

**GENERAL CONDITIONS
FOR
CONSTRUCTION**



chicago park district

GENERAL CONDITIONS FOR CONSTRUCTION

[VERSION 3/8/05]

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GENERAL CONDITIONS FOR CONSTRUCTION

I. GENERAL CONDITIONS

[VERSION 3/8/05]

A. DEFINITIONS

1. **Acceptance** means the acceptance by the Park District of the bid submitted by the contractor on the form included in the bid package.
2. **Addendum** (plural **addenda**) means an addition, correction, deletion, or clarification to or of the specification document that is issued to prospective bidders prior to the opening of bids.
3. **Architect/engineer** means architect/engineer as defined in Article II of these General Conditions.
4. **As-built documents** means as-built documents as defined in Article XII of these General Conditions.
5. **Award** means the formal authorization, by the Board of Commissioners of the Chicago Park District, to proceed to contract with the contractor offering the accepted bid.
6. **Award date** means the date on which the Board of Commissioners of the Chicago Park District formally authorizes a contract with the contractor offering the accepted bid.
7. **Awardee** means the bidder awarded a contract as a result of its response to this Invitation for Bid.
8. **Bid** means the response submitted pursuant to this Invitation for Bid, compliant with all of the requirements of the specification documents.
9. **Bid package** means the bound package of documents delivered by the Park District to persons who have expressed an interest in submitting a bid.
10. **Bid unit price** means the price for a unit, if any, which was included in the bid.
11. **Bidder** means any corporation, limited liability company, partnership, individual or other entity who submits a bid in response to this Invitation for Bid.
12. **Bond** means a bond as described in Article XVI of these General Conditions.
13. **Change order** means a written instrument signed by the Park District, architect/engineer of record, and contractor, agreeing on a change in the work (additions, deletions, or other revisions, and subsequent changes in contract amount or contract time, if necessary), to be issued in accordance with Article X hereof.
14. **City** means the City of Chicago.
15. **Construction change directive** means a written order signed by the Park District and architect/engineer, directing a change in the work and stating a proposed basis for adjustment, if any, in the contract amount or contract time, or both.
16. **Contract** means the agreement between owner and contractor, these General Conditions, including all exhibits attached hereto and/or incorporated by reference herein, and all amendments, modifications, supplements and revisions thereto made from time to time in accordance with the terms hereof. Contract also includes, without limitation, the Special Conditions, the Special Conditions, if any, the contractor's bid, including documentation accompanying the bid and any post-bid documentation submitted prior to

the Notice of Award, the Contractor's (Vendor's) Affidavit, the specifications and drawings, together with all amendments, modifications and supplements to any of the foregoing.

17. **Contract amount** means the lump sum amount set forth in the bid and accepted as the total payment to contractor, as the same may be adjusted herein.
18. **Contract time** means the period of time, measured in calendar days, allotted in the bid package for final completion of the work, and adjusted, if necessary, by a change order issued only in accordance with the contract.
19. **Contractor** refers to the bidder to whom the contract has been awarded by the Park District.
20. **Contractor's (or Vendor's) Affidavit** means the affidavit executed by the contractor and delivered to the Park District, on the form included in the bid package, subject only to any irregularities that the Park District may accept in its sole discretion.
21. **Days** means calendar days, unless otherwise stated.
22. **Drawings** means drawings, sketches, diagrams and other graphic and pictorial data forming a part of the contract, wherever located and whenever issued, showing the design, location and dimensions of the work, generally including, plans, elevations, sections, details, schedules, diagrams and shop drawings.
23. **Environmental requirements** means any and all applicable international, foreign, federal, state, regional, county, local, governmental, public or private statute, law, rule, regulation, ordinance, order, consent decree, judgment, permit, license, code, covenant, deed restriction, common law, treaty, convention or other requirement, pertaining to protection of the environment, health or safety of persons, natural resources, conservation, wildlife, waste management, any hazardous material activity, and pollution (including, without limitation, regulation of releases and disposals to air, land, water and ground water).
24. **Event of default** means event of default as defined in Article XVIII of these General Conditions.
25. **Final completion** means the date by which all of the following events have occurred: the Park District has determined that all punch list work and any other remaining work has been completed in accordance with the contract; final inspections have been completed and operations systems and equipment testing have been completed; all deliverables have been provided to the Park District and all other requirements set forth in the contract for final payment have been completed.
26. **Force majeure events** means events, the impact of which are beyond the reasonable control of the contractor and are limited to acts of God, acts of the public enemy, fires, floods, earthquakes, epidemics, quarantine restrictions, labor strikes at the job site, freight embargoes, or weather significantly more severe than the norm, provided that such events were not foreseeable and did not result from the fault or negligence of the contractor, and provided further that the contractor has taken reasonable precautions to prevent further delays caused by such events.
27. **Force account** means construction done on a time and material basis as described in Section X.D.3.a-n of these General Conditions.
28. **Hazardous materials** means asbestos and asbestos-containing materials, polychlorinated biphenyl (PCB), oil or any other petroleum products, natural gas, source material, special nuclear materials, and by-product materials regulated under the Atomic Energy Act (42 U.S.C. Sec. 2011, et seq.), pesticides under the Federal Insecticide Fungicide and Rodenticide Act (7 U.S.C. Sec. 136, et seq.) and any hazardous waste, toxic substance or related material, including any substance defined or treated as

hazardous waste, or toxic substance (or comparable term) in the Comprehensive Environment Response, Compensation and Liability Act (42 U.S.C. Sec. 1801, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. Sec 6901, et seq.), the Toxic Substance Control Act (Ill. Rev. Stat. Ch. 111, Sec. 1001, et seq.), and any rules or regulations promulgated pursuant to such statutes or any other applicable federal or state statute, rule, or regulation or local law, ordinance, rule, or regulation, as amended in each case or any other substance regulated pursuant to a present, past, or future environmental requirement.

29. **Losses** means, individually & collectively, liabilities of every kind, including losses, damages, and reasonable costs, payments, and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments, or settlements, any or all of which in any way arise out of or relate to any act, error, or omission of bidder, bidder's breach of the Agreement, or bidder's negligent or otherwise wrongful acts or omissions or those of its officers, agents, employees, consultants, subcontractors, or licensees.
30. **MBE/WBE conditions** are the Special Conditions Regarding Participation by Minority and Women-Owned Business Enterprises contained in the bid package and subsequent contract.
31. **Milestone date** means any date set forth in the project schedule for the commencement or completion of a particular portion of the work, as more fully described in Article VIII.
32. **Notice of Award** means the formal notice of the award given by the Park District to the contractor.
33. **Notice of Default** means Notice of Default as defined in Article XVIII of these General Conditions.
34. **Notice to Proceed** means written authorization from the Park District to the contractor setting forth the date that the contractor shall commence the work.
35. **Occupancy certificate** means a final occupancy certificate issued by the City authorizing utilization of a building or other improvement.
36. **Owner** refers to the Park District.
37. **Park District** refers to the Chicago Park District governed by the Chicago Park District Act, 70 ILCS 1505/0.01 et seq., and by the Code of the Chicago Park District.
38. **Payment bond** means the payment bond as defined in Article XVI of these General Conditions.
39. **Payment request** means the amount that the contractor has determined as the amount due the contractor for the month, under the contract for which the payment request is being made.
40. **Performance bond** means performance bond as defined in Article XVI of these General Conditions.
41. **Product data** are illustrations, standard schedules, performance charts, instructions, descriptive literature, catalogs and brochures, performance and test data, diagrams and other information furnished by the contractor to illustrate a material, product or system for some portion of the work.
42. **Project** means the total construction project, of which the work to be performed under the contract by the contractor may be the whole or a part, and which may include contributions by the owner or by separate contractors.

43. **Project record documents** are all documents the contract requires the contractor to provide to the Park District or its agents, including but not limited to shop drawings, as-built documents, parts manuals, operation and maintenance manuals, blue line drawings and project manuals and/or specifications.
44. **Project schedule** means the applicable CPM or bar chart schedule for progress and completion of the work, more fully described in Article VIII of these General Conditions.
45. **Punch list** means the comprehensive list of punch list work prepared by the architect/engineer after the work has reached substantial completion, and submitted to the Park District, which may, in its sole discretion, modify the punch list work (such modification may include the inclusion of additional items). If it is subsequently determined by the Park District that the punch list did not contain all items required by the contract, the Park District may further modify the punch list at any time.
46. **Punch list work** means minor adjustments, repairs, or deficiencies in the work that remain to be completed at the time of substantial completion as determined in the sole discretion of the Park District.
47. **Retainage** is defined in Article IX, Section G, of these General Conditions.
48. **Samples** means physical examples that illustrate materials, equipment or workmanship and establish standards and measures by which work will be accepted. The term "samples" includes materials, fabricated items, equipment, devices, appliances, or parts thereof as called for in the specifications and any other samples as may be required by the Park District to determine whether the kind, quality, construction, workmanship, finish, color and other characteristics of the materials, etc., proposed by the contractor conform to the specifications. The various parts of the work shall be in accordance with the reviewed samples.
49. **Scope of work** is defined in Article IV of these General Conditions.
50. **Shop drawings** means drawings, diagrams, schedules and other data specially prepared for the work by the contractor or any subcontractor, manufacturer, supplier or distributor to illustrate some portion of the work. The term "shop drawings" as used herein includes, but is not limited to: fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; wiring and control diagrams; and other drawings pertaining to materials, equipment and piping; duct and conduit systems; and methods of construction as may be required to show that the materials, equipment or systems and the position thereof conform to the contract requirements. Shop drawings shall establish the actual detail of all manufactured and fabricated items and indicate the proper relation of such items to adjoining work.
51. **Signed contract set** means the set of drawings and specifications signed by the Park District and delivered to the contractor at the time of the award.
52. **Site** means the location where the work is to be performed.
53. **Special Conditions** means the Special Conditions contained in the bid package and subsequent contract.
54. **Special wastes** means those substances as defined in 415 ILCS 5/1 et seq. of the Illinois Environmental Protection Act and as further defined in Section 809.13 of 35 Illinois Administrative Code, Subtitle G, Ch. 1.
55. **Specifications** means the portion of the contract (and bid package) consisting of written requirements for materials, equipment, construction systems, standards and workmanship for the work, and the performance of related services.
56. **Subcontract** means an agreement between the contractor and a subcontractor.

57. **Subcontractor** means any person or entity with whom the contractor contracts to perform any part of the work or to provide any materials to be used in connection therewith, including subcontractors of any tier, suppliers and materialmen, whether or not in privity with the contractor.
58. **Submittals** refers to shop drawings, product data or samples and other items as may be required by the contract.
59. **Substantial completion** is the date upon which, in the determination of the Park District, all work has been sufficiently completed in accordance with the contract so the Park District can occupy or utilize the work for its intended use as evidenced by (a) the acceptance by the Park District of a certificate of substantial completion on AIA Form G704 issued by the architect/engineer and, if applicable, (b) the issuance of an Occupancy Certificate for the work.
60. **Supervision Consultant** means an individual, organization or entity that the Park District may choose to oversee the work.
61. **Surety** means the firm, corporation, or individual which is bound by a Performance Bond or Payment Bond with and for the contractor, and which engages to be responsible for the contractor's acceptable performance of the work and for payment of all costs pertaining thereto.
62. **Work** means the construction and services to be furnished by the contractor and any and all of its subcontractors required under the contract, including all labor, materials, equipment, and other incidentals necessary or convenient to the successful completion of the work as required by the contract, and the carrying out of all the duties and obligations under the contract of the contractor, including, without limitation, all of the duties and obligations of its subcontractors.

B. CONTRACT INTERPRETATION

1. **Headings, Section References, Gender.** Any headings of the contract are for convenience of reference only and do not define or limit the Conditions thereof. All section references, unless otherwise expressly indicated, are to sections of these General Conditions. Words importing persons shall include firms, associations, partnerships, trusts, corporations, limited liability companies, joint ventures and other legal entities, including public bodies, as well as natural persons. Words of any gender shall be deemed and construed to include correlative words of the other gender. Words importing the singular number shall include the plural and vice versa, unless usage and context otherwise indicate. All references to any exhibit or document shall be deemed to include all supplements and/or amendments to any such exhibits or documents entered into in accordance with the terms and conditions hereof and thereof. All references to any person or entity shall be deemed to include any person or entity succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of the contract.
2. **Imperative.** Wherever the imperative form of address is used, such as "perform the excavating," "provide equipment required," "remove obstructions encountered," "furnish and install reinforcing steel bars," etc., it shall be understood and agreed that such address is directed to the contractor.
3. **Meaning of Provide.** "Provide" as used in these specifications means furnish and install.
4. **Meaning of Other Terms.** Unless a contrary meaning is specifically noted elsewhere, words such as "as required," "as directed," "as permitted," and similar words mean that requirements of, directions of, and permission of the Park District are intended; similarly the words "approved," "acceptable," "satisfactory," or words of like import, shall mean "approved by," "acceptable to," "or satisfactory to" the Park District. In these General Conditions, unless the context otherwise requires, the terms "herein," "hereof," "hereto," "hereunder" and any similar terms used in these General Conditions refer to these

General Conditions. The words “necessary,” “proper,” or words of like import as used with respect to extent, conduct or character of work specified shall mean that work must be conducted in a manner, or be of a character which is “necessary” or “proper” in the opinion of the Park District, and the Park District’s judgment in such matters shall be considered final and incontestable by the contractor. Wherever the words “approved,” “reasonable,” “suitable,” “acceptable,” “properly,” “satisfactory,” or words of like effect and import are used, they shall mean, unless otherwise particularly specified herein, approved, reasonable, suitable, acceptable, proper or satisfactory in the judgment of the Park District.

C. REVIEW OF CONTRACT DOCUMENTS & INTENT OF SPECIAL CONDITIONS, DRAWINGS AND SPECIFICATIONS

1. **Description of Work.** The intent of the Special Conditions, scope, technical specifications, and drawings, together with the other documents of the contract, is to describe the work that the contractor will undertake in order to fulfill the requirements of the contract. The contractor shall perform all of the work specified in the contract and such additional, extra, collateral and incidental work as required and necessary for the proper execution and completion of the work in accordance with and which is reasonably inferable from the contract. Contractor shall provide and pay for all labor, materials, equipment, tools, temporary light, power, heat and other utilities, transportation, shop plans, working drawings and incidentals and other facilities and services necessary for proper execution and completion of the work, whether temporary or permanent, and whether or not incorporated into the work, unless otherwise provided in the contract.
2. **Scope of Drawings and Specifications.** The specifications and drawings are not intended to cover every detail of materials, parts, or construction necessary to properly complete the work. The contractor shall furnish all materials, parts and labor necessary for the proper execution and completion of the work, whether or not said details are particularly shown or specified in the drawings and specifications, all at no additional cost to the Park District. The contractor shall provide any material shown on the drawings but not specified in the specifications, or any material specified in the specifications but not shown on the drawings, as though it were both shown and specified.
3. **Contractor Responsible.** The work under the contract has not been completely segregated into divisions of work to be performed by any trade or subcontractor. The contractor shall be responsible for all such segregation of work between the trades or craft jurisdictional limits.
4. **Responsibility for Discrepancies.** Before the contractor physically begins the work it shall carefully review the drawings and specifications, inspect the site, and compare the documents comprising the contract with each other and with any additional information furnished by the Park District or the Park District’s consultant with the objective of discovering any errors, inconsistencies or omissions. Should any of the above-described errors, discrepancies or omissions be found in the contract or should any discrepancy be found between the contract and the physical conditions at the site or in any subsequent drawings or addenda that may be provided thereafter, the contractor shall notify the Park District in writing, immediately. Any work done after such discovery, unless authorized in writing by the Park District, will be done at the contractor’s expense. The contractor will not be allowed to take advantage of any error, omission or discrepancy in the contract.
5. **Reference Standards.** Specifications by organizations other than the Park District to which reference is made in the drawings and specifications shall be obtained by the contractor from such organization at its expense.
6. **Copies of Drawings and Specifications.** At the request of contractor, the Park District will furnish to the contractor, at the cost of reproduction, additional copies of the drawings and specifications. The contractor shall keep on hand at the site, for reference, a complete set of drawings and specifications, copies of all plans furnished by contractor, copies of all additional and revised plans furnished by Park District and copies of all

Construction Change Directives and Change Orders issued to the contractor by the Park District that relate to the work.

D. ENTIRE AGREEMENT

The contract shall constitute the entire and integrated agreement between the parties and no other warranties, inducements, consideration, promises, or interpretations shall be implied or impressed upon the contract that are not expressly addressed therein.

E. INCORPORATION OF EXHIBITS

The following exhibit attached hereto is hereby made a part of these General Conditions:

- Prevailing Wage Determinations of the Secretary of Labor

II. PROJECT ORGANIZATION

A. OWNER

1. **Project Ownership.** The Park District possesses the power and authority to enter into the contract and to fulfill the obligations of the owner set forth therein.
2. **Personal Liability of Public Officials.** In carrying out any of the Conditions of the contract or in exercising any power or authority granted to them thereby, there shall be no liability imposed upon the Park District, its authorized representatives, or any employee of the Park District, either personally or as officials of the Park District, it being understood that in such matters they act as agents and representatives of the Park District.

B. GENERAL SUPERINTENDENT

For the purposes of this agreement, the General Superintendent or any successor to the office of General Superintendent, or his/her authorized representative or designee(s), and only those individuals and entities, shall represent and make decisions for the Park District in any and all matters relating to the contractor's performance of the work and shall constitute the point of receipt for all deliverables required hereunder, unless expressly specified otherwise herein. The General Superintendent, or his/her authorized representative or designee(s), shall decide all questions that arise with regard to the administration of the contract, such as to the quality and acceptability of materials furnished and the work performed and rate of progress of the work. He/she or his/her authorized representative or designee(s) shall determine the amount and quality of the work performed and materials furnished. The General Superintendent may from time to time designate any person(s) or entity(ies) to act as his/her duly authorized representative to perform any task, exercise any power or make any decision which the General Superintendent or the Park District would have otherwise been empowered, authorized or required to do by (a) including any such designation in the Special Conditions, or (b) giving the contractor written notice of his/her intention to do so at any time after the award of the contract. The General Superintendent may revoke any such designation at any time by giving the contractor notice of his/her intention to do so.

C. CONSULTANT

If the Park District retains a consultant, the contractor will be notified in the bid package or in writing thereafter, and the scope of the responsibilities of such consultant shall be described in the bid package or in writing thereafter.

D. ARCHITECT/ENGINEER

If the Park District retains an architect/engineer, the contractor will be notified in the bid package or in writing thereafter, and the scope of the responsibilities of any such architect/engineer shall be described in the bid package or in writing thereafter.

E. CONTRACTOR

1. Contractor's Responsibility for Work

- a. **WORK.** The work shall be under the charge and care of the contractor until final acceptance by the Park District, including all punch list work, unless otherwise specified in the contract. The contractor shall assume all responsibility for injury or damage to the work by action of the elements and fire or from any other causes whatsoever, whether arising from the execution, or from the non-execution, of the work. The contractor shall rebuild, repair, restore and make good, at its expense, all injuries or damages to any portion of the work occasioned by any of the above causes before substantial completion.
 - b. **MATERIALS AND EQUIPMENT FURNISHED BY THE PARK DISTRICT.** When the Park District furnishes equipment or materials to the contractor for its use or inclusion in the work, the contractor's responsibility for all such equipment and materials shall be the same as for materials furnished by it.
 - c. **COMPLETION.** The work will not be considered completed and accepted until a written notice from the Park District, confirming final completion and acceptance of all work, including punch list work, has been received by the contractor and all of the other requirements for final completion set forth in the contract are satisfied in full.
2. **Work by Contractor's Organization.** Except as hereinafter specified or otherwise authorized by the Park District, the contractor shall perform with its own organization and forces not less than twenty-five percent (25%) of the total amount of work which is performed at the site, computed on the basis of cost.

F. SUBCONTRACTORS

1. **Subcontractors Bound.** The contractor agrees to implement such measures as may be necessary to ensure that its staff and each and every one of its subcontractors shall be bound by all Conditions of the contract. The contractor shall require each subcontractor to familiarize itself with all Conditions of the contract that may affect its Work.
2. **No Privity of Contract with Subcontractors.** The contractor is responsible for all of the work performed by subcontractors as if contractor had performed such work using its own forces.
 - a. There shall be no privity of contract between subcontractors and the Park District.
 - b. The contractor shall require the subcontractors to communicate with the Park District through the contractor only. All transactions of the Park District shall be with contractor. The Park District shall recognize subcontractors only in the capability of employees or workers of the contractor.
3. **Disqualification of Subcontractors**
 - a. **SUBSTITUTION OF SUBCONTRACTORS.** The contractor shall not make any substitution for a subcontractor unless the Park District has accepted the substitution.
 - b. **NON-QUALIFIED SUBCONTRACTORS; REFUSAL TO SIGN.** If, prior to execution of a subcontract, the contractor submits a written request to the Park District and demonstrates to the Park District's satisfaction that, as a result of a change in circumstances beyond its control of which it was not aware and could not reasonably have been aware until subsequent to the date of the award, a subcontractor has become not qualified or a subcontractor has unreasonably refused to execute the subcontract, the contractor shall be excused from executing such subcontract.

- c. **TERMINATION OF SUBCONTRACT.** If, after execution of a subcontract, the contractor submits a written request to the Park District and demonstrates to the Park District's satisfaction that, as a result of a change in circumstances beyond its control, of which it was not aware and could not reasonably have been aware until subsequent to the date of the award, a subcontractor which entered into such subcontract has become not qualified or has committed and failed to remedy a material breach of the subcontract, the contractor shall be entitled to exercise such rights as may be available to it to terminate the subcontract.
- d. **CHANGING AN MBE/WBE SUBCONTRACTOR.** The procedures for changing an approved MBE/WBE subcontractor are specified in the MBE/WBE Special Conditions.

4. Required Terms of Agreements with Subcontractors

The contractor, upon entering into any agreement with a subcontractor approved by the Park District, shall furnish the Park District with one (1) copy of a written contract evidencing such agreement. All subcontracts shall be in writing, shall require each subcontractor to be bound to the contractor by the terms of the contract and to assume toward the contractor all the obligations and responsibilities which the contractor, by the contract, assumes toward the Park District. All subcontractors shall require that any services to be performed shall be performed in strict accordance with the contract and shall provide that the subcontractors shall be bound by and subject to the requirements of the contract, whether or not a particular provision specifically mentions subcontractors, and provide that the Park District's rights are not thereby prejudiced. The subcontracts may contain different Conditions than are provided herein with respect to payments, schedules, and matters not affecting the quality or timely completion of the services hereunder. Each subcontract shall preserve the rights of the Park District under the contract with respect to the work performed by the subcontractor so that the subcontracting thereof will not prejudice such right. Where appropriate, the contractor shall require each subcontractor to enter into similar subcontracts with its subcontractors. The contractor shall make available to each subcontractor, prior to the execution of such subcontract, copies of the contract to which the subcontractor will be bound by this paragraph.

5. Subletting of the Contract

All requests to subcontract must be approved prior to any such subcontracting and submitted on the form approved by the Park District. All subcontractors are subject to the approval of the Park District before contractor contracts with the proposed subcontractor.

G. SUPERVISION CONSULTANT

The Park District has retained, or may retain during the project, consultants who may provide services as the Park District's representative on various project matters. The Park District shall advise the contractor of the names and duties of any such consultants.

III. PROPERTY

A. OWNERSHIP OF DRAWINGS

1. **Drawings, Specifications and Other Documents.** All drawings and specifications and copies thereof furnished by the Park District are the property of the Park District. Any drawings and specifications and their copies are not to be used on other work and, with the exception of the signed contract set, are to be returned to the Park District at completion of the work.
2. Unless the number is specifically stated in the Special Conditions, the Park District will provide to the contractor, at the cost of reproduction, the number of copies of drawings and specifications determined appropriate by the Park District.

3. Additional requested copies of drawings and specifications will be furnished to the contractor at reproduction cost.
4. The drawings shall be so considered that any material shown on the drawings and not specified in the specifications, or material specified in the specifications and not shown on the drawings, shall be provided by the contractor the same as though such material were both shown and specified.

B. INFORMATION PROVIDED BY THE PARK DISTRICT

The Park District may provide the contractor with surveys, soil borings, utility locations, geo-technical information, or other data or plans generally describing the physical characteristics or legal limitations of the site. Such information is not warranted by the Park District to be accurate, and the contractor shall not be entitled to rely on it. When the Park District provides such information, whether or not prepared by the architect/ engineer, the contractor acknowledges that the architect/engineer and the Park District have not verified such information. Neither the Park District nor the architect/engineer has verified site plans prepared by the architect/engineer that are based on surveys performed by the Park District's consultants. Site plans do not constitute any representation, to the contractor by the architect/engineer or the Park District, of site boundaries or characteristics. The contractor is expected to inspect the site to verify all data. No allowance will be made for any difficulties that may be encountered in executing the work due to a failure of the contractor to properly inspect the site.

