

# Meramec Greenway: Al Foster Slope Stabilization

# PROJECT

# MANUAL

Bid Due: December 18, 2020 at 3:00 PM

*Developer*

**Great Rivers Greenway District**

3745 Foundry Way Suite 253

St. Louis, Missouri 63110

Telephone: 314-873-8745

Email: [sjankowski@grgstl.org](mailto:sjankowski@grgstl.org)

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Great Rivers Greenway  
Form 1: INVITATION TO BID

BID DATE: December 18, 2020  
Meramec Greenway: Al Foster Slope Stabilization

The Great Rivers Greenway District (District), the Developer, is soliciting sealed bids for Meramec Greenway: Al Foster Slope Failure.

Sealed hard copy bids must be submitted via courier, postal service or in person drop off by 3:00pm prevailing Central time, December 18, 2020 at 3745 Foundry Way, Suite 253. St. Louis, MO 63110.

GRG will open bids on the date and time indicated above. All documents necessary to submit a bid will be available in this document link.

Questions should be directed to Susan Jankowski, Operations Supervisor or through the website. All requests for clarification on these bidding documents must be received in writing by December 11, 2020.

Sealed hard copy bids will also be accepted and may be submitted at the offices of The Great Rivers Greenway District, 3745 Foundry Way Suite 253 until 3:00 pm prevailing Central time, December 18, 2020, and will be publicly opened and read aloud in the GRG Conference Room on the date and time indicated above and/or via Zoom at the date and time indicated above, subject to applicable state and local health orders and guidelines.

A 5% Bid Security in the form specified in the bidding documents is required. Participation Goals for the project are 25% MBE and 5% WBE. The District reserves the right to waive informalities in bids, and to reject any and all bids submitted.

Successful Bidder shall be required to comply in all respects with applicable statutory provisions concerning payment of prevailing wages on public works, Sections 290.210 through 290.340 R.S. Mo. 1959, as currently amended, and shall pay to all workmen performing under work contract not less than prevailing hourly rate of wages as determined by the Department of Labor and Industrial Relations of the State of Missouri.

Scope of Work:

**1. GENERAL REQUIREMENTS**

- 1.1. ALL WORK AND MATERIALS SHALL CONFORM TO THE REQUIREMENTS OF THE OWNER.
- 1.2. CONTRACTOR ACCESS TO THE SITE SHALL BE COORDINATED WITH OWNER.

**2. EROSION CONTROL**

- 2.1. THE CONTRACTOR ASSUMES COMPLETE RESPONSIBILITY FOR INSTALLATION/MAINTENANCE OF PROJECT EROSION CONTROL MEASURES AND COMPLIANCE THAT MEET THE OWNER'S REQUIREMENTS.
- 2.2. THE CONTRACTOR SHALL EMPLOY WHATEVER MEANS NECESSARY TO CONTROL EROSION AND PREVENT SOIL FROM LEAVING THE PROJECT SITE.

2.3. INSTALLATION OF EROSION CONTROL MEASURES SHALL COMMENCE WITH THE START OF GRADING OPERATIONS AND THOSE MEASURES SHALL BE MAINTAINED THROUGHOUT THE LIFE OF THE PROJECT UNTIL ACCEPTANCE OF THE WORK BY THE OWNER.

### **3. SITE PREPARATION**

3.1. TO PREPARE THE SITE, REMAINING VEGETATION INCLUDING TREES, BRUSH, STUMPS, LARGE ROOTS, AND TOPSOIL SHALL BE REMOVED FROM AREAS TO BE RECONSTRUCTED. TOPSOIL SHALL BE REMOVED FROM THE SITE OR MAY BE USED AS FILL IN LANDSCAPING AREAS ONLY. ON STABILIZED SLOPES, TOPSOIL USE SHALL BE LIMITED TO THE UPPER ONE FOOT. PRIOR TO PLACEMENT OF THE SLOPE, THE SUBGRADE SHALL BE PREPARED AS INDICATED BELOW. ALL EXPOSED EARTHWORK AND EARTH SLOPES SHALL BE PROTECTED FROM EROSION.

### **4. SITE EXCAVATION**

4.1. MATERIAL THE CONTRACTOR SHALL EXCAVATE MATERIAL AS REQUIRED FOR THE CONSTRUCTION OF THE PROPOSED CROSS-SECTION.  
4.2. DISTRESSED (I.E. FAILED AND/OR DISPLACED) MATERIALS RESULTED FROM SLOPE FAILURE SHALL BE REMOVED PRIOR TO PLACEMENT OF FILL MATERIALS.

### **5. FILL PLACEMENT**

5.1. PRIOR TO THE PLACEMENT AND COMPACTION OF ANY FILL, THE TOPSOIL AND DISTRESSED SOIL SHALL BE REMOVED. THE TOPSOIL AND CLAY MAY BE STOCKPILED SEPARATELY FOR LATER REUSE.  
5.2. SURFACES TO RECEIVE FINED GRAINED SOIL FILL (CL, ML-CL) AND GRANULAR AGGREGATE (SP, SW, GP, GW) SHALL BE STEPPED, OR KEYED, A MINIMUM OF 2 FEET INTO NATIVE AND NON-DISPLACED GROUND TO PERMIT PLACEMENT AND COMPACTION OPERATIONS AND BONDING WITH THE EXISTING SURFACE.  
5.3. FINE GRAINED SOIL AND GRANULAR AGGREGATE FILL MAY BE OVERBUILT TO ACCOMMODATE PLACEMENT, SPREADING, AND COMPACTION OF HORIZONTAL LIFTS.  
5.4. GRANULAR AGGREGATE SHALL BE PLACED IN LOOSE UNIFORM HORIZONTAL LIFTS NOT EXCEEDING 10 INCHES IN THICKNESS. LIFTS SHALL BE PLACED AT LOWEST ELEVATION FIRST, EACH LIFT SHALL BE COMPACTED TO A RELATIVE DENSITY OF AT LEAST 70% (ASTM D-4254) USING APPROVED EARTHMOVING EQUIPMENT.

5.5. FINE GRAINED SOIL FILL SHALL BE PLACED IN LOOSE UNIFORM HORIZONTAL LIFTS NOT EXCEEDING 8 INCHES IN THICKNESS. LIFTS SHALL BE PLACED AT LOWEST ELEVATIONS FIRST. EACH LIFT SHALL BE COMPACTED TO A DENSITY OF AT LEAST 95% OF STANDARD PROCTOR TEST (ASTM D-698) AT A MOISTURE CONTENT BETWEEN 2% BELOW AND 3% ABOVE THE OPTIMUM MOISTURE CONTENT USING APPROVED EARTHMOVING EQUIPMENT.

