INVITATION FOR BIDS

VIRGINIA COMMONWEALTH UNIVERSITY

Kimages Creek Pier
VCU Rice Rivers Center
Charles City County, Virginia

PROJECT CODE NO: 2018-00967

Engineers of Record
BRUCE HOWARD CONTRACTING, INC.
6740 CHAMBERS ROAD
CHARLES CITY, VIRGINIA

DATE: April 12, 2018

SET NO: 1
INVITATION FOR BIDS for
Kimages Creek Pier
Project Code: 2018-00967

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**SPECIFICATIONS**

Technical specifications are on the drawings.
[AFFIX A/E SEALS W/SIGNATURES & DATES HERE]
Sealed bids, in duplicate, are invited for the Construction of the Kimages Creek Pier; Project Code No: 2018-00967, located at The VCU Rice Rivers Center, 3701 J. T. Memorial Highway (State Route 5), Charles City, Virginia. The project is generally described as wood piles, wood framing and decking, and a floating dock.

Sealed bids will be received by Evelyn Hinant, VCO, VCCO at Virginia Commonwealth University, Construction Management, 700 West Grace Street, Suite 1600, VCU Monroe Park Campus, Richmond, Virginia. The deadline for submitting bids is 2:00 P. M. sharp, as determined by the Bid Officer on May 22, 2018. The bids will be opened publicly and read aloud beginning at 2:00 P.M. on May 23, 2018 at the same location.

A Bid Bond is required if Bid is over $500,000.

Procedures for submitting a bid, claiming an error, withdrawal of bids and other pertinent information are contained in the Instructions to Bidders, which is part of the Invitation for Bids. Withdrawal due to error in bid shall be permitted in accord with Section 4, Item I, No. 3 of the Commonwealth of Virginia Purchasing Manual for Institutions for Higher Education and their Vendors. The Owner reserves the right to reject any or all bids.

A Mandatory Pre-Bid Conference will be held at the Rice Rivers Center, Charles City County, Virginia at 10:00 A.M. on May 3, 2018. No one will be admitted to the Pre-Bid Conference after 10:15 A.M. Attendance shall be mandatory for those submitting a bid. Upon entering the site, take the gravel road to the end and park outside the education building.

Questions must only be directed to Keith Van Inwegen, VCU Project Manager, by email at kvaninwegen@vcu.edu. All questions must be submitted on the VCUHECO Form Pre-Bid Question Form (included in the project specifications). The deadline for submitting questions is 12:00 Noon on May 9, 2018.

The contract shall be awarded on a lump sum basis as follows: the Total Base Bid Amount including any properly submitted and received bid modifications plus such successive Additive Bid Items as the Owner in its discretion decides to award in the manner set forth in Paragraph 12 of the Instructions to Bidders. ‘Notice of Award’ or ‘Notice of Intent to Award’ will be posted on eVA, Virginia Department of General Services’ central electronic procurement website, at https://eva.virginia.gov [and on the agency’s website at http://www.fmd.vcu.edu/about/announcements/index.html]
Contractor registration is required in accordance with Section 54.1-1103 of the Code of Virginia. See the Invitation for Bids for additional qualification requirements.

It is the policy of Virginia Commonwealth University (VCU) to contribute to the establishment, preservation, and strengthening of small, women and minority owned businesses (SWaM), as certified by the Commonwealth of Virginia’s Department of Small Business and Supplier Diversity (DSBSD), and to encourage their participation in VCU procurement activities. To this end, VCU has established an overall SWaM participation goal of 42% for fiscal year 2016 and encourages Contractors to provide for the participation SWaM businesses through partnerships, joint ventures, subcontracts, or other contractual opportunities.

The Invitation for Bids for the above project, including the drawings and the specifications containing the information necessary for bidding, may be obtained from the office of VCU Planning & Design located at 700 West Grace Street, Suite 1500, VCU Monroe Park Campus, Richmond, Virginia, Telephone: 804-828-1204.

A deposit of $50 for each set of the Invitation for Bids documents will be required as a guarantee of the safe return of the documents within ten days after the bid opening. A non-refundable shipping charge of $50 per set is required for all sets requiring shipment. Please submit separate checks made out to Commonwealth of Virginia-VCU (Please Do Not Include Anyone’s Name on the Check).

Copies of the Invitation for Bids documents, including the plans and the specifications, will also be available for inspection at the following locations:

- VCU Planning & Design [https://fmd.vcu.edu/planning-and-design/resources/](https://fmd.vcu.edu/planning-and-design/resources/)

Virginia Commonwealth University
Agency

Donald M. Cosgrove, VCCO, AIA
Director
VCU Construction Management
Authorized Official of the Agency

Attachment: eVA Vendor Registration Requirements
Vendor eVA Registration Requirements

**eVA Vendor Registration:** The eVA Internet electronic procurement solution (http://eVA.virginia.gov) streamlines and automates government purchasing activities for the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide construction and/or professional services to the Commonwealth shall participate in the eVA electronic procurement solution. All bidders or offerors must register in eVA; failure to register will result in their bid/proposal being rejected. There are no fees to register, however, transaction fees apply as follows:

The Vendor Transaction Fee shall be:
(i) DSBSD-certified Small Businesses: 1%, capped at $500 per order.
(ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at $1,500 per order.

**eVA Contracts and Orders:** The solicitation/contract will result in One (1) Purchase Order with the eVA transaction fee specified below assessed for each order.

The Vendor Transaction Fee shall be:
(i) DSBSD-certified Small Businesses: 1%, capped at $500 per order.
(ii) Businesses that are not DSBSD-certified Small Businesses: 1%, capped at $1,500 per order.

The eVA transaction fee will be assessed approximately 30 days after each purchase order is issued. Any adjustments (increases/decreases) will be handled through eVA change orders.

The eVA transaction fees listed above are per the eVA Fee Schedule, revised 7/1/2014. Please refer to the eVA website for subsequent fee revisions.

DSBSD is the Virginia Department of Small Business and Supplier Diversity, a new department which went into effect 1/1/2014. The operations of the former Department of Minority Business Enterprise (DMBE) are currently being transitioned into DSBSD. Until such time as the transition is complete, consider “DSBSD-certified” and “DMBE-certified” to be equivalent terms.
It is the policy of Virginia Commonwealth University (VCU) to contribute to the establishment, preservation, and strengthening of small, women and minority owned businesses (SWaM), as certified by the Commonwealth of Virginia’s Department of Small Business and Supplier Diversity (DSBSD), and to encourage their participation in VCU procurement activities. To this end, VCU has established an overall SWaM participation goal of 42% for fiscal year 2018 and encourages Contractors to provide for the participation SWaM businesses through partnerships, joint ventures, subcontracts or other contractual opportunities.

Where it is practicable for any portion of the awarded contract to be subcontracted, the Contractor is encouraged to offer such subcontracted work to SWaM businesses. Names of certified SWaM businesses may be obtained from VCU’s Construction Management Department or DSBSD. When business has been subcontracted to SWaM firms and upon submission of each month’s pay request, the Contractor agrees to furnish VCU’s Construction Management Department the following information: name of firm, phone number, total dollar amount subcontracted, dollar amount paid subcontractor each period, subcontractor’s DSBSD certification number, and type of product/service provided. The CO-12 requires that you also list your subcontractor’s dollars and registration number alongside each respective line item. The CO-12 shall break out the general conditions from the subcontractor’s cost thus indicating the true contract amount with the subcontractor. The contractor’s O&P for each particular subcontractor will be allowed to be listed in the following line marked General Conditions.

The contractor shall submit quarterly reports on the utilization of SWaM businesses. The report will specify the actual contracted dollars spent with SWaM businesses under the contract, both during the reporting period and total to date. The contractor shall provide this information on the spreadsheet sent to the contractor’s Project Manager by Evelyn Hinant with VCU Construction Management Department and return to Evelyn Hinant at ewhinant@vcu.edu by the required deadline.

Failure to submit the required information will be considered a contract compliance issue and will be addressed accordingly. In addition, failure to submit the required information will result in invoices being returned without payment.
Identification badges are issued by Virginia Commonwealth University, Construction Management, 700 West Grace Street, to only the contractor's superintendent, project manager and his main subcontractor's superintendent and project manager who will be working at all times on the project. The General Contractor must furnish all of his other employees and/or sub-contractors I.D. Badges and they must wear them at all times while on the project site. In lieu of contractor I. D. Badges, the General Contractor shall require his other employees and/or sub-contractors wear shirts with their company name identified. Construction Management may, at its sole discretion, determine who is eligible for an ID Badge and who is not. Submit your "Request for I.D. Badges" form for approval via fax, 804-828-2528. There will be a $20 charge for each I.D. Badge issued by VCU.

All badges shall be retrieved from your employee prior to them leaving your company's employment and immediately returned to the VCU Construction Management Office at 700 West Grace Street; Suite 1600, Richmond, VA. There will also be a $50 charge for each badge not returned to the VCU Construction Management prior to the approval of your final pay request. This charge will be deducted from your final pay request.
INSTRUCTIONS TO BIDDERS

The Invitation For Bids (IFB) consists of the Notice, this Instructions To Bidders, the Bid Form, the Pre-Bid Question Form, the General Conditions of the Construction Contract, the Supplemental General Conditions (if any), the Special Conditions (if any), the Forms to be used, and the Scope of Work as described by the Plans and Specifications, other documents listed in the Specifications, and any addenda which may be issued, all of which request qualified bidders to submit competitive prices or bids for providing the described work on the project. The bidder or offeror shall be registered in eVA.

1. CONDITIONS AT SITE OR STRUCTURE

Bidders shall visit the site and shall be responsible for ascertaining pertinent local conditions such as location, accessibility, general character of the site or building, and the character and extent of existing work within or adjacent to the site. Claims, as a result of failure to have done so, will not be considered by the University. See Section 7 of the General Conditions entitled "Conditions at Site."

2. EXPLANATIONS TO BIDDERS

No oral explanation in regard to the meaning of drawings and specifications will be made and no oral instructions will be given before the award of the contract. Discrepancies, omissions or doubts as to the meaning of drawings and specifications shall be communicated in writing to the Architect / Engineer for interpretation. Bidders must use the "VCUHECO Pre-bid Question Form" provided in the bid documents. Bidders must so act to assure that questions reach the Architect/Engineer at least six (6) days prior to the time set for the receipt of bids to allow a sufficient time for an addendum to reach all bidders before the submission of their bids. If, however, there are two (2) weeks or less between the first bid advertisement and the time set for receipt of bids, then bidders must submit questions so that they reach the A/E no later than three (3) days prior to the time set for receipt of bids. Any interpretation made will be in the form of an addendum to the specifications which will be forwarded to all bidders, and its receipt shall be acknowledged by the bidder on Bid Forms.

3. TIME FOR COMPLETION

(a) "Time for Completion" shall be designated by the University on the IFB or other pre-bid documents and shall mean the number of consecutive calendar days following the issuance of the Notice to Proceed which the Contractor has to substantially complete all Work required by the Contract. In some instances, the Time for Completion may be stated in the form of a Contract Completion Date based on a stipulated date of Notice to Proceed.

Unless otherwise specified, the Contractor shall achieve Final Completion within thirty (30) days after the date of Substantial Completion.

(b) When the Notice to Proceed is issued, it will state a Contract Completion Date, which has been set by the University based on date of the Notice to Proceed and the Time for Completion.
(c) The Contractor, in preparing and submitting his bid, is required to take into consideration normal weather conditions. Normal weather does not mean statistically average weather, but rather means a range of weather conditions which might be anticipated, (i.e., conditions which are not extremely unusual). Normal weather conditions shall be determined from the National Oceanic and Atmospheric Administration (NOAA) for Richmond, VA. The data sheets to be used shall be for the locality or localities closest to the site of the work. No additional compensation will be paid to the Contractor because of adverse weather conditions; however, an extension of time for abnormal weather will be considered by the University as indicated in the General Conditions.

(d) If the University designates the public historical climatological records to be used, the bidder shall use those records in computing bids. The bid submitted and the time of completion shall be presumed to have been based upon normal weather derived from the climatological records used.

4. PREPARATION AND SUBMISSION OF BIDS

(a) Bids shall be submitted on the forms furnished, or copies thereof, and shall be signed in ink. Erasures or other changes in a bid must be explained or noted over the signature of the bidder. Bids containing any conditions, omissions, unexplained erasures, alterations or items not called for in the proposal, or irregularities of any kind, may be rejected by the University as being incomplete or nonresponsive.

(b) Each bid must give the complete legal name and full business address of the bidder and be signed by the bidder, or the bidder's authorized representative, with his usual signature. Bids by partnerships must be signed in the partnership name by one of the general partners of the partnership or an authorized representative, followed by the designation/title of the person signing, and a list of the partners. Bids by joint ventures must be signed in the joint venture name by one of the joint venturers or an authorized representative of one of the joint venturers, followed by the designation/title of the person signing, and a list of the joint venturers. Bids by corporations must be sealed and signed with the legal name of the corporation followed by the name of the state in which it is incorporated and by the signature and title of the person authorized to bind it in this matter. The name of each person signing shall be typed or printed below the signature. A signature on a bid by a person who identifies his title as "President," "Secretary," "Agent" or other designation without disclosing the principal firm, shall be held to be the bid of the individual signing. When requested by the University, satisfactory evidence of the authority of the officer signing on behalf of the corporation shall be furnished. Trade or fictitious names may be referenced by using "t/a __ __," but bids shall be in the legal name of the person or entity submitting the bid.

(c) Bids with the bid guarantee shall be enclosed in a sealed envelope which shall be marked and addressed as indicated by the advertisement. If a contract is for one hundred twenty thousand dollars ($120,000) or more, or if the total value of all construction, removal, repair or improvements undertaken by the bidder within any twelve-month period is seven hundred fifty thousand dollars ($750,000) or more, the bidder is required under Title 54.1, Chapter 11, Section 1100, Code of Virginia, as amended, to be licensed in Virginia as a "Class A
Contractor." If a contract is for seven thousand five hundred dollars ($7,500) or more, but less than one hundred twenty thousand dollars ($120,000), the bidder is required to be licensed in Virginia as a "Class B Contractor." The bidder shall place on the outside of the envelope containing the bid and shall place in the bid over his signature whichever of the following notations is appropriate and insert his Contractor license/registration number:

Licensed Class A Virginia Contractor No. ______________
or
Licensed Class B Virginia Contractor No. ______________

If the bidder is not properly licensed in Virginia at the time the bid is submitted, or if the bidder fails to provide this information on his bid or on the envelope containing the bid and fails to promptly provide said Contractor license number to the University in writing when requested to do so before or after the opening of bids, he shall be deemed to be in violation of Section 54.1-1112 of the Code of Virginia, as amended, and his bid will not be considered.

(d) The Board for Contractors has interpreted its regulations to mean "a licensed Contractor can bid on a contract which contains work outside his license classification(s) as long as he subcontracts those items for which he is not qualified to perform to licensed contractors with the appropriate License Classification and the work of the second party is incidental to the contract." Therefore, the University may, as a part of determining whether the bidder is "responsible," require the apparent low bidder to submit a listing of his subcontractors along with the license number and classification or specialty of each.

(e) The bidder must also place its Employer Identification Number (FEIN) in the space provided on the Bid Form.

5. BID GUARANTEE

(a) Any bid (including the Total Base Bid plus all Additive Bid Items) which exceeds one million dollars ($1,000,000) shall be accompanied by a Virginia Commonwealth University Standard Bid Bond, HECO-10.2 FORM, payable to the University as Obligee in an amount equal to five percent (5%) of the amount of the bid. A Bid Bond may be required for projects having bids of less than one million dollars ($1,000,000) if such requirement is stated in the Notice of IFB. The Bid Bond must be issued by a surety company which is legally authorized by the Virginia State Corporation Commission to do fidelity and surety business in the Commonwealth of Virginia. Such Bid Bond shall guarantee that the bidder will not withdraw his bid during the period of thirty (30) days following the opening of bids; that if his bid is accepted, he will enter into a formal contract with the University in accordance with the Contract Between Owner and Contractor, Form HECO-9, included as a part of the IFB Documents; that he will submit a properly executed and authorized Standard Performance Bond and Standard Labor and Material Payment Bond on the forms included in the IFB documents; and that in the event of the withdrawal of said bid within said period, or failure to enter into said contract and give said bonds within ten (10) days after he has received notice of acceptance of his bid, the bidder shall be liable to the University for the difference between the amount specified in said bid and such larger amount for which the University may contract with another party to perform the work covered by said bid, up to the amount of the bid.
This amount represents the damage to the University on account of the default of the bidder in any particular hereof. See §28 of Governing Rules, as amended.


(c) The Bid Bonds or other bid security will be returned to all except the three lowest bidders after the formal opening of bids. The remaining Bid Bonds or bid security will be returned to the bidders after the University and the accepted bidder have executed the Contract and the Performance Bond and the Payment Bond have been approved by the University.

(d) If the required Contract and bonds have not been executed within thirty (30) days after the date of the opening of the bids, then the bond or other bid security of any bidder will be returned upon his request, provided he has not been notified of the acceptance of his bid prior to the date of such request.

6. WITHDRAWAL OR MODIFICATION OF BIDS

Bids may be withdrawn or modified by written or faxed notice received at the designated location from bidders prior to the deadline fixed for bid receipt. The withdrawal or modification may be made by the person signing the bid or by an individual(s) who is authorized by him on the face of the bid. Written modifications may be made on the bid form itself, on the envelope in which the bid is enclosed, or on a separate document. Written modifications, whether the original is delivered or faxed, must be signed by the person making the modification or withdrawal. The modification must state specifically what is to be modified and by what amount or it must state the item to be modified and what the corrected amount should be. (e.g. “Deduct $25,000 from Part A and from the Total Base Bid Amount”; or “Add $23,456 to the Total Base Bid Amount”; or “Deduct $15,650 from the Additive # 2 amount”. A modification to “Deduct $25,000 from Part A” will only be applied to Part A and not to the Total Base Bid Amount). Unless otherwise specified by the Bidder in the modification, the modification will be applied to the TOTAL BASE BID AMOUNT shown on the Bid Form (e.g. a modification stating only “Deduct $25,000” which is properly signed will be deducted from the Total Base Bid Amount shown on the Bid Form).

7. RECEIPT OF BIDS

(a) Bids will be received at or before the date and the hour and at the place stipulated in the IFB as may be modified by subsequent Addenda.

(b) It is the responsibility of the bidder to assure that his bid and any bid modifications are delivered to the place designated for receipt of bids by the date and hour (deadline)
set for receipt of bids. Therefore, it is the bidder’s responsibility to take into account all factors which may impact on its bid deliverer / courier’s ability to deliver the bid and to implement whatever actions are necessary to have the bid delivered to the proper bid receipt location prior to the bid receipt deadline. No bids or bid modifications submitted or offered after the date and hour designated for receipt of bids will be accepted or considered.

(c) The Bid Officer is the University's representative designated to receive bids at the time and place noted in the IFB and to open the bids received at the appointed time.

(d) The official time used for the receipt of responses is determined by reference to the clock designated by the Bid Officer. The Bid Officer shall determine when the Bid Receipt Deadline has arrived and shall announce that the Deadline has arrived and that no further bids or bid modifications will be accepted. All bids and bid modifications in the possession of the Bid Officer and his assistants at the time the announcement is completed are deemed to be timely, whether or not the bid envelope has been physically date/time stamped or otherwise marked by the time the Bid Officer makes the deadline announcement.

8. OPENING OF BIDS

(a) Bids will be opened at the time and place stated in the IFB or as modified by subsequent Addenda, and their contents publicly announced. The Bid Officer shall decide when the specified time for bid opening has arrived. No responsibility will be attached to any officer or agent for the premature opening of a bid not properly addressed and identified. Bid opening shall be no sooner than 24 hours after the time set for receipt of bids.

(b) The provisions of §34 of the Governing Rules, as amended, shall be applicable to the inspections of bids received.

9. ERRORS IN BIDS

A bidder may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

In accordance with §23 of the Governing Rules, the bidder must submit to the University his original work papers, documents and materials used in the preparation of the bid within one day after the date fixed for submission of bids. Such work papers must be submitted in an envelope or package separate and apart from the envelope containing the bid and marked clearly as to the contents and shall be delivered to the University by the bidder in person or by registered mail prior to the time fixed for the opening of bids and may not be withdrawn until after the two-hour period (referred to later) has elapsed.
The bids shall be opened at the time designated in the IFB, as amended by addendum. Bid opening is usually one day following the time fixed by the University for the submission of bids, but no sooner. Once the bids have been opened, the bidder shall have two (2) hours after the opening of bids within which to claim in writing any mistake as defined herein and withdraw his bid. The Contract shall not be awarded by the University until such two-hour period has elapsed. Such mistake shall be proved only from the original work papers, documents and materials delivered to the University prior to bid opening. This procedure (ii) shall not apply to when the entire bid is required to be submitted on a unit price basis.

Failure of a bidder to submit his original work papers, documents and materials used in the preparation of his bid on or before the time, date and place required shall constitute a waiver by that bidder of his right to withdraw his bid due to a mistake.

No bid may be withdrawn under this section when the result would be the awarding of the Contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five (5%) percent.

No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the Contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted. The person or firm to whom the Contract was awarded and the withdrawing bidder are jointly liable to the University in an amount equal to any compensation paid to or for the benefit of the withdrawing bidder without such approval.

If a bid is withdrawn under authority of this section, the lowest remaining bid shall be deemed to be the low bidder on the project.

10. REJECTION OF BIDS

The University reserves the right to cancel the IFB, to reject any and all bids at its sole discretion when such rejection is in the interest of the University, or to reject the bid of any bidder who is determined to be not responsive or not responsible. See §16, Governing Rules, as amended.

11. DETERMINATION OF RESPONSIBILITY

Each bidder shall be prepared, if so requested by the University, to present evidence of his experience, qualifications and financial ability to carry out the terms of the Contract.

Prior to award of the Contract, an evaluation will be made to determine if the low bidder has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been prequalified, if required. Factors to be evaluated include, but are not limited to:
(a) Sufficient financial ability to perform the contract as evidenced by the bidder's ability to obtain payment and performance bonds from an acceptable surety;

(b) Appropriate experience to perform the Work described in the bid documents;

(c) Any judgments entered against the bidder, or any officers, directors, partners or owners for breach of a contract for construction;

(d) Any substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause where the substantial noncompliance is documented; or

(e) a conviction of the bidder or any officer, director, partner, project manager, procurement manager, chief financial officer, or owner in the last five years of a crime relating to governmental or nongovernmental construction or contracting;

(f) Any current debarment of the contractor, any officer, director or owner, from bidding or contracting by any public body of any state, any state agency, or any agency of the federal government.