C. RIGHT OF ENTRY

1. **Access to site.** Contractor shall coordinate with the Park District the procedures for gaining access to the site, space for storage of materials and equipment, use of elevators, approaches, corridors, stairways, and similar features of a structure. This coordination is required prior to commencement of the work.
2. **Permitted Entry.** The contractor, and any of its officers, employees, agents and subcontractors shall be permitted to enter upon any part of the site in connection with the performance of the work hereunder, subject to the terms and conditions contained herein.
3. **Degree of Care when Entering Property.** The contractor shall use, and shall cause each of its officers, employees, agents and subcontractors to use, the highest degree of care when entering upon the site to perform the work. The contractor shall comply with, and shall cause each of its officers, employees, agents, and subcontractors to comply with, any and all laws, ordinances, permits and the contract in respect to its operations on the site. Contractor shall not unreasonably encumber the site with materials or equipment.
4. **Damage to Park District Property.** If the contractor or any of its employees, agents or subcontractors causes damage to Park District property, the contractor must, immediately, at the option of the Park District, either (a) pay the cost of repair of such damage or (b) repair or replace the property so damaged. In addition to any other remedies the Park District may have hereunder, the Park District shall have the right to set off against the payments due to the contractor the cost of such repairs. Failure of the contractor to repair or pay the cost of such repair in a timely fashion will be an event of default hereunder.

D. SITE CONDITIONS

- I. **Presumption of Inspection.** The contractor is required to inspect the site and to examine and become familiar with the scope of work, the drawings and specifications, and all other documents pertaining to the contract. The submission of the bid by the contractor shall be sufficient to establish the presumption that the contractor has investigated the site and is satisfied as to all conditions to be encountered, the quantity and quality of the work to be performed and all matters to be furnished for the completion of the work.

2. **Notification Requirement.** On occasion, the Park District may furnish subsurface information through the use of borings. If, in the course of the work, subsurface conditions vary materially from the record indicated by the borings, the contractor shall give immediate notification, in writing, of such variation to the Park District.
3. **If conditions are encountered at the site that are:**
 - a. Subsurface or otherwise concealed physical conditions which differ materially from those indicated in the contract, or
 - b. Unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for the contract, then written notice by the contractor shall be given to the Park District immediately before such conditions are disturbed.
4. **Unknowable Conditions.** If conditions at the site differ materially from those indicated in the contract and could not have been known to the contractor at the time the bid by the contractor was submitted, and cause a material increase or decrease in the contractor's cost of, or time required for, the performance of any part of the work, an equitable adjustment in the contract amount or contract time or both may be made in the form of a change order or contract modification.
5. **Discovery of Hazardous Materials on Site.** In the event the contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) that has not been rendered harmless, or any other hazardous material, the contractor shall immediately stop work in the area effected and report the condition to the Park District, both orally and in writing. The work in the affected area shall not thereafter be resumed except by written permission of the Park District.

E. PERMITS & LICENSES

1. **Required Permits.** Wherever the work requires the obtaining of permits from any public authority, the contractor shall furnish, to the Park District, triplicate copies of such permits before the work covered thereby is started. **NO WORK SHALL PROCEED BEFORE SUCH PERMITS ARE OBTAINED.** Any failure by the Park District to collect all necessary permits or to stop the work in the event all necessary permits have not been obtained will not be deemed to be a waiver of the Park District of any of its right in connection therewith.
2. **Cost of Permits.** There will be no separate fee or reimbursement from the Park District to the contractor in connection with permits and fee requirements, and all costs thereof will be considered as incidental to the work and included in the contract amount. Unless otherwise provided in the Special Conditions, drawings, or specifications, the contractor shall obtain, at its own expense, all permits and licenses necessary to carry out the work.
3. **Use, Removal or Alteration of Facilities and Appurtenances; Permits and Fees.** The special use of or removal, alteration or replacement of certain facilities and appurtenances such as traffic signs, traffic control devices, trees, sewers, hydrants, bridges and viaducts that will be required in order to perform the work shall be subject to the applicable municipal ordinances. It shall be the contractor's responsibility to obtain all the necessary permits and pay the associated fees; such costs and fees are included in the contract amount. The contractor shall furnish copies of such permits to the Park District before the work covered is started. **NO WORK SHALL PROCEED BEFORE SUCH PERMITS ARE OBTAINED.** No payment will be made for the work performed without the required permits unless authorized in writing by the Park District. Information with regard to the above may be obtained by contacting the appropriate City departments.
4. **Water System Work.** If water from a City hydrant is necessary to the execution of the work, the contractor, with approval of the Park District, will be required to obtain a hydrant permit from the City's Department of Water Management (Water Use), Room 906, City Hall, 60602. Before starting the work, the contractor shall pay to the City's Department of Water

Management a fee for water to be used, as set forth in the Municipal Code of Chicago and its amendments to date.

5. **Sewer System Work.** The construction, repair, adjustment or cleaning of any subsurface structure designed to collect or transport storm and/or sanitary waste water, either in private property or in the public way, shall require a permit issued by the City of Chicago Department of Water Management (Sewers and Drains), Room 410, City Hall, 60602.
 - a. Sewer permits for doing any of the work will be issued to sewer drain layers currently licensed by the Department of Water Management.
 - b. When applying for a permit, a contractor must submit two (2) sets of plans that show all new underground sewer work inside and around the project, with a clear site or location plan, together with an estimate of the sizes and quantities of sewer to be installed.
 - c. Permits and/or inspection must be arranged for at least 48 hours prior to starting the work. Inspection may be requested by calling (312) 744-7033.
 - d. A copy of the permit must be on the job site prior to starting operations.
 - e. Failure to obtain permits prior to starting construction could result in the revocation of the drain layer's license.
 - f. Plans for large projects (over 400 feet of sewer works) are to be brought in for examination and review by the Department of Water Management and the Park District at least two (2) days prior to the issuance of permits.

6. **Traffic and Parking Sign Removal and Replacement.** The contractor will be responsible for all fees relative to the removal and replacement of all traffic and parking signs and traffic control devices in connection with the work. The contractor must advise the City's Bureau of Traffic Engineering and Operations, in writing, of the location of each item to be removed by specifying its distance from the property line of the nearest cross street. Each sign legend should also be stated. This information must be provided at least five (5) days prior to removal. The contractor should also advise the Bureau of Traffic Engineering and Operations, in writing, of the date signs may be reinstalled as soon as this date is known.

F. STORAGE OF MATERIALS

Only such materials and equipment as are necessary for the construction of the work shall be placed, stored, or allowed to occupy any space at the site of the work. All materials stored at the site shall be stored in a manner that precludes any safety or health risk to the public, and shall be so placed as to allow free access to all fire hydrants, water valves, gas valves, manholes that are part of electric, telephone and telegraph conduit lines, and all fire alarm and police call boxes in the vicinity. Hazardous materials shall be handled in accordance with all environmental requirements, including those of the Illinois Environmental Protection Agency, Illinois Department of Health, and Illinois Department of Transportation.

G. ELECTRICAL STANDARDS

All contractor equipment utilizing Park District electrical sources must meet UL standards and be compatible with existing circuits. The contractor shall prevent operation, or attempted operation, of equipment that requires electrical power exceeding the capacity of existing circuits.

H. CONNECTION OF WORK TO EXISTING STRUCTURES

Wherever the work under the contract is required to connect to existing work, the contractor shall take complete field measurements affecting all construction in the contract and shall do all cutting, patching, or fitting of work that may be required to make the several parts of this contract and existing work come together and fit properly. The contractor is solely responsible for such proper fit between its work and existing structures or appurtenances.

I. CONTRACTOR'S RESPONSIBILITY FOR LIENS

If any of the contractor's subcontractors, employees, officials, agents, or any other person directly or indirectly acting for, through, or under any of them, files or maintains a lien or similar claim, the contractor agrees to cause such liens and claims to be satisfied, removed or discharged, by bond, payment or otherwise, within thirty (30) days from the date of filing thereof; provided, however, that the Park District may extend the thirty (30) day period if the Park District determines that such lien claim cannot be so satisfied, removed, or discharged in such period and that the contractor is proceeding diligently to cause such liens or claims to be satisfied, removed, or discharged. The Park District shall have the right, in addition to all other rights and remedies provided under the contract or by law, to cause such liens or claims to be satisfied, removed, or discharged by any means, at the contractor's sole cost, such cost to include reasonable legal fees and the cost thereof may be charged back against the contract amount.

J. REQUIRED INSPECTIONS

The contractor shall inspect all facilities repaired or constructed under the contract to the extent necessary to assure that all required work is accomplished as specified. The contractor shall prepare and maintain inspection files that shall reflect past and current inspection dates, results of all inspections made, corrections required, and corrections made. All such files should be made available to the Park District at its request at any time during normal working hours for inspection and photocopying.

K. SUSPENSION OF WORK

The Park District shall have the authority to suspend the work wholly or in part for such period of time as it may deem necessary, due to conditions that impair the satisfactory prosecution of the work, or due to the conditions which, in its opinion, warrant such action or make such action in the best interest of the Park District, or for such time as is necessary by reason of failure on the part of the contractor to carry out the work; or to perform any provision of the contract. No additional compensation will be paid to the contractor because of any costs caused by such suspension. If it becomes necessary to stop the work for an indefinite period of time, the contractor shall (a) store all materials in such manner that they will not become damaged in any way, (b) take every precaution to prevent damage or deterioration of the work performed, and (c) erect temporary structures where necessary. The contractor shall not suspend the work without written authority from the Park District.

L. WORK STOPPAGE IN THE CASE OF DOUBT

Should the contractor find any discrepancy, omission, violation of applicable codes, or be in doubt as to the meaning of the contract, the contractor shall stop the work in progress, if that work is affected by the particular discrepancy, omission or violation, and consult with the Park District. The Park District shall resolve any such discrepancy, omission, violation or meaning of the contract. The contractor shall be held responsible for any loss or damage where there is a doubt as to what is required when proceeding with the work without consulting the Park District.

M. SALVAGE / RECOVERY ITEMS

1. Material and equipment removed or disconnected during the course of the work, and which, in the opinion of the Park District, are of value but are not specified for reuse, shall remain the property of the Park District. A Park District representative shall be informed of the presence of the property, and disposition instructions shall be requested.
2. Recovery items such as metal, scrap lumber, crating materials, empty barrels, boxes, textiles and bags, waste paper, cartons, and similar materials that retain useful, recycling, salvage, or saleable value, shall become the property of the contractor unless otherwise required in the specifications.

3. Debris, rubbish, hazardous wastes, and non-usable material, in which the Park District claims no further interest, shall be disposed of by and at the expense of the contractor, at a location off of Park District property.
4. Hazardous wastes must be disposed of in accordance with the Resources Conservation and Recovery Act and environmental requirements.

N. ACCEPTANCE OF THE WORK & RIGHT TO OCCUPY BEFORE SUBSTANTIAL COMPLETION

1. **Use of Premises.** The Park District may occupy and use the project or portions thereof, in advance of substantial completion. In the event that the Park District desires to exercise partial occupancy and use prior to substantial completion, the contractor shall cooperate with the Park District in making available for the Park District's use, project services, such as heating, ventilating, cooling, water, lighting and telephone for space or spaces to be occupied, and if the equipment required to furnish such services is not entirely installed at the time the Park District desires to occupy and use the space or spaces, the contractor shall make every reasonable effort to complete the affected portion of the work.
2. **Issues Arising During Such Use.** When the Park District determines that the Park District will use all or part of the project before substantial completion, the Park District shall determine:
 - a. **ALLOCATION OF RESPONSIBILITY.** The responsibility between the Park District and the contractor for maintenance, repair, furnishing of utilities and the protection of the public (if required) for that part of the work to be occupied.
 - b. **FUTURE WORK REQUIRED.** The list of items remaining to be performed before the work or portion thereof to be occupied will reach final completion.
 - c. **ADDITIONAL INSURANCE.** Whether or not the contractor will need any additional types of insurance.
 - d. **EFFECT ON WARRANTIES.** The effect of the Park District's use before substantial completion on required guarantees and warranties.
3. **Non-Applicability.** This section is not applicable to any portions of the contract that provide for use of portions of the work based on sequential construction and/or occupancy of portions of the work at the time of the award.

O. FINAL CLEAN-UP

The contractor shall perform cleanup and site restoration prior to final walk-through inspection. If the contractor fails to clean up the site in a timely fashion, the Park District, in addition to its other remedies, will be entitled to clean the site itself at the contractor's expense.

- a. **RESTORATION OF THE SITE.** Upon completion and before final acceptance of the work, the contractor shall remove from the site and adjacent premises all machinery, equipment, surplus materials, falsework, excavated and useless materials, rubbish, temporary buildings, barricades and signs, and shall restore the site to the same general conditions that existed prior to the commencement of the work. The cost of final cleaning up will not be paid for under any specific scheduled item but shall be included in the prices bid for the various items, or included in the contract amount. If the contractor fails to clean up as provided in the contract, the Park District may do so and the cost thereof shall be charged to the contractor.
- b. **CLEANING.** The contractor shall clean off all cement streaks or drippings, paint smears or drippings, rust stains, oil, grease, dirt and any other foreign materials deposited or accumulated on any portion of his work or the existing work due to his operations.

- c. **MAINTENANCE DISPUTES.** If a dispute arises between the contractor and the Park District as to the responsibility under their respective contracts for maintaining the site and surrounding area free from waste materials and rubbish, the Park District may clean up and allocate the cost among those responsible as the Park District determines to be just.

P. FINAL INSPECTION

At the final inspection, the contractor shall be prepared to answer any questions about the operations and use of the project or any other part of the work.

Q. OWNERSHIP OF COMPLETED WORK

The Park District shall be and become the owner of any improvements made in connection with the work upon substantial completion of each and every such improvement.

IV. SCOPE OF WORK

- A. THE SCOPE OF WORK FOR THE PROJECT.** The scope of work that the contractor shall provide includes, but is not limited to, that described in or reasonably inferable from the specification document, which is incorporated herein by reference.

V. ASSIGNMENT

A. NO ASSIGNMENT BY CONTRACTOR

The contract shall not be assigned, or any part of the same subcontracted, without the written consent of the Park District; but in case the Park District shall provide consent, such consent does not relieve the contractor from its obligations, or change the terms of the contract.

B. NO ASSIGNMENT OF CONTRACT FUNDS

The contractor shall not transfer or assign any contract funds or claims due or to become due without having first obtained the written approval of the Park District. So far as the Park District is concerned, without the consent of the Park District such transfer or assignment of any contract funds, either in whole or in part, or any interest therein, which shall be due or to become due to the contractor, is void.

C. RIGHT TO ASSIGN THE PARK DISTRICT'S INTEREST

The Park District expressly reserves the right to assign or otherwise transfer all or any part of its interests under the contract without the consent or approval of the contractor.

VI. STANDARDS OF PERFORMANCE

A. GENERAL STANDARDS

1. **Degree of Skill, Care and Diligence.** The contractor shall perform, or cause to be performed, all of the work required of it under the terms and conditions of the contract with that degree of skill, care, and diligence normally exercised in performing that type of work in projects of a scope and magnitude comparable to the project, to the reasonable satisfaction of the Park District. The contractor shall use its best efforts to assure timely and satisfactory completion of the work and shall, at all times, act in the best interests of the Park District. The contractor shall be solely responsible for and have control over construction means,

methods, techniques, sequences and procedures and for coordinating all portions of the work under the contract, unless the contract gives other specific instructions concerning those matters.

2. **Governmental Standards.** The contractor shall further perform, or cause all work hereunder to be performed, according to those standards for work promulgated by all federal, state, and local laws, including without limitation, the Code of the Chicago Park District.
3. **Warranty.** Contractor warrants to Park District that (a) the materials and equipment furnished under the contract will be of good quality and new unless otherwise required or permitted by the drawings or specifications, (b) that the work will be free from defects, and (c) the work will conform with the requirements of the contract. Work not conforming to the requirements, including substitutions not properly approved and authorized, shall be considered defective.

B. FAILURE TO PROCEED WITH DIRECTED WORK

In case of failure on the part of the contractor to commence work ordered in writing by the Park District, whether such work is required by (a) a Construction Change Directive or Change Order, (b) the obligation to perform guarantee work, or (c) otherwise under the contract, the Park District may, at the expiration of a period of forty-eight (48) hours, give notice in writing to contractor, and proceed to execute such work as may be deemed necessary, and the cost thereof shall be deducted from compensation due or which may become due to the contractor under the contract. The Park District may additionally exercise any remedies set forth in Article XVIII, Section D of these General Conditions.

C. CORRECTION OF WORK

1. **Contractor's Obligation.** The contractor, when directed in writing by the Park District, shall promptly correct or remove all work identified to be defective or as failing to conform to the contract whether observed before or after substantial completion and whether or not fabricated, installed or complete. The contractor shall bear all costs of correcting such defective or nonconforming work, including compensation for any additional services made necessary thereby, and any additional damages to landscape or adjacent park property.
2. **Call-Back Warranty.** If, within one (1) year after the date of final completion, any of the work is found not to be in accordance with the requirements of the contract, the contractor shall correct it promptly after receipt of written notice from the Park District to do so, at contractor's sole cost. Nothing contained in this Article VI, Section C.2 shall be construed to establish a period of limitation with respect to other obligations that the contractor may have under the contract. Establishment of the one-year time period herein relates only to the obligations of contractor to correct the work, and has no relationship to (a) the time within which the obligation to comply with the contract, including, without limitation, contractor's warranty under Article VI, Section A.3, may be sought to be enforced, nor (b) the time within which proceedings may be commenced to establish contractor's liability with respect to the contractor's obligations other than specifically to correct the work.
3. The contractor shall remove from the site the portions of the work that are not in accordance with the requirements of the contract and are neither corrected by the contractor nor accepted by the Park District.
4. **Acceptance of Nonconforming Work.** If the Park District prefers to accept work that is not in accordance with the requirements of the contract, the Park District may do so instead of requiring its removal and correction, in which case the contract amount will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.
5. **Failure of Contractor to Correct Work.** If the contractor fails to correct or remove defective or nonconforming work when directed, the Park District may exercise any of its remedies set forth in Article XVIII, Section D, or may correct such defective or nonconforming work in accordance with the following paragraph.

6. **Remedies for Failure to Correct.** If the contractor does not proceed with the correction or removal of such defective or nonconforming work after written notice from the Park District and within the time period designated, the Park District, in addition to any other remedies that the Park District may have hereunder, may correct or remove and may store the materials or equipment at the expense of the contractor, then complete the corrective work. If the contractor does not pay the cost incurred for such removal and storage within ten (10) days thereafter, the Park District may upon ten (10) additional day's written notice sell such materials and equipment at auction or at private sales and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the contractor, including compensation for the Park District's additional services made necessary thereby. If such proceeds of sale do not cover all costs the contractor should have borne for removal and correction of the work, the difference shall be charged to the contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the contractor are not sufficient to cover such amount, the contractor shall pay the difference to the Park District, or the Park District may deduct the amount from funds due to the contractor.
5. **Unauthorized Work.** Work done without lines and grades or beyond the lines shown on the drawings or as given, or any extra work done without the authority of the Park District, will be considered as unauthorized and at the expense of the contractor and will not be paid for. Work so done shall, at the Park District's option, be removed or replaced and those areas restored at the contractor's expense.
6. **Continuing Remedies Beyond Final Payment.** Neither the final certificate of completion or payment, nor any Conditions in the contract, shall relieve the contractor of responsibility for nonconforming work, faulty materials, equipment or workmanship and, unless otherwise specified, the contractor shall remedy any defects due thereto and pay for any damage to other work resulting therefrom.

D. MATERIALS

1. Quality of Materials

- a. **CONFORMING MATERIALS.** It is the intent of the contract that new materials that comply with the contract shall be used throughout the work and that they shall be incorporated in such manner as to produce completed construction which is in conformance with the contract and acceptable in every detail to the Park District. Only materials that conform to the requirements of the Special Conditions, drawings and specifications shall be incorporated in the work.
- b. **LACK OF DEFINITE SPECIFICATION.** In the absence of a definite specification, materials shall be the best of their respective kinds, with properties best suited to the work required. Inspection of materials shall be as specified in these General Conditions.

E. TESTING

1. Source of Materials

- a. As soon as possible after the contract has been awarded, the contractor shall notify the Park District in writing of the source (or sources) from which it expects to obtain the various construction materials. The Park District shall approve the source of supply of each material to be used before delivery is started. If sources previously approved are found to be unacceptable at any time and fail to produce materials satisfactory to the Park District, the contractor shall furnish materials from other approved sources.
- b. If the contractor seeks to investigate new sources of supply, it shall furnish without charge such preliminary samples as the Park District may require. Tests will be made on these preliminary samples and reports rendered, but it is understood that such tests are for information purposes only and that the tests not be construed as a guarantee of acceptance of any ultimate supply of materials.

- c. If the contractor installs equipment or apparatus to produce materials from new sources of supply, it does so at its own risk and it shall assume full responsibility for the production of uniform and satisfactory materials. In case of failure of a source of supply to produce materials satisfactory to the Park District, the contractor shall indemnify and hold harmless the Park District from any and all claims for loss or damage of whatever nature that it may have suffered by reason of the installation of equipment and the operation of such source of supply.

2. Substitution Of Materials

- a. Requests by contractor for substitution of materials will be considered only in cases of product unavailability or other conditions beyond the control of the contractor.
- b. Each request for substitution must be submitted separately and must include:
 - (1) Complete data substantiating compliance of proposed substitution with requirements stated in the contract.
 - (A) Product identification, including manufacturer's name and address;
 - (B) Manufacturer's literature identifying:
 - (i) Product description;
 - (ii) Reference standards; and
 - (iii) Performance and test data;
 - (C) Samples, as applicable; and
 - (D) Names and address of similar projects on which product has been used, and date of each installation.
 - (2) Itemized comparison of the proposed substitution with product specified, listing significant variations.
 - (3) Data relating to changes in project schedule resulting from the substitution of such materials.
 - (4) Any effect of such substitution on separate contracts.
 - (5) List of changes required in other work or products.
 - (6) Accurate cost data comparing proposed substitution with product specified, including the amount of any net change of contract amount, if any.
 - (7) Designation of required license fees or royalties.
 - (8) Designation of availability of maintenance services and sources of replacement materials.
- c. The contractor warrants and represents that in making a formal request for a substitution of material that:
 - (1) The proposed substitution is equivalent to or superior in all respects to the product specified;
 - (2) The same or better warranties and guarantees will be provided for the proposed substitution as for the product specified; and
 - (3) The contractor will coordinate the installation of accepted substitutes into the work and will make such changes as may be required for the work to be complete in all respects.
- d. If the evidence presented by the contractor does not provide a sufficient basis for such reasonable certainty that the proposed substitution or deviations will provide a quality of result at least equal to that required by the contract, the Park District may reject the proposed substitution or deviation without further investigation.

- e. The Park District will judge the design and appearance of proposed substitutes on the basis of their suitability in relation to the overall design of the project, as well as for their intrinsic merits. The Park District will not approve proposed substitutes as equal to items specified which, in the opinion of the Park District, would be unharmonious or otherwise inconsistent with the character or quality of design of the project.
- f. Any additional cost or any loss or damage arising from the substitution of any material or method for those originally specified or shown on the drawings and specifications shall be borne by the contractor, including the cost for design or revision of the drawings and specifications and any additional costs or damages incurred by other contractors, notwithstanding approval or acceptance of such substitution by the Park District, unless such substitution was initiated at the written request or direction of the Park District.
- g. The investigation, review and approval of substitute materials require a minimum of thirty (30) calendar days additional time than specified routine items. The contractor is required to assure that the substitution will not delay the contractor beyond the contract time when submitting (proposing) a substitution. Submittal of a substitution will be deemed rejected without further consideration if the contractor does not accept the delay responsibility in making its submittal. The contractor agrees that no request for a time extension or a claim for a delay or disruption will be made whether or not the substitution is granted.
- h. Approval by the Park District of a substitution of materials must be given pursuant to a Change Order.

F. TESTING LABORATORY LABELS

1. The Park District shall approve all equipment containing electrical wiring before submission of shop drawings and before installation. Submission of shop drawings for any item of equipment shall be construed to mean the Park District's approval has been obtained.
2. All items of equipment furnished and installed or assembled by the contractor under the contract shall be approved and so labeled by one of the following testing laboratories:
 - a. Underwriters' Laboratories (U.L.)
 - b. Canadian Standards Association (C.S.A.)
 - c. Electrical Testing Laboratory of New York (E.T.L.)
3. Any unit comprised of a number of components assembled at the factory and considered custom made shall have a U.L., C.S.A., or E.T.L. label for the entire unit, as well as for each component.
4. All costs in obtaining a Testing Laboratory Label shall be paid for by the contractor with no additional charge to the Park District.
5. Any delays in completion of the work caused by the manufacturer of equipment in obtaining the required Testing Laboratory Labels and Park District approval, will in no way be used as reason for asking for an extension of time beyond the contract time indicated in the contract.