5.6. MATERIAL PLACED THAT DOES NOT MEET THE MINIMUM COMPACTION REQUIREMENTS SHALL BE REWORKED AS NECESSARY TO OBTAIN THE SPECIFIED COMPACTION AT NO EXTRA COST TO THE OWNER. REWORKING MAY INCLUDE REMOVAL, REHANDLING, RECONDITIONING (INCLUDING DRYING OR ADDING WATER), RE-COMPACTING, OR COMBINATIONS OF THESE PROCEDURES. NO FURTHER PLACEMENT OF MATERIAL WILL BE ALLOWED UNTIL THE COMPACTION REQUIREMENTS ARE MET. IF THE MATERIAL BECOMES UNSUITABLE FOR USE AFTER PLACEMENT, EVEN IF PREVIOUSLY COMPACTED TO THE SPECIFIED PERCENTAGE, IT SHALL BE MODIFIED (OR REMOVED AND REPLACED BY SUITABLE MATERIAL) AND COMPACTED IN ACCORDANCE WITH THE SPECIFICATIONS AT NO EXTRA COST TO THE OWNER.

5.7. NO FILL SHALL BE PLACED ON SOFT MATERIAL, MUDDY, OR FROZEN GROUND. THE COMPACTED EARTH SHALL BE SLOPED AND GRADED TO PERMIT RUNOFF OF RAINWATER. NO PONDING OF WATER ON THE FILL SURFACE SHALL BE PERMITTED.

5.8. DRAINAGE BLANKET MATERIAL SHALL BE WRAPPED WITH GEOTEXTILE FABRIC SEPARATOR TO PREVENT MIGRATION OF FINE GRAINED SOIL (SUBGRADE OR FILL) MATERIAL INTO DRAINAGE BLANKET MATERIAL.

## **6. MATERIALS**

6.1. THE CONTRACTOR SHALL PROVIDE TO THE OWNER DOCUMENTATION THAT THE PROPOSED MATERIALS MEET THE SPECIFICATIONS LISTED. THE PROPOSED MATERIALS WILL BE APPROVED FOR USE AT THE DISCRETION OF THE OWNER.

6.2. COMPACTED CLAY FILL: LOW PLASTIC CLAY (CL) OR CLAYEY SILT (CL-ML) AS DEFINED BY ASTM D2487 WITH A PLASTICITY INDEX LESS THAN OR EQUAL TO 20 PERCENT OR APPROVED EQUIVALENT. FILL MATERIAL SHALL BE FREE OF ORGANIC MATERIAL.

6.3. DRAINAGE BLANKET: DRAINAGE BLANKET MATERIAL SHALL FREE DRAINING GRANULAR AGGREGATE THAT MEETS MODOT SPECIFICATION PER SECTION 1009.3.4 GRADE 4, GRADATION A OR APPROVED EQUIVALENT.

6.4. TOPSOIL: LOW PLASTIC CLAY (CL) OR CLAYEY SILT (CL-ML) AS DEFINED BY ASTM D2487 WITH A PLASTICITY INDEX LESS THAN OR EQUAL TO 20 PERCENT

OR APPROVED EQUIVALENT.

6.5. GEOTEXTILE FABRIC: THE GEOTEXTILE FABRIC SHALL BE TENCATE MIRAFT 180N OR APPROVED EQUIVALENT. GEOTEXTILE SHALL BE INSTALLED AS SHOWN ON THE DRAWING IN ACCORDANCE WITH THE MANUFACTURER RECOMMENDED INSTALLATION PROCESS AND ANCHORED PER MANUFACTURER'S RECOMMENDATIONS. THE CONTRACTOR MAY PROPOSE ALTERNATE MANUFACTURES AND PRODUCTS, SUBJECT TO THE OWNER'S APPROVAL.

6.6. EROSION CONTROL BLANKET: THE EROSION CONTROL BLANKET SHALL BE AMERICAN EXCELSIOR CURLEX II CL OR APPROVED EQUIVALENT. EROSION CONTROL BLANKET SHALL BE INSTALLED AS SHOWN ON THE DRAWING IN ACCORDANCE WITH THE MANUFACTURER RECOMMENDED INSTALLATION PROCESS AND ANCHORED PER MANUFACTURER'S RECOMMENDATIONS.

## **7. VEGETATION**

7.1. CONTRACTOR SHALL INSTALL VEGETATION AT LOCATIONS AS INDICATED IN THE PLANS. PLANTING MATERIAL, CONSTRUCTION REQUIREMENTS, CARE AND REPLACEMENT, AND INSPECTION SHALL CONFORM TO MODOT SPECIFICATION SECTION 808 AND OWNER'S SPECIFICATIONS.

7.2. SEEDING: GRASSY NATIVE SEED MIX AS APPROVED BY OWNER.

7.3 LIVE STAKING: 2-3' CENTERS TO PROVIDE COVER ON ENTIRE AREA OF DISRUPTION.

Additional Instructions to Bidders:

### **1. BIDDER QUALIFICATIONS**

**1.1.** Award of Contract shall be made to the responsible and qualified Bidder capable of performing class of work covered by Bid. Determination of a Bidder's responsibility and qualifications shall be made by the District and shall be based upon, but not necessarily limited to, a Bidder's: (a) financial resources, (b) experience on projects of similar size and construction nature including greenways, parks, open space and site development, (c) organization, (d) technical qualifications, (e) skills, (f) equipment and facilities, and (g) ability to comply with the performance schedule, necessary to determine responsibility and qualifications of a Bidder to perform class of work covered by Bid.

**1.2.** Upon opening bids, the District will notify and request the apparent low and best bidder(s) to complete AIA Form A305 (Contractor's Qualification Statement) bound herein, within two calendar days. In addition to information required by A305, District may request and Bidder shall furnish such additional information as is necessary for District to determine responsibility and qualifications of a Bidder. Failure to fully complete and execute A305 may result in the rejection of the bid.

**1.3.** District specifically reserves the right to reject any bid if evidence submitted by, or investigations of, such Bidder fails to satisfy District that such Bidder is responsible and qualified to carry out obligations of Contract and to complete class of Work contemplated therein.



**1.4.** Bidder is specifically advised that all Contractors, including any person, firm, or other party to whom it is proposed to award a Sub-contract under this Contract, must comply with Nondiscrimination in Employment requirements set forth in the General Conditions of Contract for Construction (GRG Form 5).

2. **BID SECURITY**

**2.1.** Each Bid must be accompanied by a bond duly executed by Bidder as principal and having as surety thereon a surety company approved by District, in the amount of 5% of total Base Bid, or by a cashier's check payable to THE GREAT RIVERS GREENWAY DISTRICT, in like amount.

**2.2.** Bid security shall be forfeited to District, if successful Bidder fails or refuses to execute and deliver Contract, and bonds required, within ten (10) days after he has received notice of acceptance of his/her Bid.

**2.3.** Any surety company which proposes to execute a bond as required by Contract shall furnish, at its own cost, a certified copy of its Certificate of Authority to transact business in the State of Missouri, such Certificate to remain on file with District. No surety bond will be approved by District until such Certificate is furnished. However, if there be already on file with District such Certificate of the surety company, then an additional Certificate will not be required during the period of time for which Certificate is issued.

3. **CONDITIONS OF WORK**

**3.1.** Before submitting a proposal, it is important that each Bidder visit the site of work, carefully examine drawings and specifications, and fully inform himself/herself as to all existing conditions and limitations affecting his/her proposal.