The University reserves the right to disqualify or refuse to accept the bid of any bidder who has been convicted, or entered a plea of guilty or nolo contendere, in any federal or state court to any charge involving any unlawful, corrupt or collusive practice involving a public contract whether federal, state, or local, or who has been determined in any judicial proceeding to have violated any antitrust, bid-rigging or collusive practice statute in connection with any public contract, or against whom such formal criminal prosecution or other judicial proceeding has been initiated.

A bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder shall be notified in writing in conformance with the procedures in §49 of the Governing Rules, as amended.

12. AWARD OF CONTRACT

(a) Basis for Contract Award: The Contract, if awarded, will be awarded to the lowest responsive and responsible bidder, if any, provided his bid is reasonable and it is in the best interest of the University to accept it and subject to the University's right to reject any and all bids and to waive informality in the bids and in the bidding. The Bid Form contains a multi-part Base Bid and may contain Additive Bid Items. Determination of the lowest responsible bidder, if any, will be based on the Total Base Bid Amount entered on the Bid Form including any properly submitted bid modifications plus as many Additive Bid Items taken in sequence as the University in its discretion chooses to Award. Where the sum of the values entered in the multiple parts do not agree with the Total Base Bid amount, the Total Base Bid amount entered on the bid form, including any properly submitted bid modifications, shall take precedence. In the event that the Total Base Bid from the lowest responsible bidder exceeds available funds, the University may negotiate the Total Base Bid amount with the apparent low bidder to obtain a contract price within available funds, pursuant to §15 of the
(b) **Informalities:** The University reserves the right to waive any informality in the bids when such waiver is in the interest of the University.

(c) **Negotiation With Lowest Responsible Bidder:** If award of a contract to the lowest responsive and responsible bidder is precluded because of limitations on available funds, under the provisions of §15 of the *Governing Rules*, the University reserves the right to negotiate the Total Base Bid amount with the lowest responsive, responsible bidder to obtain a contract price within the available funds. This may involve changes in either the features or scope of the work included in the Base Bid. Such negotiations with the apparent low bidder may include reducing the quantity, quality, or other cost saving mechanisms involving items in the Total Base Bid. Negotiations for Additive Bid Items are excluded. The University shall notify the lowest responsive and responsible bidder that such a situation exists and the University and bidder shall then conduct their negotiations in person, by mail, by telephone or by any means they find convenient. If an acceptable contract can be negotiated, the changes to the IFB documents agreed upon in the negotiations shall be summarized in a "Post Bid Modification" and included in the contract. If an acceptable contract cannot be negotiated, the University shall terminate negotiations and reject all bids.

(d) **Notice of Intent to Award and Notice of Award:** The Notice of Award or the Notice of Intent to Award will be posted at the University’s standard location for posting notices as shown on the “Notice of Invitation to Bid”. In addition the University may also post such notice on the University’s Website and/or the DGS central electronic procurement Website.

13. **CONTRACT SECURITY**

For contracts of more than $1,000,000, the Standard Performance Bond (Form HECO-10) and the Standard Labor and Material Payment Bond (Form HECO-10.1) shall be required, as specified in the IFB documents. See the General Conditions and §§29 & 30 of The Rules. The University reserves the right to require such bonds for contracts less than $1,000,000. If the University so elects, the requirement shall be set forth in the IFB.

14. **CERTIFICATION**

The bidder, by his signature on the Bid Form, certifies that neither his organization nor any of its officers, directors, partners or owners is currently barred from bidding on contracts by any Agency of the Commonwealth of Virginia, or any public body or agency of another state, or any agency of the federal government. See the statement "Disqualification of Contractors" in the Bid Form.
15. ETHICS IN PUBLIC CONTRACTING

The provisions, requirements and prohibitions as contained in §57 of the Governing Rules, as amended, pertaining to bidders, officers, contractors, and subcontractors are applicable to this project.

16. BUILDING PERMITS

Because this is a Project of the Commonwealth of Virginia, codes or zoning ordinances of local political subdivisions do not apply. However, the Virginia Uniform Statewide Building Code shall apply to the Work and shall be administered by the Building Official for the University. The Building Permit will be provided by the University. All other permits, local license fees, business fees, taxes, or similar assessments imposed by the appropriate political subdivision shall be obtained and paid for by the Contractor. See Section 25 of the General Conditions for utility connection fees and services.

17. SMALL, WOMEN & MINORITY-OWNED BUSINESS UTILIZATION

It is the policy of Virginia Commonwealth University to contribute to the establishment, preservation, and strengthening of small, women, and minority-owned (SWaM) business enterprises and to encourage the participation of SWaM businesses in University procurement activities. Towards that end, the University encourages firms to provide for the participation of SWaM businesses through partnerships, joint ventures, subcontracts, and other contractual opportunities.

18. BID DOCUMENTS

Bid Documents are the property of the University and a deposit in an amount as stated in the IFB may be required for each paper set or for each set provided on removable electronic media as a guarantee of the safe return of the documents within ten (10) days of bid opening. This deposit, if required, will be refunded in full on not more than two paper sets or sets provided on removable electronic media to each bidder who submits a prime contract bid and who returns the documents in good condition. Refund will be made on paper sets and sets provided on removable electronic media to non-bidders and subcontractors in the amount of half of the deposit when the sets are returned in good condition within 10 days. A deposit is not required for downloading of electronic construction documents through an FTP site. A non-refundable shipping charge may be required for paper sets or sets provided on removable electronic media if stated in the Notice or the IFB. In IFBs which allow for the prime bidder and the subcontractor(s) to each receive one (1) free paper set or set provided on removable electronic media, there may be a charge for additional sets at the discretion of the University.
19. GENERAL CONDITIONS

The General Conditions of the Construction Contract, Form CO-7, as modified by the HECO-7, are incorporated in the bid documents. If these General Conditions are incorporated by reference, the bidder may obtain a copy of the current edition at no cost by written request to the A/E and/or the University.

20. PREBID CONFERENCE

See the IFB for requirements for a pre-bid conference and whether such conference is mandatory or optional.

21. INSPECTION OF BID DOCUMENTS

Copies of the IFB documents including Plans and Specifications and the General Conditions of the Construction Contract, Forms HECO-7 and CO-7, current editions, will be available for inspection at the University, at the A/E's office, and at the locations listed in the Notice of the IFB. HECO and CO Forms can be downloaded from VCU Construction Management’s website at: http://www.find.vcu.edu/construction/index.html Do Not Download or use the forms from the DGS website

22. DRUG-FREE WORKPLACE REQUIRED

Bidders are reminded that §11 of the Governing Rules requires that the during the performance of the contract resulting from this solicitation, 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 in accordance with this solicitation, 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.
VIRGINIA COMMONWEALTH UNIVERSITY
HECO-10.2
STANDARD BID BOND

KNOW ALL MEN BY THESE PRESENTS: That _____, the Contractor (“Principal”) whose principal place of business is located at _____ and _____ (“Surety”) whose address for delivery of ‘Notices’ is located at _____ are held and firmly bound unto the Commonwealth of Virginia, Virginia Commonwealth University, the Owner (“Obligee”) in the amount of five percent (5%) of the Amount (Total Base Bid plus all Additive Bid Items) Bid by Principal, for the payment whereof, Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for _____

NOW, THEREFORE, the conditions of this obligation are as follows. This Bid Bond shall guarantee that the Principal will not withdraw his bid during the period of thirty (30) days following the opening of bids; that if his bid is accepted, Principal will enter into a formal contract with the Owner in accordance with the Contract Between Owner and Contractor, Form HECO-9, included as a part of the Invitation for Bids (IFB Documents); that Principal will submit a properly executed and authorized Standard Performance Bond and Standard Labor and Material Payment Bond on the forms included in the IFB documents; and that in the event of the withdrawal of said bid within said period, or failure to enter into said contract and give said bonds within ten (10) days after Principal has received notice of acceptance of his bid, Principal and Surety shall be jointly and severally liable to the Owner for the difference between the amount specified in said bid and such larger amount for which the Owner may contract with another party to perform the work covered by said bid, up to the amount of the bid guarantee. This amount represents the damage to the Owner of account of the default of the bidder in any particular thereof.

The Surety represents to the Principal and to the Obligee that it is legally authorized to do business in the Commonwealth of Virginia.
HECO 10.2 BID BOND FORM
Rev. (4/16)

Signed and sealed this day of

Contractor / Principal (SEAL)

By: ____________________________
Typed Name: ____
Title: ____

Witness
Typed Name: ____
Title: ____

Surety (SEAL)

By: ____________________________
Typed Name: ____

Attorney-in-Fact

Typed Name: ____

AFFIDAVIT AND ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT

COMMONWEALTH OF VIRGINIA
(or alternatively, Commonwealth or State of _____)

CITY of _____

I, the undersigned notary public, do certify that _____ whose name is signed to the foregoing bid bond in the amount of five percent (5%) of the Total Bid Amount and which names the Commonwealth of Virginia, and Virginia Commonwealth University, as Obligee, personally appeared before me today in the above jurisdiction and made oath that he/she is the attorney-in-fact of _____, a _____ corporation which is the Surety in the foregoing bond, that he/she is duly authorized to execute on the above Surety’s behalf the foregoing bond pursuant to the Power of Attorney noted above and attached hereto, and on behalf of the surety, he/she acknowledged the foregoing bond before me as the above Surety’s act and deed.

She/he has further certified that her/his Power of Attorney has not been revoked. [Complete if Power is recorded: Clerk’s Office: _____; Deed Book/Page No. or Instrument No.: _____.]

Given under my hand this ____ day of ____. 
VIRGINIA COMMONWEALTH UNIVERSITY
CONSTRUCTION MANAGEMENT

PRE-BID QUESTION FORM
(Use Separate Form for Each Question Submitted.)

DATE: ______________________

IFB / Project Code#: 2018-00967

Project Title: VCU Kimages Creek Pier

Project Location: Rice Rivers Center, Charles City County, Virginia

Date IFB Issued: 4/22/2018

The following questions concerns Drawings Sheet (number) ____________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

The following questions concerns Specifications Section (number) ____________________________________________

page ________ paragraph ________

__________________________________________________________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

The following question concerns "Scope of Work": ____________________________________________

__________________________________________________________________________________________

__________________________________________________________________________________________

All responses to questions will be made by Addendum. Questions must be submitted on this Pre-Bid Question form and sent to: Keith Van Inwegen, at email address: kvaninwegen@vcu.edu or Faxed to 804-828-2528 no later than 12:00 NOON on May 9, 2018. No questions will be answered after this date.

Question submitted by:

Name Organization Email
BID FORM

Date: April 22, 2018

Project: Kimages Creek Pier

Location: VCU Rice Rivers Center

Project Code: 2018-00967

To: Commonwealth of Virginia
Virginia Commonwealth University
Construction Management
ATTN: Evelyn Hinant, VCO, VCCO
P. O. Box 843003 / 700 West Grace Street; Suite 1600
Richmond, Virginia 23284-3003

In compliance with and subject to your Invitation for Bids and the documents therein specified, all of which are incorporated herein by reference, the undersigned bidder proposes to furnish all labor, equipment, and materials and perform all work necessary for construction of this project, in accordance with the Plans and Specifications dated April 12, 2018, and the Addenda noted below, as prepared by Bruce Howard Contracting, Inc. for the consideration of the following amount:

**BASE BID (including the following parts but excluding work in Additive Bid Items):**

Lump sum price for construction of the pier, complete, and in accordance with the Plans and Specifications:

**TOTAL BASE BID AMOUNT IS:**

_______________________________________________________ DOLLARS ($  )

**ADDITIVE BID ITEM 1:** Lump sum price for all work to furnish and install a floating dock platform, complete, in accordance with the drawings and specifications is

______________________________________________ Dollars ($_________)

**UNIT PRICING**

Unit price for additional wood piling exceeding 20 linear feet priced per foot $_______ per linear foot
Contract award will be based on the **TOTAL BASE BID AMOUNT shown above** (including any properly submitted bid modifications) plus as many Additive Bid Items taken in sequence as the Owner in its discretion decides to award.

The bidder has relied upon the following public historical climatological records: **National Oceanic and Atmospheric Administration (NOAA) for Richmond, VA.**

The undersigned understands that time is of the essence and agrees that the time for Substantial Completion of the entire project shall be 45 consecutive calendar days from the date of commencement of the Work as specified in the Notice to Proceed, and Final Completion shall be achieved within 30 consecutive calendar days after the date of Substantial Completion as determined by the A/E.

* * * * * * * * * * * *

Acknowledgment is made of receipt of the following Addenda: ____________________________

If notice of acceptance of this bid is given to the undersigned within 30 days after the date of opening of bids, or any time thereafter before this bid is withdrawn, the undersigned will execute and deliver a contract in the prescribed form (Contract Between Virginia Commonwealth University and Contractor, Form HECO-9) within 10 days after the contract has been presented to him for signature. The required payment and performance bonds, on the forms prescribed, shall be delivered to the Owner along with the signed Contract.


DISQUALIFICATION OF CONTRACTORS: By signing this bid or proposal, the undersigned certifies that this Bidder or any officer, director, partner or owner is not currently barred from bidding on contracts by any Agency of the Commonwealth of Virginia, or any public body or agency of another state, or any agency of the federal government, nor is this Bidder a subsidiary or affiliate of any firm/corporation that is currently barred from bidding on contracts by any of the same. We have attached an explanation of any previous disbarment(s) and copies of notice(s) of reinstatement(s).

Either the undersigned or one of the following individuals, if any, is authorized to modify this bid prior to the deadline for receipt of bids by writing the modification and signing his name on the face of the bid, on the envelope in which it is enclosed, on a separate document, or on a document which is telefaxed to the Owner:

______________________________________________________________________________

______________________________________________________________________________

______________________________________________________________________________
I certify that the firm name given below is the true and complete name of the bidder and that the bidder is legally qualified and licensed by the Virginia Department of Professional and Occupational Regulation, Board for Contractors, to perform all Work included in the scope of the Contract.

Virginia License No.: ________________________  Bidder: ______________________________

(Name of Firm)

Contractor Class: ________________________  By: ______________________________

(Signature)

Specialty: ______________________________  ______________________________

(Print Name)

Valid until: ________________________  Title: ______________________________

FEIN/SSN: ____________________________  Business Address:

Email Address: ____________________________

Telephone: ____________________________

Fax: ____________________________

If General Partnership (List Partners’ Name):  If Corporation, affix Corporate Seal & list State of Incorporation:

____________________________________  State: ______________________________

____________________________________  (Affix Corporate Seal Here)

Virginia State Corporation Commission ID No.: ________________________; or

If Contractor is a foreign business entity not required to be authorized to transact business in the Commonwealth under Titles 13.1 or 50 of the Code of Virginia, or as otherwise required by law, please provide an explanation as to why such entity is not required to be so authorized:

____________________________

____________________________________

VCU’s Annual SWaM Goal:  42%

Contractor’s Proposed SWaM Participation:  % (Contractor must insert percentage)
HECO-7

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT FOR CAPITAL OUTLAY PROJECTS

1. This addendum, HECO-7, modifies the Commonwealth of Virginia's General Conditions of the Construction Contract DGS-30-054 Form CO-7 (04/15), (attached) for use on all Capital Outlay Projects.

2. For all forms referenced in the attachment by "CO-", replace "CO-" with "HECO-," except the CO-9a and CO-13.

3. In §1, add definition for the term "Rules," as follows:


4. In §2(a), delete the words "Commonwealth of Virginia in its Construction and Professional Services Manual" and insert in their place the words "Virginia Commonwealth University in its Higher Education Capital Outlay Manual."

5. In §3(e), delete the words "Building Official for State-owned Buildings" and insert in their place the words "Building Official for Virginia Commonwealth University."

6. Delete §4(a) and insert the following in its place:

(a) §10 of the Rules shall be applicable. It provides as follows:
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 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.

2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

7. Delete §5(a) and insert the following in its place:

(a) §11 of the Rules shall be applicable. It provides as follows:

"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 in accordance with these Rules, 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.”

8. Delete §8(a) and insert the following in its place:

For contracts with a value exceeding one million dollars ($1,000,000), the Contractor shall deliver to the Owner or its designated representative, a Virginia Commonwealth University Standard Performance Bond (HECO-10) and Standard Labor and Material Payment Bond (Form HECO-10.1), 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 accepted bid. 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 Attorney General of Virginia. In order to facilitate review of the bonds by the Office of the Attorney General, the power of attorney from the surety company to its agent who executes the bond shall be attached to the bond.

9. In §8(b), delete the references to “§2.2-4337.A.2 of the Code of Virginia” and insert in their place references to “§29(A) (2) of the Rules.”

10. In §8(e), delete the reference to “§2.2-4338 of the Code of Virginia” and insert in its place a reference to “§30 of the Rules.”

11. In §8(d), delete the reference to “five hundred thousand dollars ($500,000)” and insert in its place a reference to “one million dollars ($1,000,000).”

12. In §11(b), delete the reference to “§2.2-4332 of the Code of Virginia” and insert in its place a reference to “§25 of the Rules.”

13. Delete §11(c) and insert the following in its place:

   (c) During the performance of the Work under this Contract, the Contractor shall maintain Commercial General Liability insurance to include Premises / Operations Liability, Products and Completed Operations Coverage, Independent
Contractor's Liability, Owner's and Contractor's Protective Liability, Contractual, and Personal Injury Liability, which shall insure him against claims of personal injury, including death, as well as against claims for property damage, which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of general liability insurance shall be not less than $1,000,000 per occurrence and $2,000,000 aggregate combined limit. The Commonwealth of Virginia, Virginia Commonwealth University and their respective officers, employees and agents, shall be named as additional insureds with respect to the Work being procured. The Supplemental General Conditions may require the Contractor to provide an Umbrella insurance policy in a specified amount for the Project.

14. Delete §11(e) and insert the following in its place:

(e) The Asbestos Contractor or Subcontractor, as the case may be, shall provide occurrence-based liability insurance with asbestos coverages in an amount not less than $1,000,000 and shall name the following as additional insureds: The Commonwealth of Virginia, Virginia Commonwealth University, their respective officers, employees and agents; the Architect/Engineer (if not the Asbestos Project Designer); and the Contractor (where the asbestos work is being performed by the Asbestos Subcontractor). In those cases where only claims-made liability insurance is available, the policy will remain in force throughout the time of the asbestos work and for a minimum of two years beyond the completion of the work without coverage interruption, and if coverage is discontinued within that two year period, the extended reporting period endorsement must be added to the policy to cover the two year requirement beyond work completion.

15. In §12 delete the entire existing section and section title and insert the following in its place:

"12. INSURANCE FOR OWNER, UNIVERSITY, AND CM/GC"

(a) Virginia Commonwealth University maintains property insurance on existing buildings (including fire, vandalism, and extended coverage).
(b) For all projects the CM/GC, at its cost, shall obtain and maintain in the names of the Owner, University, and CM/GC, **Builders’ Risk Insurance for the total Project in an amount equal to one hundred percent (100%) of the construction Contract Price.**

(c) Builders’ Risk Insurance shall be adjusted as required if the Contract Price changes.

(d) Insurance agreements shall include a provision that Virginia Commonwealth University may take occupancy of portions of the Work as it is completed, and prior to Substantial Completion of the Work, and that the Builders’ Risk Insurance provided by the CM/GC shall continue until Virginia Commonwealth University accepts the entire, completed Work, unless alternative insurance coverage has been approved by Virginia Commonwealth University’s Office of Risk Management (i.e. University property coverage of completed and occupied areas).

(e) The amount of any deductible must be acceptable to Virginia Commonwealth University. The CM/GC will be liable for any deductible whenever a claim arises.

(f) The loss, if any, is to be made adjustable with and payable to the Owner and University, in accordance with its interests, as they may appear.

(g) The Owner and University and their officers, employees, and its agents, shall be named as additional insured in any liability policy of insurance issued.

(h) Written evidence of the insurance shall be filed with Virginia Commonwealth University no later than thirty (30) days following the award of the construction phase Contract. In the event of cancellation of this insurance, not less than thirty (30) days prior written notice must be sent to Virginia Commonwealth University. A copy of the policy or certificate of insurance shall be given to Virginia Commonwealth University upon demand.

(i) The value of the Builders’ Risk Insurance shall **include** the costs of excavations, backfills, foundations, underground utilities, and site work.
(j) The CM/GC and the individual Subcontractors and CM Agency Trade Contractors are responsible for providing any desired coverage for their buildings, equipment, materials, tools, or supplies that are on-site.

(k) Any insurance provided through Virginia Commonwealth University on buildings, construction, additions, or renovations will not extend to the CM/GC nor the individual Subcontractors and CM Agency Trade Contractors 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.

(l) **Subcontractors and CM Agency Trade Contractors are covered under the CM/GC’s Builders’ Risk Insurance policy and need not provide Builders’ Risk Insurance.**

16. In §13, delete the last sentence.

17. In §36(d), delete the reference to “§2.2-4333 of the Code of Virginia” and insert in its place a reference to “§26 of the Rules.”

18. Delete §36(i) and insert the following in its place:

(i) **Interest.**

(1) Interest shall accrue, at the rate determined pursuant to subsection 2, on all amounts owed by the Owner to the Contractor that remain unpaid after seven (7) days following the payment date.

(2) The rate of interest charged the Owner pursuant to subsection 1 shall be the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the publication entitled The Wall Street Journal. Whenever a split prime rate is published, the lower of the two rates shall be used. However, in no event shall the rate of interest charged exceed the rate of interest established pursuant to §58.1-1812 of the Code of Virginia.

(3) Notwithstanding subsection 1, no interest penalty shall be charged when payment is delayed because of disagreement between the Owner and the Contractor regarding the quantity, quality or time of delivery of goods or services or the accuracy of any invoice received for the goods or
services. The exception from the interest penalty provided by this subsection shall apply only to that portion of a delayed payment that is actually the subject of the disagreement and shall apply only for the duration of the disagreement.

(4) This section shall not apply to retainage during the period of time prior to the date the final payment is due.