G. INSPECTION AND RESPONSIBILITY

The Park District, by its engineering agencies or agents, shall have the right to inspect any material to be used in carrying out the contract. The contractor shall be responsible for the quality and standards of all materials, components or completed work furnished under the contract. The Park District does not assume any responsibility for the availability of any controlled materials or other materials and equipment required under the contract.

VII. PERSONNEL

A. GENERAL. The contractor shall, immediately upon receiving a fully executed copy of the contract, assign and maintain during the term of the contract and any extension of it, an adequate staff of competent personnel who are fully equipped, licensed as appropriate, available as needed, qualified and assigned exclusively to perform the work. The contractor shall include among its staff such key personnel and other staff as identified below.

B. KEY PERSONNEL

1. **Names and Resumes.** Prior to the commencement of work by the contractor, the contractor shall submit to the Park District, at a meeting scheduled by the Park District, a project staff organizational chart that includes the names and resumes of employees in key positions for the project ("key personnel"). The Park District must approve all employees in key positions.
2. **Changes in Key Personnel.** If any key personnel furnished by the contractor for the project, in accordance with the key personnel Conditions under this Section, should be unable to continue in the performance of assigned duties for reasons due to death, disability or termination, the contractor shall promptly notify the Park District explaining the circumstances. Changes in assignment of key personnel due to commitments not related to the contract are prohibited without the Park District's approval.
3. **Substitute Personnel.** On request by the Park District, the contractor shall furnish to the Park District within seven (7) working days the name of the person substituting for any key personnel unable to continue, together with any information the Park District may require to judge the experience and competence of the substitute person. Upon approval by the Park District, such substitute person shall be assigned to the project, but if the Park District rejects the substitute, the contractor shall have seven (7) days thereafter to submit a second substitute person. Such process shall be repeated for a reasonable period until the Park District approves a proposed replacement.
4. **Unacceptable Personnel.** In the event that, in the opinion of the Park District, the performance or activities of personnel of the contractor assigned to the project is unacceptable, such personnel shall cease to be assigned to the project, and the contractor shall furnish to the Park District the name of a substitute person or persons in accordance with the previous paragraph. Absence of sufficient substitute personnel for the work shall constitute an event of default.

C. CHARACTER OF WORKERS. The contractor shall employ only competent and efficient personnel, and whenever, in the opinion of the Park District, any employee is careless, incompetent, violates safety or security rules, obstructs the progress of the work, acts contrary to instructions or conducts himself or herself improperly, or fails to follow the safety requirement of the contract, the contractor shall, upon request of the Park District, discharge or otherwise remove such employee from the work and shall not employ him or her for work under this contract, except with the written consent of the Park District. The contractor shall not permit any person to enter any part of the site or any buildings connected therewith who is under the influence of intoxicating liquors or controlled substances.

D. QUALIFICATIONS OF WORKERS. The contractor shall insure that no critical facility or utility equipment construction or repair work is performed by personnel with experience levels less than journeyman. However, personnel with lesser experience may serve as helpers. Personnel with experience levels less than journeyman shall be under the immediate supervision of a person with experience level at journeyman or above, as appropriate to the occasion.

E. SUPERVISION

1. **Competent Superintendent.** The contractor shall personally supervise and direct the work using the contractor's best skill and attention, or shall have a competent person at the site at all times to act for it.

2. **Full-Time Superintendent.** If required by the Special Conditions, the contractor shall have a full- time experienced and qualified superintendent assigned to the project.

F. **CONTRACTOR'S PROJECT ENGINEER.** If required by the Special Conditions, the contractor shall have an experienced and qualified project engineer assigned to the project.

VIII. TIME FOR COMMENCEMENT AND COMPLETION & PROJECT SCHEDULE

A. TIME FOR COMMENCEMENT AND COMPLETION

1. **Date of Commencement.** The date of commencement of the work shall be the date set forth in the contract or such other date as may be established at the discretion of the Park District in the Notice to Proceed.
2. **Progress and Completion.** The contractor shall diligently prosecute the work to completion in accordance with the project schedule, including, without limitation, completing portions of the work for which milestone dates are established, if any, on or before the applicable milestone dates, and satisfactory completion of the work on or before the dates established for both substantial completion and final completion.
3. **Time is of the Essence.** It is understood and agreed that TIME IS OF THE ESSENCE FOR THE CONTRACT. The contractor agrees to begin the work covered by the contract in conformity with the Conditions set forth herein and to prosecute the same with all due diligence, so as to complete the entire work under the contract within the calendar days stipulated, after the date for commencement of work, as specified in the Notice to Proceed to the contractor from the Park District. The contractor shall, when necessary, use overtime or multiple shifts and holiday work to maintain the approved project schedule without additional compensation. No extension of the contract time will be allowed unless set forth in a Change Order which has been approved and executed by the Park District. Without the Park District's prior written approval, the contractor shall not suspend any work that may be subject to damage by climatic conditions. Notwithstanding any other terms contained herein, the contractor shall take measures to protect the work and to minimize the impact of such conditions on the progress of the work.
4. **Adequate Work Force and Materials.** The contractor shall maintain an adequate work force and the necessary materials, supplies and equipment to meet the current approved project schedule. In the event that the contractor, in the judgment of the Park District, has an inadequate work force to meet the established project schedule, including any milestone dates, during regular working hours, the contractor, when directed, must increase the work force and or work overtime hours to meet the project schedule at no additional cost. In the event that the contractor refuses to follow the direction of the Park District, the Park District reserves the right after seven (7) days written notice to the contractor, to procure the materials, equipment and labor to proceed with or to complete the work or any portion of it in accordance with the project schedule and charge the cost to the contractor. The Park District's rights under this provision are cumulative to rights under any other Conditions of the contract, including the right to terminate for default or convenience.
5. **No Damages for Delay; Extensions of Time**
 - a. **NO DAMAGES FOR DELAY.** Should the contractor be delayed in the commencement, prosecution or completion of the work by any act of the Park District, including but not limited to a delay, change, addition, deletion or modification in the work or any omission, neglect or fault of the Park District, or by order of the Park District, or anyone employed by the Park District, or by any *force majeure* events, none of which are due to any fault, neglect, act or omission on the contractor's part, then the contractor shall be entitled solely and exclusively to an extension of the contract time. Such extension of the contract time shall release and discharge the Park District, its employees and agents from any and all claims for damages of whatever character, including but not

limited to disruption, changes in sequence, interference, inefficiency, field or home office costs claimed by the contractor on account of the aforesaid or any other cases of delay.

- b. **FORCE MAJEURE EVENTS.** In the event that a *force majeure* event delays the contractor's performance of the work, the contract time may be extended by the Park District to reflect the event of such delay. The contractor must give the Park District written notice within five (5) calendar days of the commencement of such delay. The written notice by the contractor shall comply with the requirement of Section VIII, A., 5., c.
- (1) The project schedule is based on normal weather conditions. Weather significantly more severe than the norm shall apply only as it affects particular portions of the work and operations of the contractor as determined by the Park District. The basis used to define normal weather will be the monthly average of the data showing high and low temperatures and snowfall and rainfall in the Chicago area based on the "normal" data (for the month in which the weather occurred) as compiled by the United States Department of Commerce, National Oceanic and Atmospheric Administration, in their most current report entitled "Local Climatological Data, Annual Summary with Comparative Data" for the month that the time extension is sought. The effects of weather less severe than the norm shall be taken into account in considering the contractor's requests for time extensions for the effects of more severe weather.
 - (2) No extension of the contract time will be granted under this Section for any delay (a) that was caused by the action and/or inaction of the contractor, including but not limited to the fault or negligence of the contractor or its subcontractors; (b) which does not materially adversely affect the contractor's ability to fulfill the requirements of the project schedule; or (c) for which any remedies are provided for or excluded by any other provision of the contract. The Park District's permitting the contractor to proceed with its work, or any part thereof, after such extension, shall in no way operate as a waiver of any other rights on the part of the Park District.
- c. **CLAIMS FOR EXTENSION.** Any claim for extension of the contract time shall be made in writing to the Park District not more than three (3) calendar days after the commencement of the delay; otherwise, the claim shall be waived. Any claim for extension of time shall (1) state the cause of the delay; (2) specifically demonstrate the impact of the delay on the contractor's ability to fulfill the requirements of project schedule; and (3) state the number of days of extension requested. If the cause of the delay is continuing, only one claim is necessary, but the contractor shall report, in writing, the termination of the cause for the delay within ten (10) days after such termination. Any claim for extension of the contract time that does not comply with this provision shall be waived.
- d. **NON-WAIVER OF RIGHTS.** If the contractor does not agree with the Park District's decision on a claim for time extension, the contractor may dispute the decision under Article XVII. However, the contractor may not dispute the decision unless the contractor has complied with the requirements of Article VIII, Section A.5.c, and the time extension request exceeds five (5) days or the liquidated damages to be owed by contractor as a result of such delay exceed \$10,000. For time extension requests of less than five (5) days, or for which the resulting liquidated damages are less than \$10,000, the decision of the Park District is final.
- e. **DELAY OF COMMENCEMENT.** If substantial completion or any milestone date is delayed as a result of the contractor's refusal or failure to begin the work on the date of commencement, as stated in Article VIII, A.1, or refusal or failure to carry the work forward expeditiously with adequate forces, equipment, material or other resources, the contractor shall be liable for liquidated damages for every day the date for substantial completion is exceeded as described in Article XVIII, D, provided, however, that such refusal or failure is not the result of a justifiable delay as stated in Article VIII, Section A.5.b.

- (1) The Park District shall recover liquidated damages by deducting the amount thereof out of any moneys due or that may become due to the contractor, and if said moneys are insufficient to cover said damages, then the contractor or surety shall pay the amount due.
 - (2) Nothing herein contained shall be construed as limiting the right of the Park District to recover from the contractor any and all amounts due or to become due, and any and all costs and expenses sustained by the Park District for improper performance hereunder, repudiation of the contract by the contractor, failure to perform or breaches in any other respect, including but not limited to defective workmanship or materials.
- f. The permitting of the contractor or the surety under the Performance Bond to proceed to complete any work or any part of it after the date of substantial completion or after the date to which the time for substantial completion may have been extended, shall in no way operate as a waiver on the part of the Park District of any of its rights.
- g. In addition to liquidated damages, the contractor shall be liable to the Park District for any other damages sustained as the result of the contractor's refusal or failure to perform the Work.

B. PROJECT SCHEDULE

1. **Format; Submission.** The project schedule shall be in the format of the Critical Path Method (CPM) schedule; except that the Park District, at its sole discretion, may authorize the contractor to provide a bar chart schedule. The contractor shall submit the required project schedule, if so directed by the Park District, within fifteen (15) calendar days after the award of the contract, unless requested by the Park District or required by the contract to provide it earlier. Without limitation of other remedies provided by the contract, failure by the contractor to provide the project schedule within the applicable time period, or failure to provide monthly schedule updates, is grounds for the Park District, in its sole discretion, to withhold monthly progress payments. The project schedule will be used as a guide for verifying monthly estimates of the work completed for which payment is requested.
2. **Requirements.** The project schedule, whether in CPM or bar chart form, shall, at a minimum, indicate the dates for the starting and completion of the various stages of the work, known as milestone dates, including, without limitation, the placing of material orders, delivery of materials and equipment, preparation, submittal and approval of all required submittals, preparation and procurement of material and equipment furnished by the contractor, interface activities performed by others upon which the contractor's schedule depends, all work activities and field construction operations, equipment installation, testing and balancing. At the request of the Park District, the contractor shall provide estimates of worker hours, crew sizes, and proposed number of crews to accomplish each portion of the work. When a CPM schedule is required, the additional requirements of Section D below shall also apply.
3. **Modifications.** The contractor shall comply with the following requirements regarding changes to the project schedule:
 - a. If the contractor proposes to make changes in the approved project schedule, it shall notify the Park District in writing stating the reasons for the change and shall submit to the Park District either a revised CPM schedule or bar chart schedule, as applicable, incorporating such change within ten (10) days after acceptance of proposed change along with a written description of the change to the schedule.
 - b. The Park District may require changes in the approved project schedule in order to secure timely completion of the total project. If the Park District deems such changes necessary, it will notify the contractor of the nature of the changes required. The contractor shall then revise and submit for acceptance all of the affected portion of the project schedule within (10) days after notification by the Park District.

- c. Any possible means of shortening the project schedule at no additional cost shall be brought to the attention of the Park District.
 - d. Notwithstanding any changes made to the project schedule, the contract time shall not be modified other than pursuant to a change order in accordance with Article X hereof.
4. **Attendance at Progress Meetings; Notice.** The contractor shall attend all progress meetings scheduled and conducted by the Park District to discuss progress, scheduling, coordination, requirements, and problems. The contractor shall furnish information in regard to its proposed effort to overcome any delay. This information shall be in a form acceptable to the Park District. In the event that the contractor falls behind schedule, the Park District shall receive written notice from the contractor within five (5) days of the commencement of such delay, including a description of the reasons for the delay and the steps the contractor is taking or will take to reverse the effects of the delay.
5. **Coordination of Deliveries and Subcontractors with Schedule.** The contractor shall coordinate its letting of subcontracts, material purchases, shop drawing submissions, delivery of materials, delivery of submittals, and the sequence of operations with the project schedule, and shall furnish proof of such coordination as may be required by the Park District.
6. **Daily Progress Reports.** When required by the Park District, the contractor and all subcontractors shall prepare and submit daily progress reports on the various parts of the work.
- C. **FAILURE TO PERFORM WORK ON SCHEDULE.** The contractor hereby agrees and acknowledges that any failure to comply with the requirements of this Article VIII will result in the assessment of liquidated damages and other remedies more particularly described in Section D of Article XVIII.

D. ADDITIONAL REQUIREMENTS OF CPM PROJECT SCHEDULES

1. **General.** If the contractor is directed to provide a CPM schedule, the contractor shall prepare a detailed progress schedule consisting of a CPM diagram or diagrams, as specified in this Section D. The format of the network diagram shall utilize a method selected by the Park District showing the proposed starting and completion date for the various stages of the project, including any float time, and shall be prepared such that it can be used to plot actual progress against proposed progress. Unless otherwise expressly approved by the Park District, all the contractor schedules shall be prepared using a scheduling software package selected by the Park District. The contractor's schedule shall be updated and submitted no less than monthly, or more frequently as directed by the Park District, or monthly payment may be withheld.
2. **Diagram Requirements.** Specifications applicable to the Project Schedule and CPM network diagram are as follows:
 - a. Each separate sheet shall include the project name, specification number, the contractor's name, data date and plot date. If multiple diagrams are prepared, each must, in addition to the above, include a descriptive title portion of the work included therein.
 - b. The contractor's schedule shall show the order and interdependency of activities, indicating the sequence in which the work is to be performed as planned by the contractor. The project schedule shall also describe and indicate the critical path.
 - c. The project schedule shall be submitted to the Park District in triplicate, one of which shall be reproducible. A copy of the project schedule shall be submitted on a computer diskette acceptable to the Park District in the selected software format.
 - d. Revisions to the project schedule shall be submitted when the contractor's planned sequence is changed, or when change orders or contract modifications are issued that affect the project schedule, or when directed by the Park District.

- e. The following items define the term “activities” as it pertains to the CPM project schedule:
 - (1) Each activity shall be a unit of work that requires an amount of time for its performance.
 - (2) Each activity shall be a logically separate part of the work defined by an observable start and an observable finish.
 - (3) To establish the scope of an activity for CPM purposes, the contractor shall form a single activity from the largest grouping of related operations that permit a continuous and measurable flow of work.
 - (4) The scope of an activity shall be small enough to permit a reasonable appraisal of its status or as directed by the Park District.
 - (5) Activities should be broken down such that the average activity has a value of approximately \$10,000 with no activities exceeding \$100,000 without the consent of the Park District.
 - (6) Activities of other contractors, if any, that must be completed prior to the start of the contractor’s work or any portion of work shall be included in the project schedule as milestone dates and identified with a designation approved by the Park District.
 - (7) Each activity on the project schedule shall be cost loaded.
- f. The following information shall be furnished on the CPM project schedule for each activity:
 - (1) The Park District will provide a standard format for assigning activity numbers. All activities must be numbered according to this standard.
 - (2) Description of the activity.
 - (3) Duration of the activity in days.
 - (4) The manpower requirements, by craft and man-hours, to perform the activity, if required by the Park District.
 - (5) Each activity shall be identified with early/late start, early/late finish and total float. It is expressly understood that the Park District owns the float.
- g. In addition to the above, any activity whose start or finish date has been specified elsewhere in the contract shall reflect such specified date.

E. COMPLETION OF PUNCH LIST WORK. The contractor agrees to begin punch list work immediately after receipt of the punch list from the Park District. Failure of the contractor or its subcontractors to begin the punch list work prior to the expiration of three (3) working days after receipt of the punch list shall be construed as failure to prosecute the work of the contract. Once begun, the punch list work shall be continuously prosecuted and completed within thirty (30) calendar days from the receipt of the punch list from the Park District. Therefore, any gap of three (3) working days during which punch list work is not being performed shall also be construed as failure to prosecute the work of the contract. The failure to commence or continue the punch list work as provided herein shall result in the charging of liquidated damages for public inconvenience for each day beyond the three (3) working days to begin or continue to complete the punch list work. The Park District shall be the sole judge as to whether such liquidated damages shall be charged. If such liquidated damages are assessed in connection with the performance of punch list work, they shall be added to any previously-determined liquidated damages. In addition, in the case of failure to commence or continue the punch list work as provided above, the Park District may give notice in writing to the contractor and proceed to execute such punch list work as may be deemed necessary, and the cost thereof shall be deducted from the compensation due or which may become due the contractor under the contract. The Park District may additionally exercise any remedies set forth in Article XVIII, Section D, of these General Conditions.

IX. PAYMENTS

A. GENERAL. The contract amount means the amount set forth in the bid response as the cost of the work, which includes the cost of all labor, equipment, materials, permits, licenses, taxes and all other items necessary to properly execute and complete the work in accordance with the terms and conditions of the contract.

B. CONTRACT AMOUNT BREAKDOWN (LUMP SUM AND LUMP SUM LINE ITEM OF UNIT PRICE CONTRACTS)

1. To verify the progress of the work and to facilitate making monthly estimates for partial payments to the contractor, the contractor shall submit to the Park District for review, within fifteen (15) calendar days after the effective date of the contract, a complete detailed itemization or breakdown of the cost of the various portions of the work, including combined material and labor costs, as well as separate breakdowns of material and labor costs for each portion of the work. In the case of a lump sum contract, such cost breakdown of the contract amount shall include a schedule of costs with respect to the various parts of the work, including quantities. The total of these costs shall equal the contract amount. This contract amount breakdown shall be divided so that the Park District can review payments for the various parts of the work.
2. The contract amount breakdown shall be in such form and in such detail and supported with as much evidence as the Park District may require. The contract amount breakdown, as it may be modified or amended by the Park District, shall be used as a basis for each payment request unless it is found to be in error.
3. Should the contractor not furnish a contract amount breakdown in the form as required by the contract, the Park District may, at its discretion, withhold payment until the approved itemized contract amount breakdown has been provided.

C. PROCEDURE FOR MONTHLY PAYMENTS

1. **Monthly Payments.** In cases where the contractor shall proceed properly to perform and complete the work under the contract, progress payments shall be processed on a monthly basis. The first payment period shall end on the Sunday following the date of the commencement of the work.
2. **Required Submittals For Payment.** At least ten (10) days before the date established for each progress payment, the contractor shall submit an original and three (3) copies of each of the following to the Park District:
 - a. **PAYMENT REQUEST.** The contractor shall submit a payment request for work completed in accordance with the contract amount breakdown. Such payment request shall be supported by such data substantiating the contractor's right to payment as the Park District may require, such as copies of requisitions from subcontractors and material suppliers and reflecting retainage if provided for in the contract. Such payment request may include requests for payment on account of changes in the work that have been properly authorized by Construction Change Directives but not yet included in Change Orders or Contract Modifications. Such payment requests may not include requests for payment of amounts the contractor does not intend to pay to a subcontractor or material supplier because of a dispute or other reason. The project's architect/engineer shall certify that the work covered by each payment request is completed to the degree stated in that request, and that the work completed conforms to the specifications and contract documents.
 - b. **SWORN STATEMENT.** The contractor shall submit a sworn statement (signed by the contractor and notarized). The statement, in the form designated by the Park District, must list the amount earned by the contractor and each subcontractor and supplier during the payment request period.

- c. **WAIVERS OF LIEN.** The contractor shall deliver to the Park District all necessary waivers of lien (1) from all subcontractors and all materialmen supporting the dollar amount paid to them in connection with the immediately preceding payment (or supporting the full amount due them in connection with the final payment), and (2) in connection with the amount currently requested for the contractor's own work. All such documentation shall be in form and substance satisfactory to the Park District, shall comply with the mechanics lien laws of the State of Illinois and shall clearly identify the amount of the payment and period covered by such waiver.
 - d. **AFFIDAVIT.** The contractor shall submit a sworn affidavit for each subcontractor and supplier who worked during the payment request period. The affidavit must include the Payment Request number, period covered, and the total amount invoiced by the subcontractor and supplier to date.
 - e. **MBE/WBE UTILIZATION REPORT.** The contractor shall submit a status report of MBE/WBE subcontractor payments in the form required by the Park District.
 - f. **CERTIFIED PAYROLLS.** The contractor shall submit contractor and subcontractor payrolls to the Park District for the relevant payment period, certified by the contractor and all the subcontractors working on the site. All the payrolls shall be identified with the contractor or subcontractor's NAME, PROJECT DESCRIPTION and PROJECT, and shall be sequentially numbered. The contractor and subcontractors shall submit certified payrolls until all the work by the contractor or subcontractor is completed. If there are periods of no work by a contractor or subcontractor, a payroll labeled "NO WORK" shall be submitted. The final payroll shall be clearly labeled "FINAL." Certified payrolls are required to assure EEO compliance. Race, work classification, and gender should be clearly marked for each employee on the certified payroll along with all additional information required by the Park District. An employee's address should appear every time his or her name appears on the payroll. The contractor shall submit the certified payrolls and additional information regarding EEO compliance by providing a Payroll Canvassing Summary Report in the form required by the Park District. The Park District shall have no obligation to pay any payment at any time unless all of the foregoing items are submitted.
3. **Payments to Subcontractors.** The contractor must pay all subcontractors and suppliers providing a labor or materials no later than seven (7) calendar days after receipt of payment from the Park District. Whenever the Park District shall have reason to believe that the contractor has neglected or failed to pay any subcontractors for work performed or for materials furnished to the site and/or used in or about the work, the Park District may order and direct that no further payments be made under the contract until the Park District shall be satisfied that such subcontractors, material suppliers and employees working on the project have been fully paid, and any reserve sums shall not be payable until the contractor shall have satisfied the Park District that all subcontractors, material suppliers, workers and employees have been fully paid.
4. **Remedy if Subcontractors Are Not Paid.** The Park District shall notify the contractor, by notice personally served or by mailing a copy thereof to the contractor at the address set forth in the contract, that no further payment requests will be issued or payments made until subcontractors have been paid in full for the work performed or the deliveries made to date. The Park District may then apply any money due or that may become due under the contract to the payment of subcontractors, without other or further notice to contractor. Failure of the Park District to retain and apply such moneys, or of the Park District to order or direct that no payment requests shall be issued or further payments be made shall not, in any way, affect the liability of the contractor or of its surety to the Park District or to any subcontractors, with respect to any bond given in connection with the contract or such subcontracts nor shall the paying over of such reserve sum without subcontractors being first paid affect any such liabilities.

D. PAYMENTS WITHHELD

1. **Bonds and Certificates of Insurance.** Until the contractor has provided to the Park District certificates of insurance, bonds and other evidence of compliance by the contractor with all the requirements of the contract for insurance and bonds, no payment shall be made to the contractor. Further, no payments on the basis of work performed by subcontractors shall be paid until copies of all bonds required and any certificates of insurance required of the subcontractors by the contract have been filed with the Park District.
2. **Disagreement.** The Park District may decline a Payment Request if in its opinion the payment request is not adequately supported. If the contractor and Park District cannot agree on a revised amount, the Park District shall process the Payment Request in the amount it deems appropriate.