**3.2.** Bidder must inform himself/herself of conditions relating to construction of project and employment of labor thereon. Failure to do so will not relieve a successful Bidder of his/her obligation to furnish all labor and materials necessary to carry out provisions of Contract. Insofar as possible, Contractor, in carrying out his/her Work, must employ such methods or means as will not cause any interruption of, or interference with, work of any other Contractor.

**3.3.** Bidder shall accept site as it exists at time of invitation to bid and will provide and maintain, during work required for this project, adequate protection of public and private property adjacent to site.

4. **ADDENDA AND INTERPRETATION**

**4.1.** Necessary changes or corrections in plans or specifications during time of bidding will be issued in writing or as drawings in form of Addenda to all Bidders. Receipt of all such Addenda shall be acknowledged in Bid Express. Failure of any Bidder to receive any Addendum or interpretation shall not relieve Bidder from any obligation under his/her Bid as submitted. All Addenda issued will become part of Contract Documents.

**4.2.** Should a Bidder find discrepancies in, or omission from, drawings or other documents, or should he be in doubt as to their meaning, he/she shall immediately post a question or clarification in email



sjankowski@grgstl.org. The District's Representative will post a response on our website or notify all Bidders. During the bid period it is requested that all questions be directed to the District's Representative identified above, with no direct phone calls to the Landscape Architect/Engineer. All requests must be received by the date and time noted above. District will not be responsible for any oral instructions or any other explanation or interpretation of Documents.

5. PERFORMANCE AND PAYMENT BOND

- 5.1.** Simultaneously with delivery of executed Contract, Contractor shall furnish Performance and Payment Bonds in amount of 100% of total Contract sum, as security for both faithful performance of Contract and for payment of all persons performing or furnishing labor, materials or supplies on the project under this Contract as specified in Contract Documents. Surety on the bond shall be a duly authorized surety company approved by District.
- 5.2.** Cost of Performance and Payment Bonds shall be paid for by the successful Bidder.

6. METHOD OF AWARD

- 6.1.** District will enter into a lump sum Contract for the entire project with the successful Bidder for general construction, which shall include all subcontract work.
- 6.2.** Subject to provisions of the Invitation to Bid (GRG Form 1), Contract shall be awarded by District to lowest responsive, responsible and qualified Bidder within ninety (90) consecutive calendar days after date and time of opening of bids as provided for in Invitation to Bid. The bid will be determined by the amount of combined Total Base Bid, as adjusted by accepted alternates, if any. Responsibility and qualifications of a Bidder will be determined by District in accordance with the Invitation to Bid (GRG Form 1).
- 6.3.** The successful Bidder shall be required to execute a Contract with District, using Contract form provided herein in such number of counterparts as District may request, within ten (10) calendar days after receipt of Notice of Award by District.
- 6.4.** The Contract shall not be considered binding upon District until an award by District has been entered on record, and until successful Bidder has executed it and filed a satisfactory Performance and Payment bond, and until Contract has been signed by the Contractor, and District.
- 6.5.** All Subcontractors shall be subject to terms and conditions of General Contract.

7. TIME OF COMPLETION

- 7.1.** Bidder agrees to commence and complete the work of this contract in accordance with the Time requirements identified in Section 3 of the Contract (GRG Form 4).
- 7.2.** It is hereby understood and mutually agreed, by and between the Contractor and the DISTRICT, that the date of beginning and the time for completion as specified in the Contract for the work to be done hereunder are Essential Conditions of this Contract; and it is further mutually understood and agreed that the work embraced in this Contract shall be commenced on a date to be specified in the written "Notice to Proceed."



8. SPECIAL NOTICE TO BIDDERS

**8.1.** No claim for additional compensation will be entertained on behalf of or paid to a Contractor on account of his/her failure to be fully informed of all requirements of Contract Documents.

**8.2.** The following rights are reserved by District:

**8.2.1.** To reject any or all bids without compensation to Bidders, and to waive any or all informalities or defects in any bids.

**8.2.2.** To hold all bids valid for ninety (90) consecutive calendar days from time and date of receipt and opening of bids.

**8.2.3.** Bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and rules and regulations of all authorities apply to Contract throughout and will be deemed to be included in Contract the same as though herein written out in full.

**8.2.4.** At time of opening of bids, each Bidder will be presumed to have inspected Site and to have read and be thoroughly familiar with Contract Documents (including all Addenda). Failure or omission of any Bidder to examine any form, instrument, or document, shall in no way relieve any Bidder from any obligation in respect to his/her Bid.

8.3 At time of opening of bids, each bidder will be presumed to have inspected site and to have read and be thoroughly familiar with contract documents (including all addenda). Failure or omission of any form, instrument, or document shall in no way relieve any bidder from any obligation in respect to his/her bid.

9. BIDS OF INDIVIDUALS

**9.1.** A Bid of an individual, including those doing business under a fictitious name, must be signed by the individual, and his/her address shown.

10. BIDS OF PARTNERSHIPS OR JOINT VENTURES

**10.1.** A Bid by a partnership or joint venture, including individuals doing business under fictitious names or corporations, must be executed by at least one of the partners, followed by title "Partner," or one of the joint ventures, followed by title "Joint Venture" and business address of partnership or joint venture shown. True legal name and address of each partner and joint venture must also be shown.

11. BIDS BY CORPORATION

**11.1.** A Bid by a corporation, whether acting alone or as a joint venturer, must show address and name of corporation and be signed by person authorized by its Board of Directors to bind the corporation, with his/her title shown.

12. FICTITIOUS NAMES



**12.1.** A Bidder doing business under a fictitious name shall have on file with County Clerk, before Award, a certified copy of his/her Registration of Fictitious Names issued by Secretary of State, State of Missouri.

13. FOREIGN CORPORATIONS

**13.1.** Each Bidder which is a corporation organized in a state other than Missouri shall attach to its Bid a certified copy of a valid certificate of authority and license to do business in Missouri issued by Secretary of State, State of Missouri.

14. IRREGULAR BIDS

**14.1.** Bids that show any omissions, alterations of form, additions not called for, conditional or alternate bids unless called for, irregularities of any kind, or which are not responsive to requirements of Contract Documents may be rejected. Any comment in a Bid limiting or qualifying the reserved right of District to make awards that will be to the best interest of District shall constitute an irregular Bid which may be rejected.

15. RIGHT TO REJECT BIDS

**15.1.** District reserves the right to reject any or all bids, to advertise for new bids, or to proceed to do the work otherwise if in the judgment of District and best interests of District will be thereby promoted.

16. LIST OF SUBCONTRACTORS

**16.1.** Each Bidder is required to complete the GRG Form 3: Principal Sub-Contractors identifying all Subcontractors to be employed in prosecution of the Work as provided for herein. This item shall be submitted by the successful bidder two (2) business days after bids are opened. Failure to complete list may be cause for declaring the Bid irregular as not being responsive to Invitation to Bid.