(5) Notwithstanding subsection 1, no interest penalty shall be paid to any debtor on any payment, or portion thereof, withheld pursuant to the Comptroller’s Debt Setoff Program, as authorized by the Virginia Debt Collection Act (§2.2-4800 et seq. of the Code of Virginia), commencing with the date the payment is withheld. If, as a result of an error, a payment or portion thereof is withheld, and it is determined that at the time of setoff no debt was owed to the Commonwealth of Virginia, then interest shall accrue at the rate determined pursuant to subsection 2 on amounts withheld that remain unpaid after seven days following the payment date.

(6) These same provisions relating to payment of interest to the Contractor shall apply also to the computation and accrual of interest on any amounts due from the Contractor to the Owner for deductive change orders and to amounts due on any claims by the Owner.

(7) The date of mailing of any payment by the U.S. Mail is deemed to be the date of payment to the addressee.

19. In §37, delete the references to §2.2-4354, Code of Virginia” and insert in their place references to “§45 of the Rules.”

20. In §38(a), delete the last sentence in the first paragraph and insert the following in its place:

   The Contractor agrees and understands that the authority of the Owner’s designee is limited by §8 of the Rules and any applicable statute.

21. In §38(b), delete the last sentence in the second paragraph and insert the following in its place:

   Changes to the Contract time and/or Price shall be effective when signed by both parties.
22. In §43(f), delete the reference to “§2.2-4335 of the Code of Virginia” and insert in its place a reference to “§27 of the Rules.”

23. In §47, delete the respective references to §§2.2-4363, 2.2-4364, 2.2-4365 and 2.2-4366 of the Code of Virginia and insert in their place references to §§53, 54, 55 and 56 of the Rules, respectively.
COMMONWEALTH OF VIRGINIA

GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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**PLEASE NOTE:** The CO-7, General Conditions of the Construction Contract, has been created specifically for the use of agencies of the Commonwealth of Virginia, which may not alter any provisions without the express written approval of the Virginia Department of General Services, Division of Engineering and Buildings. The General Conditions have significant legal implications and shall not be altered or modified. Nothing in the CO-7, General Conditions of the Construction Contract, shall be amended or deleted or its intent changed, except by an approved and properly issued Supplemental General Condition. The Commonwealth makes no representation as to their suitability for any other purpose. (Note: Political subdivisions intending to modify the General Conditions for their use should consult with their legal counsel.)
1. DEFINITIONS

Whenever used in these General Conditions of the Construction Contract ("General Conditions") or in the Contract Documents, the following terms have the meanings indicated, which are applicable to both the singular and plural and the male and female gender thereof:

**Agency:** The Agency, institution or department which is a party to the Contract. For purposes of the Contract, the term Owner shall include such Agency, whether or not the Agency owns the site or the building.

**Architect, Engineer, Architect/Engineer or A/E:** The term used to designate the Architect and/or the Engineer that contracts with the Owner to provide the Architectural and Engineering services for the Project. The A/E is a separate contractor and not an agent of the Owner. The term includes any associates or consultants employed by the A/E to assist in providing the A/E services.

**Beneficial Occupancy:** The condition after Substantial Completion but prior to Final Completion of the Project at which time 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 the Project, or a portion thereof, for such Beneficial Occupancy, unless otherwise specified in the Supplemental General Conditions or by separate agreement.

**Change Order:** A document (Form CO-11) issued on or after the effective date of the Contract Between Owner and Contractor (Form CO-9) 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 written orders to proceed 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.

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

**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.

**Contract:** The Contract Between Owner and Contractor, Form CO-9, hereinafter referred to as the Contract.

**Contract Completion Date:** The date by which the Work must be substantially complete. The Contract Completion Date is customarily established in the Notice to Proceed, based on the Time for Completion. In some instances, however, the Contract contains a mandatory Contract Completion Date, which shall be stated in the Invitation for Bid or Request for Proposal, as applicable.

**Contract Documents:** The Contract between Owner and Contractor (Form CO-9) signed by the Owner and the Contractor and any documents expressly incorporated therein. Such incorporated documents customarily include the bid submitted by the Contractor, these 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, subject to modification by Change Order.

**Contractor:** The person with whom the Owner has entered into a contractual agreement to do the Work on this project.
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(s): Calendar day(s) 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.

DSBSD: Virginia Department of Small Business and Supplier Diversity

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

Final Completion Date: The date of the Owner's acceptance of the Work from the Contractor upon confirmation from the Architect/Engineer and the Contractor that the Work is totally complete in accordance with Section 44(b).

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 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 Subsection 42, or the Owner’s determination that no compensation for termination is due the Contractor under Subsection 42, 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 overall completion of the Project. Any difference in time between the Contractor's approved early completion date and the Contract Completion Date shall be considered a part of the Project float.

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

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 Time for Completion or the Contract Completion Date.

Notice: All written notices, including demands, instructions, claims, approvals and disapprovals, required or authorized under the Contract Documents. Any written notice by either party to the Contract shall be
sufficiently given by any one or combination of the following, whichever shall first occur: (1) delivered by hand to the last known business address of the person to whom the notice is due; (2) delivered by hand to the person's authorized agent, representative or officer wherever they may be found; or (3) enclosed in a postage prepaid envelope addressed to such last known business address and delivered to a United States Postal Service official or mailbox. Notice is effective upon such delivery. All notices to the Owner should be directed to the Project Manager.

If the Owner and the Contractor agree in writing that Notices transmitted by Facsimile (Fax) or e-mail are acceptable for the Project, such Notice shall be transmitted to the Fax number or e-mail address listed in the agreement and shall have a designated space for the Fax or e-mail Notice recipient to acknowledge his receipt by authorized signature and date. The Fax or e-mail Notice with authorized signature acknowledging receipt shall be Faxed or e-mailed back to the sender. The Faxed or e-mailed Notice shall be effective on the date it is acknowledged by authorized signature. All Faxed or e-mailed Notices shall also be sent by hard copy, which shall be effective upon delivery, as provided herein. Notice shall be effective upon the date of acknowledgment of the Faxed or e-mailed Notice or the date of delivery, whichever occurs first.

**Notice to Proceed:** A written notice given by the Owner to the Contractor (with a copy to A/E) fixing the date on which the Contract time will commence for the Contractor to begin the prosecution of the Work in accordance with the requirements of the Contract Documents. The Notice to Proceed will customarily identify a Contract Completion Date.

**Owner:** The public body with whom the Contractor has entered into a contractual agreement and for whom the Work or services is to be provided. The term "Owner", as used herein, 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" described by the Contract Documents.

**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 Owner shall notify the Contractor in writing of the appointment of such Project Inspector(s). The scope of the Project Inspector's authority with respect to the Contractor is limited to that indicated in Section 16 (e) and (f) and as supplemented by the Owner in writing to the Project Inspector and to the Contractor.

**Project Manager:** The Project Manager as used herein 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 notices. All notices due the Owner and all information required to be conveyed to the Owner shall be conveyed to the Project Manager. The scope of the Project Manager's authority is limited to that authorized by the Owner, who shall provide written information to the Contractor at the Preconstruction meeting defining those limits. Upon receipt of such information, the Contractor shall be on notice that it cannot rely on any decisions of the Project Manager outside the scope of his authority. Nothing herein shall be construed to prevent the Owner from issuing any notice directly to the Contractor. 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 his duties, appoint an interim Project Manager.

**Provide:** Shall mean furnish and install ready for its intended use.
Schedule of Values: The schedule prepared by the Contractor and acceptable to the Owner which indicates the value of that portion of the Contract Price to be paid for each trade or major component of the Work.

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

Specifications: That part of the Contract Documents containing the written administrative requirements and the technical descriptions of materials, equipment, construction systems, standards, and workmanship which describe the proposed Work in sufficient detail and provide sufficient information for the Building Official to determine code compliance and for the Contractor to perform the Work. (The General Conditions, any Supplemental General Conditions, various bidding information and instructions, and blank copies of various forms to be used during the execution of the Work are usually bound with the Specifications.)

Subcontractor: A person having a direct contract with Contractor or with any other Subcontractor for the performance of the Work. Subcontractor includes any person who provides on-site labor but does not include any person who only furnishes or supplies materials for the Project.

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.

Substantial Completion: The condition when 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.

Supplemental General Conditions: That part of the Contract Documents which amends or supplements the General Conditions.

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

Small Business Procurement Plan: The proposed percentage of small business participation in the Total Base Bid Amount submitted by the Contractor as part of its Bid.

Time for Completion: The number of consecutive calendar days following the Date of Commencement which the Contractor has to substantially complete all Work required by the Contract.

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.

Work: The services performed under this Contract including, but not limited to, furnishing labor, and furnishing and incorporating materials and equipment into the construction. The Work also 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.
2. CONTRACT DOCUMENTS

(a) The Contract Between Owner and Contractor (CO-9), the Workers' Compensation Certificate of Coverage (CO-9a), the Standard Performance Bond (CO-10), the Standard Labor and Material Payment Bond (CO-10.1), the Schedule of Values and Certificate for Payment (CO-12), the Affidavit of Payments of Claims (CO-13), the Contractor's Certificate of Substantial Completion (CO-13.2a), and the Contractor's Certificate of Completion (CO-13.2) issued by the Commonwealth of Virginia are forms incorporated in these General Conditions by reference and are made a part hereof to the same extent as though fully set forth herein. They must be used by the Contractor for their respective purposes.

(b) All time limits stated in the Contract Documents, including but not limited to the Time for Completion of the Work, are of the essence of the Contract.

(c) The Contract Between Owner and Contractor shall be signed by the Owner and the Contractor in as many original counterparts as may be mutually agreed upon, each of which shall be considered an original.

(d) Anything called for by one of the Contract Documents and not called for by the others shall be of like effect as if required or called for by all, except that a provision clearly designed to negate or alter a provision contained in one or more of the other Contract Documents shall have the intended effect. In the event of conflicts among the Contract Documents, the Contract Documents shall take precedence in the following order: the Contract between Owner and Contractor; the Supplemental General Conditions; the General Conditions; the Special Conditions; the specifications with attachments; and the plans.

(e) If any provision of this Contract shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision.

(f) All correspondence, invoices, memoranda, submittals and other documents related to this Project whether generated by the Owner, the A/E, the Contractor or others should be identified at the beginning of the document with the eleven digit (XXX-XXXXX-XXX) Project Code Number. Additional identification such as a job number, purchase order number or such may also be shown at the generator's option.

3. LAWS AND REGULATIONS

(a) The Contractor shall comply with 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 tradesmen 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, Articles 1 and 3 and by applicable regulations.

(b) This Contract and all other contracts and subcontracts are subject to the provisions of Articles 3 and 5, 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 this Contract, the Contractor certifies that it does not and will not during the performance of this Contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

(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 any agency of the Commonwealth 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 any agency of the Commonwealth 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) 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 shall apply to all Work under this Contract. 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.

(f) Building Permit: Because this Project is on Commonwealth of Virginia property, codes or zoning ordinances of local political subdivisions do not apply to Work on the property. The Virginia Uniform Statewide Building Code applies to the Work and is administered by the Building Official for State-owned Buildings. 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. See Section 25 for utility connection fees and services.

(g) 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 in Subsections (a), (b), and (c) of Section 37 of these General Conditions with respect to each lower-tier Subcontractor and Supplier.

(h) The Contractor, if not licensed as an asbestos abatement contractor in accordance with § 54.1-514, Code of Virginia, shall have all asbestos-related Work performed by subcontractors who are duly licensed as asbestos contractors for the Work required.

(i) 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 59 Federal Register 45,872 (September 2, 1994) Proposed Rule - Lead; Requirements for Lead based Paint Activities (Proposed Rules) 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. When the Final Rule, to be codified at 40 CFR 745, supersedes the Proposed Rule, the Contractor shall be responsible for conforming to the Final Rule, as of the effective date set forth therein.


(3) The Virginia Department of Labor and Industry’s (DLI) Emergency Regulation published in the May 27, 1996 Virginia Register, requiring, among other things, that a permit be issued to the lead abatement contractor, or any subsequent regulation issued by DLI.

(j) 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. To the extent that such violation is the result of negligence or other actionable conduct of the Contractor, the Contractor 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 such violation.

(k) 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 § 10.1-563, Code of Virginia.

(l) The Contractor is neither required nor prohibited from entering into or adhering to agreements with one or more labor organizations, or otherwise discriminating against 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 contractors 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. NONDISCRIMINATION

(a) § 2.2-4311 of the Code of Virginia shall be applicable. It provides as follows:

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 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.

2. The Contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.”
Where applicable, the Virginians with Disabilities Act and the federal Americans with Disabilities Act shall apply to the Contractor and all Subcontractors.

5. PROHIBITION OF ALCOHOL AND OTHER DRUGS

(a) § 2.2-4312 of the Code of Virginia shall be applicable. It provides as follows:
“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 in accordance with this chapter, 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.”

(b) The Contractor shall also establish, maintain and enforce policies which prohibit the following acts by all Contractor, Subcontractor and Supplier personnel at the Site:

(1) The manufacture, distribution, dispensation, possession, or use of alcohol, marijuana or other drugs, except possession and medically prescribed use of prescription drugs; and

(2) The impairment of judgment or physical abilities due to the use of alcohol, marijuana or other drugs, including impairment from prescription drugs.

6. TIME FOR COMPLETION

(a) The Time for Completion shall be designated by the Owner on the Invitation for Bids, Request for Proposals, or other prebid/proposal documents. In some instances, the Time for Completion may be stated on the Invitation for Bids, Request for Proposals, or other prebid/pre-proposal document in the form of a Contract Completion Date. The Work must be substantially completed by the Time for Completion or the Contract Completion Date. Unless otherwise specified, the Contractor shall achieve Final Completion within thirty (30) days after the date of Substantial Completion.

(b) The Time for Completion shall be stated in the Contract between Owner and Contractor and shall become a binding part of the Contract upon which the Owner may rely in planning the use of the facilities to be constructed and for all other purposes. If the Contractor fails to substantially complete the Work within the Time for Completion or Contract Completion Date, as set forth in the Contract, he shall be subject to payment of actual damages incurred by the Owner or liquidated damages, if provided for in the Contract.

(c) The Contractor, in submitting his bid or proposal, acknowledges that he has taken into consideration normal weather conditions. Normal weather does not mean statistically average weather, but rather means a range of weather patterns which might be anticipated based on weather data for the past ten (10) years, (i.e., conditions which are not extremely unusual). 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 of the work. No additional compensation will be paid to the Contractor because of adverse weather conditions; however, an extension of time for abnormal weather will
be considered by the Owner under the following conditions, all of which must be strictly complied with by the contractor:

(1) The request for additional time shall be further substantiated by weather data collected during the period of delay at the Site. Said data must demonstrate that an actual departure from normal weather occurred at the Site during the dates in question.

(2) The extension requested must be supported by a delay in completion of the entire Project shown on the critical path of the accepted CPM Schedule or the approved bar graph schedule required for the Project. Extensions will be granted only for delays in completion of the Project, not for that portion of any delay which consumes only "float" time.

(3) A request for extension of time based on abnormal weather must be made in writing within fourteen (14) calendar days of the completion of the calendar month during which abnormal weather is claimed at the Site.

(4) 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 any consideration will be given to the request. That supporting data shall be submitted by the end of the calendar month following the month for which the request is made.

(d) The failure by the Contractor to comply with any and all of the conditions in (c) above shall constitute a waiver of claims for the extension of time for abnormal weather.

(e) The Contractor represents and agrees that he has taken into account in his bid the requirements of the bid documents, the Contract Documents, local conditions, availability of materials, equipment, and labor, and any other factors which may affect the performance of the Work. The Contractor agrees and warrants that he will achieve Substantial Completion of the Work to allow the Owner to have Beneficial Occupancy not later than the Time for Completion or Contract Completion Date. The Contractor agrees and warrants that he will achieve Final Completion of the Work (the entire completion of all Work, including "punch list" items), not later than thirty (30) days after achieving Substantial Completion.

7. CONDITIONS AT SITE

(a) 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. Claims, which result from the Contractor's failure to do so, will be deemed waived.

(b) If, in the performance of the Contract, hidden physical conditions of a building being modified are exposed revealing unusual or materially different conditions from those ordinarily encountered or inherent in work of this nature, or if subsurface or latent conditions at the Site are found which are materially different from those frequently present in the locality or from those indicated in the Contract Documents, the Contractor must report such conditions to the Owner and to the Architect/Engineer before the conditions are disturbed. Upon such notice, or upon his own observation of such conditions, the Architect/Engineer shall promptly propose such changes in the Contract Documents as he finds necessary to conform to the different conditions. Any change in the cost of the Work or additional time needed for completion must be requested pursuant to Sections 38, 39 and/or 43 of these General Conditions.

(c) 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. 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 material to be less accessible prior to receipt of special instructions from the Owner.

8. **CONTRACT SECURITY**

(a) For contracts with a value exceeding five hundred thousand dollars ($500,000), the Contractor shall deliver to the Owner or its designated representative, a Commonwealth of Virginia Standard Performance Bond, DGS-30-084 (Form CO-10) and a Commonwealth of Virginia Standard Labor and Material Payment Bond, DGS-30-088 (Form CO-10.1) 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 accepted bid or proposal. 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 Attorney General of Virginia. In order to facilitate review of the bonds by the Office of the Attorney General, the power of attorney from the surety company to its agent who executes the bond shall be attached to the bond, or, if not so attached, prior to the execution of the bonds by the surety, recorded in the Office of the Clerk of Court for the City of Richmond, Virginia, at the John Marshall Court Building, 400 North Ninth Street, except when the Owner is one of the following, in which case the power of attorney must be recorded with the Clerk of Court in the place shown:

<table>
<thead>
<tr>
<th>OWNER</th>
<th>PLACE OF RECORDATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>University of Virginia</td>
<td>City of Charlottesville</td>
</tr>
<tr>
<td>Old Dominion University</td>
<td>City of Norfolk</td>
</tr>
<tr>
<td>Norfolk State University</td>
<td>City of Norfolk</td>
</tr>
<tr>
<td>Christopher Newport University</td>
<td>City of Newport News</td>
</tr>
<tr>
<td>Virginia Polytechnic Institute and State University</td>
<td>County of Montgomery</td>
</tr>
</tbody>
</table>

(b) 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 contractors 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 contractor had a direct contract with the Contractor (prime contractor) or whether there were one or more other intervening Subcontractors contractually positioned between it and the Contractor (prime contractor).

(c) See § 2.2-4338 of the *Code of Virginia*, for alternative forms of security for payment and/or performance bonds.

(d) For contracts with a value of less than five hundred thousand dollars ($500,000), the Contractor will not be required to provide a Standard Performance Bond and a Standard Labor and Material Payment Bond as described above unless the Invitation for Bid or Request for Proposal states that such bonds will be required.
9.  SUBCONTRACTS

(a) The Contractor shall, as soon as practicable after the signing of the Contract, notify the Owner and Architect/Engineer in writing of the names of all Subcontractors proposed for the principal parts of the Work and of such others as the Architect/Engineer 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 Architect/Engineer shall direct the Contractor to contract with any particular Subcontractor unless provided in the specifications or Invitation for Bids or Request for Proposal.

(b) 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 his Contractor 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 being assigned, then the Contractor shall note the exception in his 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 Section 10 of the contract or assign a different Subcontractor.

(c) 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.

(d) The Contractor shall be fully responsible to the Owner for all acts and omissions of his agents and employees and all succeeding 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 Architect/Engineer and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of Owner or Architect/Engineer to pay for or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization, except as may otherwise be required by law.

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

(f) The Contractor agrees that he alone is responsible for all dealings with his Subcontractors and Suppliers, and their subcontractors, employees and invitees, including, but not limited to, the Subcontractors’ or Suppliers’ claims, demands, actions, disputes and similar matters unless specifically provided otherwise by the Contract or by statute.

10.  SEPARATE CONTRACTS

(a) 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 other 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 his Work with theirs. 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 his scheduling. The Contractor shall make every reasonable effort to assist the Owner in maintaining the schedule for all separate contracts. If the work performed by the separate contractor is defective or performed so as to prevent or threaten to prevent the Contractor from carrying out his Work according to the Contract, the Contractor shall immediately notify the Owner and the Architect/Engineer upon discovering such conditions.

(b) If a dispute arises between the Contractor and any separate contractor(s) as to their responsibility for cleaning up as required by Sections 31 (c) and 31 (d) of these General Conditions, the Owner may clean up and charge the cost thereof to the respective contractors in proportion to their responsibility. If a Contractor disputes the Owner's apportionment of clean-up costs, it shall be that contractor's burden to demonstrate and prove the correct apportionment.

11. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

(a) The Contractor shall not commence Work under this Contract until he has obtained all the insurance required hereunder from an insurer authorized to do business in Virginia and such insurance has been approved by the Owner; nor shall the Contractor allow any Subcontractor to commence Work on his subcontract until the same types of insurance in an appropriate amount have been obtained by the Subcontractor and approved by the Contractor. Approval of insurance by the Owner shall not relieve or decrease the liability of the Contractor hereunder.

(b) The Contractor shall take out, and shall maintain in force at all times during the performance of the Work, Workers' Compensation and Employers' Liability Insurance for all of his employees engaged in the Work in an amount not less than the minimum required by § 2.2-4332 and § 65.2-100 et seq. of the Code of Virginia. In case any of the Work is sublet, the Contractor shall require each Subcontractor similarly to provide Workers' Compensation and Employers' Liability Insurance for all of the latter's employees to be engaged in the Work. Prior to award of the Contract, the Contractor shall submit, on the form provided by the Owner, a Certificate of Coverage verifying Workers' Compensation. The Contractor shall likewise obtain a Certificate of Coverage for Workers' Compensation coverage from each subcontractor prior to awarding the subcontract and shall provide a copy to the Owner.

(c) During the performance of the Work under this Contract, the Contractor shall maintain commercial general liability insurance to include Premises / Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, Owner's and Contractor's Protective Liability, and Personal Injury Liability, which shall insure him against claims of personal injury, including death, as well as against claims for property damage, which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of general liability insurance shall be not less than $1,000,000 per occurrence and $2,000,000 aggregate combined limit. The Commonwealth of Virginia, its officers, employees and agents, shall be named as an additional insured with respect to the Work being procured. The Supplemental General Conditions may require the Contractor to provide an Umbrella insurance policy in a specified amount for the Project.