E. PAYMENT FOR STORED MATERIAL

1. **Material Stored On-Site.** Payment for material stored on the site for subsequent incorporation in the work shall be made upon the fulfillment of the following:
 - a. A paid invoice from the supplier showing the detailed cost of the material. A waiver from the supplier in place of a paid invoice is acceptable if the waiver is for the correct amount and is properly completed, signed and notarized.
 - b. Inspection tickets for all the material stored.
2. **Material Stored Off-Site.** Payment for material stored off-site, if authorized in the contract, shall be made upon the fulfillment of the following requirements:
 - a. Payment for materials, equipment and associated fabricated components stored in a location away from the site shall be made at one hundred percent (100%) of the cost set forth in a valid invoice, less retainage. Such invoice shall indicate the unit quantity, description of the material or equipment, and costs. Before any such payment is made, the contractor shall furnish the Park District with a certified statement giving the exact location of the materials or equipment, and stating that (1) such materials are suitably stored and maintained at a bonded, secure and environmentally appropriate location agreed upon and subject to such conditions required or established by the Park District; (2) the contractor has compliance with procedures satisfactory to the Park District to establish the Park District's title to such materials or otherwise protect the Park District's interest therein including but not limited to insurance, storage and transportation to the site for such materials stored off-site, all as the Park District may reasonably require; and (3) the contractor represents and warrants that the materials, equipment and associated fabricated components will not be diverted away from the work. The risk of loss for such materials stored off-site shall remain with the contractor. The contractor shall furnish the Park District with properly executed bills of sale and a certificate of insurance coverage for the stored material upon which payment is requested.
 - b. Immediately upon receipt of payment for such material, the contractor shall prepare and execute any and all documents required to transfer title to the Park District, including without limitation any Uniform Commercial Code documentation necessary to perfect transfer to title.
 - c. All material and work covered by payments made shall thereupon become the sole property of the Park District.

F. FINAL PAYMENT

1. **Completion.** When the contractor has achieved final completion of the work, the contractor shall notify the Park District in writing that the work will be ready for final inspection and testing on a definite date. Notice shall be given at least seven (7) calendar days in advance

of said date. If the Park District concurs that the work will be ready for inspection and testing on the date given, that Park District and other parties will make such inspection and testing as is convenient for all parties, but within a reasonable period of time. The scheduling of the inspection and testing to determine whether the work has achieved final completion shall not relieve the contractor of its responsibilities under the contract. The contractor is required to furnish access to the site for such inspection. If the work is found to have achieved final completion, the Park District shall release the retainage.

2. **Acceptance of Payment Releases the Park District.** The acceptance by the contractor of the final payment mentioned above shall operate as and shall be a release of the Park District from all claims or liability under the contract for anything done or furnished or relating to the work under the contract, or for any act or neglect of the Park District related to or connected with the contract.

G. RETAINAGE

1. On all contracts involving periodic payments, a reserve of ten percent (10%) of the contract amount shall be retained (the "retainage") until final completion; provided, however:
 - a. The retainage may be reduced by the Park District where the remaining work is solely aftercare landscaping, in which case the reserve shall be equal to ten percent (10%) of the value of the landscaping portion of the contract; or
 - b. The retainage may be reduced by the Park District where the amount of the value of the remaining work is less than five percent (5%) of the contract amount, in which case the retainage may be reduced to an amount equal to double the value of the remaining work, but not less than two percent of the contract amount.
2. The Park District may, at its sole discretion, (a) decline to release any retainage held and/or (b) increase the amount of the retainage held, if the Park District considers the progress of the work to be inadequate to achieve final completion of the work in accordance with the project schedule. Upon final completion of the work, and in accordance with the contract, the Park District shall release any retainage that may be due to the contractor.
3. The Park District may decline to process any payment or may rescind in whole or in part any approval previously made to such extent as may be necessary, in its opinion, because of any failure to perform any obligation under the contract, including, but not limited to:
 - a. Failure or refusal to provide the Park District the required initial schedule for the work or monthly schedule updates as required by the contract;
 - b. Defective work not remedied;
 - c. Failure of the contractor to make payments properly to subcontractors, employees, or material suppliers for labor, materials or equipment, or
 - d. Reasonable evidence that the work is not achieving progress as required in the project schedule as determined by the Park District, and will not be completed within the contract time, or failure to carry out the work in accordance with the contract.
4. **Payment of Retainage at Final Completion.** The retainage shall be paid when the contractor has achieved final completion with respect to all remaining work and punch list work and submits to the Park District a sworn statement that states the following:
 - a. All payrolls, bills for materials and equipment, and all other indebtedness connected with the work for which the Park District might in any way be responsible, have been paid or otherwise satisfied;
 - b. The contractor has delivered to the Park District duly executed and notarized final lien waivers covering all of the work to be performed under the contract, on the form

required by the Park District entitled "General Release and Lien Waiver and General Guarantee Forms;"

- c. All claims made by subcontractors of any tier, material suppliers, and others, against the contractor, the Park District, or the consultant have been resolved;
- d. The warranties and guarantees required by the contract have been provided to the Park District;
- e. All warranties and guarantees are in full force and effect.
- f. The surety's written consent, duly executed by its authorized representative, authorizing the direct payment to the contractor of the final payment;
- g. The contractor agrees that acceptance of final payment shall constitute a general release of the Park District, its agents, officials and employees, of all other claims of liability for anything done or furnished or relating to the work of the contract or for any act or neglect of the Park District or its agents officials and employees relating to or connected with the contract;
- h. As-built documentation, including but not limited to As-Built Contract Drawings, As-Built Shop Drawings and Operation and Maintenance Manuals, have been provided to the Park District; and
- i. All other documents to be delivered to the Park District under the contract have been provided.

H. NO WAIVER OF LEGAL RIGHTS

1. The Park District shall not be precluded or stopped by the measurement, estimate, or certificate made either before or after the final completion, acceptance of the work and/or payment therefore, from showing the true amount and character of the work performed and materials furnished by the contractor, or from showing that any such measurement, estimate, or certificate is untrue or incorrectly made, or that the work or materials do not conform in fact to the contract. The Park District shall not be precluded or stopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the contractor and the surety such damages as it may sustain by reason of contractor's failure to comply with the terms of the contract.
2. Neither the acceptance of the Park District, or any representative of the Park District, nor any payment for or acceptance of the whole or any part of the work nor any extension of time, nor any possession taken by the Park District, shall operate as a waiver of any portion of the contract, or of any power herein reserved or any right to damages herein provided. A waiver of any breach of the contract shall not be held to be a waiver of any other or subsequent breach.

X. CHANGES IN THE WORK

A. RIGHT TO CHANGE WORK. The Park District reserves the right to order, in writing, at its discretion, changes to the work or the contract time without prior notice to the surety, and the contractor is obligated to perform the work described in that Change Order. Changes may consist of additions, deletions, or other revisions to the work, with adjustment being made, at the discretion of the Park District, to the contract amount and/or the contract time, as appropriate..

B. CONSTRUCTION CHANGE DIRECTIVES

1. A construction change directive is a written order prepared by the Park District directing a change in the work, and stating a proposed basis for adjustment, if any, in the contract

- amount or contract time, or both. The Park District may, by construction change directive, and without invalidating the contract, order changes in the work within the general scope of the contract, consisting of additions, deletions or other revisions, with the contract amount and/or contract time being adjusted accordingly.
2. A construction change directive shall be used in the absence of total agreement on the terms of a Change Order.
 3. If the construction change directive provides for an adjustment to the contract amount, the adjustment shall be based on one of the methods set forth below in Article X, D.
 4. Upon receipt of a construction change directive, the contractor shall promptly proceed with the change in work involved and advise the Park District of the contractor's agreement or disagreement with the method, if any, provided in the construction change directive for determining the proposed adjustment in the contract amount and/or contract time.
 5. A construction change directive signed by the contractor indicates the agreement of the contractor therewith, including adjustment in contract amount and/or contract time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.
 6. If the contractor does not respond promptly or disagrees with the method of adjustment in the contract amount, the method and the adjustment shall be determined by the Park District on the basis of reasonable expenditures and savings of those performing the work attributable to the change, including, in case of an increase in the contract amount, a reasonable allowance for overhead and profit. In such case the contractor shall keep and present, in such form as the Park District may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the contract documents, costs for the purposes of this subparagraph X, B.6 shall be limited to the following:
 - a. Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and worker's or workmen's compensation insurance;
 - b. Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
 - c. Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the contractor or others;
 - d. Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes related to the work; and
 - e. Additional costs of supervision and field office personnel directly attributable to the change.
 7. Pending final determination of cost to the owner, amounts not in dispute may be included in Payment Requests. The amount of credit to be allowed by the contractor to the Park District for a deletion or change that results in a net decrease in the contract amount shall be actual net cost. When both additions and credits covering related work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.
- C. CONTRACTOR'S REQUEST.** There shall be no increase in contract amount or contract time unless a written Change Order is duly executed and which satisfies the other requirements set forth in this Article X, at least five (5) days before the commencement of any work upon which the Change Order is based. Only a written form approved by the Park District and authorized by the Park District, copies of which are available from the Park District, is to be used in connection with the contract; it is the only acceptable form of Change Order for the purposes of this Article. Furthermore, the contractor agrees to follow all procedures for change orders contained in the Code of the Chicago Park District, Chapter XI, as though fully set forth herein. No employee of

the Park District other than the General Superintendent shall have the power to approve any change order of any nature unless authorized to do so pursuant to II.B of these General Conditions, and the contractor agrees not to rely upon the approval of any employee(s) other than the General Superintendent or anyone authorized pursuant to II.B of these General Conditions.

D. CHANGE REQUIREMENTS. The amount to be paid by the Park District for changes in the work or the contract time shall be made in accordance with Sections 1 through 5 below.

1. **Unit Price Basis.** Should changes in the work result in an increase or decrease in the quantities of unit price work to be performed, all additions to work of the type that appears in the contract as unit price shall be paid for at the contract unit prices. Decreases in quantities included in the contract shall be deducted from the contract at the prices specified therein. No allowance will be made for delays or anticipated profits.
2. **Proposal Basis.** If there are no unit prices for the changes in the work, the payment may be based upon a price agreed to by the Park District and the contractor. The starting point for negotiation between the Park District and the contractor shall be a proposal submitted by the contractor. Any proposal submitted in writing by the contractor for consideration for changes to be done shall be broken down into segments of cost as follows:
 - a. **LABOR.** Number of proposed labor hours multiplied by the base wage and fringe benefits as allowed by the applicable labor union. A reasonable amount, not to exceed fifteen percent (15%), will be added to this amount to cover overhead and profit. All indirect costs shall be part of the overhead, including supervision, engineering and other technical personnel.
 - b. **INSURANCE AND PAYROLL TAXES.** Cost for property damage, liability, and worker's compensation insurance premiums, unemployment insurance contributions and social security taxes on the extra work, to which a reasonable amount, not to exceed ten percent (10%), will be added. The Contractor shall furnish satisfactory evidence of the rate or rates paid for such insurance and taxes.
 - c. **MATERIAL.** Cost of materials (accepted by the Park District and incorporated into the work in accordance with the contract) plus a reasonable amount, not to exceed ten percent (10%), to cover profit and handling charges of contractor performing the work. Cost of materials shall be supported by quotations from the suppliers.
 - d. **EQUIPMENT.** Number of proposed equipment hours multiplied by the rate as allowed by the latest revision of the "Schedule of Average Annual Equipment Ownership Expense With Operating Cost" as issued by the Illinois Department of Transportation (IDOT), for the period that said machinery and equipment are to be used on such work, to which no percent shall be added. Where machinery and equipment are not listed in this schedule or in the "AED Compilation of Rental Rates," then the rates will be determined by the Park District, after reviewing all available records of the contractor or other information concerning the expense of operating that type of equipment.
 - e. **COST FOR INCREASE IN PERFORMANCE BOND.** The contractor shall furnish the Park District written documentation, from the surety, of the rate or rates applicable for additional bonding for the contract. These rate/rates will be applied to all the changes increasing or decreasing the contract amount. No bonding costs will be allowed for subcontractors. In the absence of written documentation from the surety, a percentage of the total change, as determined by the Park District, will be added or subtracted to cover the increase or decrease of the cost of the bond.
 - f. **ADMINISTRATIVE COSTS.** When work is to be performed by subcontractor, include as administrative costs an amount equal to five percent (5%) of the first \$10,000 and one percent (1%) of any amount over \$10,000 of the total approved costs of such work. The subcontractor, however, is not allowed any additional markup if it sublets its work. The use of a subcontractor and the identity of the subcontractor will require the approval of the Park District. All subcontracted costs must be supported by proposals from the subcontractors performing the work. The subcontractor's proposal must be

broken down into its various parts of work as described in clauses (a) through (d) above.

3. **Time and Material Basis.** If the Park District and the contractor cannot agree on a price based on a proposal, the work shall be paid for on a time and material basis. Time and material work will be paid for as follows:
- a. **LABOR.** For all hourly wage labor and hourly wage foremen in direct charge of the specific operations, the contractor shall receive the prevailing rate of wage for every hour that said labor and foremen are actually engaged in such work. No additional allowance will be made for general superintendence.
 - b. **BENEFITS.** The contractor shall receive the actual costs paid to, or on behalf of, workmen for health and welfare benefits, pension fund benefits or other benefits, when such amounts are required by collective bargaining agreements or other employment contracts generally applicable to the classes of labor employed on the work.
 - c. **OVERHEAD AND PROFIT.** A reasonable amount, not to exceed fifteen percent (15%) of the costs specified in clauses (a) and (b) above, will also be paid to the contractor for overhead and profit.
 - d. **DOCUMENTATION REQUIRED.** No payment will be made for labor performed on a time and material basis until the contractor has furnished the Park District with itemized statements of the labor cost as follows:
 - (1) Name, classification, date, daily hours, total hours, rate and extension for each laborer and foreman.
 - (2) Payrolls or certified copies thereof, pertinent to the work for which payment is requested. The payroll records shall contain the name, address and social security number of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid. The time and material bills will be audited and corrected against the certified payrolls, falsification of which is an offense punishable by law.
 - e. **INSURANCE AND PAYROLL TAX.** For property damage, liability, and workmen's compensation insurance premiums, unemployment insurance contributions and social security taxes on the time and material work, the contractor shall receive the actual costs, to which a reasonable amount, not to exceed ten percent (10%), will be added. No payment will be made for insurance and payroll taxes until the contractor has furnished satisfactory evidence of the rate or rates paid for such insurance and tax.
 - f. **MATERIALS INCORPORATED INTO WORK.** For materials accepted by the Park District and used as an integral part of finished work, the contractor shall receive the actual costs of such materials delivered on the site, including transportation charges paid by the Park District (exclusive of machinery rentals as hereinafter set forth), as shown by original receipted bills, to which fifteen percent (15%) will be added for materials totaling \$10,000 or less and ten percent (10%) for materials totaling over \$10,000.
 - g. **MATERIALS NECESSARY TO WORK BUT NOT INCORPORATED.** The contractor will be reimbursed for any material used in the construction of the work, including, without limitation, sheeting, falsework form lumber, burlap or other materials for curing, which are not an integral part of the finished work. The amount of reimbursement shall be agreed upon in writing before such work is begun, and no percent shall be added. The salvage value of such materials shall be taken into consideration in the reimbursement agreed upon.
 - h. **ITEMIZED STATEMENT FOR MATERIALS.** No payment will be made for material costs until the contractor has furnished itemized statements of the material costs as follows:

- (1) Quantities of materials, prices and extensions.
- (2) Material transportation costs, supported by receipted invoices.
- (3) Statements shall be accompanied and supported by receipted invoices for all materials used. However, if materials used for work priced on the time and material basis are not specifically purchased for such work but are taken from the contractor's stock, then in lieu of the invoices, the contractor shall furnish an affidavit certifying that such materials were from its stock, that the quantity claimed was actually used, and that the price and transportation claimed represent the actual cost to the contractor. The price quoted for such material must be reasonable and acceptable as per the normal industry practice.

- i. **EQUIPMENT.** The contractor will be paid for all machinery and equipment (other than small tools as currently defined by the Illinois Department of Transportation) used on the work in accordance with the latest revision of "Schedule Of Average Annual Equipment Ownership Expense With Operating Costs" as issued by the Illinois Department of Transportation, for the period that said machinery and equipment are in use on such work to which no percent shall be added. Where machinery and equipment are not listed in this schedule, the Park District will determine the rates after reviewing all available records of the contractor or other information concerning the expense of operating that type of equipment. Where the Park District authorizes idle time for equipment, it shall be paid at a rate not to exceed fifty percent (50%) of the rates described above.
- j. **RENTED EQUIPMENT.** When equipment is rented, the contractor shall receive actual rental cost as shown by original receipted bills.
- k. **ITEMIZED STATEMENTS FOR EQUIPMENT.** No payment will be made for equipment unless designations, dates, daily hours, rental rates and extensions for each unit of machinery and equipment are shown on the itemized statement of time and material work.
- l. **BOND.** The Park District will pay the contractor the actual increase in cost of its Performance Bond. The contractor shall obtain from the surety and deliver to the Park District, written documentation of the rate or rates applicable for additional bonding for the contract. Such rate or rates will be applied to all of the changes increasing or decreasing the contract amount. No bonding costs will be allowed for subcontractors. In the absence of written documentation from the surety, a percentage of the total change, as determined by the Park District, will be added or subtracted to cover the increase or decrease of the cost of the bond.
- m. **ADMINISTRATIVE COSTS.** When work is performed by an approved subcontractor, the contractor shall receive as administrative costs an amount equal to five percent (5%) of the first \$10,000 and one percent (1%) of any amount over \$10,000 of the total approved costs of such work. The subcontractor, however, is not allowed any additional markup if it sublets its work. The use of a subcontractor and the identity of the subcontractor requires the prior approval of the Park District. All subcontracted costs must be supported by invoices from the subcontractors performing the work. The subcontractor's invoices must be submitted in the form described in clauses (a) through (d) above.
- n. **DOCUMENTATION.** For additional work performed on a time and material basis, the contractor shall each day submit to the Park District detailed and complete records of the labor, material, equipment and other costs relating to any force account work performed on the previous day. Both the contractor and the Park District shall sign these daily extra work reports.

4. Base Contract Work On a Premium Time Basis

- a. **PREMIUM RATES.** Premium time costs will be paid for contract work performed outside of regularly scheduled working hours only if expressly directed in writing by the

Park District prior to commencing such work. Compensation, when authorized, shall cover only the direct cost of the premium portion of the time involved and shall be without any charge for insurance. No payment will be made for union fringe benefits on the premium portion of the time unless expressly required by union agreement. Taxes that are attributed to the premium portion of the time will be paid. If taxes are charged by the contractor, the Park District may require the contractor to supply verification that the employees' Social Security Tax, Federal Unemployment tax and State Unemployment Tax limits have not been exceeded.

- b. **OVERHEAD AND PROFIT.** A reasonable amount, not to exceed seven percent (7%), of the sum of the premium portion of the work, plus taxes, will also be paid the contractor performing the work in order to cover overhead and profit, which includes supervision, engineering and other technical personnel. There will be no additional payment for supervision. All indirect costs shall be part of the overhead, including supervision, engineering and other technical personnel.
 - c. **SUBCONTRACT WORK.** If the contractor enters into a subcontract he will be allowed an additional two percent (2%) of the subcontractor's premium time billing to cover the contractor's supervisory and related expenses on subcontract operations. The subcontractor is not allowed the additional two percent (2%) if it sublets its work.
 - d. **DAILY WORK REPORTS.** Daily work reports for the premium time hours shall be kept and signed daily by the contractor. The reports must indicate the time of day when the work was performed and the wage rate differential that will be charged. Billings must reflect hours reported on daily work reports.
- 5. Miscellaneous**
- a. **FIELD LABOR.** For the purposes of this Article X, any business entity that employs field labor and performs work on the site is defined as a subcontractor. (suppliers/deliverers of materials are not considered field labor.)
 - b. **NO FIELD LABOR.** When the extra work involves only supply of material without any field labor at the job site, the supplier, for the purposes of this Article, will be considered as a subcontractor and the mark up as specified in Article X, Section D. 3. f. will apply.
 - c. **EXPENSES INCURRED BY THE PARK DISTRICT.** Upon written request of the Park District, the contractor shall pay the bills that are the responsibility of the Park District. The contractor will be reimbursed for the actual amount paid out, to which will be added a mark-up as specified in Section D.3 above.
- E. CONTRACTOR'S RELEASE.** A Change Order signed by the contractor and the Park District indicates the contractor's agreement with the final Conditions of the Change Order, including the adjustment in the contract amount and/or the contract time. The fully executed Change Order shall be deemed a modification of the contract and shall constitute a full release of the Park District from granting any additional compensation or extension of time arising or resulting from the work covered by the Change Order. The release language on the Change Order will state, "By execution of the Change Order, the contractor accepts the compensation and/or time extension provided in full accord satisfaction for this Change Order, and expressly waives, releases and relinquishes any rights, legal or equitable, to make any request, claim or demand for any additional compensation, including but not limited to direct, indirect, overhead, home or field office costs, profit, or damages, disruptions and impact, resulting from the work covered by such Change Order."
- F. CHANGE DISPUTES.** If the contractor and the Park District are unable to agree on the price and or time adjustment in connection with a change, once the Park District determines the final price and time extension, the contractor may dispute the Park District's determination by appeal to the Park District's General Superintendent, pursuant to Article XVII of these General Conditions . Notwithstanding a dispute relating to a Change Order, the contractor agrees to commence and continue work in accordance with the Change Order during the pendency of the dispute and the failure to do so will be treated as an event of default.

- G. PARK DISTRICT AUDIT.** The Park District's duly authorized representative shall have access, at all reasonable times, to all the contractor's personnel, books, records, correspondence, instructions, plans, drawings, receipts, vouchers and memoranda of every description pertaining to changed work for the purpose of auditing and verifying the contractor's net cost of a Change Order or for any other reasonable purpose. The Park District's representative shall have the right to reproduce any of the aforesaid documents. The contractor shall preserve, and shall cause its subcontractors to preserve, all the aforesaid documents for a period of five (5) years after the completion and acceptance or termination of the work.
- H. COMPLIANCE WITH MBE/WBE SPECIAL CONDITIONS.** All requirements described in the MBE/WBE Special Conditions, and all calculations made pursuant thereto, shall be based on the contract as it may have been modified by Change Orders.

XI. SHOP DRAWINGS, PRODUCT DATA & SAMPLES

A. CONTRACTOR'S RESPONSIBILITIES & SUBMITTAL PROCEDURES

1. Providing shop drawings, product data and samples is part of the scope of the work under the contract and shall be done at the expense of the contractor and to the satisfaction of the Park District.
2. The number of shop drawings, product data and samples to be submitted will be determined by the Park District and indicated in the specifications.
3. The contractor shall submit to the Park District such shop drawings, product data, samples and other data required for the work involved under the contract in accordance with the approved project schedule and the form designated by the Park District entitled "Index and Schedule for Submission of Shop Drawings and Samples" (hereafter "Index and Schedule").
4. The Index and Schedule shall be updated on the same schedule as the project schedule or as required by the Park District, and shall include a list of drawings, product data samples and other data to be reviewed, a schedule of proposed submittal dates and the date of manufacture, construction or erection. The dates listed in the schedule shall allow sufficient time for review and processing by the Park District as well as review by the consultant, and, if necessary, the re-submittal of shop drawings or other data before the shop drawings and samples are needed by the contractor. No extensions of time will be granted to the contractor because of its failure to have shop drawings, samples and product data submitted in ample time to allow for review.
5. The contractor's submission of all shop drawings, samples and product data to the Park District for review shall not relieve the contractor from its responsibility in preparing and submitting proper shop drawings, samples and product data in accordance with the contract. By submitting shop drawings, product data and samples, the contractor represents that it has determined and verified all materials, field measurements, field conditions and quantities related thereto, or will do so, and that it has checked and coordinated the information contained within such submittals with the requirements of the contract.
6. All submittals shall be transmitted to the Park District and shall include:
 - a. DATES AND REVISION DATES
 - b. PROJECT TITLE AND SPECIFICATION NUMBER
 - c. THE NAMES OF:
 - (1) Architect/engineer (if any)
 - (2) Consultant (if any)
 - (3) Contractor

- (4) Subcontractors
 - (5) Suppliers
 - (6) Manufacturers
- d. IDENTIFICATION OF PRODUCT(S) OR MATERIAL(S)
 - e. RELATION TO ADJACENT STRUCTURES OR MATERIALS
 - f. FIELD DIMENSIONS, CLEARLY IDENTIFIED AS SUCH
 - g. SPECIFICATION SECTION NUMBER AND PARAGRAPH
 - h. APPLICABLE STANDARDS, SUCH AS ASTM NUMBER OR FEDERAL SPECIFICATION
 - i. A BLANK SPACE, MINIMUM OF 6 INCHES BY 6 INCHES, FOR THE REVIEW STAMP
 - j. IDENTIFICATION OF DEVIATIONS FROM THE CONTACT; IF ANY
 - k. OTHER PERTINENT DATA
 - l. CONTRACTOR'S STAMP OF APPROVAL
7. Any submittal that in the Park District's opinion is not complete and in proper form will be returned to the contractor without review. Submittals that are not complete or not in proper form include, but are not limited to, those which are not: clear and legible; collated into sets; complete; free of errors; checked by the contractor; representative of the actual material or assembly; or bearing the contractor's approval stamp or other mark showing review and approval by the contractor. The contractor shall not submit as shop drawings duplicates or reproductions of any documents issued by the Park District.
 8. The contractor shall submit not less than the following quantities, unless a greater number is specified herein or is required in the Specifications or by the Park District:
 - a. SHOP DRAWINGS: one (1) reproducible transparency and six (6) opaque copies.
 - b. PRODUCT DATA: six (6) copies.
 - c. SAMPLES: four (4) samples
 9. Prior to submitting shop drawings, product data or samples, the contractor shall notify the Park District in writing if there are any deviations in the submittal from the drawings or specifications. If the Park District (a) rejects deviations from the drawings and specifications or (b) determines that evaluation of the deviations delays the progress of work, any delay caused will not be compensable by a time extension.