**16.2.** Minority and Women Business Enterprise Policies. It is the goal of the District that minority and women-owned businesses shall have the maximum opportunity to participate in the performance of contracts utilizing District funds. Minority and Women Business Enterprise goals of 25/5% have been established by the District; i.e. 25% of the total contract amount to be awarded to Minority Business Enterprises (MBE) and 5% of the total contact amount to be awarded to Women Business Enterprises (WBE). It is the prospective Bidder's responsibility to make a sufficient portion of the work available to sub-contractors to meet the goal, consistent with the availability and capacities of MBE and WBE firms. MBE/WBE firms included in the Bidder's submittal, either as General Contractor or Sub-Contractors, must be certified by one or more of the following agencies on or before the date of the submission of qualifications (including but not limited to):

- Missouri Division of Purchasing and Materials Management
- City of St. Louis: Disadvantage Business Enterprise Program
- St. Louis Minority Business Council

17. SUBSTITUTIONS



- 17.1. Changes In products, materials, equipment and methods of construction required by Contract Documents proposed by the Contractor are considered to be requests for substitutions.
- 17.2. Requests for Substitutions will be considered only if received with Bid and with complete documentation described below and approved by District prior to Bidding.
- 17.3. Provide complete documentation of substitution showing compliance with the following Information:
  - Product Data, Including drawings and description.
  - Samples, where applicable or requested.
  - Indicate effect of proposed substitution on overall Contract Time.
  - Cost Information and proposal, if any, In Contract Sum.
  - Certification that proposed substitution conforms to requirements In the Contract Documents.



Great Rivers Greenway  
Form 2: **BID FORM**

Project: \_\_\_\_\_

Date: \_\_\_\_\_

**Bid from:** \_\_\_\_\_  
hereinafter called "**BIDDER**," \*(a corporation, organized and existing the laws of State  
of \_\_\_\_\_, a \*partnership, or an individual doing business  
as \_\_\_\_\_).

**To:**  
**Great Rivers Greenway District**  
3745 Foundry Way Suite 253  
St. Louis, MO 63110  
hereinafter called "**DEVELOPER**."

**To the Developer:**  
Having carefully examined the Contract Documents as set forth in Article 1.1.1 of the General Conditions of the Contract for Construction, which documents are made a part hereof as if more specifically set out herein, and entitled **AI Foster Slope Stabilization (732)** as well as the site and all conditions affecting the work, the undersigned agrees to furnish all the labor, materials and equipment necessary to perform the BASE BID work shown on the drawings and called for in the Specifications, and any addendum in accordance with said documents for the stipulated sums below:

## **SCOPE OF WORK**

**AI Foster Slope Stabilization (732)**  
The Contractor shall perform the work as represented on the drawings and the specifications.

The work to be done under this contract includes but is not limited to the following items:

Stabilize slope on Meramec Greenway: AI Foster Trail that was undermined during flooding in 2019. Finished slope is to be returned to a grade of 3:1. Restoring vegetation and trail surface to usable status.

*The work consists of furnishing all material, labor, tools, equipment, and supervision necessary for the construction of the items noted above in accordance with all the requirements of these specifications, and the drawings made a part thereof. Existing site amenities damaged during construction shall be replaced at no cost to the owner.*

## **BASE BID**



**TOTAL BASE BID:** The lump sum of \_\_\_\_\_  
\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_).

The above **Total Base Bid**, the amount shall be shown in both words and figures. In the case of discrepancy between words and figures, the lowest price shall govern.

The sum indicated above includes excise taxes, and any other taxes for all materials and equipment subject to and upon which taxes are levied. *Sales tax exempted per Developer's Certificate is not included.*

A Bid Bond, executed by the Bidder and an acceptable Surety Company equal to at least five percent (5%) of the amount of the Total Base Bid, or a cashier's check in like amount made out to the Developer, is hereby posted as security, in accordance with the Invitation to Bid (GRG Form 1).

If the undersigned be notified of the acceptance of this Bid within ninety (90) consecutive calendar days after the time and date set for the opening of bids, he will, within ten (10) days after notification of acceptance, execute a contract for the above work, for the above stated compensation, or the above-stated and accompanying Bid Bond, or cashier's check shall be declared forfeit.

The undersigned agrees, if awarded the Contract, to furnish simultaneously with delivery of the executed Contract, a Performance and Payment Bond in the form provided in the Contract Documents in an amount equal to 100% of the Contract sum for faithful performance of the Contract and also 100% of the Contract sum for payment of material and labor. If unable to furnish said bonds, the undersigned and Surety hereby agree to forfeit the security posted with the Bid.

The undersigned hereby agrees to commence work under Contract on or before a date to be specified in written "NOTICE TO PROCEED" of the Developer and to fully complete the total project in accordance with the time schedule set forth in the Invitation to Bid.

The undersigned understands that the Developer reserves the right to reject any or all bids.

The undersigned understands that this bid shall be good and may not be withdrawn under any circumstances for a period of forty-five (45) consecutive calendar days after the time and date set for receiving and opening bids.

The undersigned further agrees to indemnify and save the Developer from and against all losses, claims, demands, payments, suits, actions, recoveries, and judgments of every nature and description made, brought, or recovered against the Developer by reason of any act or omission of the undersigned, his/her agents, Subcontractors, or employees in the execution of the work or in guarding the same.

The undersigned hereby declares that all prices given herein include all taxes except those exempted by virtue of the work done and materials furnished.



**Bidder acknowledges the receipt of the following addenda:**

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

Addendum No. \_\_\_\_\_ Dated \_\_\_\_\_

(Fill in number and dates of all addenda received)

**Bid respectfully submitted by:**

Name of Bidder \_\_\_\_\_ Title \_\_\_\_\_

Signature of Bidder \_\_\_\_\_

Company Name \_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

**If a CORPORATION:**

Name of Corporation \_\_\_\_\_

1. Incorporated under the law of the state of \_\_\_\_\_

2. Licensed to do business in Missouri? Yes \_\_\_ No \_\_\_ (Check one)

Name and Title of Officer \_\_\_\_\_

Address for Communication \_\_\_\_\_

\_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

**If a PARTNERSHIP:**



**Partner** \_\_\_\_\_

Residence address and state name \_\_\_\_\_

\_\_\_\_\_

**Partner** \_\_\_\_\_

Residence address and state name \_\_\_\_\_

\_\_\_\_\_

Address for Communications \_\_\_\_\_

\_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

### **If an INDIVIDUAL:**

**Name of Individual** \_\_\_\_\_

Residence address and state name \_\_\_\_\_

\_\_\_\_\_

Firm name, if any \_\_\_\_\_

Address for Communications \_\_\_\_\_

\_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

### **If a JOINT VENTURE:**

**Name of Joint Venture** \_\_\_\_\_



Residence address and state name \_\_\_\_\_

\_\_\_\_\_

Firm name, if any \_\_\_\_\_

Address for Communications \_\_\_\_\_

\_\_\_\_\_

Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

**Name of Joint Venturer** \_\_\_\_\_

**Name of Joint Venturer** \_\_\_\_\_

**NOTE: A COMPLETED COPY OF AIA Form A305 (Contractor's Qualification Statement) MUST BE SUBMITTED BY THE SUCCESSFUL BIDDER THREE BUSINESS DAYS AFTER BIDS ARE DUE.**





Great Rivers Greenway

# Form 3: **PRINCIPAL SUB-CONTRACTORS**

Date: \_\_\_\_\_

**PROJECT:** Al Foster Slope Stabilization **PROJECT NUMBER:** 732

County: St. Louis

**CONTRACTOR:** \_\_\_\_\_

(List Sub-Contractors proposed to be employed by you on above project)

Submitted by: \_\_\_\_\_

Subcontractor or Supplier	Address/ Telephone	Description	DBE?	Quantity	Unit Price	Dollar Amount	% of Total Contract

Great Rivers Greenway  
**Form 4: CONTRACT**

This Contract is made and entered into the \_\_\_\_\_ day of [Insert Month, Year],  
by and between the Metropolitan Park and Recreation District d/b/a  
The Great Rivers Greenway District (hereinafter referred to as the “Developer”) and  
\_\_\_\_\_ (hereinafter referred to as the “Contractor”).