(d) During the performance of the Work under this Contract, the Contractor shall maintain automobile liability insurance which shall insure him against claims of personal injury, including death, as well as against claims for property damage, which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of automobile insurance shall be not less than $1,000,000 combined limit for bodily injury and property damage per occurrence.

(e) The Asbestos Contractor or Subcontractor, as the case may be, shall provide occurrence-based liability insurance with asbestos coverages in an amount not less than $1,000,000 and shall name
the following as additional insureds: The Commonwealth of Virginia, its officers, its employees and its agents; the Architect/Engineer (if not the Asbestos Project Designer); and the Contractor (where the asbestos work is being performed by the Asbestos Subcontractor).

12. "ALL RISK" BUILDER'S RISK INSURANCE

(a) Contractor Controlled During Construction: The Contractor, at his cost, shall obtain and maintain in the names of the Owner and the Contractor "all-risk" builder's risk insurance (or fire, extended coverage, vandalism and malicious mischief insurance, if approved by the Owner and the Director, Division of Engineering and Buildings) upon the entire structure or structures on which the Work of this Contract is to be done and upon all material in or adjacent thereto which is intended for use thereon, to one hundred percent (100%) of the insurable value thereof (i.e. construction costs, soft costs, FF&E, and the residual value of the existing structure to remain). 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 deductions, whenever a claim arises. The loss, if any, is to be made adjustable with and payable to the Owner, in accordance with its interests, as they may appear. The Owner, its officers, employees and its agents, shall be named as an additional insured in any policy of insurance issued. Written evidence of the insurance shall be filed with the Owner no later than thirty (30) days following the award of the Contract. In the event of cancellation of this insurance, not less than thirty (30) days prior written notice must be sent to the Owner. A copy of the policy of insurance shall be given to the Owner upon demand.

(b) Owner Controlled During Construction: The Owner maintains insurance coverage on its buildings. On re-roofing, renovation, and interior modifications of existing building projects where the Owner continues to occupy the building, or a portion thereof, while the Work is being performed, the Contractor shall provide “all risk” builders risk insurance, as described above, in an amount equal to one hundred percent (100%) of the cost of the Work (i.e. construction costs, soft costs, and FF&E costs). In those instances, the Contract between the Owner and Contractor for the project shall expressly exclude the project from the requirements of Subsection 12(a). The Contractor is responsible for providing any desired coverage for Contractor's or Subcontractors' buildings, equipment, materials, tools or supplies that are on-site.

(c) The value of the builder's risk insurance shall exclude the costs of excavations, backfills, foundations, underground utilities and sitework.

(d) 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 except the taxes, fees and assessments on the real property comprising the Site of the project. If the State Building Official elects to have the local building official inspect the Work as provided by § 36-98.1 of the Code of Virginia, the Owner shall pay the resulting fees to the local building official.

14. PATENTS

The Contractor shall obtain all licenses necessary to use any invention, article, appliance, process or technique of whatever kind and shall pay all royalties and license fees. The Contractor shall hold the Owner, its officers, agents and employees, harmless against any loss or liability for or on account of the
infringement of any patent rights in connection with any invention, process, technique, article or appliance manufactured or used in the performance of the Contract, including its use by the Owner, unless such invention, process, technique, article or appliance is specifically named in the specifications or plans as acceptable for use in carrying out the Work. If, before using any invention, process, technique, article or appliance specifically named in the specifications or plans as acceptable for use in carrying out the Work, the Contractor has or acquires information that the same is covered by letters of patent making it necessary to secure the permission of the patentee, or other, for the use of the same, he shall promptly advise the Owner and the Architect/Engineer. The Owner may direct that some other invention, process, technique, article or appliance be used. Should the Contractor have reason to believe that the invention, process, technique, article or appliance so specified is an infringement of a patent, and fail to inform the Owner and the Architect/Engineer, he shall be responsible for any loss or liability due to the infringement.

15. ARCHITECT/ENGINEER'S STATUS

(a) The Architect/Engineer shall have authority to endeavor to secure the faithful performance by Owner and Contractor of the Work under the Contract. He shall review the Contractor's Submittals for conformance to the requirements of the Contract Documents and return copies to the Contractor with appropriate notations. He shall interpret the requirements of the plans and specifications and issue Field Orders to the Contractor as may be required. He 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 Contract. He shall have authority to reject, in writing, Work, including material, installation or workmanship, which does not conform to the requirements of the plans and specifications. He 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 Architect/Engineer shall confirm, in writing within fourteen (14) days, any oral order or determination made by him.

(b) The Architect/Engineer shall have no authority to approve or order changes in the Work which alter the design concept or which call for an extension of time or a change in the Contract Price.

(c) Although the Owner is bound by the terms of the Contract with the Contractor, including the plans and specifications, the Owner shall have the right, but not the duty, to countermand any decision of the Architect/Engineer and to follow or reject the advice of the Architect/Engineer, including but not limited to acceptance of the Work, as it deems best. In those instances where the Architect/Engineer has been given authority to act, the Architect/Engineer shall promptly do so, but in the case of disagreement between the Architect/Engineer 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 Architect/Engineer, if it is later determined that the same is not in accord with the Contract Documents. The party taking issue with the determination, interpretation or decision of the Architect/Engineer shall give the other party written notice of such fact within fourteen (14) days after the determination, interpretation or decision is communicated by the Architect/Engineer. In the actual performance of the Work, however, the Contractor shall, in the first instance, proceed in accordance with instructions given by the Architect/Engineer unless the Owner and the Contractor mutually agree that the Contractor shall proceed otherwise.

(d) All orders from the Owner to the Contractor shall either be transmitted through the Architect/Engineer or communicated directly to the Contractor and the Architect/Engineer by the Owner.

(e) Should the Owner choose to employ another or different Architect/Engineer, the status of the Architect/Engineer so employed shall be the same as that of the former Architect/Engineer.

(f) The Architect/Engineer will provide to the Owner and the Contractor after each visit to the Site, a written report indicating the date, time of day, weather conditions and the names of the persons representing the Architect/Engineer who participated in the visit. The report will advise the Owner
of any problems that were noted and shall compare the Architect/Engineer's observations of the actual progress of the Work with that reported by the Contractor. On the basis of his on-Site observations as Architect/Engineer, he will make every reasonable effort to guard the Owner against defects and deficiencies in the Work of the Contractor. He 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 same, and to recommend to the Owner the suspension of the Work when necessary to prevent Defective Work from proceeding or being covered.

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

(h) The Architect/Engineer 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 Architect/Engineer 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.

(i) 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 his obligations under the Contract or create any rights in favor of the Contractor.

16. INSPECTION

(a) All material and workmanship shall be subject to inspection, examination and testing by the Owner, the Architect/Engineer, the Project Inspector, authorized inspectors and authorized independent testing entities at any and all times during manufacture and/or construction. The Architect/Engineer and the Owner shall have authority to reject defective material and workmanship and require its correction. Rejected workmanship shall be satisfactorily corrected and rejected material shall be satisfactorily replaced with proper material without charge therefor, 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 workmanship, the Owner may, by contract or otherwise, replace such material and/or correct such workmanship and charge the cost to the Contractor, or may terminate the right of the Contractor to proceed as provided in Section 41 of these General Conditions, the Contractor and surety being liable for any damage to the same extent as provided in Section 41 for termination thereunder.

(b) Site inspections, tests conducted on Site or 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 materials, equipment or workmanship, 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 him to perform or to pay, together with any
inspections and tests which he chooses to perform for his own purposes, but are not required by the Contract.

(c) Where Work is related to or dependent on the Defective Work, the Contractor shall stop such related or dependent Work until the Defective Work or deficiency is corrected or an alternative solution is presented that is satisfactory to the Owner. Where Work is rejected because of defective material or workmanship, the Contractor shall stop like Work in other areas or locations on the Project until the matter is resolved and the Owner has approved corrective measures.

(d) Should it be considered necessary or advisable by Owner or the Architect/Engineer at any time before final acceptance of the entire Work to make an examination of any part of the Work already completed, by removing or tearing out portions of the Work, the Contractor shall on request 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, due to the fault of the Contractor or his Subcontractors, the Contractor shall bear all the expenses of uncovering the Work, of examination and testing, and of satisfactory reconstruction. 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 including a markup of fifteen (15%) percent for overhead and profit shall be paid to the Contractor and he shall, in addition, if completion of the Work has been delayed thereby, be granted a suitable extension of time. 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 contrary to the instructions of the A/E, Owner or Project Inspector.

(e) The Project Inspector has the authority to recommend to the Architect/Engineer and the Owner that the Work be suspended when in his 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 no fault existed in the Contractor's Work.

(f) 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.
5. Keep a record of construction activities, tests, inspections, and reports.
6. Attend all joint 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.
8. Check installations for proper workmanship and conformance with shop drawing and installation instructions.
(9) Assist in the review and verification of the CO-12, Schedule of Values & Certificate for Payment, submitted by the Contractor each month.

(10) Do all things for or on behalf of the Owner as the Owner may subsequently direct in writing.

(g) 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, 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.

(h) 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 duties in any way excuse Defective Work or otherwise improper performance of the Contract by the Contractor.

17. SUPERINTENDENCE BY CONTRACTOR

(a) The Contractor shall have a competent foreman or superintendent, satisfactory to the Architect/Engineer and the Owner, on the Site at all times during the progress of the Work. The superintendent or foreman shall be familiar with and be able to read and understand the plans and specifications, and be capable of communicating orally and in writing with the Owner's inspectors 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 under the Contract 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 superintendent, including the reason therefor, prior to making such change.

(b) 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 the Work assigned to him, 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.

(c) 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, or otherwise objectionable, but the Owner shall have no obligation to do so.

18. CONSTRUCTION SUPERVISION, METHODS AND PROCEDURES

(a) 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 under the Contract, except where otherwise specified in the
Contract Documents. However, 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 which is indicated in and 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 Architect or Engineer, the Project Inspector, the Owner, the Owner's employees and agents, or any other entity whatever shall relieve the Contractor from its sole responsibility for compliance with the requirements of the Contract or its sole responsibility for health and safety programs and precautions.

(b) 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 Architect/Engineer, subject to the Owner's right to disapprove. The Contractor must submit its written request for the substitution to the Architect/Engineer with sufficient information to allow the Architect/Engineer to determine that the substitute proposed is equivalent to that indicated or required by the Contract.

(c) The divisions and sections of the Specifications and the identification of any drawings shall not control the Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

19. SCHEDULE OF THE WORK

(a) 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. The Contractor may attempt to achieve Substantial Completion on or before the Time for Completion or the Contract Completion Date established by the Contract and receive payment in accordance with Section 36 for the Work completed each period. However, the date established by the Contract Documents as the deadline for achieving Substantial Completion must be used in all schedules as the date on which Substantial Completion will be achieved. The time (in days) between the Contractor's planned early completion and the contracted Time for Completion is part of the Project "Total Float" time and will be used as such. Extensions of time pursuant to Sections 38, 39, and 43, damages for delay, and all other matters between the Owner and the Contractor will be determined using the contractually required Substantial Completion date, not an early Substantial Completion date planned by the Contractor.

Within two (2) weeks after the Contractor signs the Contract Between Owner and Contractor, 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 Architect/Engineer, a preliminary bar graph schedule for accomplishing the Work based upon the Time for Completion stated in the Contract. 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 its acceptance of or objections to the preliminary schedule within fifteen (15) days of receipt by the Owner. A fully complete Project schedule for accomplishing the Work must be submitted in like manner no later than sixty (60) days after the Contract is signed by the Owner.

The Owner's failure to reject or its acceptance of any schedule, graph, chart, recovery schedule, updated schedule, plan of action, etc. shall not constitute a representation or warranty by the Owner, including but not limited to a representation or warranty that the schedule is feasible or practical nor shall any such acceptance or failure to reject relieve the Contractor from sole responsibility for completing the Work within the time allowed.
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 Project schedule accepted by the Owner. Nor shall subsequent progress payments be payable to the Contractor unless and until he submits the monthly bar graphs or status reports required by Section 19(d) herein or unless and until he provides any recovery schedule pursuant to Section 19(e) herein.

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

The fully complete Project schedule for accomplishing the Work shall be of the type set forth in subparagraph (1) or (2) below, as appropriate:

(1) For Contracts with a price of $1,500,000 or less, a bar graph schedule will satisfy the above requirement. The schedule shall indicate the estimated starting and completion dates for each major element of the work. See (b) below.

(2) For Contracts with a price over $1,500,000, a Critical Path Method (CPM) schedule shall be utilized to control the planning and scheduling of the Work. The CPM schedule shall be the responsibility of the Contractor and shall be paid for by the Contractor. See (c) below.

(b) Bar Graph Schedule: Where a bar graph schedule is required, 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, including but not limited to the placing of orders for materials, submission of shop drawings and other Submittals for approval, approval of shop drawings by Architect/Engineer, 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.

The Contractor shall allow sufficient time in his schedule for the A/E to conduct whatever associated reviews or inspections as may be required under the A/E’s 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 Architect/Engineer activities. Each Work activity will be assigned a time estimate by the Contractor. One day shall be the smallest time unit used.

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

(c) CPM Schedule: Where a CPM schedule is required, it shall be in the time-scaled precedence format using the Contractor's logic and time estimates. The CPM schedule shall be drawn or plotted with activities grouped or zoned by Work area or subcontract as opposed to a random (or scattered) format.

The CPM 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 of the Work, including not only the actual construction Work for each trade, but also the submission of shop drawings and other Submittals for approval, approval of shop drawings by Architect/Engineer, placing of orders for materials, the manufacture and delivery of material, the testing and installation of materials and equipment, and all Work activities to be performed by the Contractor. 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, Contract Completion Date and any interim deadlines established by the Contract.

The Contractor shall allow sufficient time in his schedule for the A/E to conduct whatever associated reviews or inspections as may be required under the A/E's 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 Architect/Engineer activities. Each Work activity will be assigned a time estimate by the Contractor. One day shall be the smallest time unit used.

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

When completed, the CPM schedule shall be submitted to the Architect/Engineer and the Owner for review. The CPM 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, and clearly highlight all activities on the critical path. "Total float" and "free float" shall be indicated for all activities. Float time, whether "free float" or "total float" as defined in Section 1, 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 within the Time for Completion or the Contract Completion Date. Extensions to the Time for Completion or the Contract Completion Date, when granted by Change Order, will be granted only when equitable time adjustment exceeds the Total Float in the activity or path of activities affected by the change provided that the Owner has reasonably provided information necessary to allow for the orderly progression of the Work. On contracts with a price over $5,000,000, the CPM schedule shall also show what part of the Contract Price (expressed in U.S. dollars) is attributable to each activity on the schedule and shall be in agreement with the schedule of values, the sum of which for all activities shall equal the total Contract Price. The CPM 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. When acceptable to the Owner and Architect/Engineer as to compliance with the requirements of this Section, the schedule shall become the CPM 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.

(d) **Monthly Project Reports:** The Contractor shall review progress not less than each month, but as often as necessary to properly manage the Project and stay on schedule. 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 within the Contract Time for Completion or before the Contract Completion Date. The Contractor shall submit to the A/E along with his monthly request for payment a copy of the bar graph schedule annotated to show the current progress. For projects requiring a CPM schedule, the Contractor shall submit a monthly report of the status of all activities. The bar graph schedule or monthly status report submitted with each periodic request 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; the manufacture, testing and installation of materials, supplies and equipment. The form shall be approved by the A/E and the Owner; however, a bar graph or a CPM schedule marked, colored or annotated to reflect the above will usually satisfy this requirement. 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 he is taking and plans to take to bring each such element back on schedule and to ensure that the Time for Completion or Contract Completion Date is not exceeded.
(e) **Progress Delay:** Should any of the following conditions exist, the Owner may require the Contractor to prepare, at no extra cost to the Owner, a plan of action and a recovery schedule for completing the Work by the Contract Time for Completion or the Contract Completion Date:

1. The Contractor's monthly project report indicates delays that are, in the opinion of the A/E or the Owner, of sufficient magnitude that the Contractor's ability to complete the Work by the scheduled Time for Completion or the Contract Completion Date is brought into question;

2. The CPM schedule sorted by early finish shows the Contractor to be thirty (30) or more days behind the critical path schedule at any time during construction up to thirty (30) days prior to scheduled Substantial Completion date;

3. The Contractor desires to make changes in the logic (sequencing of Work) or the planned duration of future activities of the CPM schedule which, in the opinion of the Architect/Engineer or the Owner, are of a major nature.

The plan of action and recovery schedule, when required, shall explain and display how the Contractor intends to regain compliance with the current accepted, fully completed, Project CPM schedule, as updated by approved change orders.

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

(f) **Early Completion of Project:** The Contractor may attempt to achieve Substantial Completion on or before the Time for Completion or 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 its failure to achieve Substantial Completion by its planned earlier date. Likewise, the Owner shall not pay the Contractor any additional compensation for achieving Substantial Completion early 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 date required by the Contract Documents.

If the Contractor seeks to change the Time for Completion or the Contract Completion Date to reflect an earlier completion date, he may request or propose such a change. 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.

20. **SCHEDULE OF VALUES AND CERTIFICATE FOR PAYMENT**

(a) Before submittal of the first partial payment request under the Contract, the Contractor shall prepare for review and approval of the Architect/Engineer and the Owner, a schedule of the estimated values listed by trades or by specification sections of the Work, totaling the Contract Price. Where the total project has multiple parts or phases, the Contractor shall prepare appropriate schedules of values to facilitate reviews and justifications for payments.
All requests for payment shall be made in the ASTM Uniformat II structure on the Schedule of Values and Certificate for Payment (Form CO-12) pages 1 and 2. Succeeding pages may be on the Form CO-12 continuation sheets or a computerized spreadsheet which is in the same format and which contains the same information. Where a computerized spreadsheet is used, one copy of the entire Schedule of Values shall be provided to the Owner in an agreed electronic format (e.g. EXCEL) with the initial request for payment.

(b) If the Contractor requests, or intends to request, payment for materials stored in an approved and secure manner, the Schedule of Values must indicate the amount for labor and the amount for materials, and in a supplement thereto must include an itemized list of materials for that trade or Work section. The material breakdown shall be in sufficient detail to allow verification of the quantities required for the Project, the quantities delivered, the Work completed, and the quantities stored on or off Site.

(c) The "Value of Work Completed" portion of the Form CO-12 shall be completed, the Contractor's certification completed and signed, and the appropriate substantiating material attached to each Certificate for Payment (CO-12). Such substantiating material includes, but is not limited to, invoices for materials, delivery tickets, time sheets, payroll records, daily job logs/records, and similar materials which, in the opinion of the Owner and the A/E, are necessary or sufficient to justify payment of the amount requested.

(d) The labor progress for any task or activity shall be calculated based upon the percentage of Work complete up to fifty percent (50%) of the completion of the task or activity. Thereafter, the evaluation of labor progress will be based upon the effort required to complete that task or activity. The material progress shall be calculated as the invoiced dollar cost of materials used in relationship to the amount estimated as necessary to complete a particular element of Work. When calculating material progress, credit shall be given for installed material as well as that stored on the Site and any material stored off Site which has been certified by the Architect/Engineer in accordance with Section 36 of these General Conditions.

(e) Should Work included in previous Form CO-12 submittals, and for which payment has been made, subsequently be identified, by tests, inspection, or other means, as not acceptable or not conforming to Contract requirements, the "Value of Work Completed" portion of the first Form CO-12 submitted after such identification shall be modified to reduce the "completed" value of that Work by deleting the value of that which has been identified as not acceptable or nonconforming.

21. ACCESS TO WORK

The Architect/Engineer, the Owner, the Project Manager, the Owner's inspectors and other testing personnel, 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.

22. SURVEYS AND LAYOUT

(a) The Owner shall furnish the Contractor all necessary documents showing property lines and the location of existing buildings and improvements. The Contractor shall provide competent surveying and engineering services to execute the Work in accordance with the Contract and shall be responsible for the accuracy of these surveying and engineering services.

(b) The Owner shall provide such general reference points and benchmarks on the Site as will enable the Contractor to proceed with the Work will be established in the plans and specifications. If the
Contractor finds that any previously established reference points have been lost or destroyed, he shall promptly notify the Architect/Engineer.

(c) The Contractor shall protect and preserve the established benchmarks and monuments and shall make no changes in locations without written notice to the Architect/Engineer and the written approval from the Owner. Any of these which may be 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.

23. PLANS AND SPECIFICATIONS

(a) The general character and scope of the Work are illustrated by the plans and the specifications. If the Contractor deems additional detail or information to be needed, he shall request the same in writing from the Architect/Engineer. His request shall precisely state the detail or information needed and shall explain why it is needed. The Contractor shall also indicate a date when the requested information is required. The Architect/Engineer 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 or time to the Owner.

(b) If the Contractor finds a conflict, error, omission, or other discrepancy in the plans or specifications, he shall notify the Architect/Engineer in writing as soon as possible, but before proceeding with the affected Work. The Architect/Engineer shall issue a clarification by Field Order to the Contractor stating the correct requirements. If the Contractor deems the Field Order requires additional Work, he shall notify the A/E of such prior to proceeding with that Work and he shall submit a request for Change Order along with a detailed substantiating cost proposal through the A/E to the Owner within fourteen (14) calendar days. If such 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 questions to the A/E in the time and manner required by the Instructions to Bidders or Request for Proposal, then any claims shall be deemed waived and the Contractor shall not be entitled to additional compensation or time, or entitled to sue 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 and specifications that the Contractor knew about, or with reasonable diligence should have known about, and fails to notify the A/E and Owner as required, the Contractor shall assume full responsibility for such performance 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, cause of action or right to sue the Owner.

(c) In case of differences between small and large scale drawings, the large scale drawings shall govern. Where on any of the drawings 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.

(d) Where the word "similar" appears on the drawings, 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.

(e) The specifications are divided into several parts, or sections, for convenience only, since the entire specifications must be considered as a whole. The divisions of the 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.

(f) Measurements or dimensions shown on the drawings for Site features, utilities and structures shall be verified at the Site by the Contractor before commencing the Work. The Contractor shall not scale measurements or dimensions from the drawings. If there are discrepancies, the Architect/Engineer shall be consulted. If new Work is to connect to, match with or be provided in existing Work, the Contractor shall verify the actual existing conditions and necessary dimensions prior to ordering or fabrication.