B. REVIEW BY THE PARK DISTRICT

1. The Park District shall review submittals for compliance with the contract. In reviewing submittals, the Park District will not verify dimensions and field conditions. Any review shall not be construed as a completed check nor shall it relieve the contractor, subcontractor, manufacturer, fabricator or supplier from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the contract, nor shall it relieve it from responsibility for errors of any sort in shop drawings, samples and product data nor from responsibility for proper fitting of the work nor from the necessity of furnishing any work required by the contract which may not be indicated on shop drawings when reviewed. The contractor shall be solely responsible for any quantities that may be shown on the shop drawings. The Park District's review of a specific item shall not indicate approval of an

assembly of which the item is a component. The Park District shall endeavor to return submittal reviews to the contractor within 10 working days.

2. The contractor shall modify and re-submit the submittals, as required, until a review permitting fabrication is obtained. The contractor shall not fabricate products or begin work that requires a reviewed submittal until the return of the submittal with a stamp authorizing the work to be done (or the ordering or delivery of any material, equipment or system). The stamps are indicated below in Article XI, Section B.3 of these General Conditions.
3. After review by the Park District, the Park District will return one set of reproducible shop drawings that will have been stamped by the Park District as follows:
 - a. REJECTED indicates that product data, shop drawings or samples must be revised and resubmitted. Submittals marked in this manner shall not be released for fabrication or construction.
 - b. RESUBMIT FOR RECORD indicates that the submittal is accepted provided the corrections noted are made. The contractor may proceed with the work for that submittal provided that the contractor is incorporating the Park District's comments and that corrected shop drawings are resubmitted and have received a "No Exceptions" or "Exceptions as Noted" stamp.
 - c. EXCEPTIONS AS NOTED indicates that the submittal is subject to the corrections noted. The contractor may proceed with the work for that submittal provided that the contractor is incorporating the Park District's comments.
 - d. NO EXCEPTIONS indicates acceptance. No changes shall be made on reviewed submittals.
4. If the shop drawings require revision, the contractor shall notify the Park District and all appropriate parties, in writing, that the reviewed set has been withdrawn, and the contractor shall submit the substitute set in accordance with the above procedures.
5. Submittals that are rejected or require revisions shall be corrected and resubmitted to the Park District while maintaining the approved project schedule.
6. The contractor shall submit not less than four (4) samples of materials to the Park District for approval as indicated in the specifications. In case a considerable range of color, graining, texture or other characteristics may be anticipated in finished products, a sufficient number of samples of the specified materials shall be furnished by the contractor to indicate the full range of such characteristics which will be present in the finished products; and such product delivered or erected without submittal and review of the full range of samples shall be subject to rejection. All samples shall (a) be properly labeled to indicate type of material submitted, intended use, manufacturer's name, project name, and contractor's, subcontractor's and suppliers' names; (b) include an indication of compliance requirements; (c) include the specification section number for identification of each item; and (d) be accompanied by a letter of transmittal containing similar information. Each tag or sticker shall have clear space for the stamps of the contractor and the Park District. Samples will be inspected and reviewed. Notice of the result of the review will be provided to the contractor with one of the stamps indicated in Article XI, Section B.3. Rejected samples will be returned. Accepted samples will be retained by the Park District and shall become the property of the Park District. Where color samples are required to be submitted, color samples shall be submitted on the actual material that will finally be installed in the work.
7. After review by the Park District, two (2) sets of product data stamped by the Park District as previously described in Article XI, Section B.3 will be returned to the contractor.
8. When reviewed by the Park District, shop drawings, samples and product data shall become a part of the contract, and the materials and equipment furnished shall be in conformity with the same, provided that the review of such submittals shall in no way relieve the contractor

from its responsibility for the proper installation and performance of any material or equipment or from his liability to replace the same should it prove defective.

C. RECORD SHOP DRAWINGS

1. After review of the shop drawings and other data, and upon completion of the work, the contractor shall furnish record shop drawings to the Park District. Record shop drawings shall be submitted for all information that was reviewed as shop drawings except information as specified under "Instructions and Parts List". Record shop drawings shall be on sheets of mylar or other reproducible material acceptable to the Park District and shall have legible quality and shall be of a permanent nature. Record shop drawings shall be submitted in the same size as the final reviewed shop drawings.
2. Materials sufficiently extensive to bind shall be submitted in the form of bound brochures in the number required by and to the Park District.

XII. PROJECT RECORD DOCUMENTS & PROJECT ACCOUNT RECORDS

A. AS-BUILT DOCUMENTS

1. **Records.** As work progresses, the contractor and the subcontractor for each trade or division of work under the direction of the contractor shall keep a complete and accurate record of the following:
 - a. Changes and deviations between the work as shown on the drawings, and the work as actually installed, as indicated on the shop drawings.
 - b. The specific locations of piping, valves, ductwork, equipment, and other such work which were not located on, or changed location from, those indicated on the drawings and shop drawings.
 - c. Equipment schedules indicating manufacturer's names and model numbers.
2. **Changes.** Changes and deviations and other records shall be neatly and correctly recorded on blue line prints of the drawings and the specifications and shop drawings affected, with appropriate supplementary notes. This record set of drawings, shop drawings and specifications shall be kept at the site for inspection by the Park District. At the completion of the work, the contractor shall provide mylar sepias of the drawings to the Park District at the contractor's expense. The contractor shall transfer all information and notations from the blue line prints to the sepia mylars and copies of the drawings and shop drawings. These will constitute the as-built documents.
3. **Organization and Endorsement.** The as-built documents shall be arranged in order, in accordance with the various sections of the specifications, and properly indexed. The contractor shall review them for completeness prior to submittal to the Park District. At the completion of the work, the contractor and each subcontractor shall certify by endorsement thereof that each of the revised sepia mylars of the drawings and copies of specifications and shop drawings are complete and accurate.
4. **Delivery of Three (3) Original Sets of Drawings.** Prior to the contractor's final payment request, as a condition of its review by the Park District, the contractor shall deliver the as-built documents to the Park District in suitable transfer cases clearly marked "As-Built Documents," arranged in proper order, and indexed and marked for each division of the work.

B. PROJECT ACCOUNT RECORDS

1. **Project Data and Records**

- a. **CERTIFIED PAYROLLS.** Promptly following the preparation of periodical payrolls of the contractor and of each of its subcontractors, the contractor shall furnish the Park District with such number as may be required of certified copies of such payrolls.

2. **Records of Laborers, Workers and Mechanics**

- a. The contractor and each subcontractor of the contractor shall also keep an accurate record showing the names and occupation of all laborers, workers and mechanics employed by them in connection with the work and showing also the actual hourly wages paid to each of such workers, which record shall be open at all reasonable hours to the inspection of the Park District and to the Director of Labor (State of Illinois) and their deputies and agents.
 - b. The contractor shall, at any time when required, furnish to the Park District a written statement, verified by affidavit, giving the names and addresses of all persons, firms and corporations who have, up to the date thereof, furnished labor or materials in or about the performance of the contract, and the amounts due or to become due to said parties.
3. **Other Records.** The contractor and any subcontractor of the contractor shall furnish the Park District with all information relating to the materials, including all information necessary to determine the cost of the work, such as the number of men and women employed, their pay, the distribution of labor into work item, equipment time distribution and any other information which the Park District may require. The contractor shall, on request, furnish the Park District with copies of delivery tickets and invoices, in triplicate, covering all expenditures on the contract.
 4. **Confidentiality.** All of the reports, information, or data prepared or assembled by or provided to the contractor under the contract, are confidential and the contractor agrees that, except as specifically authorized herein or as may be required by law, it shall not make available said reports, information, or data, to any other individual or organization, without the prior approval of the Park District.
 5. **Ownership and Loss of Documents.** All documents, data, studies, reports, and instruments of service prepared for or by the Park District under the contract are the property of the Park District. During the performance of its work, the contractor shall be responsible for any loss or damage to documents while in the contractor's possession or the possession of a subcontractor, and any such document so lost or damaged shall be restored at the expense of the contractor.
 6. **Delivery.** The contractor shall promptly deliver, or cause to be promptly delivered, at any time during the term of the contract, all documents, including but not limited to drawings, models, specifications, estimates, reports, studies, maps and computations, prepared by or for the Park District under the terms of the contract, to the Park District upon reasonable demand thereof or upon termination of completion of the work hereunder. In the event of the failure by the contractor to make such delivery, then and in that event, the contractor shall pay to the Park District damages the Park District may sustain by reason thereof, including consequential damages.

C. **INSTRUCTIONS & PARTS LISTS**

1. **Manuals and Lists.** Except as may otherwise be provided in the Special Conditions, the contractor shall furnish to the Park District ten (10) bound copies of maintenance manuals, instructions and/or specifications relative to the assembly, installation, alignment, checking, placing in operation and maintenance of equipment systems and construction under the contract. Except as may otherwise be provided in the Special Conditions, for all items requiring spare parts and materials, the contractor shall submit (10) bound copies of a list of required spare parts and materials for each, including manufacturers product, material, part or re-order numbers, name, address, and telephone numbers of local suppliers and manufacturer's corporate offices.

2. **Format.** Except as may otherwise be provided in the Special Conditions, all copies shall be permanently reproduced on heavy paper and shall be in addition to any instructions and parts lists attached to the equipment or materials when delivered or submitted in conformance with the contract.

XIII. INSPECTION & TESTING

A. GENERAL INSPECTION

1. **Scope of Inspection.** All materials and equipment and each part or detail of the work shall be subject at all times to inspection by the Park District, and the contractor will be held strictly to the true intent of the contract in regard to quality of materials, workmanship and the diligent execution of the work. Such inspection may include mill, plant, shop and field inspection, and any material or equipment furnished under the contract is subject to such inspection. The Park District shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the contractor as is required to make a complete and detailed inspection.
2. **Pre-approval.** All material used must be inspected, tested and approved before being incorporated in the work. Payment will not be made for un-inspected or unauthorized use of materials incorporated the work.
3. **Material and Equipment.** Material and equipment inspection shall be as hereinafter specified in section XIII.B, "Materials and Equipment Inspection and Testing."
4. **Uncovering of Work.** The contractor shall, if the Park District so requests, remove or uncover such portions of the finished work as the Park District may direct in order to inspect the same before the final acceptance of the same. After the examination, the contractor shall restore said portion of the work to the standard required by the contract. The expense of uncovering or removing and the replacing of the same in accordance with the contract shall be borne by the contractor. If such procedures for testing, inspection or approval reveal failure of the portions of the work to comply with requirements established by the contract, the contractor shall bear all costs made necessary by such failure, including those of repeated procedures and compensation for all services and expenses.
5. **Final Inspection.** Except as may be otherwise specified in other sections of the contract, the Park District will make final inspection of the work as soon as practicable after notification by the contractor that the work is substantially completed. If the work is not acceptable to the Park District at the time of such inspection, the Park District shall inform the contractor as to the particular defects to be remedied before the work is accepted as substantially complete.
6. **Federal Inspection.** When the contract includes work for which the federal government is to pay a portion of the cost thereof, such work shall also be subject to the inspection and approval by the representatives of the federal government. However, such inspection and approval shall in no sense make the federal government a party to the contract.
7. **Legally Required Inspections.** Tests, inspections, and approvals of portions of the work required either by the contract or by laws, ordinances, rules, regulations, or orders of any public authorities having jurisdiction, shall be made at an appropriate time. Unless otherwise provided, the contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Park District, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The contractor shall give the Park District timely notice of when and where tests and inspections are to be made so the Park District may observe such procedures.
8. **Required Certificates.** Unless otherwise required by the contract, required certificates of testing, inspection or approval shall be secured by the contractor and promptly delivered to the Park District.

B. MATERIALS AND EQUIPMENT INSPECTION & TESTING

1. **General Inspection.** The Park District will inspect all materials and equipment. For materials that are not an integral part of equipment, and for which samples may be submitted, the contractor shall give sufficient advance notice of ordering so that tests can be completed before the materials are incorporated into the work. The contractor shall not make use of or incorporate into the work the materials represented by the samples until tests have been made and the materials found to be in compliance with the requirements of the specifications. Contractor also shall afford such facilities as the Park District may require for collecting and forwarding samples and making inspections and tests. All samples shall be furnished without charge to the Park District.
2. **Copies of Certified Tests.** For materials that are an integral part of machinery or equipment, or of parts of equipment normally stocked by the contractor or subcontractor, the contractor may furnish copies of certified tests made at the time of production.
3. **Scope of Right to Inspect.** The Park District shall have free entry, at all times while work is being performed, to all parts of the manufacturer's works that concern the manufacture of the material or equipment ordered. The Park District shall be permitted to examine all components and subassemblies. Assemblies and parts shall be numbered for identification. The contractor (or manufacturer) shall provide the Park District with a detailed production schedule prior to its first inspection. After a study of the production schedule, the Park District will inform the contractor (or manufacturer) of its methods, extent of inspection and facilities desired. The manufacturer shall afford the Park District, without charge, all reasonable facilities to satisfy it that the material or equipment is being furnished in accordance with the contract. All tests and inspection shall be made at the place of manufacture prior to shipment and at the contractor's or manufacturer's expense, unless otherwise specified.
4. **Manufacturer Inspection; Re-inspection.** The contractor shall not be liable for the salary or living expenses of the inspector employed by the Park District, except as hereinafter specified. If for any reason the Park District elects not to make the tests, the Park District will order the manufacturer or the contractor to make the desired tests. The manufacturer or the contractor shall furnish a certification of the ordered tests after completion. The Park District reserves the right to re-inspect all material or equipment that has been inspected and accepted at the place of manufacture or source of supply, after they have been delivered to the site, and to reject any which do not meet with the requirements of the contract.
5. **Extra Inspection.** Should the preparation of the material or equipment be at far distant or inaccessible points, or should it be divided into unreasonably small quantities, or widely distributed to an unreasonable extent, or should the percentage of rejected material be unreasonable large, or should the contractor's production schedule and arrangements for tests and calibration be such that the cost of inspection by the Park District is unreasonably high, the additional cost of extra inspection resulting therefrom shall be borne by the contractor. Salary and living expenses of the inspector shall be included in the additional cost of extra inspection. The Park District will be sole judge of what is to be deemed extra inspection.
6. **Testing Standards.** Unless otherwise provided, all materials will be sampled and tested in accordance with the latest published standard methods of the American Society for Testing and Materials ("ASTM") and revisions thereof, where such standard methods exist. In cases where there are no ASTM standards that apply, applicable standard methods of other recognized testing agencies will be used. In all cases, the standard methods and revisions thereof that will be used are those in effect on the date of the invitation for bids.
7. **Non-standard Testing Methods.** For any material not covered by the designated specifications of some designated society, association, institute or governmental authority, appropriate methods of testing and inspection designated by the Park District shall be followed.

8. **Rejection of Work.** The Park District may reject any materials, components or completed work not complying with accepted standards. Any materials or components rejected shall be removed within a reasonable time at the entire expense of the contractor, promptly after the Park District has mailed written notice to the contractor that such materials or components have been rejected. The contractor shall replace the rejected materials, components, or work at no cost to the Park District, as provided in Sections A and C of Article VI of these General Conditions.

XIV. CONSTRUCTION PRACTICES AT THE SITE

A. DISRUPTION OF PARK DISTRICT ACTIVITIES.

1. Occupancy Interferences

- a. **MINIMAL INTERFERENCE.** The Park District shall determine, in its sole discretion, the timing of work to be carried on to interfere as little as possible with the normal conduct of business in or around any positions of the building or structures in use at or near the site. The contractor also will be required to conduct its work so as not to unnecessarily obstruct the activities of other contractors who may be engaged in work on the same site or any public facility.
- b. **NON-INTERRUPTION OF HVAC.** When the buildings or structures are presently in full time use and operation, and will continue in normal use during construction and installation of the work, building facilities, including heating, ventilation, air conditioning, lighting and plumbing will not be interrupted in the occupied areas, except as required for making connections to power sources as hereinafter specified.
- c. **ADVANCE NOTICE OF INTERRUPTION; TEMPORARY SERVICES.** The contractor will serve written notification to the Park District of any anticipated interruption in any services at any facility at least two (2) weeks prior to disruption of services, allowing for temporary relocation of personnel, operations and equipment during the work. The Park District, in its sole discretion, will determine the times of day and dates the contractor may accomplish the work, and may reject or modify the contractor's request. The contractor shall provide any temporary facilities deemed necessary by the Park District due to a disruption of services.
- d. **CLIMACTIC PROTECTION.** Contractor shall provide adequate climatic protection for exposed parts of buildings wherever work under the contract is performed.

2. Public Convenience

- a. All hauling and operations of equipment and all other necessary operations under the contract shall be so conducted as to cause a minimum of noise, vibration and inconvenience to the normal activities of the occupants of property and buildings on and in the vicinity of the site. Whenever the Park District determines that any type of operation constitutes a nuisance, the contractor shall immediately proceed to conduct his operations in an approved manner.
- b. The contractor shall, at all times, conduct the work in such a manner as to ensure the least obstruction to vehicular and pedestrian traffic. Normal vehicular and pedestrian traffic on all adjacent streets, bridges, overpass structures and ramps shall be maintained at all times during the performance of the work under the contract. Whenever such obstruction or interference is unavoidable, attention is called to the necessity of obtaining permits from the appropriate municipal or public agency before proceeding with the work. Wherever necessary, the contractor, at its expense, shall provide all temporary facilities that may be required to maintain vehicular and pedestrian traffic and access to all property.

- c. Whenever any part of a street is obstructed or closed to traffic, the contractor shall provide, erect and maintain at its own cost and expense, all of the approved barricades, signs, lights and reflectors necessary to provide safe and convenient public travel. The contractor shall also provide, at its expense, any flag persons who may be required for warning and directing traffic.
- d. The Park District may at any time require additional Conditions if such are deemed necessary for public safety or convenience.
- e. The contractor will be held responsible for all damage or injury, even though barricades, signs, lights, reflectors and flag persons are furnished as herein specified.

B. SITE PROTECTION

1. Protection of Existing Structures and Property

- a. **DAMAGE TO EXISTING ITEMS.** The contractor shall avoid damage, as a result of its operations, to trees, plant life, turf, existing sidewalks, curbs, streets, alleys, pavements, utilities, adjoining property, work of other contractors and the property of the Park District and others. The contractor shall at its own expense repair any damage thereto caused by its operations.
- b. **RESPONSIBILITY FOR LOSS.** The contractor hereby agrees that it shall be responsible for loss or damage by fire or theft of equipment, material, or other property of the Park District, incurred while such equipment, material or other property is located in any field office on the site, and the contractor further agrees that it shall repair or replace any such equipment, material or other property so lost or damaged, to the satisfaction of the Park District, at no additional cost to the Park District.
- c. **SHORING, BRACING AND UNDERPINNING.** The contractor shall familiarize itself with the requirements of local and state laws applicable to underpinning, shoring and other work affecting adjoining property, and wherever required by law the contractor shall shore up, brace, underpin, secure and protect as may be necessary all foundations and other parts of existing structures adjacent to, adjoining and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the work to be performed under the contract.
- d. **REQUIRED NOTICES.** The contractor shall be responsible for the giving of any and all required notices to any adjacent or adjoining property owner or other party, and such notice or notices shall be served in sufficient time as not to delay the progress of the work under the contract.

2. Protection of Landscape

a. GENERAL

- (1) Driving, parking, dumping, stockpiling and/or storage of vehicles, equipment, supplies, materials, or debris on or within landscape areas (including, but not limited to lawns, planting beds, and under the canopies of existing trees) is strictly prohibited.
- (2) Landscape protection fencing must be in place prior to the beginning of any work, and must be maintained intact for the duration of the work.
- (3) All landscaped areas disturbed during construction shall be restored to their previous condition, including the repair of ruts, the addition of new topsoil, and regrading. All repaired lawn areas are to be resodded.

b. PROTECTION OF TREES

- (1) All tree protection practices must conform to *CPD Standard Specification for Tree Protection*.
- (2) Tree protection zone fencing must be in place prior to beginning any work and must be maintained intact for the duration of the work.

c. PROTECTION OF EXISTING TREES IN THE RIGHT OF WAY (PARKWAYS)

- (1) Protection of trees. The contractor shall be responsible for the restoration of all damaged parkways to their original condition. It shall be the responsibility of the contractor to protect all trees at the site from damage. Any damage to trees resulting from any work at the site shall be repaired or replaced at the contractor's expense.
- (2) Replacement of damaged trees. The contractor shall be required to replace any permanently damaged tree with a new tree of the same type and size and said new tree shall have a trunk with a minimum three (3) inch diameter.
- (3) Scope of protection. The protection of trees shall include bridging, tunneling, drawing, drilling or boring underneath existing trees. The surface area directly adjacent to the tree trunk shall not be disturbed under the following guidelines:
 - (a) Less than 5 inches DBH trees: 2-foot radius of the tree trunk with a minimum of 3 feet in depth.
 - (b) 5 inches to 20 inches DBH trees: 5-foot radius of the tree trunk with a minimum of 3 feet in depth.
 - (c) Over 20 inches DBH trees: 7-foot radius of the tree trunk with a minimum of 3 feet in depth.

When bridging, tunneling, drilling or boring underneath existing trees; said work shall be accomplished directly beneath the center of the tree trunk.

d. VIOLATIONS OF LANDSCAPE PROTECTIONS include, but are not limited to:

- (1) Tree/landscape fencing not in place prior to beginning of work.
- (2) Tree/landscape fencing damaged, removed, or otherwise not in place at any time during work.
- (3) Unauthorized removal of tree/landscape protection fencing.
- (4) Encroachment on tree/landscape protection fencing.
- (5) Placement of any materials within the tree/landscape protection fencing.
- (6) Business or personal vehicles of contractor or subcontractors parked under trees or on landscape areas, fenced or unfenced.
- (7) Business or personal vehicles of contractor or subcontractors driven under trees or over landscape areas, fenced or unfenced.
- (8) Damage to any tree or other plant material or landscape area.
- (9) Unauthorized removal of any tree or other plant material.
- (10) Use of any tree or other plant material as anchorage.
- (11) The attachment of any object (including but not limited to signage, chain, rope, wire, or handbill) to any tree or other plant material

e. FINES

- (1) General: The contractor will be fined \$500 for each occurrence of a landscape protection violation, effective immediately upon Notice of Violation. Ongoing violations will be fined at a rate of \$500 per violation per day until resolved to the satisfaction of the Park District.
- (2) Damaged Trees
 - (a) Trees damaged by the contractor's operation or personnel shall be repaired or remediated by the contractor, as directed by the Park District.
 - (b) The contractor shall be fined for damage to trees as follows: \$100 per square inch of scraped or damaged bark; \$100 per diameter inch of broken limbs or branches. This shall be in addition to the fines for landscape protection violations noted above.
- (3) Removed Trees
 - (a) Trees removed by the contractor without authorization, or trees damaged by the contractor's operation or personnel to the extent that the Park District determines that those trees require removal, shall be replaced by the contractor on an "inch for inch" size basis. The minimum acceptable size for replacement trees is four (4) inches in diameter. Replacement trees must meet, be installed by, and be guaranteed and maintained by Park District standards. The tree variety(ies) and location(s) shall be determined by the Park District. This shall be in addition to the fines for landscape protection violations noted above.
 - (b) The contractor will be fined for the unauthorized removal of trees larger than 10-inch caliper (DBH) at a rate of \$100 per caliper inch (DBH). This shall be in addition to the inch-for-inch replacement requirements and the fines for landscape protection violations noted above.

3. Protection of Utilities

- a. VERIFICATION BY THE CONTRACTOR. The contractor shall inform itself of the locations of all utilities in the vicinity of the site and shall take suitable care to protect and prevent damage to such utilities from its operations under the contract. The plans may show existing utilities lying within the limits of the work, such as sewers, manholes, catch basins, gas mains, water mains, telephone and electrical duct lines, CTA facilities and similar structures. The Park District does not guarantee the completeness or accuracy of the information shown on the plans regarding utilities, either publicly or privately owned, and the contractor shall make its own investigation to determine the existence, nature and location of all utility lines and similar structures at the site. The contractor shall verify the exact location of all utilities that may interfere with construction operations and shall report to the Park District any omissions and differences from the locations shown on the plans.
- b. REMOVAL OF ABANDONED UTILITIES. Where existing utilities, such as sewers, water mains or other utilities within excavated areas are abandoned, and it is necessary to remove same due to the work, the utilities shall be removed by the contractor and shall become its property, and be disposed of as directed by the Park District.
- c. PROTECTION OF EXISTING UTILITIES. It shall be the contractor's responsibility to protect those existing utilities that are to remain in operation during and after completion of the work, and any new utilities installed by others during the construction period. The contractor will be held fully responsible for any damages resulting from its construction operations, and will be required to repair, replace or reconstruct any of the utilities damaged, or pay for having the work done, as required by the Park District and to the satisfaction of the Park District. The protection of the utilities as specified herein

will not be paid for separately but the cost thereof shall be considered as incidental to the contract.