The parties hereto agree as follows:

1. **Scope of Work.** The Contractor will perform such work, including all labor, equipment and material as described in **Invitation to Bid (Form GRG 1)**, attached to this Contract. All work shall be performed as described in the “Contract Documents” defined in the **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION (Form GRG 5)** which shall be a part of this Contract.
2. **Contract Sum.** The Developer shall pay the total sum of \_\_\_\_\_ (\$\_\_\_\_\_) for the Scope of Work.
3. **The Contract Time** for completion of the Work shall be as follows: Contractor shall achieve Substantial Completion of the Work no later than 30 consecutive calendar days after the Date of Commencement of the Work. Final Completion shall take place no later than 20 days after Substantial Completion. Time shall be calculated in accordance with **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION (Form GRG 5)**.

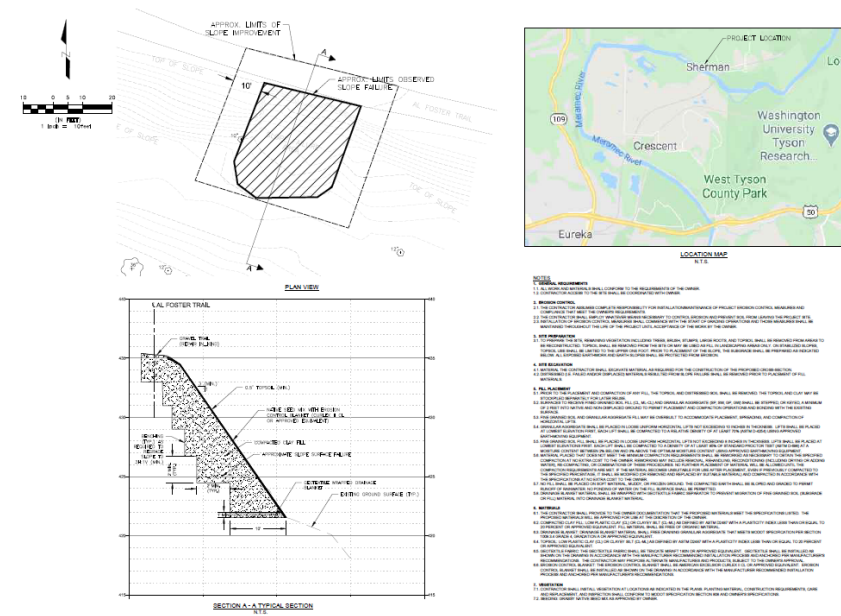
Contractor shall submit applications for payment in the amount of the value of materials and labor incorporated in the Work, as approved by the Developer and Owner, less the aggregate amount of previous payments. From each application for payment, Developer may withhold a “retained percentage” of ten percent (10%) of the full amount requested. Within thirty (30) days after Substantial Completion, as determined pursuant to **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION (Form GRG 5)**, Developer shall release to Contractor ninety-eight percent (98%) of the retained percentage, less 150% of the amount necessary to complete any Punch List items and any other offsets or deductions permitted by the Contract Documents. As a condition precedent to Developer’s obligation to make any payment, Contractor shall submit partial and final lien waiver (as applicable) in the forms included in the Contract Documents as **Form GRG 6 and Form GRG 7**. Further, on any changes in the work, Great Rivers Greenway District allows a maximum of 10% markup for fees on any change order. Said amount will be payable as follows:

- a. Under the payment schedule set forth in the **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION (Form GRG 5)**

In all events, Developer shall pay Contractor not later than thirty (30) days after receipt of the application for payment.

4. **Liquidated Damages.** Contractor acknowledges and agrees that if Contractor fails to achieve Substantial Completion or Final Completion of the Work within the Contract Time as identified in this Contract, Developer will sustain disruption to its business, damages and losses as a result, the exact amount of which are difficult or impossible to quantify at the time of execution of this Contract. As an additional inducement to Developer to enter into this Contract, Developer and Contractor therefore agree as follows:
  - a. If the Contractor fails to achieve Substantial Completion or Final Completion of the Work within the times set forth in this Contract, Developer shall be entitled to retain or recover from Contractor, as liquidated damages and not as a penalty, the following per diem amounts:
    - i. Commencing on the first day following expiration of the Contract Time for Substantial Completion and continuing until actual achievement of Substantial Completion: **\$500** per day for each and every calendar day (including Saturdays, Sundays and legal holidays).
    - ii. Commencing on the first day following expiration of the Contract Time for Final Completion and continuing until actual achievement of Final Completion: **\$500** per day for each and every calendar day (including Saturdays, Sundays and legal holidays).
  - b. Such liquidated damages are agreed to be a reasonable estimate at the time of this Contract of the damages the Developer will incur as a result of Contractor's delayed achievement of Substantial Completion and Final Completion and are fair compensation to the Developer.
  - c. Developer may deduct liquidated damages described above from any unpaid amounts then or thereafter due the Contractor under this Contract. Any liquidated damages not so deducted from unpaid amounts due the Contractor shall be payable to the Developer upon written demand, together with interest from the date of the demand at 6% per annum. Contractor shall pay liquidated damages as set forth in the **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION (GRG Form 5)**.
5. **Drawings.** Accompanying the Specifications are the following contract drawings which are to illustrate and to be a part of the Specifications and the contract documents:

**AI Foster Slope Stabilization (732) - Bid Package**



6. **Conditions.** This Contract and the Work performed hereunder shall be completed in conformity with the **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION (GRG Form 5)** which is specifically made a part of this Contract.

WHEREFORE the parties have set their hand the day and date first above written.

CONTRACTOR

\_\_\_\_\_

by \_\_\_\_\_

DEVELOPER

Metropolitan Park and Recreation District  
d/b/a The Great Rivers Greenway District

by \_\_\_\_\_

Chief Executive Officer

Great Rivers Greenway

# Form 5: **GENERAL CONDITIONS of the Contract for Construction**

## 1. CONTRACT DOCUMENTS

### 1.1. DEFINITIONS

#### 1.1.1. THE CONTRACT DOCUMENTS

**The Contract Documents consist of** the following:

- Invitation to Bid (Form GRG 1)
- Bid Form (Form GRG 2)
- Proposed List of Subcontractors (Form GRG 3)
- AIA Form A305 – Contractor’s Qualification Statement
- Bid Bond
- Contract (Form GRG 4)
- General Conditions of the Contract for Construction (Form GRG 5)
- Performance and Payment Bond
- Project Tax Exemption Certificate (MO Form 5060)
- Job Special Provisions

**....and all Addenda** issued prior to execution of the Agreement and all modifications thereto. A modification is (a) a written amendment to the Contract signed by both parties, (b) a Change Order or (c) a written order for a minor change in the Work issued by the Developer pursuant to Paragraph 10.1. A modification may be made only after execution of the Contract.