(g) As-Built Drawings: The Contractor shall maintain at the Site for the Owner one copy of all drawings, specifications, addenda, approved shop or setting drawings, Change Orders and other modifications (collectively referred to herein as "As-Built Drawings") in good order and marked to record all changes as they occur during construction. These shall be available to the Architect/Engineer, the Owner, the Project Inspector, the Owner's other inspectors and to the Owner's testing personnel. The drawings shall be neatly and clearly marked in color during construction to record all variations made during construction. The representation of such variations shall include such supplementary notes, symbols, legends, and details as may be necessary to clearly show the as-built construction.

(h) Record Drawings: Upon completion of the Work and prior to the final inspection, the Contractor shall deliver to the Architect/Engineer, for preparation of the Record Drawings, one complete set of "As-Built Drawings" referred to in the preceding subsection.

24. SUBMITTALS

(a) The Contractor shall submit a listing of all Submittals required by the Architect/Engineer or which the Contractor identifies as necessary, fixing the dates for the submission of shop or setting drawings, samples and product data. The listing shall be in a format acceptable to the Architect/Engineer. The Contractor shall identify all Submittals with the Owner's Project Code Number as required by Section 2(f).

(b) Submittals shall be forwarded to the Architect/Engineer for approval if required by the specifications or if requested by the Architect/Engineer or the Owner. No part of the Work dealt with by a Submittal shall be ordered, fabricated or installed by the Contractor, save at his own risk, until such approval has been given.

Working drawings, shop drawings and/or submittals for fire protection, fire alarm, fire detection and security systems shall be submitted to, and approved by, the Building Official prior to ordering, fabricating or installing such systems. The Contractor shall be solely responsible for obtaining such approval. No part of the Work involving such systems shall be ordered, fabricated or installed by the Contractor until such approval has been obtained.

(c) The Contractor shall furnish to the Architect/Engineer 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 he contemplates incorporating 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.
(d) Unless otherwise indicated or required elsewhere in 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 Architect/Engineer and the remainder will be returned to the Contractor. As is mutually agreeable to the Owner, Architect/Engineer, and Contractor, Submittals may be provided in electronic format in lieu of hardcopy format.

(e) Submittals shall be accompanied by a letter of transmittal which shall list the Project Code Number, the Submittals included, the specification section number applicable to each, and the date shown on each Submittal. 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 Project. Cross reference to the plans or specifications as needed to identify the use for which the item or component is intended.

(f) The Contractor shall check the 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.

(g) 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:

The equipment and material shown and marked in this submittal is that proposed to be incorporated into this Project, is in compliance with the Contract drawings and specifications unless otherwise shown in bold face type or lettering and listed on a page or pages headed "DEPARTURES FROM DRAWINGS AND SPECIFICATIONS", and can be installed in the allocated spaces.

Reviewed by _______________________________ Date __________________

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

(h) The Contractor shall forward all Submittals sufficiently in advance of construction requirements to allow reasonable time for checking, correcting, resubmitting and rechecking.

(i) If a Submittal indicates a departure from the Contract requirements, the Architect/Engineer may reject the Submittal or, if he deems it to have merit, may recommend it to the Owner, who shall approve or reject it as the Owner, in its sole discretion, sees fit. The departure from the Contract requirements shall be further authorized by a Change Order, if a reduction or increase in the Contract Price is appropriate.

(j) The Architect/Engineer is responsible to the Owner, but not to the Contractor, to verify that the 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.

(k) 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 of complying with the Contract and all drawings and specifications, except as changed by Change Order.

(l) The plans and/or specifications may indicate that the Architect/Engineer designed or detailed a portion of the plans around a particular product (most commonly a piece of equipment). 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" specification has been used, this is not intended to favor or preclude the use of other products pursuant to Section 26 of these General Conditions. Rather such design merely acknowledges the reality that in many instances the Architect/Engineer must have a basis to design and detail around for dimensions and characteristics of a product or system.

(m) Additional Submittal requirements are shown in the specifications.

25. FEES, SERVICES AND FACILITIES

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

(b) 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, 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 whatever damages which may result from power and water outages or voltage variations.

(c) 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.

(d) It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor, either directly or through his 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 within the Contract Time for Completion or before the Contract Completion Date.

(e) The Contractor shall provide temporary facilities including Contractor’s office space, Owner’s Project Inspector office space (if required by the specifications), toilet facilities, and storage space, as required for the operations and the protection of the material and work. Number, sizes and locations shall be subject to approval of the Owner. Sanitary facilities shall be plumbed into an approved waste treatment system or shall be an approved type of chemical toilet and shall be regularly serviced.
26. EQUALS

(a) **Brand names:** Unless otherwise stated in the specifications, the name of a certain brand, make or manufacturer denotes the characteristics, quality, workmanship, economy of operation and suitability for the intended purpose of the article desired, but does not restrict the Contractor to the specific brand, make, or manufacturer; it is set forth to convey to the Contractor the general style, type, character and quality of the article specified.

(b) **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 Architect/Engineer 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.

(c) **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 in the design. If the proposed substitute is acceptable to the Owner, a Change Order will be proposed to the Contractor to accept the substitute and to deduct the cost of the A/E redesign fee and the proposed cost savings from the Contract Price. The Owner shall have the right to limit or reject substitutions at its sole discretion.

(d) The Contractor shall be responsible for making all changes in the Work necessary to adapt and accommodate any equal or substitute product which it uses. The necessary changes shall be made at the Contractor's expense.

27. AVAILABILITY OF MATERIALS

If a brand name, product, or model number included in the Contract Documents is not available on the present market, alternate equal products or model numbers may be proposed by the Contractor through the Architect/Engineer for approval by the Owner.

28. 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 is retained by the seller or is given to a secured party. The Contractor warrants that he has clear and good title to all materials and supplies which he uses in the Work or for which he accepts payment in whole or in part.

29. STANDARDS FOR MATERIALS INSTALLATION & WORKMANSHIP

(a) Unless otherwise specifically provided in the Contract, all equipment, material, and accessories incorporated in the Work are to be new and in first class condition.

(b) 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. If the Contractor becomes aware that a material required by the Contract contains
asbestos or other hazardous materials, he shall notify the Owner and the Architect/Engineer immediately and shall take no further steps to acquire or install any such material without first obtaining Owner approval.

(c) All workmanship shall be of the highest quality found in the building industry in every respect. All items of Work shall be done by craftsmen or tradesmen 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 workmen. Poor or inferior workmanship (as determined by the Architect/Engineer, 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 Architect/Engineer, the Owner, or other inspecting authority, as applicable.

(d) Under the various sections of the plans or specifications, where specified items 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 specified items shall be in strict accordance with the manufacturer's printed instructions unless those instructions contradict the plans or specifications, in which case the Architect/Engineer will be notified for an interpretation and decision.

(e) Under the various sections of the plans or specifications, where reference is made 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 his trade.

(f) 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 or 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 the Architect/Engineer 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.

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

30. **WARRANTY OF MATERIALS AND WORKMANSHIP**

(a) The Contractor warrants that, unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new, in first class condition, and in accordance with the Contract Documents. The Contractor further warrants that all workmanship shall be of the highest quality and in accordance with the Contract Documents and shall be performed by persons qualified at their respective trades.

(b) 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 or obligations in the Contract or under Virginia law.

31. USE OF SITE AND REMOVAL OF DEBRIS

(a) 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 his apparatus, materials, supplies and equipment in such orderly fashion at the Site of the Work as will not unduly interfere with the progress of his 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.

(b) The Contractor expressly undertakes, either directly or through his 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 Architect/Engineer, 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.

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

(d) The Contractor expressly undertakes, either directly or through his 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 his 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 interior of all buildings included in the Contract; 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 at the time required herein, the Owner may do so and charge the costs incurred thereby to the Contractor in accordance with Section 10 (b) of these General Conditions.

(e) 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 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.
32. TEMPORARY ROADS

Temporary roads, if required, shall be established and maintained until permanent roads are accepted, then removed and the area restored to the conditions required by the Contract Documents. Crushed rock, paving and other road materials from temporary roads shall not be left on the Site unless permission is received from the Owner to bury the same at a location and depth approved by the Owner.

33. SIGNS

The Contractor may, at his 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 job. No signs shall be erected without prior approval of the Owner as to design and location.

34. PROTECTION OF PERSONS AND PROPERTY

(a) The Contractor expressly undertakes, both directly and through his Subcontractors, to take every reasonable precaution at all times for the protection of all persons and property which may come on the Site or be affected by the Contractor's Work.

(b) The Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Any violation of these requirements or duties or any potential safety hazard that is brought to the attention of the Contractor by the Architect/Engineer, the Owner, or any other persons shall be immediately abated.

(c) 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.

(d) The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect the Owner's property from injury or loss arising in connection with this Contract. He shall make good any such damage, injury or loss, 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 as required by public authority, local conditions, or the Contract.

(e) In an emergency affecting the health, safety or life of persons or of the Work, or of the adjoining property, the Contractor, without special instruction or authorization from the Architect/Engineer or the Owner, shall act, at his discretion, to prevent such threatened loss or injury. Also, should he, to prevent threatened loss or injury, be instructed or authorized to act by the Architect/Engineer or the Owner, he shall so act immediately, without appeal. Any additional compensation or extension of time claimed by the Contractor on account of any emergency work shall be determined as provided by Section 38 of these General Conditions.

(f) When necessary for the proper protection of the Work, temporary heating of a type approved by the Architect/Engineer must be provided by the Contractor, at the Contractor's expense, unless otherwise specified.

35. CLIMATIC CONDITIONS

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

(a) Unless otherwise provided in the Contract, the Owner will make partial payments to the Contractor on the basis of a duly certified and approved Schedule of Values and Certificate for Payment, Form CO-12, showing the estimate of the Work performed during the preceding calendar month or work period, as recommended by the Architect/Engineer. When evaluating the Contractor's Form CO-12, the Architect/Engineer will consider the value of the Work in place, the value of approved and properly stored materials, the status of the Work on the critical path with regard to the Time for Completion, and the estimated value of the Work necessary to achieve Final Completion. The Architect/Engineer will schedule a monthly pay meeting to occur no earlier than the 25th day of the month represented by the payment request or not later than the 5th day of the following month. The Contractor shall submit his monthly estimate of Work completed on Form CO-12 in accordance with the Contract between the Owner and Contractor so that it is received by the Architect/Engineer and the Owner's Project Manager at least one work day prior to the date scheduled by the Architect/Engineer for the monthly pay meeting. The Owner will review the estimate with the Architect/Engineer and the Contractor at the monthly pay meeting, which shall be considered the receipt date, and may approve any or all of the estimate of Work for payment. 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 Architect/Engineer so that quantities may be verified. In addition to material delivered to the Site, material such as large pieces of equipment and items purchased specifically for the Project, but stored off the Site within the Commonwealth of Virginia, may be considered for payment, provided all of the following are accomplished prior to the submission of the monthly payment request in which payment for such materials is requested:

(1) The Contractor must notify the Owner in writing, at least ten (10) days prior to the submission of the payment request, through the Architect/Engineer, that specific items will be stored off Site in a designated, secured place within the Commonwealth of Virginia. 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 types and quantities of materials for the Project and meet the Time for Completion or Contract Completion Date, subject to Section 43 (b) of these General Conditions. 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 to verify the Contractor's request for payment for materials stored off Site. A Supplementary Agreement shall be required for payment by the Owner to the Contractor for materials or equipment that is stored offsite at a location that is not within the Commonwealth of Virginia.

(2) Such notification, as well as the payment request, shall:

(a) Itemize the quantity of such materials and document with invoices showing the cost of said materials;

(b) Indicate the identification markings used on the materials, which shall clearly reference the materials to the particular project;

(c) Identify the specific location of the materials, which must be within reasonable proximity to the Site and within the Commonwealth of Virginia;
(d) Include a letter from the Contractor's Surety which confirms that the Surety on the Performance Bond and the Labor and Material Payment Bond has been notified of the request for payment of materials stored off the Site and agrees that the materials are covered by the bond; and

(e) Include a certificate of all-risk builder's risk insurance in an amount not less than the fair market value of the materials, which shall name the Owner and the Contractor as co-insureds.

(3) The Architect/Engineer shall indicate, in writing, to the Owner that Submittals for such materials have been reviewed and meet the requirements of the Contract Documents, that the stored materials meet the requirement of the plans and specifications, and that such materials conform to the approved Submittals. Should the A/E deem it necessary to visit the storage site to make such review, the Contractor shall bear the costs incurred therewith.

(4) The Owner, through the Architect/Engineer, shall notify the Contractor in writing of its agreement to prepayment for such materials.

(5) The Contractor shall notify the Owner in writing, through the Architect/Engineer, when the materials are to be transferred to the Site and when the materials are received at the Site.

(b) 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 of the request for payment, unless the Contractor has the prior consent of the Owner, which consent may be granted or withheld by the Owner in its discretion if, in the opinion of the Owner, it is not necessary to procure the materials more than six months in advance of use to assure their availability when needed.

(c) 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 or other satisfactory evidence of compliance by the Contractor with all the requirements of Section 11 (and Section 12 if applicable) of these General Conditions have been delivered to the Owner.

(3) Copies of any certificates of insurance required of a Subcontractor under Section 11 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(a), (ii) submitted a fully complete Project schedule accepted by the Owner in accordance with Section 19(a), (iii) maintained the monthly bar graphs or status reports required by Section 19(d), or (iv) provided a recovery schedule pursuant to Section 19(e), as each of them may be required.

(d) In making such partial payments, five percent (5%) of each payment to the Contractor shall be retained until Final Completion and acceptance of all Work covered by the Contract, 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. (§ 2.2-4333 of the Code of Virginia) 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 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 of these General Conditions.

(e) All material and Work for which partial 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 Work. Nor shall this provision serve as a waiver of the right of the Owner to require the fulfillment of all of the terms and conditions of the Contract.

(f) The Final Payment, which shall include the retainage, less any amounts due to or claimed by the Owner, shall not become due until the Architect/Engineer and the Owner agree that Final Completion has been achieved and until the Contractor shall deliver to the Owner through the Architect/Engineer a Certificate of Completion by the Contractor (Form CO-13.2) and an Affidavit of Payment of Claims (Form CO-13), stating that all Subcontractors and Suppliers of either labor or materials have been paid all sums claimed by them for Work performed or materials furnished in connection with this Project less retainage. Amounts due the Owner which may be withheld from the Final Payment may include, but are not limited to, amounts due pursuant to Section 3(i), Section 16(a)-(d), Section 31(d), 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(h), 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 (Form 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 pursuant to Section 37(b) below; 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, pay 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 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.

Before Final Payment is made, the Owner shall confirm that the Contractor has certified compliance with the contract’s small business procurement plan by providing a report in accordance with DSBSD’s requirements. If there are variances between the Contractor’s required small business procurement plan and the actual participation, the Contractor shall provide a written explanation which shall be kept with the contract file and made available upon request. The Owner, in its sole discretion, may withhold the Final Payment until the Contractor is in compliance with its small business procurement plan.

(g) Upon successful completion of the final inspection and all Work required by the Contract, including but not limited to the delivery of As-Built drawings, equipment manuals, written warranties, acceptance of the Work by the Owner and the delivery of the affidavits required in Section 36(f) of these General Conditions, the Architect/Engineer shall deliver the written Certificate of Completion by the Architect/Engineer (Form CO-13.1) to the Owner, with a copy to the Contractor, stating the entire amount of Work performed and compensation earned by the
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, its compliance with the Contract Documents; or any other reason.

(h) Unless there is a dispute about the compensation due to the Contractor, Defective Work, quality of the Work, compliance with the Contract Documents, completion itself, 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 Schedule of Values and Certificate for Payment (Form CO-12) in proper form by the Architect/Engineer at the monthly pay meeting, which shall be considered the receipt date, the Owner shall pay to the Contractor the amount approved by the Architect/Engineer, 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 (Form CO-13), the Certificate of Completion by the Contractor (Form CO-13.2) and the Certificate of Completion by the Architect/Engineer (Form CO-13.1) shall accompany the final Schedule of Values and Certificate for Payment (Form CO-12) which is forwarded to the Owner for payment. The date on which payment is due shall be referred to as the Payment Date. In the event of disputes, 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 General Assembly 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 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 request for payment (CO-12) by the Contractor 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 Schedule of Values and Certificate for Payment (Form CO-12) by the Owner from the Architect/Engineer.

(i) Interest shall accrue on all amounts owed by the Owner to the Contractor which remain unpaid seven (7) days following the Payment Date. Said interest shall accrue at the discounted ninety-day U.S. Treasury bill rate as established by the Weekly Auction and as reported in the publication entitled The Wall Street Journal on the weekday following each such Weekly Auction. During the period of time when the amounts due to the Contractor remain unpaid following the seventh (7) day after the Payment Date, the interest accruing shall fluctuate on a weekly basis and shall be that established by the immediately prior Weekly Auction. It shall be the responsibility of the Contractor to gather and substantiate the applicable weekly interest rates to the satisfaction of the Owner and to calculate to the satisfaction of the Owner the interest due. In no event shall the rate of interest charge exceed the rate of interest charged pursuant to § 58.1-1812 of the Code of Virginia. No interest shall accrue on retainage or when payment is delayed because of disagreement between the Owner and the Contractor regarding the quantity, quality or timeliness of the Work, including, but not limited to, compliance with Contract Documents or the accuracy of any Request for Payment received. This exception to the accrual of interest stated in the preceding sentence shall apply only to that portion of a delayed payment which is actually the subject of such a disagreement and shall apply only for the duration of such disagreement. Nothing contained herein shall be interpreted, however, to prevent the withholding of retainage to assure faithful performance of the Contract. These same provisions relating to payment of interest to the Contractor shall apply also to the computation and accrual of interest on any amounts due from the Contractor to the Owner for deductive change orders and to amounts due on any claims by the Owner. The date of mailing of any payment by the U.S. Mail is deemed to be the date of payment to the addressee.

(j) 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, including extra work and compensation therefor.
Contractor whatever, including liability for all things done or furnished in connection with this 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, provided a claim is submitted no later than sixty (60) days after Final Payment. Acceptance of any interest payment by the Contractor shall be a release of the Owner from claims by the Contractor for late payment.

(k) No certificate for payment issued by the Architect/Engineer, 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 faulty materials or Defective Work or operate to release the Contractor or his Surety from any obligation under the Contract, the Standard Performance Bond and the Standard Labor and Material Payment Bond.

37. **PAYMENTS BY CONTRACTOR (§ 2.2-4354, Code of Virginia)**

Under § 2.2-4354, *Code of Virginia*, the Contractor is obligated to:

(a) Within seven (7) days after receipt of amounts paid to the Contractor by the Owner for Work performed by the Subcontractor or Supplier under this Contract,

1. Pay the Subcontractor or Supplier for the proportionate share of the total payment received from the Owner attributable to the Work performed by the Subcontractor or the materials furnished by the Supplier under this Contract; or

2. Notify the Subcontractor or Supplier, in writing, of his intention to withhold all or a part of the Subcontractor or Supplier's payment with the reason for nonpayment;

(b) Pay interest to the Subcontractor or Supplier on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the Owner for Work performed by the Subcontractor or materials furnished by the Supplier under this contract, except for amounts withheld as allowed under subsection (a) (2) of this Section.

(c) Include in each of his subcontracts a provision requiring each Subcontractor to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower tier subcontractor. Each Subcontractor shall include with its invoice to, or request for payment from, the Contractor, a certification that that Subcontractor has paid each of its suppliers and lower tier subcontractors their proportionate share of previous payments received from the Contractor attributable to the Work performed or the materials furnished by it under this Contract.

The Contractor's obligation to pay interest to the Subcontractor or Supplier pursuant to subsection (b) of this Section is not an obligation of the Owner. A modification to this Contract shall not be made for the purpose of providing reimbursement for such interest charge. A Contractor's cost reimbursement claim shall not include any amount for reimbursement of such interest charge.

38. **CHANGES IN THE WORK**

(a) The Owner may at any time, by written order utilizing the Commonwealth of Virginia Change Order Form CO-11 and without notice to the sureties, make changes in the Work which are within the general scope of the Contract, except that no change will be made which will increase the total Contract Price to an amount more than twenty percent (20%) in excess of the original Contract Price without notice to sureties. At the time of the Preconstruction Meeting described in Section 50(b), the Contractor and the Owner shall advise each other in writing of their designees authorized to accept and/or approve changes to the Contract Price and of any limits to each designee's authority. Should any designee or limits of authority change during the time this
Contract is in effect, the Contractor or Owner with such a change shall give written notice to the other within seven (7) calendar days, utilizing the procedures set forth in these General Conditions. The Contractor agrees and understands that the authority of the Owner's designee is limited by Virginia Code §2.2-4309 and any other applicable statute.

In making any change, the charge or credit for the change shall be determined by one of the following methods as selected by the Owner:

(1) **Fixed Price:** By a mutually agreed fixed amount change to the Contract Price and/or time allowed for completion of the Work. The Change Order shall be substantiated by documentation itemizing the estimated quantities and costs of all labor, materials, and equipment required as well as any mark-up used. The price change shall include the Contractor's reasonable overhead and profit, including overhead for any unreasonable delay arising from or related to the Change Order and/or the change in the Work. See Subsections (d), (e) and (f), below.

(2) **Unit Price:** By using unit prices and calculating the number of net units of Work in each part of the Work which is changed, either as the Work progresses or before Work on the change commences, and by then multiplying the calculated number of units by the applicable unit price set forth in the Contract or multiplying by a mutually agreed unit price if none was provided in the Contract. No additional percentage markup for overhead or profit shall be added to the unit prices.

(3) **Cost Reimbursement:** By ordering the Contractor to perform the changed Work on a cost reimbursement basis by issuing two Change Orders citing this Subsection, an initiating Change Order, authorizing the changed Work, and a confirming Change Order approving the additional cost and time for the changed Work. The initiating Change Order shall:

(i) Describe the scope or parameters of the change in the Work;

(ii) Describe the cost items to be itemized and verified for payment and the method of measuring the quantity of work performed;

(iii) Address the impact on the schedule for Substantial Completion;

(iv) Order the Contractor to proceed with the change to the Work;

(v) Order the Contractor to keep in a form acceptable to the Owner, an accurate, itemized account of the actual cost of the change in the Work, including, but not limited to, the actual costs of labor, materials, equipment, and supplies;

(vi) Order the Contractor to annotate a copy of the Project schedule to accurately show the status of the Work at the time this first Change Order is issued, to show the start and finish dates of the changed Work, and the status of the Work when the changed Work is completed; and

(vii) State that a confirming Change Order will be issued to incorporate the cost of the ordered changed in the Work into the Contract Price and any change in the Contract Time for Completion or Contract Completion Date.