- d. **MAINTENANCE OF EXISTING UTILITIES.** When performing work adjacent to existing sewers, drains, water and gas lines, electric or telephone or telegraph conduits or cables, poles, lines or other utility equipment or structures that are located outside of the neat lines of the excavations to be made, or of the structures to be constructed under the contract and that are to remain in operation, the contractor shall maintain such utility equipment and structures in place at its own expense and shall co-operate with the Park District, utility company or other party owning or operating such utility equipment or structures in the maintenance thereof.
- e. **RESTORATION OF UTILITIES.** The contractor shall be responsible for and shall repair all damage to any such utility equipment or structures caused by its acts, whether negligent or otherwise, or its omission to act, whether negligent or otherwise, and shall leave such utility equipment or structures in as good a condition as they were in prior to the commencement of its operations under the contract; however, it is hereby agreed that any such utility equipment or structures damaged as a result of any act, or omission to act, of the contractor may, at the option of the Park District, utility company, or other party owning or operating such utility equipment or structures so damaged, be repaired by the Park District, utility company, or other party, and in such event the cost of such repairs shall be borne solely by the contractor.
- f. **PRIVATE UTILITIES.** Any work required for the adjustment of private utilities shall be done by the company involved.

4. Protection of Streets, Alleys and Public Grounds

- a. **SAFETY BARRIERS AND LIGHTING.** If, in the prosecution of the work, it shall be necessary to excavate or occupy any street, alley or public grounds, the contractor agrees to obtain all required permits and to erect and maintain such barriers and, during the night time, such lights as will effectually prevent the happening of any accident or damage to life, limb or property in consequence of such excavation or occupation of such street, alley or public grounds.
- b. **TEMPORARY RESTORATION OF TRENCH CUTS.** When it is required by the Park District that trench cuts made within pavement area be restored to a safe and passable condition and maintained as such until the time paving construction commences, the contractor shall effect this restoration in accordance with the details included in the drawings and specifications.

5. Watchperson Service

- a. **EMPLOYMENT OF WATCHPERSONS.** The contractor shall furnish watchpersons not only to protect the public and those who work at or in the vicinity of the work under the contract, but also to protect all materials, tools, machinery and equipment and all work performed by the contractor, until said work has been completed and accepted by the Park District. This watchperson service will in no way relieve the contractor of its responsibility for replacing or making good any theft or damage.
- b. **RESPONSIBILITY FOR LOSS.** The contractor, whether or not it employs a watchperson, shall be responsible for all loss or damage of property, equipment, tools, materials, etc., at the site, and it will make good all such damage or loss without additional cost to the Park District. This responsibility shall terminate only upon final completion.

C. SAFETY & HEALTH PRECAUTIONS

1. **Contractor's Responsibility.** The contractor has sole responsibility for safety. Although the Park District will observe construction and give the contractor its opinions and suggestions about safety defects and deficiencies, the Park District shall not be responsible for any

unsafe working conditions. The contractor shall designate a responsible member of the contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the contractor's superintendent unless otherwise designated by the contractor in writing to the Park District.

2. **Precautions.** The contractor shall take any precautions that may be necessary to render all portions of the work secure in every respect, and to decrease the possibility of accidents from any cause, and to avoid contingencies that are liable to delay the completion of the work. The contractor shall furnish and install, subject to the approval of the Park District, all necessary facilities to provide safe means of access to all points where work is being performed and make all necessary Conditions to insure the safety of workers, engineers and inspectors during the performance of the work. The safety Conditions of all applicable laws and building and construction codes shall be observed. Machinery, equipment and all hazards shall be guarded or eliminated in accordance with the safety Conditions of the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, to the extent that such Conditions are not in contravention of applicable law
3. **First Aid.** The contractor shall keep, on the site, completely equipped first aid kits readily accessible at all times. It shall designate some proper person on each shift, acceptable to the Park District, to be in charge of first aid, and shall cause such person to receive proper instructions therein.
4. **Fire Extinguishers.** The contractor shall furnish and place in all buildings connected with the work a sufficient number of fire extinguishers of a type and capacity approved by the Illinois Inspection and Rating Bureau.
5. **Fire Protection Lines.** The contractor shall arrange for the installation of necessary fire protection lines and equipment, as required by the local fire marshal or the local fire department and as necessary to properly protect the building under construction. Permanent fire protection facilities may be used for this purpose as soon as they are installed, tested, and approved in writing for temporary use by the Park District.
6. **Fires and Smoking**
 - a. **FIRES.** The contractor shall prohibit all lighting of fires on and about the site. No open fires of any type will be permitted, including for the burning of debris or waste materials.
 - b. **SMOKING.** The contractor shall prohibit all smoking in restricted areas where posted with "no smoking" signs, and shall use due diligence to see that such prohibition is enforced. "no smoking" signs shall be furnished and posted by the contractor.
 - c. **WELDING.** During construction, all welding, flame-cutting, or other operations involving the use of flame, arcs, or sparking devices shall be carried out with all precautions taken to prevent fires resulting from sparks or hot slag. Extreme care shall be exercised to determine that such sparks or embers do not fall into any combustible materials, even if such material is stored on lower floors. If removal is impossible, all flammable or combustible materials shall be protected with a fire blanket or other suitable non-combustible shield. Sheet-metal windscreens shall be provided around lead-melting furnaces. The contractor shall provide necessary personnel and equipment to control incipient fires resulting from the above processes. Portable fire extinguishers shall be provided at and below all locations where cutting or welding or melting operations are being performed or, if such operations are extensive, a hose from the stand pipe system or fire hydrant shall be placed nearby.
 - d. **COMBUSTIBLE MATERIAL,** such as wood, crates, excelsior, paper, rags or inflammable solvents shall not be allowed to accumulate, but shall be removed to a safe location and disposed of immediately after they have served their purpose.
 - e. **CONCENTRATION OF GAS FUMES** shall be reported immediately to the contractor, who shall be responsible for clearing the area and notifying the Park District and the

relevant utility company(ies). All operations in the area shall be suspended until the source of such fumes has been located and corrected.

- f. SALAMANDER HEATERS or similar forms of uncontrolled heaters shall not be used except with the special written permission of the Park District and the City of Chicago fire marshal, and then only when each salamander is maintained under constant supervision.
 - g. TARPAULINS or other protective coverings used for any purpose shall be made of approved fire, water and weather-resistant materials.
 - h. FLAMMABLE LIQUIDS. Not more than one (1) day's supply of flammable liquids, including oil, gasoline, paint, or solvent, shall be brought to the site at any one time. All shall be confined to "UL" approved safety cans.
 - i. EXPLOSIVES. The contractor shall notify the Fire Marshal of blasting and other hazardous operations, in accordance with chapter 25 of the Municipal Code of the City of Chicago.
7. **Emergency Safety Precautions.** In an emergency affecting safety of persons or property, the contractor shall act in a safe and reasonable manner to prevent threatened damage, injury or loss.
8. **Snow and Ice Removal.** Contractor shall remove snow and ice that may impair progress of the work, be detrimental to workers, or impair trucking to and from point of delivery at the site, subject to whatever directions the Park District may give the contractor.
9. **Glass Breakage.** The contractor or subcontractor responsible shall replace all glass broken or damaged during construction.
10. **Debris And Rubbish.** During the construction, the contractor shall keep the site and adjacent premises as free from materials, debris and rubbish as is practicable, and shall immediately remove same entirely when, in the opinion of the Park District, such material, debris, or rubbish constitutes a nuisance, a safety hazard, or is objectionable in any way to the public. Haul roads, streets and public areas shall be swept daily.
11. **Truck Traffic.** The contractor shall require that all trucks bearing loose materials be loaded and covered in a manner that will prevent the dropping of materials on streets while entering or leaving the site. Suitable tarpaulins shall be placed over the loads for materials subject to blowing.
12. **Sanitation**
- a. The contractor shall enforce among its employees such regulations in regard to cleanliness and the disposal of garbage and wastes as shall be conducive to their health and tend to prevent the inception and spread of contagious and infectious disease among them. The contractor shall provide an ample supply of suitable, pure drinking water and shall take such means as the Park District may direct to effectively prevent the creation of a nuisance on any part of the site or adjacent streets or property.
 - b. Necessary sanitary conveniences for the use of the laborers on the work, properly secluded from public observation, shall be constructed and maintained by the contractor in such manner and at such points as shall be approved, and their use shall be strictly enforced. Whenever manholes are used for sanitary purposes, they shall be thoroughly flushed and cleaned when no longer needed.
 - c. The manner of disposing of waste shall be such that all waste is legally disposed of without creating a public nuisance or health hazard, and in accordance with all applicable environmental requirements.

D. USE OF SITE & SERVICES

1. **Work Area.** After the contract award, the contractor shall request assignment of a working area within the site. If this assigned working area is not of sufficient size, the contractor shall secure other space away from the site at its own expense. The period of use of the assigned working area shall not exceed the number of calendar days or working days for completion of the work as specified in the contract or until final completion.
2. **Working Space**
 - a. The contractor shall provide, on the site, working space for its own use, for each of his subcontractors, and for such other contractors as may be employed. It shall provide sufficient space for benches, tools, and material storage, and for such other purposes as may be required to properly perform and expedite the work. The Park District shall approve allocation of such work areas.
 - b. Throughout the construction period, the contractor shall maintain all work areas in a clean and orderly condition. Where construction materials are to be stored or work performed in such working space, the contractor shall provide necessary protection for any encompassed walks, pavements, etc.
3. **Contractor's Field Office**
 - a. The contractor shall provide a temporary building or mobile-type field office of such size and containing such equipment as the contractor deems necessary to perform the work.
 - b. During the entire period of construction, a telephone for the contractor's superintendent and a pay telephone for use by others shall be provided in the field office. The contractor shall pay for the cost of installing such telephones and the cost of all telephone service, except long distance calls made by the Park District. Phone calls made within the limits designed by area codes 312, 847, 773 and 708 shall not be classified as long distance calls.
 - b. The contractor's authorized agent shall be present at said office at all times while its work is in progress. Readily accessible copies of the contract, contract modifications, and the latest approved working drawings and shop drawings shall be kept at this field office.
4. **Parking Restrictions.**
 - a. The contractor shall at all times require its employees to park their automobiles in a legal manner at all times.
 - b. The parking or driving of contractor's or subcontractors' business or personal vehicles under trees or over landscaped areas (fenced or unfenced) is strictly forbidden, an incidence of which constitutes a landscape protection violation.
 - c. The contractor will be fined \$500 per vehicle per occurrence of such landscape protection violation, effective immediately upon notice of such violation.
5. **Temporary Construction Signs**
 - a. **PROJECT SIGN.** One sign shall be erected on site at a location designated by the Park District and as provided for in the plans and specifications. Upon final completion, contractor shall remove the sign.
 - b. **CONSTRUCTION SIGNS.** Contractor shall obtain from the Park District, erect, and maintain for the duration of the work, "Caution Construction Area Keep Out" signs. The

number of construction signs required will be determined by the Park District, and will vary according to project size and location.

6. Temporary Construction Facilities

- a. **TEMPORARY STRUCTURES.** The contractor shall determine the methods to be employed, the procedure to be followed, and the equipment, plant, falsework, shoring, bracing and other temporary structures and equipment to be used on the work under the contract, subject to both the requirements of the contract and the approval of the Park District. Only adequate and safe procedures, methods, structures, and equipment shall be provided and maintained by the contractor throughout the construction period, and the contractor shall remove same after the completion of the work.
- b. **TOILETS.** Except as otherwise specifically provided herein, the contractor's personnel will normally be permitted to use the toilet facilities on site, subject to regulations and control of the Park District staff. In the event work is in a remote area or Park District facilities are not available, as soon as construction operations commence, and at its own cost and expense, the contractor shall provide portable chemical toilet facilities at the site for all workers employed on the project. Toilet facilities shall be serviced twice weekly, which shall include draining the tank and refilling and disinfecting the interior of each toilet unit, and keeping each unit stocked with toilet paper. Temporary toilet facilities shall be maintained during the term of the construction period and removed upon completion of the work.

7. Temporary Stairs, Ladders and Equipment

- a. The contractor shall furnish and maintain all equipment such as temporary ladders, ramps, runways, hoists, scaffold, and similar items required for proper execution of the work. All such apparatus, equipment and construction shall meet all requirements of federal, state and local laws concerning the safety and protection of employees.
- b. No hoist, scaffolding or other equipment shall be erected at such location as will interfere with or affect general construction or the progress of other trades.
- c. Hoists, scaffolding or other equipment shall be located at sufficient distance from exterior walls to prevent staining or marring of any permanent Work.
- d. All suspended scaffolding and staging shall be lowered to ground level at the end of each workday.

8. Temporary Barricades and Enclosures

- a. The contractor shall provide temporary barricades or enclosures as required during the progress of the work in order to protect personnel and separate work areas from the balance of building and other areas.
- b. Temporary work screens or enclosures shall be provided, erected, and maintained by the contractor in order to (1) separate pedestrian and vehicular traffic, (2) keep building areas free of noise, debris, dirt, etc., and (3) provide protection for passerby and building occupants from all danger of injury, as approved by the Park District.
- c. All protective measures shall be erected and maintained in accordance with the requirements of Park District, state, federal and local authorities and as directed by the Park District, inclusive of all night-time and warning lighting.

9. Equipment and Furniture

Furniture and portable equipment in the immediate area of the work will be moved by the contractor at its expense and replaced in original position upon completion of the work. If the work will not allow furniture and portable office equipment to be replaced to these original

positions, the Park District will be notified and will designate new locations for replacement of the furniture and equipment by the contractor.

10. Elevators

- a. **TEMPORARY USE.** Any temporary use of existing elevators shall be by agreement with the Park District. Such use will be of an intermittent nature. Elevators shall not be loaded in excess of their rated capacities.
- b. **PROTECTIVE COVERING.** The contractor shall provide and maintain suitable and adequate protective covering for the elevator machinery, the hatchway entrance, and the interior of the elevator during periods of temporary use. On completion of the work, the contractor shall remove the protective coverings together with any resultant dirt and debris.
- c. **ELECTRIC CURRENT.** The Park District will bear the cost of electrical current for such temporary existing elevator usage.

11. Temporary Services and Utilities

- a. **GENERAL**
 - (1) The contractor shall be responsible for arranging for and providing all general temporary services and facilities as specified herein and as required for the proper and expeditious prosecution of the work, including water and electricity. The contractor shall pay all costs for such general temporary services and facilities.
 - (2) Temporary connections for water, electricity and heat, including the installation, maintenance and removal of such facilities, shall be at the contractor's expense.
- b. **UTILITIES.** The Park District may, in its sole discretion, elect to give the contractor access to utilities such as electricity, water, sewage, etc. If the Park District so elects, the contractor will be required to pay for these services at current rates. The Park District will identify service tie-in points but connections to these tie-in points shall be the responsibility of the contractor. The Park District shall not be liable for any claims for costs associated with temporary outages or unavailability of these utilities.
- c. **WATER**
 - (1) The contractor shall provide temporary water connections as required for drinking and construction purposes.
 - (2) The contractor shall note that the Park District reserves the right to regulate the use of water, and may impose restrictions on such use in the event water is being used carelessly by the contractor.
 - (3) Water and facilities for obtaining water for drinking, mixing concrete, sanitary, and all other purposes shall be provided by and at the expenses of the contractor. The water shall be obtained from the mains of the Chicago Water System, except as may be provided in the drawings and specifications. Except with special permission from the Park District and the City of Chicago Department of Water, connections for water shall not be made to the City of Chicago fire hydrants.
- d. **LIGHT AND POWER.** The contractor shall furnish the electrical energy, and shall furnish and install all wiring, electrical services, lighting units, and insulated supports for wiring, and all other electrical equipment, together with all other incidental and collateral work necessary for the furnishing of the temporary power and lighting facilities for the work to be done under the contract, all at no additional cost to the Park District.

12. **Energy Conservation.** The contractor shall comply with energy conservation plans and promote efficient use of all energy. In addition, the contractor shall:

- a. Use lights only in areas where work is actually being performed.
- b. Turn off faucets, valves, and equipment after required usage has been accomplished.
- c. Not use Park District telephones for personal reasons or to make any toll or long-distance calls.

13. **Temporary HVAC During Construction**

- a. **PROTECTION OF WORK.** The contractor shall provide temporary closures or enclosures for all exterior door, window, roof or other types of exterior openings as required to provide protection from the elements during construction. It shall be the contractor's responsibility to keep water in pipes from freezing and to maintain temporary heat in areas where work is being performed, at not less than 50° F before plastering and painting and not less than 60° F thereafter.
- b. **TEMPORARY HEATING, VENTILATING AND AIR CONDITIONING EQUIPMENT.** The contractor shall furnish, install, operate and maintain all required temporary heating, ventilation and air conditioning equipment, and shall provide and pay for all fuel and utility costs. Any oil-fired or gas heating units shall be self-contained, and furnished in sufficient number and adequate capacity to conform to the standard requirements for temporary heat. Each oil-fired or gas-fire unit shall be properly vented as required to dissipate noxious fumes and prevent discoloration of building construction.

XV. COOPERATION BETWEEN CONTRACTORS

- A. Unless otherwise provided for in these General Conditions or Special Conditions, if separate contracts are let for work within or adjacent to the site as may further be hereinafter detailed in the contract, the contractor shall conduct its work so as not to interfere with or hinder the progress of the completion of the work being performed by other contractors.
- B. As far as possible, the contractor shall arrange its work and placement and disposal of the materials being used so as not to interfere with the operations of other contractors within or adjacent to the limits of the site. It shall join its work with that of others in an acceptable manner and shall perform all work in proper sequence to that of others.
- C. The contractor shall not damage or endanger any portion of the work or fully or partially completed construction of the Park District or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The contractor shall not cut or otherwise alter such construction by the Park District or a separate contractor except with the written consent of the Park District and of such separate contractor. Such consent shall not be unreasonably withheld. The contractor shall not unreasonably withhold from the Park District, or a separate contractor, the contractor's consent to cutting or otherwise altering the work.
- D. The contractor shall assume all liability, financial or otherwise, in connection with this contract, and shall protect and save harmless the Park District from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by it because of the presence and operations of other contractors working within the site. The contractor shall assume all responsibility for all work not completed or accepted because of the presence and operations of other contractors.

XVI. INDEMNITY, BONDS, & INSURANCE

A. INDEMNITY

1. **Losses.** The contractor agrees to defend, indemnify, and keep and hold the Park District, its Commissioners, officers, representatives, agents, volunteers, and employees (hereafter “the indemnified parties”), from and against any and all losses, including those related to:
 - a. Injury, death, or damage of or to any person or property;
 - b. Any infringement or violation of any property right (including any patent, trademark, or copyright);
 - c. Bidder’s failure to perform or cause to be performed bidder’s covenants and obligations as and when required under the Agreement, including bidder’s failure to perform its obligations to any subcontractor;
 - d. The Park District’s exercise of its rights and remedies under the Agreement;
 - e. Injuries to or death of any employee of the bidder or any subcontractor under any workers’ compensation statute.
2. **Waiver And Release.** To the extent permissible by law, the bidder waives any limits to the amount of its obligations to indemnify, defend, or contribute any sums due under any losses, including any claim by any employee of the bidder that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision [such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)]. The Park District, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Penal Code, or any other statute or judicial decision. To the fullest extent permitted by law, the contractor and its successor and assigns hereby forever waive, release and covenant not to bring any demand, claim, cost recovery action or lawsuit they may now or hereafter have or accrue against the Park District, its directors, officers, employees, agents, successors and assigns, arising from any activity involving the inaccuracy or breach of any representation, warranty or covenant contained in the contract, including the violation of any applicable environmental requirement now existing or later enacted.
3. **Notices.** The contractor will promptly provide, or cause to be provided, to the Park District and Park District counsel, copies of any such notices as they may receive or any claims, actions or suits as may be given or filed in connection with the contractor’s or any subcontractor’s performance of the work, and for which the indemnified parties may claim indemnification hereunder, and give the indemnified parties authority, information, and/or assistance for the defense of any claim or action.
4. **Responsibility for Defense.** At the Park District’s option, bidder must defend all suits brought upon all losses and must pay all costs and expenses incidental to them, but the Park District has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving the bidder of any of its obligations under the Agreement. Any settlement must be made only with the prior written consent of the Park District, if the settlement requires any action on the part of the Park District. The contractor shall be solely responsible for the defense of any and all claims, demands or suits against the indemnified parties, including, without limitation, claims by employees, subcontractors, agents, or servants of the contractor, provided that the Park District shall have the right to designate separate counsel to defend the Park District, in which event the fees and expenses of such counsel shall be paid by the contractor.
5. **Litigation Costs.** The contractor and its successors or assigns shall pay all costs and expenses incurred by the Park District, and its successors and assigns, to enforce the Conditions of this indemnification, including, without limitation, attorneys’ and paralegals’ fees and litigation expenses.
6. **Increase in Danger.** The contractor will not do or permit any act or thing, business or operation that materially increases the dangers of the site, or poses an unreasonable risk of harm, or impairs or may impair the value of the site, or any part thereof.

7. **Survival.** The indemnities in this section survive expiration or termination of the Agreement for matters occurring or arising during the term of the agreement or as the result of or during the bidder's performance of services beyond the term, and shall remain in force beyond:
- a. the expiration of any applicable statute of limitations; and
 - b. payment or satisfaction in full of any single claim of the Park District within the scope of this indemnification.

Bidder acknowledges that the requirements set forth in this section to indemnify, keep and save harmless and defend the Park District are apart from and not limited by the bidder's duties under the Agreement, including the insurance requirements.

B. PERFORMANCE AND PAYMENT BONDS

1. **Requirements.** Both a performance bond and a payment bond meeting the standards specified herein, each in an amount not less than the contract amount, will be required of the contractor before any work is commenced, in order to guarantee that the contractor will perform all work in strict compliance with the contract and will pay promptly all persons supplying the contractor with labor or materials for the work, and to guarantee all labor and materials against defects for a period of one year after completion of the contract. Such bonds shall comply with Conditions of 30 ILCS 550/1 et seq., as amended, and of Chapter 2, Section 2-92-030 of the Municipal Code of Chicago, as amended.
2. **Surety Rating.** All bid, performance, payment, supply, fidelity and all other types of bonds shall be written through a reputable and responsible surety bond agency licensed to do business in the State of Illinois, and with a surety company having not less than an A rating, as listed in Best's Key Rating Guide. The surety company also shall be listed in the latest Federal Register of the U.S. Department of the Treasury Circular 570, entitled *Surety Companies Acceptable on Federal Bonds*, published annually. The contract amount shall not exceed the underwriting limitations as shown in Circular 570.
3. **Reinsurance.** Any risk or portion of any risk that has been reinsured (in which case these minimum requirements also apply to the reinsuring carrier and then, assuming the reinsurer is authorized or approved by the Insurance Commissioner to do such business in this State) shall be deducted in determining the limitation of risk prescribed in this section. Evidence of the reinsurance must be attached to the bond.
4. **Limits.** Bonding limits or bonding capacity refers to the limit or amount of bonds acceptable on any one risk. The contractor's bonding limit shall not exceed ten percent (10%) of the contractor's surplus (capital and surplus) on any one risk, penalty, or amount of any one bond.
 - a. A qualified surety's bonding limit shall be equal to or greater than ten (10) times (1,000%) the bonding limit of the contractor, or the penalty or amount it is permitted to assume on any one risk.
 - b. When a surety meets the qualifications as to policyholder and financial ratings, but does not have a bonding limit or capacity equal to or greater than the penal amount of the bond being executed, it may submit and be joined by one or more qualified surety bond companies. In such case of co-surety, the combined capital and surplus of all the companies shall be equal to or greater than ten (10) times (1,000%) the penal amount of the bond.
5. **Additional Bond(s).** It is mutually agreed between the parties hereto that if, at any time after the performance and payment bonds have been submitted to the Park District, the Park District shall deem the surety or sureties upon the applicable bond to be unsatisfactory, or if, for any reason, such bond ceases to be adequate to cover the performance or payment of the work, the contractor shall, at its expense and within five (5) days after the receipt of notice

from the Park District to do so, furnish an additional bond or bonds in such form, amount and with such surety or sureties as shall be satisfactory to the Park District. In such event, no further payments to the contractor shall be deemed to be due under the contract until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Park District.