**1.1.2. The Special Conditions contain changes and additions** to the General Conditions and shall take precedence over inconsistent General Conditions. Where any part of the General Conditions is modified or voided by Special Conditions, unaltered provisions shall remain in effect.

**1.1.3. The Contract Documents form the Contract.** The Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral, including the bidding documents. The Contract may be amended or modified only by a Modification as defined in Subparagraph 10.1.

**1.1.4. The Work.** The term “Work” includes all labor necessary to produce construction required by Contract Documents and all materials and equipment incorporated or to be incorporated in such construction.

#### 1.1.5. THE PROJECT

The "Project" shall be identified as:  
Al Foster Slope Stabilization

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**1.1.6 Defined Terms.** The following defined terms are used throughout the Contract:

- **Calendar Days:** Calendar days shall be every consecutive day through any part of the calendar year, including weekends and holidays. A time lapse specified in terms of calendar days shall be construed to mean consecutive days.
- **Notice of Award:** A written notice to successful Bidder, stating that his/her Bid has been accepted, and that, in accordance with terms of notice to contractors and specifications, he is required to execute the Contract and furnish satisfactory contract bond.
- **Notice to Proceed:** A written notice from Owner/Owner's Representative to Contractor of the date on which he is to begin prosecution of the Work for which he has contracted.
- **Payment Bond:** The approved form of security furnished by Contractor and his/her surety as a guarantee that he will pay in full all bills and accounts for materials and labor used in construction of Work, as provided by law.
- **Performance Bond:** The approved form of security furnished by Contractor and his/her surety as a guarantee of good faith and ability on the part of Contractor to execute the Work in accordance with terms of the plans, specifications, and Contract.
- **Specifications:** The directions, provisions, and requirements contained herein, pertaining to the method and manner of performing the Work, or to quantities or qualities of materials to be furnished under the Contract.
- **Surety:** A surety company authorized to do business in the State of Missouri, bound with and for Contractor for acceptable performance of the Contract, and also for payment of all claims recoverable under the Contract bond.

**1.2. EXECUTION, CORRELATION, INTENT AND INTERPRETATIONS**

**1.2.1. The Contract shall be signed** in not less than triplicate by Developer and Contractor.

**1.2.2. By executing the Contract, Contractor represents** that it has visited the site, familiarized itself with local conditions under which the Work is to be performed, and correlated its observations with the requirements of the Contract Documents.

**1.2.3. Contract Documents are complementary,** and what is required by any one shall be as binding as if required by all. The intention of the Documents is to include all labor, materials, equipment and other items as provided in Paragraph 4.4 necessary for proper execution and completion of the Work. Words which have well-known technical or trade meanings are used herein in accordance with such recognized meanings.

**1.2.4. Organization of Specifications into divisions, sections and articles,** and arrangement of Drawings shall not control Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

**1.2.5. Written interpretations necessary for proper execution or progress** of the Work, in the form of drawings or otherwise, will be issued with reasonable promptness and in accordance with any schedule agreed upon.

### 1.3. COPIES FURNISHED AND OWNERSHIP

**1.3.1. Developer will supply Contractor with one (1) electronic copy** of Drawings and Specifications.

## 2. DEVELOPER

### 2.1. DEFINITIONS

**2.1.1. The “Developer” is** the Metropolitan Park and Recreation District d/b/a the Great Rivers Greenway District. The contact person for the Developer is: Ben Grossman

**2.1.2. The “Owner” of this project and/or the Owner of the property (collectively referred to as the “Owner”) is:** Great Rivers Greenway

**2.1.3. The Architect/Engineer is:** Gonzalez and Associates

### 2.2. PROJECT INFORMATION

**2.2.1. The Contractor is responsible for all construction staking** unless otherwise provided, including staking to accommodate the relocation of utilities for the project improvements. The Contractor will be required to have all utilities located. Damage to existing utilities due to neglect of the Contractor shall be repaired at the Contractor's expense. The Contractor shall be responsible at their own cost to replace any property corner monuments that are disturbed by their work. The survey work by Contractor shall include providing survey

information for utility company relocations. All surveying work shall be performed by a Professional Land Surveyor registered within the State of Missouri.

- 2.2.2. When new construction crosses highways, railroads, streets or utilities** under the jurisdiction of state, county, city or other public agency, public utility or private entity, the Contractor shall secure written permission from the proper authority before executing such new construction. A copy of this written permission must be filed with the Owner before any work is done. The Contractor will be required to furnish a release from the proper authority before final acceptance of the Work.
- 2.2.3. The Developer will secure and pay for easements** for permanent structures or permanent changes in existing facilities unless otherwise stated in the contract.

### **2.3. DEVELOPER'S RIGHT TO STOP WORK**

- 2.3.1. If the Contractor fails to correct defective Work** or to supply materials or equipment in accordance with the Contract Documents, the Developer may order the Contractor to stop Work or any portion thereof (without incurring damages for delay), until the cause for such order has been eliminated.

## **3. DEVELOPER'S REPRESENTATIVE**

### **3.1. DEFINITION**

- 3.1.1. Reference to Developer** shall include Developer's Representative when applicable.

### **3.2. AUTHORITY AS DEVELOPER'S REPRESENTATIVE**

- 3.2.1. Developer's Representative shall have the authority to act** on behalf of Developer to the extent provided in Contract Documents unless clearly modified by a written instrument disclosed to the Contractor.
- 3.2.2. Developer's Representative** (with assistance from the Architect/Engineer) **shall interpret project documents** and issue interpretations to the Contractor via Field Orders identified in 10.4.
- 3.2.3. Developer and Developer's Representative shall,** at all times, have access to the Work being performed on this project. Contractor shall provide facilities for such access.



- 3.2.4. **Developer and/or Developer's Representative will make periodic visits** to the site to determine in general if the Work is proceeding in accordance with Contract Documents. Neither Developer nor Developer's Representative shall be responsible for construction means, methods, techniques, sequences or procedure, or for safety precautions and programs in connection with the Work. Contractor shall be solely responsible to carry out the Work in accordance with the Contract Documents.
- 3.2.5. **Developer's Representative will determine amounts owing to Contractor** based upon observations of the Work and Contractor's application for payment as set forth in Article 8.
- 3.2.6. **Developer shall have sole determination of all questions or** disputes pertaining to execution and progress of the Work and requirements of the Contract Documents.
- 3.2.7. **Developer and/or Developer's Representative shall have the authority to reject Work** which does not conform to Contract Documents and will have the authority to require the Contractor to stop the Work or any portion thereof and to require special inspection or testing of the Work as provided in paragraph 4.14 whether or not such Work is then fabricated, installed or completed.
- 3.2.8. **Developer and/or Developer's Representative may review** Shop Drawing and Samples as provided in Subparagraphs 4.12.1 through 4.12.9, inclusive.
- 3.2.9. **Developer's Representative will prepare change orders** in accordance with Article 10. No such change orders shall be effective until executed in writing by Developer and Contractor.
- 3.2.10. **Developer's Representative will conduct inspections** to determine dates of Substantial Completion and Final Completion. Developer's Representative is authorized to receive written guarantees and related documents required by this Contract and assembled by Contractor and will, upon determination of Final Completion, issue a final Certificate for Payment.
- 3.2.11. **Duties, responsibilities of authority of Developer's Representative** will not be modified or extended without written consent of Developer.