The Contractor shall sign the initiating Change Order acknowledging he has been ordered to proceed with the change in the Work. The Contractor's signature on each initiating Change Order citing this Subsection 38(a)(3) as the method for determining the cost of
the Work shall not constitute the Contractor's agreement on the cost or time impact of the ordered Work.

Except as otherwise may be agreed to in writing by the Owner, such costs shall not exceed those prevailing for the trades or crafts (based upon rates established by the US Department of Labor, Bureau of Labor Statistics, or other generally recognized cost data publication), materials, and equipment in the locality of the Project, may include only those items listed as allowable in Subsection 38(e), and shall not include any of the costs listed as not allowable in Subsection 38(f). The Owner shall be permitted, on a daily basis, to verify such records and may require such additional records as are necessary to determine the cost of the change to the Work.

Within fourteen (14) days after the conclusion of such ordered Work, the Contractor and the Owner shall reach agreement on (i) a cost for the ordered Work, based on the records kept and the Contractor's allowance for overhead and profit determined in accordance with the provisions set forth in Subsections 38(d), (e), and (f) below; and (ii) the change in the Contract Time for Completion or Contract Completion Date, if necessary, as a result of the ordered Work. Such costs and time shall be incorporated into a confirming Change Order which references the initiating Change Order. If agreement on the cost and time of the changed Work cannot be reached within the fourteen (14) days allotted, the Contractor may submit a claim for the disputed cost or time as provided for in Section 47.

(4) By issuing a unilateral change order in the amount deemed appropriate by the Owner for the Work. If the Contractor objects to the amount or scope of the change order then the Contractor may within the 14 days of the date of the change order file a claim for the disputed amount as provided for in section 47.

(b) The Contractor shall review any Owner requested or directed change and shall respond in writing within fourteen (14) calendar days after receipt of the proposed change (or such other reasonable time as the Owner may direct), stating the effect of the proposed change upon his Work, including any increase or decrease in the Contract time and price. The Contractor shall furnish to the Owner an itemized breakdown of the quantities and prices used in computing the proposed change in Contract Price.

The Owner shall review the Contractor's proposal and respond to the Contractor within thirty (30) days of receipt. If a change to the Contract Price and Time for Completion or Contract Completion Date are agreed upon, both parties shall sign the Change Order. If the Contract Price and Time for Completion or Contract Completion Date are not agreed upon, the Owner may direct the Contractor to proceed under Subsection 38(a)(3), above. Change Orders shall be effective when signed by both parties, unless approval by the Governor or his designee is required, in which event the Change Order shall be effective when signed by the Governor or his designee.

(c) In figuring changes, any instructions for measurement of quantities set forth in the Contract shall be followed.

(d) Overhead and profit for both additive and deductive changes in the Work (other than changes covered by unit prices) shall be paid by applying the specified percentage markups only on the net cost of the changed Work (i.e. difference in cost between original and changed Work excluding overhead and profit). Said percentages for overhead and profit shall reasonably approximate the Contractor’s overhead and profit, but shall not exceed the percentages for each category listed below:

(1) If a Subcontractor does all or part of the changed Work, the Subcontractor's mark-up for overhead and profit on the Work it performs shall be a maximum of fifteen percent.
(15%). The Contractor's mark-up for overhead and profit on the Subcontractor's price shall be a maximum of ten percent (10%).

(2) If the Contractor does all or part of the changed Work, its markup for overhead and profit on the changed Work it performs shall be a maximum of fifteen percent (15%).

(3) If a Sub-subcontractor at any tier does all or part of the changed Work, the Sub-subcontractor's markup on that Work shall be a maximum of fifteen percent (15%). The markup for overhead and profit on a sub-subcontractor's Work by the Contractor and all intervening tiers of Subcontractors shall not exceed a total of ten percent (10%).

(4) Where Work is deleted from the Contract prior to commencement of that Work without substitution of other similar Work, one hundred percent (100%) of the Contract Price attributable to that Work shall be deducted from the Contract Price. However, in the event that material Submittals have been approved and orders placed for said materials, a lesser amount, but in no case less than eighty percent (80%) of the Contract Price attributable to that Work, shall be deducted from the Contract Price. The credit to the Owner for reduced premiums on labor and material bonds and performance bonds shall in all cases be one hundred percent (100%).

(e) Allowable costs for changes in the Work may include but are not limited to the following:

(1) Labor costs for employees directly employed in the change in the Work, including salaries and wages plus the cost of payroll charges and fringe benefits and overtime premiums, if such premiums are explicitly authorized by the Owner.

(2) Materials incorporated into the change to the Work, including costs of transportation and storage, if applicable. If applicable, all cash discounts shall accrue to the Contractor, unless the Owner deposits funds with the Contractor to make such payments, and all trade discounts, rebates, refunds, and returns from the sale of surplus materials shall accrue to the Owner.

(3) Equipment incorporated in the changed Work or equipment used directly in accomplishing the Work. If rented expressly for accomplishing the change in the Work, the cost shall be the rental rate according to the terms of the rental agreement, which the Owner shall have the right to approve. If owned by the Contractor, the costs shall be a reasonable price based upon the life expectancy of the equipment and the purchase price of the equipment. If applicable, transportation costs may be included.

(4) Costs of increases in premiums for the Standard Labor and Material Payment Bond and the Standard Performance Bond, provided coverage for the cost of the change in the Work results in such increased costs. At the Owner's request, the Contractor shall provide proof of his notification to the Surety of the change in the Work and of the Surety's agreement to include such change in its coverage. The cost of the increase in premium shall be an allowable cost but shall not be marked up.

(5) Contractor and Subcontractor overhead costs as set forth in Subsection (d) markups above.

(6) **Agreed Compensation for Overhead for Changes to Time for Completion or Contract Completion Date for Changes to the Work:** If the change in the Work also changes the Time for Completion or the Contract Completion Date by adding days to complete the Work, an itemized accounting of the following direct Site overhead and home office overhead and other indirect overhead expenses set forth in subparagraphs (i) and (ii) below may be considered as allowable costs for compensation in addition to those shown above:
(i) **Direct Site Overhead Expenses:**

The Contractor’s per diem expenses, as shown by the itemized accounting, for the following allowable direct Site overhead expenses: The Site superintendent’s pro-rata salary, temporary Site office trailer, and temporary Site utilities including basic telephone service, electricity, heat, water, and sanitary / toilet facilities for each day added. All other direct expenses are covered by and included in the Subsection 38(d) markups above.

(ii) **Home Office and Other Indirect Overhead Expenses:**

A five percent (5%) markup on the above direct Site overhead expenses will be allowed as compensation for the Contractor’s home office overhead and all other direct or indirect overhead expenses for days added to the Time for Completion or the Contract Completion Date for a change in the Work. All other overhead and other direct or indirect overhead expenses are covered by and included in this markup and the Subsection (d) markups above.

(7) Any other costs directly attributable to the change in the Work with the exception of those set forth in Subsection 38(f) below.

(f) Allowable costs for changes in the Work shall not include the following:

(1) Costs due to the negligence of the Contractor, any Subcontractor, Supplier, their employees, or other persons for whom the Contractor is responsible, including, but not limited to, costs for the correction of Defective Work, for improper disposal of material, for equipment wrongly supplied, for delay in performing the Work, or for delay in obtaining materials or equipment.

(2) Home office expenses including payroll costs for the Contractor's officers, executives, administrators, accountants, counsel, timekeepers, clerks, and other similar administrative personnel employed by the Contractor, whether at the Site or in the Contractor's principal or branch office for general administration of the Work. These costs are deemed overhead included in the percentage markups allowable in Subsections 38(d) above.

(3) Home and field office expenses not itemized in Subsection 38(e)(6) above. Such items include, but are not limited to, expenses of Contractor's home and branch offices, Contractor's capital expenses, interest on Contractor's capital used for the Work, charges for delinquent payments, small tools, incidental job costs, rent, utilities, telephone and office equipment, and other general overhead expenses.

(4) Other items reasonably determined by the Owner to not be allowed.

(g) All Change Orders, except the "initial" Change Orders authorizing work citing Subsection 38(a)(3) procedures, must state that the Contract Time for Completion or Contract Completion Date is not changed or is either increased or decreased by a specific number of days. The old Time for Completion and, if changed, the new Time for Completion must be stated.

If the Contractor requests an extension to the Time for Completion or a later Contract Completion Date, he must provide written justification for the extension to the Architect/Engineer and to the Owner. The written justification must demonstrate an anticipated actual increase in the time required to complete the Work beyond that allowed by the Contract as adjusted by prior change orders or amendments to the Contract, not just an increase or decrease in the time needed to complete some portion of the total Work. When a CPM schedule is required by the Contract, no
extension to the Time for Completion or Contract Completion Date shall be allowed unless, and then only to the extent that, the additional or changed Work increases the length of the critical path beyond the Time for Completion or Contract Completion Date. If approved, the increase in time required to complete the Work shall be added to the Time for Completion or Contract Completion Date.

The Owner may decrease, by Change Order, the Time for Completion or Contract Completion Date when an Owner-requested deletion from the Work results in a decrease in the actual time required to complete the Work as demonstrable on the Bar Graph Schedule or on the CPM Schedule, whichever is appropriate. The Contractor may submit a request to decrease, by Change Order, the Time for Completion or Contract Completion Date under the procedures and subject to the considerations set forth in Section 19(f). No request for such decrease shall be considered for approval unless the proposed shorter schedule is otherwise acceptable under Sections 19(b) or (c), whichever is applicable. The Change Order decreasing the Time for Completion or changing the Contract Completion Date must be signed by both the Owner and the Contractor.

With the exception of Change Orders under Subsection 38(a)(3), which shall arrive at a change to the Contract Price and any change to time using the procedures set forth therein, each Change Order shall include all time and monetary impacts of the change, whether the Change Order is considered alone or with all other changes during the course of the Project. Failure to include a change to time and changes in the Contract Price attributable to the change in time under Subsections 38(a)(1) or (2) shall waive any change to the time and Contract Price unless the parties mutually agree in writing to postpone a determination of the time related impacts of the change. Such a determination may be postponed not more than forty-five (45) days to give the Contractor an opportunity to demonstrate a change in the time and price needed to complete the Work. During any such postponement, the Work shall proceed, unless the Owner agrees otherwise.

If at any time there is a delay in the critical path of the Work due to postponement, due to the Contractor's efforts to justify an extension of the time or an increase in the Contract Price, or due to the Contractor's refusal to proceed with any of the Work, pending agreement on a change in time or price, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Contract Completion Date or for an increase in the Contract Price.

(h) The acceptance by the Contractor of any payment made by the Owner under a Change Order shall be and operate as a release to the Owner of all claims by the Contractor and of all liability owing to the Contractor for all things done or furnished in connection with the Work described in the Change Order. The execution of any Change Order by the Owner shall not be an acceptance of any Work or materials not in accordance with the Contract Documents, nor shall it relieve the Contractor of responsibility for faulty materials or workmanship or operate to release the Contractor or his surety from any obligation arising under the Contract, the Standard Performance Bond, or the Standard Labor and Material Payment Bond.

(i) Payments will not be made for any Work, labor, or materials performed on a unit price or a Subsection 38(a)(3) basis until the Contractor has furnished the Owner documents, certified as true and correct by an authorized officer or agent of the Contractor, evidencing the cost of such Work, labor, and materials. The Owner may require any or all of the following documentation to be provided by the Contractor.

For Work performed on a Unit Price basis:

(1) Certified measurements of authorized and approved excavations, over-excavations, fills and/or backfills, and similar work; and/or
(2) Certified measurements of piling installed, caissons installed, and similar work; and/or

(3) Daily records of waste materials removed from the Site and/or fill materials imported to the Site.

**For Work performed on a Subsection 38(a)(3) basis:**

(1) Certified payroll records showing the name, classification, date, daily hours, total hours, rate, and extension for each laborer, foreman, supervisor, or other worker; and/or

(2) Equipment type & model, dates, daily hours, total hours, rental rate, or other specified rate, and extension for each unit of equipment;

(3) Invoices for materials showing quantities, prices, and extensions;

(4) Daily records of waste materials removed from the Site and/or fill materials imported to the Site;

(5) Certified measurements of over-excavations, piling installed and similar work; and/or

(6) Transportation records for materials, including prices, loads, and extensions.

Requests for payment shall be accompanied and supported by invoices for all materials used and for all transportation charges claimed. If materials come from the Contractor's own stock, then an affidavit may be furnished, in lieu of invoices, certifying quantities, prices, etc. to support the actual cost.

**39. EXTRAS**

If the Contractor claims that any instructions given to him by the Architect/Engineer or by the Owner, by drawings or otherwise, involve extra Work which increases the scope of the Contract, then, except in emergencies endangering life or property, he shall give the Architect/Engineer and the Owner written notice thereof before proceeding to execute the 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. Should it not be immediately clear to the Contractor that the change involves extra Work outside the scope of the Contract, written notice shall be sufficient if given as soon as possible after such realization, but in no event later than fourteen (14) days after the start of such Work. If the Owner agrees, a Change Order shall be issued as provided in Section 38 of these General Conditions, and any additional compensation shall be determined by one of the three (3) methods provided in Subsection 38(a), as selected by the Owner. If the Owner does not agree, then any claims for compensation for the extra Work shall be filed in accordance with Section 47.

**40. 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 him, or if the Owner should fail to pay to the Contractor within thirty (30) days any sum certified by the Architect/Engineer when no dispute exists as to the sum due or any provision of the Contract, then the Contractor may, upon ten (10) calendar days written notice to the Owner and the Architect/Engineer, 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 he would have had profit on the entire Contract if he 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.

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

(a) If the Contractor should be adjudged as bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his 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 workmen or proper materials and equipment, or if he should fail to perform the Work in a diligent, efficient, workmanlike, skillful, and careful manner, or if he should fail or refuse to perform the Work in accordance with the Contract Documents, or if he should fail to make prompt payment to Subcontractors or Suppliers of material or labor, or if he should disregard laws, ordinances or the written instructions of the Architect/Engineer or the Owner, or otherwise be in substantial violation of any provision of the Contract, then the Owner may terminate the Contract.

(b) Prior to termination of the Contract, the Owner shall give the Contractor and his surety ten (10) days written notice of such termination in the manner provided in Section 1 (definition of "Notice") of these General Conditions and allow ten (10) days during which the Contractor and/or his 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 not, the termination for cause shall become effective at the end of the ten (10) day notice period without further notice to the Contractor. In the alternative, 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 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 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 his 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.

(c) 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 Provided:** If no security has been provided pursuant to Section 8 herein, the Owner shall finish the Work by whatever method he may deem 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 Provided:** If security has been provided pursuant to Section 8 herein, 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, CO-10, Form DGS-30-084, 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 the penal amount of 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.

(d) 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.
(e) Termination of the Contract under this Section 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.

42. TERMINATION BY OWNER FOR CONVENIENCE

(a) 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 in the manner provided in Section 1 (definition of "Notice") of these General Conditions. Upon such termination, 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. Upon such termination, the Contractor 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 for termination and assignment 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 (Form CO-12) through the date of termination; and

(2) All amounts then otherwise due under the terms of this Contract associated with the Work performed prior to the date of termination; and

(3) Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of such termination.

The Contractor shall not be entitled to any compensation or damages for lost profits or for any other type of contractual compensation or damages other than those provided in Subsection 42(a). The Owner may offset any claims it may have against the Contractor against the amounts due to the Contractor. Upon payment of the foregoing, Owner shall have no further obligations to Contractor of any nature. The Contractor agrees to waive all claims against the Owner for any consequential damages that may arise from or relate to the Owner’s termination of the Contract including, but not limited to, damages for loss of revenue, income, profit, business, reputation, or bonding capacity.

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

(c) 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.

43. DAMAGES FOR DELAYS; EXTENSION OF TIME

(a) **Excusable Non-Compensable Delays:** If and to the extent that the Contractor is delayed at any time in the progress of the Work by strikes, fires, unusual delays in transportation or unavoidable casualties, or other causes outside the control of the Owner or the Contractor, with the exception of delays caused by weather provided for in Section 6, for which the Contractor intends to request an extension of either the Time for Completion or the Contract Completion Date, as the case may be, then the Contractor shall give the Owner and Architect/Engineer written notice of the delay within fourteen (14) days of the inception of the delay. The Contractor shall also give written notice to the Owner and Architect/Engineer of the termination of the delay not more than fourteen
(14) days after such termination. If the Owner agrees with the existence and the impact of the delay, the Owner shall extend the Time for Completion, the Contract Completion Date or Final Completion Date, as the case may be, for the length of time that the date for Substantial Completion or Final Completion was actually delayed thereby, and the Contractor shall not be charged with liquidated or actual damages for delay during the period of such extension nor shall the Contractor be due compensation or damages of any kind, under any theory of law, as a result of such delay, the impact of such delay, or acceleration of Work as a result of such delay. In the event a CPM schedule is required by the Contract, no extension of the Time for Completion or Contract Completion Date shall be granted unless the Contractor demonstrates a delay in the critical path of the approved CPM schedule or approved bar graph schedule.

(b) **Excusable Compensable Delays:** If and to the extent that the Contractor is unreasonably delayed at any time in the progress of the Work by any acts or omissions of the Owner, its agents, or employees due to causes within the Owner's control, and the Contractor intends to request an extension of either the Time for Completion or the Contract Completion Date, as the case may be, and/or additional compensation for damages, if any, caused by the delay, then the Contractor shall notify the Owner and the Architect/Engineer immediately at the time of the occurrence giving rise to the delay by the fastest means available and shall give written notice no later than two (2) working 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 Contractor's Work schedule. The Owner shall then have three (3) working days to respond to the Contractor's notice with a resolution, remedy, direction to alleviate the delay, or rejection of the Contractor’s notice of delay. The Owner's failure to respond within the time required shall be deemed to be a rejection of the Contractor’s notice. The Contractor shall also give written notice to the Owner and Architect/Engineer of the termination of the delay not more than fourteen (14) days after such termination. 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 time or additional compensation only for the portion of the delay that is unreasonable, if any.

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

(d) No extension of time or additional compensation, if applicable, will be granted for any delay unless the claimed delay directly affects the critical path of the approved CPM schedule or the schedule shown on the approved bar graph schedule, whichever is applicable, and any float has been consumed. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed in Subsections 43(a) or (b) above, whichever applies. Furthermore, no extension of time or additional compensation shall be given for any delay unless a written request therefor is made in writing to the Owner, with a copy to the Architect/Engineer, within twenty (20) days of the end of the delay. The request shall state the cause of the delay, the number of days of extension requested, and any additional compensation requested by the Contractor. Failure to give written notice of either the inception or the termination of the cause of delay or failure to present a claim for extension of time and/or
monetary compensation within the times prescribed shall constitute a waiver of any claim for extension or additional compensation based upon that cause.

(e) Requests for extensions of time and/or compensation for delays pursuant to Subsection 43(b) above must be substantiated by itemized data and records clearly showing that the Work delayed was on the critical path of the approved CPM schedule or on the sequence of Work on the approved bar graph schedule, as modified, whichever applies, and that the additional time and/or costs incurred by the Contractor are directly attributable to the delay in the Work claimed. Furthermore, compensation for delay shall be calculated from the contractual Time for Completion or Contract Completion Date, as adjusted by Change Order, and shall not be calculated based on any early completion planned or scheduled by the Contractor, unless a Change Order has been executed pursuant to Section 19(f) changing the Time for Completion or the Contract Completion Date to reflect such early completion. See Section 19 for procedures for the Contractor to follow if he plans early completion of the Work and wishes to request a Change Order reflecting the early completion date.

Agreed Compensation/Liquidated Damages for Owner Delay:

If and to the extent that the Contractor is entitled to an extension in the Time for Completion or the Contract Completion Date and additional compensation purely as a result of delay under Subsection 43(b) and not as a result of a change in the Work under Section 38, the agreed compensation and liquidated damages due the Contractor for days added to the Time for Completion or the Contract Completion Date for each day of such delay shall be the per diem expenses as determined from an itemized accounting of the direct Site overhead expenses and home office and other indirect overhead expenses only as specified in Subsections 38(e)(6)(i) and (ii). These expenses shall exclude any and all expenses specified in Subsection 38(f).

(f) If the Contractor submits a claim for delay damages pursuant to Subsection 43(b) above, the Contractor shall be liable to the Owner for a percentage of all costs incurred by the Owner in investigating, analyzing, negotiating, and litigating or arbitrating the claim, which percentage shall be equal to the percentage of the Contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact. (§ 2.2-4335, Code of Virginia)

(g) Any change in the Contract 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 the Contractor fails to complete the Work within the Time for Completion or the Contract Completion Date, the Contractor shall be liable to the Owner in the amounts set forth in the Supplemental General Conditions, if any, not as a penalty, but as fixed, agreed, and liquidated damages for delay until the Work is substantially or finally completed as the case may be. If liquidated damages are not so fixed in the Supplemental General Conditions, the Contractor shall be liable for any and all actual damages sustained as a result of delay. In 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 and abandonment of the Contract.

(i) If liquidated damages are provided by the Supplemental General Conditions, the following provisions apply:

(1) If the Work is not substantially complete by the Time for Completion or Contract Completion Date, the Contractor shall owe to the Owner, not as a penalty but as Step One liquidated damages, the sum stated in the Supplemental General Conditions for Step One
liquidated damages for each and every partial or total calendar day of delay in Substantial Completion.

(2) Once the Work is substantially complete, the accrual of Step One liquidated damages shall cease and the Contractor shall have thirty (30) calendar days in which to achieve Final Completion of the Work.

(3) If Final Completion of the Work is not achieved on or before the thirtieth (30th) calendar day after Substantial Completion, and if the Owner has not granted any extension of time, the Contractor shall owe to the Owner, not as a penalty but as Step Two liquidated damages, the sum stated in the Supplemental General Conditions as Step Two liquidated damages for each and every partial or total calendar day of delay in Final Completion.

(j) The Contractor waives any and all defenses as to the validity of any liquidated damage provisions in the General Conditions or other Contract Documents, or of any liquidated damages assessed against the Contractor, on the grounds that such damages are void as penalties or are not reasonably related to actual damages.