C. INSURANCE

1. **No Commencement of Work.** The contractor shall not commence any work under the contract until the contractor has, at the contractor's own cost and expense, procured all the insurance required under this Article and such insurance has been approved by the Park District. The insurance shall be written in amounts not less than the amounts set forth below or as required by law, whichever is greater.
2. **Procurement and Maintenance of Insurance.** The contractor shall procure and maintain at all times, until final completion of all the work covered under this contract, and, if required, during the warranty period, the types of insurance specified below, with insurance companies authorized to do business in the State of Illinois and with at least an A+ rating as listed in Best's Key Rating Guide. All operations under the contract shall be covered, including, without limitations, work by the contractor, subcontractors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. For all insurance policies required by the contract (other than worker's compensation) **the Park District shall be an additional insured.** The kinds of insurance required are as follows:
 - a. **WORKER'S COMPENSATION AND OCCUPATIONAL DISEASE INSURANCE.** Worker's compensation and occupational disease insurance, in statutory amounts, covering all employees who are to provide a service under the contract. Employee's liability coverage shall be included. This insurance shall cover any claims, including but not limited to claims under worker's or workman's compensation disability benefits and other similar employee benefit acts that are applicable to the work to be performed, including claims for damages because of bodily injury, occupational sickness, or disease, or death of the contractor's employee.
 - b. **COMMERCIAL LIABILITY INSURANCE.** Commercial Liability Insurance or equivalent, including, without limitation:
 - (1) claims for damages because of bodily injury, occupational sickness or disease or death of any person other than the contractor's employees;
 - (2) claims for damages insured by usual personal injury liability coverage;
 - (3) claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
 - (4) claims involving contractual liability applicable to the contractor's obligations under the contract.
 - c. **AUTOMOBILE LIABILITY INSURANCE.** When any motor vehicles are used in connection with any work to be performed, the Contractor shall provide Automobile Liability Insurance for bodily injury and property damage.
 - d. **PROFESSIONAL LIABILITY.** When any architects, engineers or consulting firms perform work in connection with the contract, professional liability insurance shall be maintained. The policy shall have an extended reporting period of two (2) years. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, the start of work pursuant to the contract.
 - e. **ASBESTOS ABATEMENT LIABILITY INSURANCE.** When a contractor, subcontractor, or consultant performs any asbestos abatement work in connection with the contract, asbestos abatement liability insurance shall be maintained. The policy shall have an extended reporting period of two years. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, the start of any work.

- f. **BUILDER'S RISK.** Covering all items of labor and materials connected with the work, whether in or adjacent thereto, materials in place or to be used as part of the permanent construction, including surplus materials, shanties, protective fences, bridges, or temporary structures, miscellaneous materials and supplies incident to the work and such scaffoldings, stagings, towers, forms, and equipment as are not owned or rented by the contractor.
3. **Other Requirements.** Insurance for risks other than those described herein or for other special hazards may be required. Project-specific requirements, including monetary limit requirements, are listed in Section 9 ("Insurance Requirements") of this bid package.

D. CERTIFICATES OF INSURANCE

1. The contractor shall submit, to the Department of Purchasing, the original certificate of insurance evidencing the required coverage, to be in force on the start date of the contract, and the renewal certificates of insurance, or such similar evidence, if the coverages have an expiration of renewal date occurring prior to final completion.
2. The insurance hereinbefore specified shall be carried until final completion. Failure to carry or keep such insurance in force shall constitute a violation of the contract, and the Park District maintains the right to stop work until proper evidence of insurance is provided.
3. The insurance shall provide for thirty (30) days prior written notice to be given to the Park District in the event coverage is substantially changed, canceled, or non-renewed.
4. If any of the insurance coverages are required to remain in force after final completion, and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Payment Request. The contractor shall furnish information concerning reduction of coverage with reasonable promptness, in accordance with the contractor's information and belief.
5. The contractor shall require all subcontractors to carry the worker's compensation and liability insurance required herein, or the contractor may provide the coverage for any or all of the subcontractors, and, if so, the evidence of insurance submitted shall so stipulate. If required by the Park District, the contractor will supply evidence of insurance from all such subcontractors in the form required by the Park District.
6. The contractor expressly understands and agrees that any insurance coverages and limits furnished by the contractor shall in no way limit the contractor's liabilities and responsibilities specified in the contract, or by law.
7. The contractor expressly understands and agrees that any insurance maintained by the Park District shall apply in excess of and not contribute to insurance provided by the contractor under the contract.

E. WAIVER OF SUBROGATION. The contractor hereby waives any and every claim for recovery from the Park District for any and all injuries and losses arising under the contract or in any way related to the work including, but not limited, to any claim for loss of or damage to the work or to the contents thereof. As this waiver will preclude the assignment of any claim by subrogation (or otherwise) to an insurance company (or any other person), the contractor agrees to give each insurance company which has issued, or in the future may issue, its policies of insurance, written notice of the terms of this waiver, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of insurance coverage by reason of said waiver. The contractor shall require each subcontractor to include similar waivers of subrogation in favor of the Park District.

F. MODIFICATIONS. The Park District reserves the right to change, modify or delete these requirements, including, without limitation, the right to request that the contractor provide additional types of insurance.

XVII. DISPUTE RESOLUTION

- A. CONTRACTOR'S REQUEST.** In the event of any dispute between the contractor and the Park District, which the contractor and the Park District have attempted but have been unable to resolve (including, without limitation, changes in the contract amount or time, claims, allowable costs, units provided in a per unit contract, or any other issues of fact or contract interpretation based upon, relating to, or arising under the contract), the contractor must submit a written request for resolution to the Park District's General Superintendent for final determination. The contractor's failure to submit the dispute within thirty (30) days of the dispute is a waiver of the dispute. The General Superintendent may consider issues of contract interpretation in connection with decisions to be made in resolving disputes. The default or termination of the contractor is not a matter that may be disputed under this provision of the contract.
- B. REQUEST REQUIREMENTS.** The contractor shall make requests for resolution of disputes in writing, specifically referencing this Section, and include: (1) the issue(s) presented for resolution; (2) a statement of the respective positions of the contractor and the Park District; (3) the facts underlying the dispute; (4) reference to the applicable provision of the contract by page and section; (5) the identity of any other parties believed to be necessary to the resolution of the dispute; and (6) all documentation that describes and relates to the dispute. Copies of the request for resolution of the dispute shall promptly be provided to the Park District on the same day it is given to the General Superintendent. The Park District shall have fifteen (15) days to respond in writing to the contractor's submission by supplementing the contractor's submission or by providing its own submission to the General Superintendent and the contractor. However, the Park District may request and the General Superintendent may allow an additional period of time to respond. Failure by the Park District to respond shall not be deemed to be an admission of any allegations made in the request for dispute resolution, but may be deemed to constitute a waiver of the opportunity to respond to such allegation(s), if any, at this stage of the dispute. The General Superintendent's decision may thereafter be reached in accordance with such other information or assistance as may be deemed reasonable, necessary or desirable by the General Superintendent.
- C. GENERAL SUPERINTENDENT'S DECISION.** The General Superintendent's final decision shall be rendered in writing no more than sixty (60) days after receipt of the Park District's response (or the date it was due) unless the General Superintendent notifies the contractor and the Park District, before the end of the sixty (60) day period, that an additional period not to exceed thirty (30) days is needed for the General Superintendent to respond. The General Superintendent's decision shall be conclusive, final, and binding on all parties unless a judicial determination is sought in accordance with the Conditions set forth below.
- D. CONTRACTOR'S REMEDY.** If either the contractor or the Park District does not agree with the decision of the General Superintendent, the sole and exclusive remedy is judicial review by a common law writ of certiorari. Unless such review is sought within sixty (60) days of receipt of the General Superintendent's decision, all right to seek judicial review is waived.
- E. CONTRACTOR'S PERFORMANCE OF WORK.** The contractor shall not withhold performance of, and shall prosecute, any work required by the Park District under the contract during the dispute resolution period, including judicial resolution. The contractor shall prosecute all of its work, including any disputed work, with the same diligence and effort as if no dispute existed. Neither the General Superintendent's final written determination, nor the actions of the contractor or the Park District in connection therewith, nor the continued performance by either party, shall constitute an admission as to any factual and/or legal position in connection with the dispute, or a waiver of any rights under the contract.
- F. ADMINISTRATIVE APPEAL OF DISPUTE.** The contractor must follow the procedures set out in this Section, and receive the General Superintendent's final decision as a condition precedent to filing an administrative appeal of the dispute to the Circuit Court of Cook County or any other court.

XVIII. EVENTS OF DEFAULT & TERMINATION

- A. PARK DISTRICT'S RIGHT.** The Park District may, at its sole discretion, exercise the right to send the contractor Notice of Default under Section C.1 or C.2 of this Article XVIII for any event of default as defined in Section B of this Article.
- B. EVENTS OF DEFAULT.** The contractor's failure to perform any of its obligations under the contract, including but not limited to the following, are events of default:
1. Failure to begin the work at the time specified.
 2. Failure to perform the work with sufficient workers and equipment, or with sufficient materials to ensure the completion of work or any part of the work within the time specified by the contract.
 3. Failure to perform in accordance with the contract.
 4. Failure to remove materials or repair or replace work that was rejected as defective or unsuitable.
 5. Discontinuance of the work for any reason for a period exceeding seven (7) days.
 6. Insolvency or bankruptcy of the contractor.
 7. Failure to pay subcontractors or material suppliers when due as required hereby.
 8. Failure to carry on any work in a manner acceptable to the Park District.
 9. Failure to observe federal, state or local laws, ordinances, rules, or regulations or any safety and security requirements.
 10. Failure to comply with any term of the contract that states such failure to comply shall constitute a default, or failure to comply with any term of the contract in any material respect.
 11. Failure to achieve substantial completion, final completion, or any other milestone date by the date specified in the project schedule.
 12. Failure to meet MBE/WBE requirements as specified in the Special Conditions Regarding Participation by Minority and Women-Owned Business Enterprises.
- C. NOTICE OF AN EVENT OF DEFAULT.** After the occurrence of an event of default, the Park District, in its sole discretion, may send the contractor notice ("Notice of Default") under either Section C.1 or C.2 below.
1. **Contractor's Notification of Termination for Default.** After the occurrence of an event of default, the Park District may, in its sole discretion, notify the contractor in writing that the contract is terminated. The Park District's decision and declaration of default shall be final and effective immediately. Written notification of the default and termination of the contract shall be provided to the contractor by the Park District.
 2. **Notice and Cure.** After the occurrence of an event of default, the Park District may give the contractor notice in writing of conditions constituting the event of default. If the Park District gives notice as described in the preceding sentence, the contractor must cure the event of default within ten (10) days of receipt of such notice. If the contractor has not cured the event of default set out in the notice within the ten (10) day cure period, the Park District may declare that the contract is terminated. The Park District's declaration of termination shall be final and effective immediately. The Park District shall provide written notification of notice to cure and termination for default to the contractor. The failure of the Park District to default the contractor's surety within ten (10) days does not waive the Park District's right to terminate pursuant to Section C.1 above.

- D. DEFAULT REMEDIES.** After the occurrence of an event of default, the Park District may invoke any or all of the following remedies as well as any other remedies provided in the contract or otherwise allowed at law or in equity:
- 1. Damages.** The Park District has a right to money damages, including but not limited to all expert witness or other consultant fees, court costs, and reasonable attorney's fees which the Park District may incur in connection with any claim, suit, or action based upon, related to, or arising from, directly or indirectly, an event of default.
 - 2. Liquidated Damages For Public Inconvenience.** Failure of the contractor to achieve substantial completion, final completion, or any milestone date for which the contract specifies that liquidated damages will be assessed, will always result in public inconvenience. Such public inconvenience includes any and all adverse effects upon the public's use, enjoyment, and/or appreciation of any Park District property including, without limitation, any conditions which prevent, inhibit, worsen, or otherwise detract from such use, enjoyment, and/or appreciation. Therefore, if any work remains incomplete after the relevant times specified for the completion of all, substantially all, or any portion of the work in the project schedule, the contractor shall pay to the Park District the sum as determined in this paragraph for each and every calendar day that such work remains incomplete to compensate the Park District for the public inconvenience. Such moneys shall be paid as liquidated damages, and not as a penalty, to cover the costs and losses reasonably anticipated by the parties to be incurred by the Park District solely as a result of such public inconvenience. The contractor consents and agrees that it is not necessary for the Park District to prove monetary loss in connection with these liquidated damages for public inconvenience. Liquidated damages for public inconvenience shall be calculated per calendar day at the rate, in the aggregate, of one-half of one percent (0.005%) of the contract amount up to \$25,000, plus two-tenths of one percent (0.002%) of the contract amount over \$25,000.
 - 3. Liquidated Damages for MBE/WBE Non-Compliance.** Failure of the contractor to comply, in whole or in part, with the Park District's MBE/WBE goals will always result in certain damages to the Park District and the public. MBE/WBE damages include any and all damages arising as a result of any degree of MBE/WBE noncompliance including, without limitation, adverse publicity for the Park District or the City of Chicago, actual or threatened loss of Park District funding, adverse social or political pressure on the Park District or the City of Chicago, harm to the Park District and public as a result of continued discrimination and/or exclusion of minorities and women from certain jobs or industries, and any and all other results of MBE/WBE noncompliance adversely affecting the Park District or the public. Therefore, when any part of the work is performed during a time when, as may be shown by subsequent audit, the contractor is not in full compliance with the Park District's MBE/WBE goals, the contractor shall pay to the Park District liquidated damages for MBE/WBE noncompliance in the amount stipulated in this paragraph. Such moneys shall be as liquidated damages, and not as a penalty, to cover the costs and losses reasonably anticipated by the parties to be incurred by the Park District and the public solely as a result of such MBE/WBE noncompliance. The contractor consents and agrees that it is not necessary for the Park District to prove monetary loss in connection with these liquidated damages for MBE/WBE noncompliance. Liquidated damages for MBE/WBE noncompliance shall be calculated at the rate of three percent (3%) of the dollar amount of all work that should have been but was not awarded to MBE/WBE subcontractors. For example, if the contract amount is \$100,000, the contractor would be required to subcontract twenty-five percent (25%) of this amount (\$25,000) to MBEs and five percent (5%) of this amount (\$5,000) to WBEs. If the contractor was never in compliance with MBE/WBE goals and subcontracted only \$10,000 to MBEs and \$1,000 to WBEs, the contractor would owe liquidated damages for MBE/WBE non-compliance equal to \$450, which represents three percent (3%) of \$15,000 (as a consequence of its failure to subcontract the required \$25,000 to MBEs), plus \$120, which represents three percent (3%) of \$4,000 (as a consequence of its failure to subcontract the required \$5,000 to WBEs) for a total of \$570. The Park District may, in its sole discretion, elect to waive part or all of the liquidated damages provided for in this paragraph. However, the contractor acknowledges that failure to comply with the MBE/WBE goals is a material breach of the contract and, as such, will give the Park District remedies in addition to the liquidated damages provided for in this paragraph, whether or not

the Park District elects to waive some or all of such liquidated damages pursuant to the preceding sentence.

4. **Other Damages for Failure to Complete Work On Schedule.** Failure of the contractor, for any reason, to achieve substantial completion, final completion, or any milestone date may additionally result in the incurrence by the Park District of other damages ("other damages"), distinct from those liquidated in the above paragraph, including, without limitation, other actual and consequential damages as allowed by governing Illinois law. Such other damages may include, but are not limited to, the following: (a) additional construction and/or engineering costs; (b) additional supervision costs; (c) additional inspection costs; (d) loss of revenue; (e) breaches of other contracts or commitments by the Park District; (f) damages due to defective workmanship and/or materials; and (g) any other item listed as other damages in the Special Conditions. Nothing contained in this Article shall be construed as limiting the right of the Park District to recover from the contractor any and all other damages due (or to become due) for improper performance hereunder that are not duplicative of the amounts recovered as liquidated damages for public inconvenience. The liquidated damages are intended to compensate the Park District solely for damage arising from public inconvenience, and it is hereby agreed that the Park District may collect such liquidated damages for public inconvenience as well as any and all other damages which are distinct from and non-duplicative of damages for public inconvenience.
5. **Payment of Damages.** The Park District may recover any and all liquidated damages by deducting the amount thereof out of any moneys due or that may become due to the contractor, and if said moneys are insufficient to cover all damages, then the contractor or the surety shall pay all amounts due.
6. **Alternative Agreement.** The parties may agree, in writing, that in lieu of all actual, consequential and any other damages that the Park District may suffer, including liquidated damages for public inconvenience, liquidated damages will be assessed in any appropriate amount, agreed to by the parties, which is not less than the amount stipulated in Article XVIII, Section D.1.
7. **Set-Off.** The Park District may exercise a right of set-off against any payments due or to become due to the contractor. In the event of termination, all costs and changes incurred by the Park District, together with the cost of completing the work, shall be deducted from any moneys due or which may become due to the contractor. In case the expense so incurred by the Park District shall be less than the contract amount which would have been payable under the contract (if it had been completed by the contractor and had not been forfeited by the contractor), then the contractor shall be entitled to receive the difference, subject to any claims or liens thereon which may have been filed, or any prior assignment filed with it. In case the expense incurred by Park District shall exceed the sum which would have been payable under the contract, the contractor and the surety shall be liable and shall pay to the Park District the amount of such excess.
8. **Right to Complete.** The Park District may exercise the right to take over and complete the work or any part thereof, either directly or through others. The Park District may use the contractor's subcontractor(s), materials and equipment to complete any such work as indicated herein. Upon the Park District's notification to the contractor that it intends to invoke this remedy, any or all rights the contractor may have in or under its subcontracts shall be reassigned to the Park District. The sole obligation accepted by the Park District under such subcontract(s) shall be to pay for work satisfactorily performed after the date of the assignment. In the event a conditional assignment has not been executed, the contractor shall execute, or cause to be executed, any assignment, agreement, or other document which may be necessary, in the sole opinion of the Park District's legal counsel, to evidence or effect compliance with this provision. The contractor shall promptly deliver such documents upon the Park District's request. In the case of any subcontract so assigned and accepted by the Park District, the contractor shall remain liable to the subcontractor for any payment already invoiced to and paid by the Park District, and for any claim, suit, or cause of action based on or the result of any error, omission, negligence, fraud, willful or intentionally tortious conduct, or any other act or omission, or breach of contract by the contractor, its officers, employees, agents, and other subcontractors, arising prior to the date of assignment

to the Park District, when such claim, suit, or cause of action has not been discharged, disposed of, or otherwise resolved as of that date. The contractor shall notify its subcontractor(s) of these requirements.

9. **Right to Terminate.** The Park District may exercise the right to terminate the contract as to any or all of the work yet to be performed.
 10. **Equitable Remedies.** The Park District may exercise the right of specific performance, an injunction, or any other appropriate equitable remedy, as may be applicable.
 11. **Right to Withhold Compensation.** The Park District may withhold all or any part of the contractor's compensation earlier awarded by the Park District.
 12. **Determination of Non-Responsibility.** The Park District may deem the contractor non-responsible in future contracts to be awarded by the Park District.
- E. NON-EXCLUSIVITY.** The remedies under the terms of the contract are not intended to be exclusive of any other remedies provided, but each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law or equity. No delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power, nor shall it be construed as a waiver of any event of default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient.
- F. COURT DETERMINATION.** In the event the Park District terminates the contractor for cause, pursuant to Article XVIII, Section C.1 or C.2, and a court of competent jurisdiction subsequently determines that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under subsection H below, and the Conditions of Section H. shall apply.
- G. DISCRETION OF PARK DISTRICT.** To declare the contractor in default is within the sole discretion of the Park District and neither that decision nor the factual basis for it is subject to review or challenge under Article XVII of these General Conditions.

H. TERMINATION FOR CONVENIENCE

1. **Right to Terminate.** The Park District reserves the right, solely for its convenience, to terminate the work of the contractor by written notice, starting the effective date of such termination. Immediately upon receipt of such notice, the contractor shall then provide similar written notice to the affected subcontractor(s); whereupon such contractor and subcontractor(s) shall, except for services necessary for the orderly termination of the work, (a) stop all work and place no further order or subcontracts for materials, services, equipment or supplies; (b) assign to the Park District, in the manner and to the extent directed, all of the rights of the contractor under purchase orders, subcontracts or sub-subcontracts relating to the portion of the work that has been completed; (c) terminate purchase orders and subcontracts outstanding to the extent that they relate to the work and are not assigned to the Park District; (d) take any action necessary to protect property in the contractor's possession in which the Park District has or may acquire an interest; and (e) take any other action toward termination of the work which the Park District may direct.
2. **Payment.** In the event that all or a portion of the work of the contractor is terminated pursuant to Section H.1 of this Article, the contractor shall be entitled to payment of the costs relating to the completed portion of the work as hereinafter defined. The Park District shall pay to the contractor, subject to the limitations herein set forth, the sum of the following costs that represent the interest of the contractor in the completed portion of the work:
 - a. The portion of the contract amount related to the work completed by the contractor immediately prior to notice of termination, less the payments previously made.

- b. Expenses incurred for which the contractor becomes liable as the result of the contractor's termination of those purchase orders or subcontracts the contractor must terminate as a result of the notice of termination.
 - c. No payment shall be made for work not actually performed. The Park District will make deductions for any amounts previously paid to the contractor and for any amounts that may be due the Park District, or which the Park District may offset or withhold by the terms hereof.
 - d. The total amount of all payments to the contractor shall not exceed, in any event, the amount represented by the proportion of the work actually performed (including materials delivered to the project site minus credits for returned goods or canceled orders) by the date of termination as related to the entire work to be performed hereunder. Any payment to the contractor under this paragraph shall be made in accordance with these General Conditions.
3. **Submission of Claim.** After receipt of a notice of termination for convenience, the contractor shall submit to the Park District its written termination claim in the form of and with the supporting documentation that the Park District may require, such as invoices, certified payrolls, receipts and other proof of expenditures. Such claims shall be submitted promptly, but in no event more than ninety (90) days after the effective date of termination. Failure to submit a claim within ninety (90) days after the effective date of termination shall constitute a waiver of the claim.

XIX. COMPLIANCE WITH ALL LAWS

- A. GENERAL.** The contractor shall at all times observe and comply and cause its subcontractors to observe and comply with all applicable federal, state and local laws, ordinances, rules, regulations and executive orders, now existing or hereinafter in effect, which may in any manner affect the performance of the contract. Provision(s) required by law, ordinances, rules, regulations, or executive orders to be inserted into the contract shall be deemed inserted, whether or not they appear in or are specifically referenced by the contract, or, upon application by either party, the contract shall forthwith be physically amended to physically make such insertion. However, in no event shall the failure to insert such provision(s) prevent the enforcement of such provision(s) under the contract.

The contractor's attention is specifically directed to the Chicago Park District Code, which shall at all times be observed and complied with as though fully set forth herein.

- B. REGULATIONS GOVERNING THE PARK DISTRICT.** The site is Park District property and all rules and regulations issued covering fire, safety, sanitation, severe weather conditions, conduct of operations, etc., shall be observed by the contractor, contractor's employees, and subcontractors. The regulations include:
- 1. **Fire Prevention.** The contractor's and subcontractors' employees shall be cognizant of, and shall comply with, all requirements for handling and storing combustible supplies and materials, daily disposal of combustible waste, trash, etc., in accordance with National Fire Code. The contractor will require employees to become familiar with methods of activating Park District fire alarms.
 - 2. **Safety.** All rules of safety that may be imposed upon the contractor by federal, state, or local law or Park District Code or regulation shall be effectively carried out in the performance of the work set forth herein. The contractor shall take proper safety and health precautions to protect the work, the contractor's employees, the public and the property of others.
 - 3. **Sanitation.** The contractor is responsible for and shall maintain all areas used by the contractor in the performance of the contract in a clean, neat, orderly, sanitary and safe condition. The site shall be kept free from accumulation of waste material and rubbish resulting from work at all times. Combustible materials shall be removed daily.

4. **Conduct.** The contractor and the contractor's employees shall be subject to the same general rules of conduct while on Park District property that apply to Park District employees. The Park District reserves the right the to refuse access to any contractor's employee if the Park District determines it to be in the best interests of the Park District.

C. NON- DISCRIMINATION

1. General Requirements

- a. **NO DISCRIMINATION.** It shall be an unlawful employment practice for the contractor to fail to hire, to refuse to hire, to discharge, or to discriminate against any individual with respect to his/her compensation, or the terms, conditions, or privileges of his/her employment, because of such individual's race, color, religion, sex, age, handicap, or national origin; or to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise, adversely affect his/her status as an employee, because of such individual's race, color, religion, sex, age, handicap, or national origin.
 - b. **COMPLIANCE WITH LAWS.** The contractor shall comply with the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000 *et seq.* (1981), as amended. The contractor shall further comply with Executive Order No. 11,246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000(e) note, as amended by Executive Order No. 11,375 32 Fed. Reg. 14,303 (1967) and by Executive Order No. 12,086, 43 Fed. Reg. 46,501 (1978); the Age Discrimination Act, 43 U.S.C. Sec. 6101-6106 (1981); the Rehabilitation Act of 1973, 29 U.S.C. Sec. 793-794 (1981); the Americans with Disabilities Act, P.L. 101-336; 41 C.F.R part 60 *et seq.* (1990); and all other applicable laws or regulations.
2. **State Requirements.** The contractor shall comply with the Illinois Human Rights Act, 775 n.CS 5/1-101 *et seq.* (1990), as amended; the Discrimination in Public Contracts Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended; and the Environmental Barriers Act., Ch 111 Yz, Par 37111 *et seq.*, Ill. Rev. Stat., as amended.