## 4. CONTRACTOR

### 4.1. DEFINITION

- 4.1.1. **The "Contractor" as described herein is:**
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**4.1.2. The contact person for the Contractor is:**

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[ the Contract Superintendent ]

**4.2. REVIEW OF CONTRACT DOCUMENTS BY CONTRACTOR**

**4.2.1. Prior to the commencement of Work the Contractor shall carefully study** and compare the Contract Documents and shall at once report any error, inconsistency or omission it may discover to the Developer's Representative. The Contractor shall not be liable to the Developer for any damage resulting from any such errors, inconsistencies or omissions.

**4.3. SUPERVISION AND CONSTRUCTION PROCEDURES**

**4.3.1. The Contractor shall supervise and direct all Work,** using its best skill and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequence and procedures and for coordinating all portions of the Work.

**4.4. LABOR AND MATERIALS**

**4.4.1. The Contractor shall provide and pay for all** labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for the proper execution and completion of the Work.

**4.4.2. Any requests for substitutions from the materials specified** in the Contract Document must be accompanied by documented proof of equality of materials.

**4.4.3. In the case of a substitution involving a difference in price,** the Developer shall receive the benefit of all savings and the Contract shall be altered by a Change Order to credit the Developer with any savings so obtained. Any additional cost incurred by a substitution shall be borne by the Contractor.

**4.4.4. Should the Contractor request and be authorized in writing to furnish** an approved substitute brand, type or class, the Contractor shall be responsible for making all adjustments to the selected item, and to the structure, as may be necessary for proper installation of the item as intended and as necessary to maintain the intended space requirements, functions, and appearance, all at no additional cost to the Developer. If substitutions are of such a nature that revised drawings or designs are required, Developer shall be reimbursed by

the Contractor for such extra costs incurred by the Developer for such extra costs incurred. The provisions of this paragraph are applicable even though approval is listed in the specifications, indicated in an Addendum, or granted by the Developer after the Contract is awarded.

- 4.4.5. **All manufactured articles, material, and equipment shall be** applied, installed, connected, erected, used, cleaned, and conditioned as directed by the manufacturer, unless specified to the contrary in the Contract Documents.
- 4.4.6. **The Contractor shall allot suitable and proper space** within the project limits, where available, its Subcontractors for the storage of their materials, and for the erection of their storage and tool sheds, but each Subcontractor shall bear the cost of any temporary facilities required for the execution of its Work.
- 4.4.7. **The Contractor and each of its Subcontractors shall be** individually responsible for furnishing and maintaining all equipment as required for the proper execution of their own Work. All such apparatus, equipment, and construction shall meet the requirements of all applicable city, county, state, and local laws or ordinances.
- 4.4.8. **The Contractor shall at all times enforce strict discipline** and good order among its employees and subcontractors and shall not employ any unfit person or anyone not skilled in the task assigned to him or her.

#### 4.5. WARRANTY

- 4.5.1. **The Contractor warrants to the Developer that all materials and equipment** furnished under the Contract and incorporated in the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not so conforming to these standards shall be considered defective. If required by the Developer, the Contractor shall furnish satisfactory evidence as to the kind and quality of all materials and equipment.

#### 4.6. TAXES

- 4.6.1. **Contractor shall pay all sales taxes or other similar taxes required by law.** Developer will cooperate with the Contractor to secure such tax exemptions as may be available to Developer and shall receive appropriate credit against the contract price for all tax savings accomplished thereby. Contractor shall use Missouri Form 5060 where applicable to receive a project exemption. Sales tax exempted per Missouri Form 5060 shall not be included in Contractor's Base Bid.

#### 4.7. PERMITS, FEES AND NOTICES

- 4.7.1. **The Contractor shall secure and pay for all permits, fees and licenses** necessary for the proper execution and completion of the Work.
- 4.7.2. **The Contractor shall give all notices and comply with all laws,** ordinances, rules, regulations and orders of any public authority relating to the performance of the Work. If, at any time, the Contractor determines that any of the Contract Documents are at variance with any such law, ordinances, rule regulation or order, the Contractor shall promptly notify the Developer's Representative in writing and shall request an appropriate Change Order. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules or regulations, Contractor shall be solely liable for all costs associated with bringing such Work into compliance.

#### 4.8. SUPERINTENDENT/FOREMAN

- 4.8.1. **The Contractor shall employ a competent Superintendent/Foreman** and such assistant superintendents as may be necessary, who shall be in attendance at the project site full time during the progress of the Work. The Contractor shall notify the Developer's Representative of the name of the Superintendent and shall secure the written approval of the Developer's Representative before Work shall commence. The Superintendent shall not be changed or replaced without written consent of the Developer's Representative. The Superintendent shall be the Contractor's representative for all communications about the progress of the project and communications given to the Superintendent shall be binding on the Contractor as if personally delivered to the Contractor.

#### 4.9. RESPONSIBILITY FOR THOSE PERFORMING THE WORK

- 4.9.1. **The Contractor shall be responsible to the Developer for all acts** and omissions of the Contractors employees and Subcontractors (including their agents and employees) and all other persons performing any of the Work on this project under contract with the Contractor.

#### 4.10. SCHEDULE

- 4.10.1. **Immediately after being awarded the Contract, the Contractor shall prepare** and submit a progress schedule for the Work to the Developer's Representative for approval. This schedule shall indicate the starting and completion dates of the various stages of construction. The schedule shall

include anticipated crew sizes and durations for all activities as requested by the Developer's Representative. Subject to the approval of the Developer's Representative the progress schedule may be revised as required by the conditions that shall subsequently occur.

**4.10.2. The Contractor shall submit a detailed construction schedule** for District approval at least one week prior to the Pre-Construction meeting. Submittal shall be in the form of an electronic schedule file and shall be provided in Microsoft Office 2007 (or newer) compatible, Extensible Markup Language (XML) format. This schedule must demonstrate steady uninterrupted progress of construction and that minimum local vehicular traffic disruption will occur. At a minimum, this schedule must include: identification of the work tasks and milestones involved by name and an associated unique integer; the sequence in which the Contractor proposes to carry on the work tasks; critical milestones to be reached in the progress of the construction; scheduled dates at which the Contractor will start the work tasks, scheduled dates for completion of the work tasks (or the duration of the work tasks); the dependencies between the work tasks; and a baseline representing the entire schedule (note: the file provided to the District shall not include assigned resources). The Contractor's work schedule shall provide for completion of the construction by the specified completion date of the Contract, including substantial completion, inspections, repairs, approvals, and final acceptance by the Developer and Owner.