44. INSPECTION FOR SUBSTANTIAL COMPLETION & FINAL COMPLETION

(a) The Contractor shall notify the Owner, in writing on the Certificate of Partial or Substantial Completion by the Contractor (Form CO-13.2a), of the date when the Work or designated portion thereof, will be, in his opinion, substantially complete and ready for inspection and testing to determine if it has reached Substantial Completion. The notice shall be given at least ten (10) days in advance of said date and shall be forwarded through the Architect/Engineer, who will attach his written endorsement as to whether or not he concurs with the Contractor's statement that the Work will be ready for inspection and testing on the date given. The Architect/Engineer's endorsement is a convenience to the Owner only and shall not relieve the Contractor of his responsibility in the matter nor shall the Architect/Engineer's endorsement be deemed to be evidence that the Work was substantially complete and ready for inspection and testing. Inspection and testing shall take place at a time(s) mutually agreeable to the Contractor, Owner and Architect/Engineer. 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 Section 21 of 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 finished and corrected to obtain Final Completion.

After successful completion of the testing and the Architect / Engineer determines that, in its opinion, the Work, either in whole or in part, is substantially complete, the Architect / Engineer shall notify the Owner, in writing on the Certificate of Partial or Substantial Completion by the Architect/Engineer (Form CO-13.1a), that the Work, or a specified portion thereof, is recommended to be declared substantially complete. The Owner shall notify the Contractor, in writing, of the date the Owner accepts the Work, or the specified portion thereof, as substantially complete or the Owner shall notify the Contractor of the deficiencies to be corrected or completed before such Work will be accepted as substantially complete.

(b) The Contractor shall notify the Owner, in writing on the Certificate of Completion by the Contractor (form CO-13.2), of the date when the Work has reached or will reach Final Completion and will be ready for final inspection and testing. The notice shall be given at least five (5) days in advance of said date and shall be forwarded through the Architect/Engineer, who will attach his endorsement as to whether or not he concurs in the Contractor's statement that the Work will be ready for inspection and testing on the date given. That inspection and any necessary testing shall be conducted in the same manner as the inspection for Substantial Completion. When the Work is
finally and totally complete, including the elimination of all defects, the Work shall be finally accepted by the Owner and Final Payment shall be made in accordance with Section 36 of these General Conditions.

(c) The Architect/Engineer shall conduct the 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.

(d) A representative of the State Fire Marshal's Office will either be present at the Substantial and Final Completion inspections or otherwise inspect the completed Work and advise the Owner whether the Work meets the fire safety requirements of the applicable building code.

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

45. GUARANTEE OF WORK

(a) Except as otherwise specified, all Work shall be, and is hereby, guaranteed by the Contractor against defects resulting from the use of materials, equipment or workmanship, which are defective, inferior, or not in accordance with the terms of the Contract, for one (1) year from the date of Final Completion of the entire Project by the Owner. 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 seasonally appropriate tests 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 is finally completed, the guarantees for the materials, equipment and workmanship in 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. 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.

(b) 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 Architect/Engineer 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) Place in satisfactory condition in every particular all of such guaranteed Work and correct all defects, inferior materials, equipment or workmanship therein;

(2) Make good all damage to the structure or Site or equipment or contents thereof, which, in the opinion of the Owner or the Architect/Engineer, is the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms 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 provisions of this Section.

(c) In any case, when in fulfilling the requirements of the Contract and this guarantee or any other guaranty or warranty, the Contractor disturbs any work performed by a separate contractor, he shall restore such work to a condition satisfactory to the Architect/Engineer 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 terms of the guarantee as set forth in this Section, the Owner may have the defects or inferior materials, equipment or workmanship corrected and the Contractor and his surety shall be liable for all expense 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 the life 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 30. This Section relates only to the specific obligation of the Contractor as set forth in this Section to correct the Work and does not limit the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor the time within which proceedings may be commenced to establish the Contractor's liability with respect to his other 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 provided by Section 44 of the General Conditions, the first 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 the contractor modifying his Work. The first Contractor and the contractor making the modifications shall each be solely responsible for his respective work. The contractor modifying the earlier Work shall be responsible for any damage to or defect introduced into the Work by his modification. If the first contractor claims that a subsequent contractor has introduced defects of materials and/or workmanship into his Work, it shall be the burden of the contractor modifying the Work to 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 he asserts that defects in his work were caused by the contractor whose work he is modifying.

The Contractor shall indemnify and hold harmless the Commonwealth of Virginia, 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, or any property damage, that result from or arise out of the work performed by the Contractor, or by or in consequence of any neglect in safeguarding the Work, through the use of unacceptable materials in the Work, or resulting from any act, omission, negligence, or misconduct of the Contractor, any of his subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. The Owner may retain as much of the moneys 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.

46. 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 moneys 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.
47. CONTRACTUAL DISPUTES (§ 2.2-4363, Code of Virginia)

(a) Contractual claims, whether for money or for other relief, shall be submitted, in writing, no later than sixty (60) days after Final Payment; however, written notice of the Contractor's intention to file such claim must be given within fourteen (14) days of the time of the occurrence or beginning of the Work upon which the claim is based. Such notice shall state that it is a “notice of intent to file a claim” and include a written statement describing the act or omission of the Owner or its agents that allegedly caused or may cause damage to the Contractor and the nature of the claimed damage. The submission of a timely notice is a prerequisite to recovery under this Section. Failure to submit such notice of intent within the time and in the manner required shall be a conclusive waiver of the claim by the Contractor. Oral notice, the Owner’s actual knowledge, or a written notice given after the expiration of fourteen (14) days of time of the occurrence or beginning of the Work upon which the claim is based, shall not be sufficient to satisfy the requirements of this Section. Although the Contractor may be required to submit certain classes of claims prior to Final Payment, and the Contractor is not prevented from submitting claims during the pendency of the Work, the Owner shall not be obligated to render a final written decision on any claim until after Final Payment. All claims shall state that they are “claims” pursuant to this Section, be submitted along with all practically available supporting evidence and documentation and the certification required by Subsection 47(f), and request a final decision. Certificates for payment, applications for payment, vouchers, invoices and similar requests for payment submitted for work done by the Contractor in accordance with the expected contract performance are routine submissions and shall not be considered claims under this Section. Proposed or requested change orders, demands for money compensation or other relief, and correspondence and e-mails to the Owner or its representatives, which do not strictly comply with the requirements of this Section, shall not be considered claims under this Section.

(b) No written decision denying a claim or addressing issues related to the claim shall be considered a denial pursuant to this Section unless the written decision makes express reference to this Section and is signed by the Agency head or his designee. The Contractor may not institute legal action prior to receipt of the Owner's final written decision on the claim unless the Owner fails to render such a decision within ninety (90) days of submission of the claim, at which time the claim shall be deemed denied.

(c) The decision of the agency head or other signatory on the Contract shall be final and conclusive unless the Contractor within six (6) months of the date of the final decision on a claim, initiates legal action as provided in § 2.2-4364 of the Code of Virginia. Failure of the Owner to render a decision within 90 days shall not result in the Contractor being awarded the relief claimed nor shall it result in any other relief or penalty. The sole result of the Owner's failure to render a decision within 90 days shall be the Contractor's right to immediately institute legal action. No administrative appeals procedure pursuant to § 2.2-4365 of the Code of Virginia has been established for contractual claims under this Contract.

(d) Pursuant to § 2.2-4366, Alternative Dispute Resolution, of the Code of Virginia, the Owner may enter into an agreement with the Contractor to submit disputes arising from the performance of this Contract to arbitration and utilize mediation and other alternative dispute resolution procedures. However, such procedures entered into by the Owner, the Commonwealth, or any department, institution, division, commission, board or bureau thereof, shall be non-binding and subject to § 2.2-514, as applicable.

(e) In the event that a dispute, claim or controversy between the Owner and the Contractor arises regarding the requirements of the Contract, the performance of the Work, payment due the Contractor, the terms of any Change Order, or otherwise, the Contractor shall not stop, suspend or delay the Work or any part of the Work to be performed under the Contract, or under any Change Order, or as ordered by the Owner. The Contractor shall continue to diligently prosecute the Work to completion, including work required in any Change Order or as directed by the Owner.
Along with a claim submitted under this Section, the Contractor shall submit a Claim Certification Form (DGS-30-234) certifying that the claim is a true and accurate representation of the claim. Claims submitted without the Claim Certification Form shall not constitute a proper claim and, if not submitted with the certification within the time required, shall be deemed to be waived.

The remedies provided in these General Conditions, including costs, expenses, damages or extensions of time, shall be the Contractor’s sole remedies for the acts, omissions or breaches of the Owner, which shall survive termination or breach of the Contract.

### 48. ASBESTOS

(a) 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 Architect/Engineer 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 § 11-4.1 of the Code of Virginia, 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.

(b) 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.

(c) If asbestos abatement is included as part of the Work, the licensed asbestos Subcontractor shall obtain the insurance required under Section 11 (c) of these General Conditions.

### 49. TRAINING, OPERATION AND MAINTENANCE OF EQUIPMENT

(a) As a part of the Work, the Contractor in conjunction with his Subcontractors and Suppliers shall provide the Owner's operations and maintenance personnel with adequate instruction and training in the proper operation and maintenance of any equipment, systems, and related controls provided or altered in the Work. The training requirements may be further defined in the specifications.

(b) The Contractor shall provide the Owner with a minimum of two (2) copies of operating, maintenance and parts manuals for all equipment and systems provided in the Work. Further specific requirements may be indicated in the specifications.
50. PROJECT MEETINGS

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

(b) Preconstruction Meeting:
Prior to the start of construction and no later than 15 calendar 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 Architect/Engineer's project manager and representatives of each design discipline involved in the Project, the Regional 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, 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 notices.
3. Contractor's proposed construction schedule and Owner's sequencing requirements, if any.
4. Schedule of Values and Certificate for Payment (Form CO-12) requirements and procedures.
5. Procedures for shop drawings, product data and Submittals.
6. Procedures for handling Field Orders and Change Order Form CO-11.
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. Monthly Pay Meeting
11. Assignment of responsibility for generation of meeting minutes of all project meetings.
12. Project Close-Out requirements and procedures
13. Project records

(c) Monthly Pay Meeting:
Section 36 establishes 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. Conformance with proposed construction schedule
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

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.

51. SMALL BUSINESS PROCUREMENT PLAN

The Owner has developed small business utilization requirements for increasing procurement from small businesses in its construction program. The Owner’s small business requirements may, at the Owner’s option, be included in the contract documents for use by the Contractor in developing its plan for involving small businesses through subcontracting, and through the purchasing of goods, materials, supplies and services in the Contractor’s construction program. The Owner’s plan provides requirements for the Contractor in developing a plan, for submitting its plan and for reporting its achievements in meeting the requirements established for the Contract.

If the Contractor is not a DSBSD certified small business, and the Contractor entered a small business participation percentage on the Bid Form, the Contractor shall, as soon as practicable after the posting of the Notice of Intent to Award but not later than 30 days after the effective date of the contract, provide a list of Subcontractors that are proposed to perform the work, including small business Subcontractors, vendors and suppliers showing their DSBSD certification numbers where applicable. Upon receipt of the list, the Owner may, based on the Agency small business procurement plan, require the Contractor to provide additional information on work that has been bid by small business Contractors, and areas in which the scope of work may be reduced in size to increase the pool of potential small business Contractors. Selection of particular Subcontractors for a certain part of the work shall be made in accord with Section 9, Subcontracts of the General Conditions.

***END OF GENERAL CONDITIONS***
CONTRACT BETWEEN VIRGINIA COMMONWEALTH UNIVERSITY AND CONTRACTOR

This Contract, dated this __ day of ______, 2017, between the Commonwealth of Virginia and Virginia Commonwealth University (collectively, the “Owner”), and ___________ (the “Contractor”), is binding among and between these parties as of the date of the University’s signature.

RECITALS

1. The legal address for the University and for the Contractor and the addresses for delivery of Notices and other project documents are as follows:

**Owner**
- Virginia Commonwealth University
- Donald M. Cosgrove, Director of Construction Management
- Box 843003
- Richmond, Virginia 23284-3003
- (804) 827-7890
- dmcosgro@vcu.edu

**Contractor:**
- Attention:
- Address:
- City, State, Zip:
- Telephone:
- FAX:
- E-mail address:
- F.E.I.N.:
- Virginia License #
- SSC ID #:

2. The Project is identified as:

**Project Title:**

**Project Code:**

**GENERAL PROJECT DESCRIPTION:**
The Project Title and Project Code indicated above, along with the Purchase Order Number, are required to be shown for identification purposes on all project related materials and documents including, but not limited to, Notices, Change Orders, Submittals, Requests For Information, Requests For Quotes, Field Orders, minutes of meetings, correspondence, including emails, Schedule of Values and Certificate For Payment (Form VCUHECO-12), test reports, and related materials.


THEREFORE, in consideration of the Recitals set forth above, and good and valuable consideration as set forth below, the parties agree as follows:

1. STATEMENT OF WORK: The Contractor shall furnish all labor, equipment, and materials and perform all Work for the Project in strict accordance with the Contract Documents (as hereinafter defined).

2. CONTRACT DOCUMENTS: This Contract shall consist of the following (the “Contract Documents”) which, in the event of conflicts among them, shall take precedence in the following order:

- This Contract Between University and Contractor (HECO-9)
- The Bid Form Submitted by the Contractor; Dated __________
- Post Bid Modification(s), if any, Dated __________
- HECO-7 (Revised 4-17) modifies the Commonwealth of Virginia’s General Conditions of the Construction Contract (DGS-30-054 Form CO-7, Dated 4-15), included (Referred to as the “General Conditions”);
- Supplemental General Conditions if any Date ________
- The Special Conditions attached to the Owner’s Invitation for Bids;
- The Owners Project Plans and Specifications dated ___________

All of these documents are incorporated herein by reference.

3. TIME FOR COMPLETION: The Work shall be commenced on a date to be specified in a Notice to Proceed from the University and shall be Substantially Completed no later than (______ calendar days from the receipt of the Notice to Proceed.) or (the Contract Completion Date which is ________ based on an anticipated construction start date of __________. If the construction start date is delayed, the Contract Completion Date will be adjusted accordingly on a day for day basis.) The Work shall be finally completed within 30 calendar days after the date of Substantial Completion of the Work.

4. TERMINATION: Termination of this Contract shall be governed by §§41 and 42 of the General Conditions.

5. COMPENSATION TO BE PAID TO THE CONTRACTOR: The University agrees to pay and the Contractor agrees to accept as just and adequate compensation for the performance of the Work in accordance with the Contract Documents the sum of Dollars ($ ______ ).

6. PAYMENTS: The Contractor shall be registered in eVA. Please refer to the eVA Vendor Registration Requirements in your contract documents. Registration can be completed at https://eva.virginia.gov/pages/eva-registration-buyer-vendor.htm. The procedures for establishing a Schedule of Values for the Work, for requesting monthly progress payments for Work in place, and for requesting payments for properly stored materials are stated in the General Conditions. Unless otherwise provided under the Contract Documents, any interest on payments due the Contractor shall accrue in accordance with §46 of the Rules.
7. **CONTRACTUAL CLAIMS:** Any contractual claims shall be submitted in accordance with the contractual dispute procedures set forth in §53 of the Rules and §47 of the General Conditions, and the supplemental instructions or procedures of the contracting State Agency, if any, attached to this Contract.

8. **NON-DISCRIMINATION:** §10 of the Rules applies to this Contract. See §4 of the General Conditions.

9. **AUTHORIZATION TO TRANSACT BUSINESS:** The Contractor certifies that, if it is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, it is 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, and that it 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. The Contractor understands and agrees that the Owner may void this Contract if the Contractor fails to comply with these provisions.

10. **DEBARMENT AND ENJOINMENT:** By signing this contract, the undersigned certifies that this Contractor or any officer, director, partner or owner is not currently barred from bidding on contracts by any Agency of the Commonwealth of Virginia, or any public body or agency of another state, or any agency of the federal government, nor is this Contractor a subsidiary or affiliate of any firm/corporation that is currently barred from bidding on contracts by any of the same.

11. **“ALL RISK” BUILDER’S RISK INSURANCE:** As this project is a modification to an existing building, in accordance with Section 12(b) - Owner Controlled During Construction of the General Conditions, the requirements of Section 12(a) - Contractor Controlled During Construction of the General Conditions

**IN WITNESS WHEREOF,** the parties hereto on the day and year written below have executed this agreement in two (2) counterparts, each of which shall, without proof or accountancy for the other counterparts, be deemed an original thereof.

**For the CONTRACTOR:**

____________________________________

By: __________________________________

(Signature in ink) (Date)

For the Owner:

Virginia Commonwealth University

By: __________________________________

(Signature in ink) (Date)

Karol Kain Gray

Vice President for Finance and Budget

Attest:______________________________

(Signature in ink) (Date)

Attest: ______________________________

(Signature in ink) (Date)

Attachments:

- Bid Form Submitted by the Contractor
- Addendum No(s).
- Post Bid Modification, if any
COMMONWEALTH OF VIRGINIA
WORKERS' COMPENSATION
Certificate of Coverage

Section §25, of the Governing Rules requires construction contractors and subcontractors to obtain and maintain workers' compensation insurance while performing work on behalf of the Commonwealth of Virginia, its departments, institutions, or agencies. This same requirement applies on behalf of local governments.

Evidence of coverage must be provided prior to commencement of Work.

This form must be completed and returned to the organization contracting the Work.

The undersigned organization stipulates that it:

A. has workers' compensation insurance and is in compliance with the Workers' Compensation statutes of the Commonwealth of Virginia. _____ Yes _____ No
   Insurance Company ____________________________
   Policy expiration date __________________________

B. is self insured for workers' compensation. ________ Yes

Title of Construction Contract: ______________________________
Contract Number: ______________________________

Signed by: ______________________________
Title: ______________________________
Firm Name: ______________________________
Address: ______________________________
HECO-10

STANDARD PERFORMANCE BOND

KNOW ALL BY THESE PRESENTS: That _____ (“Contractor”) whose principal place of business is located at _____ and _____ (“Surety”) whose address for delivery of ‘Notices’ is located at _____ are held and firmly bound unto the Commonwealth of Virginia and Virginia Commonwealth University, the Owner (collectively, the “University”) in the amount of _____ Dollars ($_____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____ entered into a contract with University for _____ which contract (the "Contract") is by reference expressly made a part hereof;

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly and faithfully perform said Contract in strict conformity with the plans, specifications and conditions of the Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Provided, that any alterations which may be made in the terms of the Contract, or in the Work to be done under it, or the giving by the University of any extension of time for the performance of the Contract, or any other alterations, extensions or forbearance on the part of either or both of the University or the Contractor to the other shall not in any way release the Contractor and the Surety, or either of them, their heirs, executors, administrators, successors, or assigns from their liability hereunder, notice to the Surety of any such alterations, extension, or forbearance being hereby waived.

No action shall be brought on this bond unless brought within one year after: (a) completion of the Contract and all Work thereunder, including expiration of all warranties and guarantees, or (b) discovery of the defect or breach of warranty or guarantee if the action be for such.

The Surety represents to the Contractor and to the University that it is legally authorized to do business in the Commonwealth of Virginia.
Signed and sealed this _____ day of _____

_______________________________________
By: ___________________ 
Witness
Typed Name: _____
Title: _____

_______________________________________
By: _________________________________
Surety
Typed Name: _____

AFFIDAVIT AND ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT

COMMONWEALTH OF VIRGINIA
(or alternatively, Commonwealth or State of _____)

CITY of _____

I, the undersigned notary public, do certify that _____, whose name is signed to the foregoing performance bond in the sum of _____ Dollars ($____) and dated _____ and which names Commonwealth of Virginia and Virginia Commonwealth University, as Obligee, personally appeared before me today in the above jurisdiction and made oath that he/she is the attorney-in-fact of _____, a ______ corporation which is the Surety in the foregoing bond, that he/she is duly authorized to execute on the above Surety’s behalf the foregoing bond pursuant to the Power of Attorney noted above and attached hereto, and on behalf of the surety, he/she acknowledged the foregoing bond before me as the above Surety’s act and deed.

She/he has further certified that her/his Power of Attorney has not been revoked.
(The Power of Attorney, or a copy or facsimile thereof, should be attached hereto.)

Given under my hand this _____ day of _____.

_______________________________________________
Notary Public

My name (printed) is: _____
My registration number is: _____
My commission expires: _____

APPROVED:

_______________________________________________
Attorney General/Designee

Date
Terms and Conditions of the Performance Bond

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the University for the prompt and faithful performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor promptly and faithfully performs the Construction Contract in strict conformity with the plans, specifications and conditions of the Construction Contract, the Surety and the Contractor shall have no obligations under this Bond.

3. In the event of the Contractor's Default, and subsequent notification to the Surety pursuant to Section 41 of the General Conditions of the Construction Contract, the Surety shall, within fourteen (14) days of receipt of such notice, contact the University in writing, and arrange a meeting with the University to discuss methods of completing the Construction Contract. See paragraph 4, below, for the options to be discussed. If the Surety fails to arrange such a meeting or fails to attend such meeting, the Surety shall be deemed to be in default on this Bond and the University may, at its sole discretion, take what measures it deems necessary to protect the University's interests, without further notice to the Surety, and the University shall be entitled to enforce any remedy available to the University under the Construction Contract or under Virginia law.

4. Within thirty (30) days after such meeting, during which time the Surety may investigate and otherwise analyze the project, and which period shall not toll any Construction Contract time periods nor operate as a waiver of any of the University's rights, the Surety shall, at its own expense, notify the University in writing that it is taking one of the following actions, which shall be acceptable to the University, at the University's sole discretion:

   4.1 By written takeover agreement with the University, the Surety itself shall undertake to perform and complete the Construction Contract, which it may do through its licensed agents or through licensed independent contractors. If the University, at its sole discretion, consents, the Contractor may serve as the Surety's independent contractor (however, due to conflicts with the Rules, the University may not directly contract with an otherwise qualified independent contractor produced by the Surety); or

   4.2 The Surety may, if acceptable to the University and at the University's sole discretion, waive its right to perform and complete the Construction Contract, and with reasonable promptness under the circumstances:

       4.2.1 Pay to the University all amounts for which it may be liable to the University as surety on this Performance Bond, including the damages described in paragraph 6 below; or

       4.2.2 Deny liability, in whole or in part, and provide written notice thereof to the University, citing reasons therefore.