3. Additional Requirements

- a. **MBE/WBE GOALS.** The contractor shall comply with the Special Conditions of this bid package/contract, which governs minority- and women-owned business enterprise programs ("MBE" and "WBE") requiring the contractor's compliance with the Park District's goal of awarding not less than twenty-five percent (25%) of the aggregate dollar value of all contracts to qualified MBEs and five percent (5%) to qualified WBEs.
 - b. **HUMAN RIGHTS ORDINANCE.** The contractor shall comply with the Chicago Park District Code, Chapter IV: "Human Rights." The contractor shall furnish such reports and information as requested by the Chicago Commission of Human Relations.
4. **Non-Compliance.** In the event of the contractor's non-compliance with the Conditions of this Equal Employment Opportunity clause, the Illinois Human Rights Act, or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the contractor may be declared ineligible for future contacts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of the contact, the contractor agrees as follows:
 - a. That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, martial status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
 - b. That if it hires additional employees in order to perform the contact or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of

minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

- c. That in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
 - d. That it will send to each labor organization or representative of workers with which it has, or is bound by, a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the contractor's obligations under the Illinois Human Rights Act and the Department's Rules. If any such labor organization or representative fails or refuses to cooperate with the contractor in its efforts to comply with such Act and Rule, the contractor will promptly so notify the Department and the contracting agency, and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
 - e. That it will submit reports as required by the Department's rules, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's rules.
 - f. That it will permit access to all relevant books, records, accounts and work sites by personnel of the Park District and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's rules.
 - g. That it will include verbatim or by reference the Conditions of this clause in every subcontract it awards under which any and all portions of the contract are undertaken or assumed, so that such Conditions will be binding upon such subcontractor. In the same manner as with other Conditions of the contract, the contractor will be liable for compliance with applicable Conditions of this clause by such subcontractor; and further it will promptly notify the Park District and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
 - h. The contractor agrees that all of the above Conditions will be incorporated in all agreements entered into with any suppliers of materials, providers of services, subcontractors of any tier, and labor organizations which furnish skilled, unskilled and craft union skilled labor, or which may provide any such materials, labor or services in connection with the contract.
- D. AFFIRMATIVE ACTION.** The contractor assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participation in any employment activities covered in 14 CFR Part 152, Subpart E. The contractor assures that no person shall be excluded on these grounds from participation in or receiving the services or benefits or any program or activity covered by this subpart. The contractor asserts that it will require that its covered sub-organizations provide assurances to the contractor that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect. Furthermore, the contractor agrees that it will comply with all Illinois statutes, including 775 ILCS 5/2-101 *et seq.* (1993) and adopt a written affirmative action policy concerning sexual harassment as required by this statute.
- E. AMERICANS WITH DISABILITIES ACT.** All work or alteration undertaken by the contractor in connection with the contract shall be performed in compliance with all federal, state and local laws and regulations regarding accessibility standards for disabled or environmentally limited persons including, but not limited to, the following: American with Disabilities Act P.L. 101-336 (1990), the Uniform Federal Accessibility Standards ("UFAS") or the Americans with Disabilities ("ADAAG"), the Illinois Environmental Barriers Act, 410 ILCS 25/1 *et seq.* (1991), and the

regulations promulgated thereto at 71 Ill. Adm. Code Ch. 1, Sec. 400.110. In the event that the above-cited standards are inconsistent, the contractor shall comply with the standard providing greater accessibility.

F. VETERANS PREFERENCE. The contractor and all subcontractors shall comply with the Conditions of 330 ILCS 55/1 *et seq.*, which requires that a preference be given to veterans in the employment and appointment to fill positions in the construction, addition, or alteration of all public works. In the employment of labor (except executive, administrative and supervisory positions) preference shall be given to veterans of the Vietnam era and disabled veterans; however, this preference may be given only where the individuals are available and qualified to perform work to which the employment relates.

G. EMPLOYMENT OF ILLINOIS LABORERS. The contractor shall use only Illinois laborers in the performance of the contract, to the extent required by the Employment of Illinois Laborers of Public Works Projects Act, m. Rev. Stat. ch 48 par. 2201 *et. seq.* (1989), as amended from time to time.

H. PREVAILING WAGE

1. The contractor shall comply with the Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*), as amended (the "Act"), so long as the Act is in effect, in order to ensure that such persons covered by the Act are paid the prevailing wage rate as ascertained by the Illinois Department of Labor. All such contracts shall list the specified rates to be paid to all laborers, workers, and mechanics for such craft of type of worker of mechanic employed in the contract. If the Illinois Department of Labor revises such prevailing wage rates, the revised rates shall apply to all such contracts.

2. The term "general prevailing hourly rate," when used in this Act, means the hourly cash wages plus fringe benefits for health and welfare, insurance, vacations, and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character or public work.

3. Salaries/Payments

a. **REQUIREMENTS FOR SALARY PAYMENTS TO EMPLOYEES.** Salaries and wages of all subcontractors of the contractor providing labor or materials in connection with the work shall be paid unconditionally and not less often than once a month without deduction or rebate on any account, or for payroll deduction or rebate on any account, except only for payroll deductions as are mandatory by law or permitted under the applicable regulations issued by the Secretary of the United States Department of Labor (Secretary of Labor) pursuant to the Copeland "Anti-Kickback" Act of June 13, 1934 (Title 40 U.S.C. Section 276c). The contractor shall comply with all applicable "Anti-Kickback" regulations, and shall be responsible for the submission of affidavits required thereunder, except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof. If, in the performance of the contract, there is any underpayment of salaries by the contractor, the Park District may withhold, out of payments due to the contractor, an amount sufficient to pay to subcontractors underpaid, the difference between the salaries required to be paid hereby and the salaries actually paid such subcontractors for the total number of hours worked.

b. **PAYMENT OF CLAIMS.** The contractor further undertakes to pay all lawful claims made against it by such subcontractors and all lawful claims made against it by other third persons arising out of or in connection with or because of its performance of the contract that are attributable to the contractor. The contractor further shall cause all of its subcontractors to pay all lawful claims made against them. In the event such lawful claims are not satisfied, the Park District is hereby empowered to disburse such sums for and on account of the contractor directly to the respective parties to which such sums are due and lawfully owed.

4. Minimum Wages

- a. **PAYMENTS OF LABORERS AND MECHANICS.** All laborers and mechanics employed or working upon the site will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)], the full amount of wages and bona fide fringe benefits (or case equivalents thereof) due at time of payment computed at rates not less than those contained in the prevailing wage determination of the Secretary of Labor, which is included in the bid package, regardless of any contractual relationship that may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1 (b) (2) of the Davis-Bacon Act [40 U.S.C. 276(a) *et seq.*] on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provision of paragraph (a) (1) (iv) of this section. Also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs that cover the particular weekly period are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided that employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph IX.E.3.a (1) (B) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and any subcontractors, at the site of the work, in a prominent and accessible place where it can be easily seen by the workers.
 - (1) **Additional Classifications.** The Park District shall require that any class of laborers or mechanics that is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Park District shall approve an additional classification and wage rate and fringe benefits only when the following criteria have been met:
 - (a) The work to be performed by the classification requested is not performed by classifications in the wage determination; and
 - (b) The classification is utilized in the area by the construction industry; and
 - (c) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
5. **Overtime Requirements.** No contractor or subcontractor contracting for any part of the work that may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of eight (8) hours in any day or in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight (8) hours in any day or in excess of forty (40) hours in such workweek, whichever is greater.

I. SAFETY & HEALTH

1. The publications listed below form a part of the contract to the extent referenced. Publications are referred to in the text by basic designation only.
 - a. The Code of Federal Regulations (CFR).
 - b. OSHA General Industry Safety and Health Standards (29 CFR 1910), Publication V2206; OSHA Construction Industry Standards (29 CFR 1926). One source of these regulations is OSHA Publication 2207, which includes a combination of both Parts

1910 and 1926 as they relate to construction safety and health. It is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

- c. National Emission Standards for Hazardous Air Pollutants (40 CFR, Part 61) (NESHAP). The contractor acknowledges the following clause and agrees to comply with the terms of this clause, which is hereby incorporated and made part of the contract. The contractor warrants that all work performed under the contract by the contractor, including subcontractors, shall be performed in accordance with all federal, state and local laws and regulations, including but not limited to the National Emission Standards for Hazardous Air Pollutants (NESHAP), 40 C. F. R 61.145.
 - d. Federal Standard (Fed. Std. 313A Material Safety Data Sheets, Preparation and Submission).
 - e. Hazardous and toxic material/substances included in Subparts H and Z of 29 CFR 1910, and others as additionally defined in Fed. Std. 313. Those most commonly encountered include asbestos, polychlorinated biphenyls (PCBs), explosives, lead, radon and radioactive material, but may include others.
2. The Park District reserves the right to halt the work where hazardous materials are suspected to be present. This stoppage will allow for proper testing and the development of a corrective action plan.

J. ENVIRONMENTAL REQUIREMENTS. The contractor shall carry on the construction or other work so as to comply in all respects, and remain in compliance with, all applicable federal, state, regional, county or local laws, statutes, rules, regulations or ordinances, concerning public health, safety or the environment, and all other environmental requirements. These include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 *et seq.*, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U. 7401 *et seq.*, Toxic Substances Control Act of 1976, 15 U.S.C. 2601 *et seq.*, Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. 651 *et seq.*, Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 *et seq.*, National Environmental Policy Act of 1975, 42 U.S.C. 300 (f) *et seq.*, and any similar or implementing state law, and all amendments, rules, regulations, guidance documents and publications promulgated thereunder.

K. ASBESTOS.

1. The contractor is WARNED that exposure to airborne asbestos has been associated with four diseases: lung cancer, certain gastrointestinal cancers, pleural or peritoneal mesothelioma, and asbestosis. Studies indicate there are significantly increased health dangers to persons exposed to asbestos who smoke, and further, to family members and other persons who become indirectly exposed as a result of the exposed worker bringing asbestos-laden work clothing home to be laundered.
2. The contractor is advised that friable and/or non-friable asbestos-containing material may be encountered in areas where the work is to be performed. Friable asbestos-containing material means any material that contains more than one percent asbestos by weight that hand pressure can crumble, pulverize or reduce to powder when dry. Non-friable asbestos-containing materials are materials in which asbestos fibers are bound together by a matrix material, saturate, impregnate or coating. Non-friable asbestos-containing materials do not normally release asbestos fiber during routine handling and end-use. However, excessive fiber concentrations may be produced during uncontrolled abrading, sanding, drilling, cutting, machining, removal, demolition or other similar activities.
3. Care must be taken to avoid releasing or causing to be released, asbestos fibers into the atmosphere where they may be inhaled or ingested. The Occupational Safety and Health Administration (OSHA) has set standards at 29 CFR 1910.1001 for exposure to airborne concentrations of asbestos fibers, methods of compliance, medical surveillance,

housekeeping procedures, and other measures that must be taken when working with or around asbestos-containing materials. 29 CFR 1910.1001 has been identified as applicable to construction (29 CFR 1926.55 gases, vapors, fumes, dusts and mists). The Environmental Protection Agency (EPA) has established standards at 40 CFR 61.140-156 for the control of asbestos emissions to the environment and the handling and disposal of asbestos wastes.

4. Friable asbestos-containing materials are not permitted by current criteria and shall not be used in new construction or modification projects (ETL 1110-1118, 27 May 1983). Specifications for all new construction and modification projects will be reviewed to ensure that the use of friable asbestos-containing materials is not called for.
5. Maintenance, modification, or demolition activities where exposure to asbestos dust may occur from previously installed friable or non-friable asbestos-containing material will be identified, when known, by the Park District. If the contractor should discover such conditions during the course of work, contractor will stop work and notify the Park District. All precautions, to include proper work practices, medical surveillance, respiratory protection, industrial hygiene, and environmental protection requirements of OSHA (29 CFR 1910.1001), EPA (40 CFR 61.140-156) and DA Circular 40-834, as applicable, shall be strictly adhered to.

L. STEEL PRODUCTS

1. The contract shall be subject to all Conditions of the "Steel Products Procurement Act," 30 ILCS 565/1 et seq., as it may be amended from time to time. Steel products issued or supplied in the performance of the contract or any subcontract thereto shall be manufactured or produced in the United States.
2. For purposes of this section, "United States" means the United States and any place subject to the jurisdiction thereof, and "steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed or processed by a combination of two or more such operations from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel-making processes. Knowing violation of this section may result in the filing and prosecution of a complaint by the Attorney General of the State of Illinois and shall subject violators to a fine of either \$5,000 or the payment price received as a result of such violation, whichever is greater.

M. MINED COAL. If applicable, the contractor shall comply with all Conditions of Laws Concerning the Use of Illinois Mined Coal, 30 ILCS 555/0.01 et seq.

N. GOVERNMENTAL ETHICS

1. The contractor shall comply with the Code of the Chicago Park District, Chapter III: "Governmental Ethics," pursuant to which no payment, gratuity or offer of employment shall be made in connection with any Park District contract, by or on behalf of a subcontractor to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
2. Any contract negotiated, entered into, or performed in violation of any of the Conditions of this chapter shall be voidable by the Park District.

O. NON-COLLUSION, BRIBERY OF A PUBLIC OFFICER OR EMPLOYEE. The contractor, in performing under the contract, shall comply with the Code of the Chicago Park District, Chapter III, as follows:

1. No person or business entity shall be awarded a contract or sub-contract if that person or business entity:
 - a. has been convicted of bribery or attempting to bribe a public officer or employee of the Chicago Park District, the State of Illinois, or any agency of the federal government or any state or local government in the United States, in that office's or employee's official capacity; or

- b. has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, of otherwise; or
 - c. has made an admission of guilt of such conduct described in (a) or (b) above which is a matter of record but has not been prosecuted for such conduct.
2. For purposes of this section, where an official, agent or employee of a business entity has committed any offense under this section on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity shall be chargeable with the conduct. One business entity shall be chargeable with the conduct of an "affiliated agency."
 3. Ineligibility under this section shall continue for three (3) years following such conviction or admission. The period of ineligibility may be reduced, suspended, or waived by the Park District under certain specific circumstances. Reference is made to the "Notes for Section II" of the Vendor's Affidavit for a detailed description of the conditions which would permit the Park District to reduce, suspend, or waive the period of ineligibility.

P. NON-COLLUSION AFFIDAVIT

1. The contractor or each joint venture partner shall be required to submit with their bid, proposal, or response, a fully executed Non-Collusion Affidavit, on the form provided in the bid package of this specification, and signed by an authorized officer of the company before a notary, certifying that the contractor or each joint venture partner, its agents, employees, officers, and any subcontractors have not been engaged in or been convicted of bid-rigging or bid-rotation activities as defined in this affidavit, and do not owe any debts to the Park District in violation of Chapter 2-92-380 of the Municipal Code of Chicago.
2. This certification is required in accordance with the Illinois Criminal Code. Contractor will comply with all requirement concerning public contracts contained in 720 ILCS 5133E-1 et seq. (1993).

Q. CONFLICT OF INTEREST

1. No member of the governing body of the Park District or other units of government and no other officer, employee, or agent of the Park District or other unit of government who exercises any functions or responsibilities in connection with the service to which the contract pertains, shall have any personal interest, direct or indirect, in the contract. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no employee shall be admitted to any share or part of the contract or to any financial benefit to arise from it.
2. The contractor covenants that it, its officers, directors and employees, and the officers, directors and employees of each of its members if a joint venture, as well as subcontractors, presently have no interest and shall acquire no interest, direct or indirect, in the project to which the contract pertains, and which would conflict in any manner or degree with the performance of the work hereunder. The contractor further covenants that in the performance of the contract no person having any such interest shall be employed. The contractor agrees that if the Park District determines that any of the contractor's work for others conflicts with the work the contractor is to render to the Park District under the contract, the contractor shall terminate such other services immediately upon request of the Park District.
3. Furthermore, if any federal funds are to be used to compensate or reimburse the contractor under the contract, the contractor represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal year 1990, 31 U.S.C. 1352, and related rules and regulations set forth at 54 Fed Reg. 52,309 ff. (1989), as amended. If federal funds are to be used, the contractor shall execute a Certification Regarding Lobbying, which shall be attached hereto as an exhibit and incorporated by reference as if fully set forth here.

4. No member or delegate to the Congress of the United States of America shall be admitted to any share of a part of the contract or the benefit to arise therefrom, unless the contract is made with a corporation in which the member has no controlling or significant financial interest.

R. COOPERATION WITH INSPECTOR GENERAL

1. It shall be the duty of any bidder or contractor, all subcontractors, and every applicant for eligibility for a Park District pre-qualified contractor program, as well as all officers, directors, agents, partners and employees of any bidder, contractor or such applicant to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code of Chicago.
2. All subcontractors shall inform its sub-subcontractors of this provision and require understanding and compliance herewith.

S. CONTRACTOR'S AFFIDAVIT. The contractor, as to itself and its owners, shall complete the appropriate sections and acknowledge all other representations in the Contractor's (or Vendor's) Affidavit included in this bid package, certifying that the contractor or each joint venture partner, its agents, employees, officers and any subcontractors (a) have not been engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the Park District, City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States, or engaged in or been convicted of bid-rigging or bid-rotation activities as defined in this section as required by the Illinois Criminal Code; and (b) are not presently debarred or suspended as defined in Section D of the Affidavit. .

1. **Disclosure of Ownership.** Any person, business entity or agency submitting a bid to or contracting with the Park District shall be required to complete Section I, Disclosure of Ownership Interests, in the Contractor's Affidavit.
2. **Tax Delinquencies.** The contractor will comply with all applicable Conditions of Section 11-42.1-1 of the Illinois Municipal Code and Illinois Department of Revenue 65 ILCS 5/11-L/Z.I-I (1992) concerning delinquent taxes and will certify in Section C of the Contractor's Affidavit that it is not delinquent on any such tax.

T. PROMPT PAYMENT. The contractor shall comply with all applicable Conditions of the Illinois Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*, unless both the contractor and the Park District agree on a greater time period.

XX. MISCELLANEOUS

A. GENERAL CONDITIONS

1. **Counterparts.** The contract is comprised of several identical counterparts, each to be fully executed by the parties and each to be deemed an original, having identical legal effect.
2. **Amendments.** No changes, amendments, modifications, cancellations, or discharge of the contract (or any part thereof) shall be valid unless in writing and signed by the parties hereto, or their respective successors and assigns.
3. **Governing Law.** The contractor hereby irrevocably submits, and shall cause its subcontractors to submit, to the original jurisdiction of those state or federal courts located within the county of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of the contract. The contractor agrees that service of process on the contractor may be made at the option of the Park District, either (a) by registered or certified mail addressed to the applicable office as provided for in the contract, (b) by registered or certified mail addressed to the office actually

maintained by the contractor, or (c) by personal delivery on any officer, director, or managing or general agent of the contractor.

4. **Jurisdiction and Consent to Service of Process.** All judicial proceedings brought against the contractor with respect to the contract may be brought in (a) any court of the State of Illinois of competent jurisdiction and (b) any federal court of competent jurisdiction having sites within the boundaries of the federal court district of the Northern District of Illinois; by execution and delivery of the contract, the contractor accepts, for itself and in connection with it properties generally and unconditionally, the nonexclusive jurisdiction of the aforesaid courts, and irrevocably agrees to be bound by any final judgment rendered thereby from which no appeal has been taken or is available. The contractor designates and appoints the representative identified on the signature page hereto, under the designation "Written Signature of Authorized Officer/Representative," as its agent in Chicago, Illinois, to receive on its behalf service of all process in any such proceedings in such court (which representative shall be available to receive such service at all times), such service being hereby acknowledged by such representative to effective and binding service in every respect. The contractor may change said agent only upon the giving of written notice to the Park District of the name and address of the new agent, who works within the geographical boundaries of the City of Chicago and is employed by the contractor. The contractor irrevocably waives any objection (including, without limitation, any objection of the laying of venue or based on the grounds of forum non-convenience) which it may now or hereafter have to the bringing of any action or proceeding with respect to the contract in the jurisdiction set forth above. Nothing herein shall affect the right to serve process in any other manner permitted by law or shall limit the right of the Park District to bring proceedings against the contractor in the courts of any other jurisdiction.
5. **Successors and Assigns.** The Park District and the contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligation contained in the contract. Neither party to the contract shall assign the contract as a whole without the written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the contract.
6. **Co-operation by Parties.** The parties hereby agree to use their best efforts and good faith in the performance of the contract and to cooperate with each other in the completion of the work hereunder. The contractor further agrees to implement such measures as may be necessary to ensure that its staff and its subcontractors shall be bound by the Conditions of the contract. The Park District shall be expressly identified as a third party beneficiary in any subcontracts, and be granted a direct right of enforcement thereunder.
7. **Joint and Several Liability.** In the event that the contractor, or its successors or assigns, if any, is comprised of more than one individual or legal entity (or a combination thereof), each and every obligation or undertaking herein stated to be fulfilled or performed by the contractor shall be the joint and several obligation or undertaking of each such individual or other legal entity.
8. **No Third Party Beneficiaries.** Except as expressly stated, the parties agree that the contract is solely for the benefit of the parties, and nothing herein is intended to create any third party beneficiary rights for subcontractors or other third parties.
9. **Miscellaneous Conditions.** Whenever under the contract the Park District by a proper authority waives the contractor's performance in any respect, or waives a requirement or condition to either the Park District's or the contractor's performance, the waiver so granted, whether express or implied, shall only apply to the particular instance and shall not be deemed a waiver forever or for subsequent instance of the performance, requirement, or condition. No such waiver shall be construed as a modification of the contract regardless of the number of times the Park District may have waived the performance, requirement, or condition.

10. **Rights and Remedies.** Duties and obligations imposed by the contract and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Park District or the contractor shall constitute a waiver of a right or duty afforded them under the contract nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be otherwise specified in the contract.
11. **Interest.** Payments due and unpaid under the contract shall bear interest from the date payment is due, at such rate as the parties may agree upon in writing, or, in the absence thereof, at the legal rate prevailing from time to time at the place where the project is located.
12. **Severability.** If any provision of the contract shall be held or deemed to be or shall in fact be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all cases because it conflicts with any other provision or Conditions hereof, or with any constitution, statute, ordinance, rule of law, public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or rendering any other provision or Conditions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, or sections contained in the contract shall not affect the remaining portions of the contract or any part thereof.
13. **No Waiver for Failure to Require Contract Compliance.** Failure by the Park District to require compliance by the contractor with this contract is not a waiver of any of the Park District's rights under the contract. Failure of the Park District to request or require any documents or other materials from the contractor shall not constitute a waiver by the Park District of any rights to such documents or materials under this contract.

B. NOTICES

1. Notices provided herein, unless expressly provided for otherwise in the contract, shall be in writing and may be delivered personally or by the United States mail, sent first class and certified with return receipt requested, with postage prepaid, and addressed as follows:
- a. IF TO THE PARK DISTRICT:
 - Director of Purchasing
Chicago Park District
541 North Fairbanks
Chicago, IL 60611
 - Director of Capital Construction
Chicago Park District
541 North Fairbanks
Chicago, IL 60611
 - b. WITH A COPY TO:
 - General Counsel
Chicago Park District
541 N. Fairbanks
Chicago, IL 60611
 - c. IF TO THE CONTRACTOR: The address identified on its Bid Signature Page.
 - d. WITH A COPY TO: The contractor's surety.
2. Notices delivered by mail shall be deemed effective three (3) days after mailing in accordance with this Section. Notices delivered personally shall be deemed effective upon receipt. The addresses stated herein may be revised without need for modification or amendment of the contract, provided written notification is given in accordance with this Section.

3. All other correspondence with the Park District's representative should be provided as required by the Park District from time to time.

C. AUTHORITY

1. **The Park District's Authority.** The contract is entered into by virtue of the authority conferred on the Park District under the Chicago Park District Act, 70 ILCS 1505/0101 *et seq.*, and the Code of the Chicago Park District. By signing this agreement, the contractor represents that it has examined the Code of the Chicago Park District ("code") in its most current form. A copy of this code is available from the Park District for a nominal fee. The contractor's attention is specifically directed to Chapter XI, entitled "Purchasing and Contracting." The contractor represents that it has read this chapter in its entirety. Furthermore, the entire code is hereby incorporated into the contract as a material part thereof. In any conflict between the code and other portions of the contract, the code will control.
2. **The Contractor's Authority.** The execution of the contract by the contractor is authorized, and the signature(s) of the person(s) signing on behalf of the contractor has been made with complete and full authority to commit the contractor to all terms and conditions of the contract, including each and every representation, certification, and warranty contained herein, attached hereto, and collectively incorporated by reference herein, or as may be required by the terms and conditions hereof. If other than a sole proprietorship, the contractor must provide satisfactory evidence that the execution of the contract is authorized in accordance with the business entity rules and procedures.
3. **Consents and Approvals.** Unless otherwise expressly stated herein, the Park District or its authorized representative shall give any consents and approvals that are to be given by the Park District.

End of General Conditions