were in the construction, and the integration of all Change Orders to the Work.

Schedule of Values: The Form prepared by the Contractor and acceptable to the Owner which indicates the portion of the Contract Price to be paid for each trade or major component of the Work.

Shop Drawings: The drawings, diagrams, illustrations, schedules, installation descriptions and other data prepared by or for the Contractor to provide detailed information for the fabrication, location, erection, installation, connection and methodology associated with the Work. Shop Drawings are intended to aid in the preparation and installation of materials and to ascertain that

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

the materials proposed by the Contractor conform to the requirements of the Contract Documents.

Site: The location at which the Work is performed or is to be performed.

Special Conditions: That part of the Contract Documents which describes special or additional requirements or procedures applicable to the Project. The Special Conditions do not amend or supersede the General Conditions.

Specifications: That part of the Contract Documents containing the written administrative requirements and the technical descriptions of materials, equipment, construction systems, standards, and workmanship for the Work.

Subcontractor: A person or firm having a direct contract with Contractor or with any other Subcontractor for the performance of the Work. Subcontractor includes any person or firm who provides on-Site labor but does not include a Supplier.

Submittals: All Shop, fabrication, setting and installation drawings, diagrams, illustrations, schedules, samples, and other data required by the Contract Documents which are specifically prepared by or for the Contractor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by the Contractor to illustrate material or equipment conformance of some portion of the Work with the requirements of the Contract Documents. Submittal as used herein includes Shop Drawings.

Substantial Completion: The stage in the progress of the Work at which the Owner agrees that the Work or a specific portion thereof, is sufficiently complete, in accordance with the Contract Documents, so that it can be utilized by the Owner for the purposes for which it was intended. The Owner at its sole discretion may, after obtaining the necessary approvals and certificates, take Beneficial Occupancy at this time or choose to wait to occupy until after Final Completion is achieved.

Supplier: A manufacturer, fabricator, distributor, supplier or vendor who provides material or equipment for the Project but does not provide on-Site labor.

Time for Completion: The number of consecutive Days following the Date of Commencement within which the Contractor must achieve Substantial Completion of the Work in accordance with the Contract Documents.

Total Contract Amount: The total compensation payable to the Contractor for performing the Contract, subject to modification by Change Order.

Underground Facilities: All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which are or have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Work: The construction and services required by the Contract Documents, whether completed or partially completed, including, but not limited to, furnishing labor, furnishing and incorporating materials and equipment into the Construction. The Work includes the entire completed Construction, or the various separately identifiable parts thereof, required to be provided under the Contract Documents or which may reasonably be expected to be provided as part of a complete, code compliant and functioning system for those systems depicted in the Plans and Specifications.

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