5. If, after the meeting described in paragraph 4, above, the Surety does not proceed with reasonable promptness with one of the options provided in subparagraphs 4.1 or 4.2 (including its subparts), above, the University may send additional written notice to the Surety demanding that the Surety
perform its obligations under the Bond. If the Surety does not proceed to perform its obligations under the Bond within fifteen (15) days after receipt of said notice, the Surety shall be deemed to be in default on this Bond. Thereafter, the University shall be entitled to enforce any remedy available to the University under the Bond, the Construction Contract or Virginia law. If the Surety proceeds as provided in Subparagraph 4.2, and the Surety and the University are unable to agree as to the amount for which the Surety may be liable to the University, or if the Surety has denied liability, in whole or in part, the University, without further notice, shall be entitled to enforce any remedy available to the University under the Bond, the Construction Contract or Virginia law. In such event, the University may immediately proceed to complete the work in any manner authorized by law.

6. After the University has terminated the Contractor’s right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1 or 4.2.1, above, then the responsibilities of the Surety to the University shall not be greater or less than those of the Contractor under the Construction Contract, and the responsibilities of the University to the Surety shall not be greater than or less than those of the University under the Construction Contract. To the limit of the amount of this Bond, plus the increased cost of any change orders under the Construction Contract, provided the University commits the balance of the Construction Contract Price to the prompt and faithful completion of the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor’s Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

The University, at its sole discretion, may waive its claim to delay costs and/or liquidated damages.

7. The Surety shall not be liable to the University for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the University, its officers, agencies, administrators, successors or assigns.

8. The Surety hereby waives notice of any changes, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations. The Surety understands and agrees that the penal amount of the bond shall be increased or decreased by any changes to time and amount incorporated into any Change Orders.

9. Any proceeding by the University, legal or equitable, under this Bond may be instituted in any Virginia state court of competent jurisdiction, as permitted under Section 8 of the General Conditions of the Construction Contract and §§ 29 and 32 of the Rules, or by the Contractor or Surety, as permitted under the Construction Contract or under Virginia law.
10. Notice to the Surety shall be mailed or delivered to the address shown on the Standard Performance Bond in the space for Surety address for delivery of Notices.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond when furnished to comply with statutory requirements.

12. DEFINITIONS

12.1 **Balance of the Construction Contract Price**: The total amount payable by the University to the Contractor under the Construction Contract after all proper adjustments have been made, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2 **Construction Contract**: The agreement between the University and the Contractor identified on first page of the Standard Performance Bond, HECO-10, including all Construction Contract Documents and duly executed modifications and change orders thereto.

12.3 **Contractor Default**: Failure of the Contractor, as defined under Section 41 of the General Conditions to the Construction Contract, which has neither been remedied, as permitted under Section 41 at the University's sole discretion, nor expressly waived by the University, to perform or otherwise to comply with the terms of the Construction Contract.


13. Nothing in these General Conditions shall prevent a surety from becoming involved in the Construction Contract prior to termination, upon notice from the University of the Contractor's failure to promptly and faithfully perform the Construction Contract in strict conformity with the plans, specifications and conditions of the Construction Contract.
STANDARD LABOR AND MATERIAL PAYMENT BOND

KNOW ALL BY THESE PRESENTS: That _____ (“Contractor”) whose principal place of business is located at _____, and _____ (“Surety”) whose address for delivery of ‘Notices’ is located at _____, are held and firmly bound unto the Commonwealth of Virginia and Virginia Commonwealth University, the Owner, (collectively, the “University”) in the amount of _____ Dollars ($_____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated _____ entered into a contract with University for _____ which contract (the "Contract") is by reference expressly made a part hereof;

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly make payment to all claimants as hereinafter defined, for labor performed and material furnished in the prosecution of the Work provided for in the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions.

The Contractor and Surety, jointly and severally, hereby agree with University as follows:

1. A claimant is defined as one having a direct contract with the Contractor or with a subcontractor of the Contractor for labor, material, or both for use in the performance of the Contract. A "subcontractor" of the Contractor, for the purposes of this bond only, includes not only those subcontractors having a direct contractual relationship with the Contractor, but also any other contractor who undertakes to participate in the Work which the Contractor is to perform under the aforesaid Contract, whether there are one or more intervening subcontractors contractually positioned between it and the Contractor (for example, a subcontractor). "Labor" and "material" shall include, but not be limited to, public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the work site.

2. Any claimant who has a direct contractual relationship with the Contractor and who has performed labor or furnished material in accordance with the Contract documents in the furtherance of the Work provided in the Contract, who has not been paid in full therefor before the expiration of ninety (90) days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on this bond to recover any amount due him for such labor or material,
and may prosecute such action to final judgment and have execution on the judgment. The University need not be a party to such action and shall not be liable for the payment of any costs, fees or expenses of any such suit.

3. Any claimant who has a direct contractual relationship with any subcontractor of the Contractor but who has no contractual relationship, express or implied, with the Contractor, may bring an action on this bond only if he has given written notice to the Contractor within ninety (90) days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the Work was performed or to whom the material was furnished. Notice to the Contractor shall be served by registered or certified mail, postage prepaid, in an envelope addressed to the Contractor at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this paragraph 3.

4. No suit or action shall be commenced hereunder by any claimant.
   a. Unless brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, the limitation embodied within this bond shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
   b. Other than in a Virginia court of competent jurisdiction, with venue as provided by statute, or in the United States District Court for the district in which the project, or any part thereof is situated.

5. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.

Signed and sealed this _____ day of _____

Contractor (SEAL)

By: _________________________________
Typed Name: _____
Title: _____

Witness
Typed Name: _____
Title: _____

Surety (SEAL)

By: _________________________________
Typed Name: _____

Attorney-in-Fact
COMMONWEALTH OF VIRGINIA
(or alternatively, Commonwealth or State of _____)

CITY of _____

I, the undersigned notary public, do certify that _____, whose name is signed to the foregoing labor and material payment bond in the sum of _____ Dollars ($_____) and dated _____ and which names the Commonwealth of Virginia and Virginia Commonwealth University as Obligee, personally appeared before me today in the above jurisdiction and made oath that he/she is the attorney-in-fact of _____, a _____ corporation which is the Surety in the foregoing bond, that he/she is duly authorized to execute on the above Surety’s behalf the foregoing bond pursuant to the Power of Attorney noted above and attached hereto, and on behalf of the surety, he/she acknowledged the foregoing bond before me as the above Surety’s act and deed.

She/he has further certified that her/his Power of Attorney has not been revoked.

(The Power of Attorney, or a copy or facsimile thereof, should be attached hereto.)

Given under my hand this _____ day of ______.

Notary Public (SEAL)

My name (printed) is: _____

My registration number is: _____

My commission expires: _____

APPROVED:

Attorney General/Designee Date
**CONTRACT SUMMARY:**

<table>
<thead>
<tr>
<th>Code Number</th>
<th>Description</th>
</tr>
</thead>
</table>

**Agency:**

**Project:**

**Sub-Project:**

**Location of the Work:**

**Contractor Name:**

**Architect/Engineer:**

Agency has delegated authority? **YES**

**Date Contract Ratified:**

**Date Contract Ratified:**

**Original Contract Completion Date:**

**Cumulative Schedule Extensions:**

**Total Changes**

**Revised Contract Completion Date:**

---

**CHANGE ORDER LOG:**

Updated thru Change Order Number: **0**

<table>
<thead>
<tr>
<th>Change Order Number</th>
<th>Change Order Date</th>
<th>Change Order Amount</th>
<th>Schedule Extension (days)</th>
<th>Governor's Designee's Approval Required?</th>
<th>Cumulative Change Orders</th>
<th>Revised Contract Value</th>
<th>Cumul. Schedule Extension (days)</th>
<th>Revised Contract Completion Date</th>
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</thead>
<tbody>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Under your contract dated January 0, 1900 for work at 0 0 #
the Contract Price, in accordance with the Contract Documents, the sum of #N/A
#VALUE!
#

(Failure to include a change for time shall waive any change to the time allowed by the Contract for completion of the Work unless the parties mutually agree in writing to postpone a determination of the change to time resulting from the Change Order. Such determination may not be postponed more than 45 days from the approval of this Change Order by the agency.)

**CONTRACT COST SUMMARY**

<table>
<thead>
<tr>
<th>Project Code</th>
<th>Change Order Number</th>
<th>Change Order Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Code</td>
<td>Description</td>
<td>#N/A</td>
</tr>
<tr>
<td>Agency:</td>
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<tr>
<td>Sub-Project:</td>
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**CONTRACT SCHEDULE SUMMARY**

<table>
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<tr>
<th></th>
<th>Original Contract Completion Date:</th>
<th>Cumulative Schedule Extension:</th>
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<tbody>
<tr>
<td>Original Contract Amount</td>
<td>$0.00</td>
<td>January 0, 1900</td>
</tr>
<tr>
<td>Cumulative Change Orders</td>
<td>#N/A</td>
<td>#N/A</td>
</tr>
<tr>
<td>Revised Contract Amount</td>
<td>#N/A</td>
<td>#N/A</td>
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**CHANGE AUTHORIZATION**

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Issued By:</td>
<td>Authorized A/E Representative Date</td>
</tr>
<tr>
<td>Accepted By:</td>
<td>Authorized Contractor Representative Date</td>
</tr>
<tr>
<td>Recommended By:</td>
<td>Authorized Agency Representative Date David A. Goodwin, Director, Financial Services, FMD</td>
</tr>
<tr>
<td>Approved By:</td>
<td>Authorized Agency Representative Date Richard F. Sliwoski, PE, Associate Vice President, FMD</td>
</tr>
</tbody>
</table>

Prior approval by the Governor or his designee is required for each Change Order which causes an increase in the Contract Price if the resulting cumulative sum of all Change Orders exceeds 25% of the original Contract Amount or $50,000, whichever is greater.

**Recommended By:**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Authorized Agency Representative Date</td>
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</tr>
<tr>
<td>Richard F. Sliwoski, PE, Associate Vice President, FMD</td>
<td></td>
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</table>

**Approved By:**

<p>| | |</p>
<table>
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</thead>
<tbody>
<tr>
<td>Authorized Agency Representative Date</td>
<td></td>
</tr>
<tr>
<td>Karol Kain Gray, Vice President for Finance and Budget, VCU</td>
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</table>
**CONTRACT CHANGE ORDER**

**Project Code**

<table>
<thead>
<tr>
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<th>Description / Comments</th>
<th>Initiated By Code</th>
<th>Amount</th>
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</thead>
<tbody>
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<td></td>
</tr>
</tbody>
</table>

- If an asterisk appears adjacent to an "Amount" entry, this indicates the "Initiated By" or "Reason for Change" field(s) have not been filled-in properly. Please enter the appropriate values in both of these fields.
## Project Code | Change Order Number | Change Order Date
---|---|---
| | 0 | #N/A

### A/E’s DESCRIPTION OF WORK INVOLVED

### A/E’s EXPLANATION OF WHY WORK IS REQUIRED

### A/E’s RECOMMENDATION

Select One

Architect / Engineer Date
## ADDED 02/2020

**ADDITIONAL SUPPORT FOR CHANGES IN AGENCY REQUIREMENTS**

1) When was the change in requirements (function, mission) known?

2) If known before construction bidding, why were the needed changes excluded from the bid package?

3) What quantitative impact would the lack of this change have on the mission or service provided by the agency?

4) Why can the work not be packaged and bid separately?

**By:**

<table>
<thead>
<tr>
<th>Agency Representative</th>
<th>Date</th>
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</thead>
<tbody>
<tr>
<td>Reason Code</td>
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<tr>
<td>-------------</td>
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<tr>
<td>1</td>
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<td>6</td>
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Total $
**GENERAL CONTRACTOR DIRECT COSTS**

<table>
<thead>
<tr>
<th>Item</th>
<th>Scope Description</th>
<th>Direct Labor</th>
<th>Direct Material</th>
<th>Direct Equipment</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
</tr>
<tr>
<td>1.01</td>
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<td>1.97</td>
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<td>Subtotal Mat'l</td>
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<td></td>
<td>FICA, FUI, SUI, &amp; Workmens' Comp.</td>
<td>20.00%</td>
<td>% of Item 1.97H</td>
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<tr>
<td>1.99</td>
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**SUBCONTRACT COSTS**

<table>
<thead>
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<th>Description</th>
<th>Total Cost</th>
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<tr>
<td>A</td>
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<td>Item 2.03</td>
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<tr>
<td>2.99</td>
<td>Total Subcontract Costs</td>
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</table>

**SUMMARY**

<table>
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<tbody>
<tr>
<td>3.01</td>
<td>Total Direct Labor Cost</td>
<td>Item 3.01</td>
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<td>Total Direct Material Cost</td>
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<td>Total Equipment Cost</td>
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<td>3.04</td>
<td>Subtotal</td>
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<td>Overhead and Profit (%)</td>
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<tr>
<td>3.06</td>
<td>Total</td>
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<tr>
<td>3.07</td>
<td>Subcontractor Cost</td>
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<tr>
<td>3.08</td>
<td>GC Markup on Subcontractors (%)</td>
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<td>3.09</td>
<td>Subtotal</td>
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<td>Additional Bond Cost</td>
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<td>Total Change Order Cost</td>
<td>Item 3.99</td>
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</tbody>
</table>

**Note:** Mark-up is capped in conformance with the provisions of the General Conditions (HECO-7).
*Limited to 15% on self-performed
**Limited to a total of 10%, shared (cumulative total) if multiple tier subs, on subcontracted work. See the tab "Mark-up limitations" for a more detailed description.
### SUBCONTRACTOR DIRECT COSTS

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Scope Description</th>
<th>Direct Labor</th>
<th>Direct Material</th>
<th>Direct Equipment</th>
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</thead>
<tbody>
<tr>
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<td>D</td>
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<td>Qty.</td>
<td>Hours Direct Labor Hours</td>
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<td>Subtotal S/T Direct Costs:</td>
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<td>Total Labor</td>
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<td>Total Direct Costs</td>
<td>Total Mat'l</td>
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<td>Total Equip.</td>
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### SUMMARY

<table>
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<tr>
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<tr>
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<td>Total Sub-Subcontract Costs</td>
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</tbody>
</table>

#### Note:
Mark-up is capped in conformance with the provisions of the General Conditions (CO-7).

- Limited to 15% on self-performed work.
- Limited to a total of 10%, shared (cumulative total) if multiple tier subs, on subcontracted work. Total mark-up on subcontracted work is calculated on the GC-1 form. See the tab "mark-up limitations" for a more detailed description.
- The subcontractor cost carried forward to HECO-GC-1 form does not include mark-up on sub-subcontractor costs. This mark-up is calculated on the GC-1 form.

The GC and its subcontractors shall establish how the mark-up is to be distributed among the various subcontractors involved in the work.
### CONTRACTOR CERTIFICATION

The undersigned Contractor requests payment of that portion of the contract price shown on the last line of the foregoing Schedule of Values, and represents and warrants to the Owner that: (1) the data shown on the Schedule of Values is accurate and correct; (2) the Work covered by this Certificate has been completed in accordance with the Contract Documents; (3) all previous progress payments received from Owner on account of Work done under this Contract have been applied to discharge in full (except for allowable retainage) all obligations of Contractor incurred in connection with Work covered by prior Certificates for Payment (not applicable for Pay Request 1); (4) title to all materials and equipment for which payment is requested in this Certificate, whether or not incorporated in said Work, will pass to Owner at time of payment free and clear of all liens, claims, security interests and encumbrances (except such materials and equipment which are covered by a Bond previously accepted by Owner).

**FEIN #:*** enter FEIN in Step 2 ***  
**Contractor:**

Date: January 0, 1900  
By: _____________________________  
Typed Name: *** enter Contractor Representative's Name in Step 3 ***

### ARCHITECT/ENGINEER CERTIFICATION

This is to certify that, in accordance with the terms of a contract for Project Number executed the day of, by and between, , the contractor, and the Commonwealth of Virginia, , the Owner, for work at , there is due to the Contractor the amount of

**No Dollars and No Cents $0.00**

Architect/Engineer:

By: _____________________________  
signature  printed name  date

### AGENCY ACTION

Amount approved for payment this certificate is:

**No Dollars and No Cents**

Dollars ( $0.00 )

By: _____________________________  
signature  title  date

By: _____________________________  
signature  title  date
VIRGINIA COMMONWEALTH UNIVERSITY
AFFIDAVIT OF PAYMENT OF CLAIMS

By:

This day __________________________ personally appeared before me, __________________________________________, a Notary Public in and for the City (County) of __________________________, and, being by me first duly sworn, states that all subcontractors and suppliers of labor and materials have been paid all sums due them for work performed or materials furnished in the performance of the Contract between the Commonwealth of Virginia, __________________________________________, Owner, and __________________________, Contractor, dated __________________________, 20___, for the construction of

or arrangements have been made by the Contractor satisfactory to such subcontractors and suppliers with respect to payments of such sums as may be due them by the Contractor.

Typed Contractor Name

By: 
Signature

Typed Name & Title of Person Signing

Subscribed and sworn to before me this _____ day of __________, 20___.
My commission expires on the ______ day of ____________, 20___.

Notary Public
HECO-13.2a
CERTIFICATE OF PARTIAL OR SUBSTANTIAL COMPLETION BY CONTRACTOR

To: Construction Management
Virginia Commonwealth University
700 West Grace Street, Suite 1600
Richmond, Virginia 23284-3003

PROJECT TITLE: ______________________________________
PROJECT NO: ______________________________________

Date: ________________________________

In accordance with the requirements of the Agreement between Virginia Commonwealth University and the Contractor, the undersigned Contractor hereby states that portions of the above named project are Substantially Complete in accordance with the requirements of the Contract Documents, as modified by any approved Change Order(s). Those portions of the Project now Substantially Complete as of _______________ (Date) are: (list or describe)

All applicable tests, certificates, and regulatory inspections required by the Virginia Uniform Statewide Building Code (VUSBC), and the Contract Documents have been performed with respect to the Substantially Completed portions of the Project and the University has been provided with a copy of each report.

As-built marked up prints of the Substantially Complete portions of the Project have been provided to the Architect/Engineer as required by the Contract Documents.

The University has been provided with a copy of all warranties and guarantees, including the starting date(s) of all warranties and guarantees, written and unwritten, required by the Contract Documents with respect to the Substantially Complete portions of the Project, except as follows:

All training, operating instructions, and maintenance manuals required by the Contract Documents have been provided to the Architect / Engineer, except as follows: (list or describe)
This certificate does not constitute an acceptance of Work that is not in accordance with the Contract Documents nor is it a release of Contractor’s obligation to complete the Work in accordance with the Contract Documents.

Contractor: ________________________________

By: ________________________________
   (Signature)   (Date)

Name: ________________________________

Title: ________________________________

Address: ________________________________

____________________________________

____________________________________

____________________________________

The following documents are attached to and made a part of this certificate:

List of unfinished and defective Work, pages 1 thru ______.
CERTIFICATE OF COMPLETION BY CONTRACTOR

To: Construction Management
Virginia Commonwealth University
700 West Grace Street, Suite 1600
Richmond, Virginia 23284-3003

Date: __________________________

PROJECT TITLE: ________________________________
PROJECT NO: ________________________________

In accordance with the requirements of the Contract between the University and the Contractor, the undersigned hereby states that the above named Project has reached Final Completion in accordance with the requirements of the Contract Documents, as modified by any approved Change Order(s), on __________________________ (Date):

All applicable tests, certificates, and regulatory inspections required by the Virginia Uniform Statewide Building Code (VUSBC) and the Contract Documents have been performed and the University has been provided with a copy of each report.

As-built marked up prints of the completed project were provided to the Architect/Engineer as required by the Contract Documents on _______________ (Date).

The University has been provided with a copy of all warranties and guarantees, including their starting date(s), written and unwritten, required by the Contract Documents.

All training, operating instructions, and maintenance manuals required by the Contract Documents were provided to the Architect / Engineer on ____________________ (Date).

Contractor: __________________________

By: ________________________________
(Signature) (date)

Name: ______________________________
Title: ______________________________
Address: ____________________________
YMCA PIER RESTORATION PROJECT

VCU RICE CENTER

3701 JOHN TYLER MEMORIAL HIGHWAY
CHARLES CITY, VIRGINIA 23030
NOTES:
1. NO topoGRAPHIC OR HYDROMETRIC SURVEY HAS BEEN PERFORMED. FEATURES SHOWN HAVE BEEN APPROXIMATED BY AVAILABLE AERIAL IMAGES AND FIELD MEASUREMENTS OF THE EXISTING PIER.

2. THE CONTRACTOR SHALL PROVIDE A LUMP SUM PRICE FOR THE CZ DOCK FLOATING DOCK, RAMPS, AND FLOATED RAMP LAUNCH (OR AN APPROVED EQUAL) AS PER NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION RULE 423-0.8. THE CZ DOCKING SYSTEM MUST ACCOMMODATE A SMALL NUMBER OF楊 洲EIGHT (8) PERSONS AND MUST BE DESIGNED AND CONSTRUCTED TO MEET THE PREVIOUSLY PROVIDED SPECIFICATIONS. THE CZ RAMPS MUST BE DESIGNED AND BUILT BY A PROFESSIONAL ENGINEER LICENSED IN THE COMMUNITY OF MARRIED.

3. CZ DOCK RAMPS (OR APPROVED EQUAL) IS TO BE A 20 LINEAR FOOT ALUMINUM RAMPS WITH 4 X 4 WOOD MOUNTED AND ATTACHED TO THE DOCK SIDE.

4. CZ DOCK FLOATING PLATFORM (OR APPROVED EQUALS) IS TO BE A DIRECT LOADING DOCK AND MEET SAME REQUIREMENTS AS FLOATED RAMP LAUNCH SYSTEM. THE CZ DOCK FLOATING PLATFORMS IS TO MEET AND ACCOMMODATE THE CZ LAUNCH ACCESSIBILITY TRANSFER SYSTEM PER THE MINIMUM REQUIREMENTS OF THE AMERICANS WITH DISABILITIES ACT (ADA).

5. CZ DOCK RAMPS ( OR APPROVED EQUALS) IS TO BE A DIRECT LOADING LAUNCH SYSTEM CAPABLE OF RISING AND FALLING WITH A VARIABLE RISE OF 4 TO 6 FEET.

SITE PLAN LAYOUT
SCALE: 1" = 30'

GRAPHIC SCALE
1" = 30'