Throughout the prosecution of the construction, the Contractor shall provide updates to the detailed schedule which meet the following requirements:

- Be provided in the electronic file format specified above, at a minimum frequency of monthly
- Contain all the work tasks as the initial schedule as well as any additional tasks identified (which shall also meet the requirements specified above)
- Work tasks shall maintain the same unique integer identification as the initial schedule unless the work task is new
- Specifically identify, via color and/or highlighting:
  - delayed work tasks from the baseline
  - changes to dependencies in the work tasks from the most recent prior updated schedule
  - work tasks which have identified potential changes to future final completion costs or dates
- Record actual completion dates and percentages of completion in the appropriate, representative "Actual Start", "Actual Finish", and "% Complete" data fields for the relevant work task

If the Contractor fails to comply with these requirements in supplying an initial schedule, or any updates/revisions to the schedule, or if the Developer's

Representative determines the initial schedule or any updates/revisions to the schedule do not provide the information required, the Developer's Representative may withhold progress payments until a construction schedule complying with this section has been submitted, reviewed, and approved.

No direct payment will be provided for supplying, modifying, or managing the construction schedule.

- 4.10.3. The Contractor may be required to move equipment and/or materials** through and/or install equipment and/or material in areas where other contractors are working. The Contractor must closely coordinate its efforts with that of the other contractors and shall keep the Developer's Representative advised of all possible interferences. The Contractor shall schedule and control its Work so as to cause the least possible interference and shall show such interfaces with other contractors on its schedules and reports.
- 4.10.4. Contractor recognizes it shall be a project goal to complete the Work** at the quickest possible pace by continuous and meaningful progress on all available work and activities, with an emphasis on those work activities critical to overall project completion.
- 4.10.5. Contractor recognizes that revisions and updating may occur and agrees** to make no claim for monetary damages against the Developer's Representative or Developer/Owner due to any schedule related changes or revisions, including delay, except to the extent said damages are allowable under other provisions of the Contract. Unless approved by the Developer/Owner, a time extension is the only remedy for delay.
- 4.10.6. Developer's Representative shall hold schedule update meetings at least every two weeks.** Attendance by all Contractors is mandatory.
- 4.10.7. If in the reasonable judgement of the Developer's Representative, the Contractor falls behind schedule,** the Contractor shall accelerate its work using one or more of the following measures. Measures shall be at the sole expense of the Contractor and shall continue until the Contractor has fully recovered from past delays and is back on the current schedule. If the Contractor's overtime or shiftwork requires the Developer's Representative or other Contractors provide additional supervision or requires that they perform their work on an overtime, shift, or accelerated basis, then this Contractor shall reimburse the Developer/Owner for all such additional expenses.
- Increase manpower or equipment.
  - Increase working hours or shifts.
  - Expediting of material or deliveries.
  - Reschedule activities to achieve maximum concurrency.

**4.10.8. Failure to make immediate and continuous progress** toward complete schedule recovery by the Contractor shall entitle the Developer's Representative and the Developer/Owner to make whatever measure necessary to advance the Work as the project schedule demands.

**4.10.9. Refer to specification section 04.10.2,** Construction Schedule, for additional requirements.

#### **4.11. DRAWINGS AND SPECIFICATIONS AT THE SITE**

**4.11.1. The Contractor shall maintain one copy of all** Drawings, Specifications, Addenda, approved Shop Drawings, Change Orders, and other Modifications, in good order, and marked to record all changes made during construction at the site for Developer's Representative. These shall be available to the Developer's Representative and the Architect/Engineer. The Drawings, marked to record all changes made during construction, shall be delivered by the Contractor to the Developer upon completion of the Work.

#### **4.12. SHOP DRAWINGS AND SAMPLES**

**4.12.1. Shop Drawings shall consist of** drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data which are prepared by the Contractor or any Subcontractor, manufacturer, supplier or distributor, and which illustrate some portion of the Work.

**4.12.2. Samples shall consist of physical examples furnished by the Contractor** to illustrate materials, equipment or workmanship, and to establish standards by which the Work will be judged.

**4.12.3. The Contractor shall review, stamp with its approval and submit** all Shop Drawings and Samples as required by the Developer's Representative, with reasonable promptness and in orderly sequence so as to cause no delay in the Work or in the Work of any other contractor. Shop Drawings and Samples shall be properly identified as specified, or as the Developer's Representative may require. At the time of submission, the Contractor shall inform the Developer's Representative in writing of any deviation in the Shop Drawings or Samples from the Requirements of the Contract Documents.

**4.12.4. By approving and submitting Shop Drawings and Samples,** the Contractor represents that it has determined and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, and that it has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and of the Contract Documents.

- 4.12.5. The Contractor shall provide Shop Drawings and required Submittals and Samples** to the Developer's Representative. The Developer's Representative will send Shop Drawings and Submittals to the Architect/Engineer, who will review and accept Shop Drawings and Submittals and Samples with reasonable promptness so as to cause no delay, but only for conformance with the design concept of the Project and with the information given in the Contract Documents. The Architect/Engineer's acceptance of a separate item shall not indicate approval of an assembly in which the item functions or its compatibility with other systems. The Developer's Representative will communicate back to the Contractor whether the Submittal, Samples and or Shop Drawings have been accepted and provide any additional direction to the Contractor regarding rejection or acceptance and instructions for the Contractor to resubmit.
- 4.12.6. The Contractor shall make any corrections required by the Architect/Engineer** and shall resubmit the required number of corrected copies of Shop Drawings or new Samples until accepted. The Contractor shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections requested by the Architect/Engineer on previous submissions.
- 4.12.7. Acceptance by Architect/Engineer of Shop Drawings or Samples** shall not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents, unless the Contractor has informed the Architect/Engineer in writing of such deviation at the time of submission and the Architect/Engineer has issued written acceptance to the specific deviation, nor shall the Architect/Engineer's acceptance relieve the Contractor from responsibility for errors or omissions in the Shop Drawings or Samples.
- 4.12.8. No portion of the Work requiring a Shop Drawing or Sample submission** shall be commenced until the submission has been accepted by the Architect/Engineer. All such portions of the Work shall be in accordance with accepted Shop Drawings and Samples.
- 4.12.9. Contractor shall submit one (1) electronic copy of each** Shop Drawing and Setting Drawing, bearing Contractor's approval stamp until final acceptance is obtained. After completion of the review by the Architect/Engineer, the electronic copy shall be returned to the Contractor. Prints marked "RESUBMIT" shall require the original drawing to be corrected, and one electronic copy made and resubmitted for acceptance by the Architect/Engineer.

This procedure shall be followed until final acceptance is obtained. Upon receipt of electronic copies marked "NO EXCEPTION TAKEN" the Contractor shall obtain and provide the electronic copies required for distribution.



#### 4.13. USE OF SITE

- 4.13.1. **The Contractor shall confine operations at the site to areas permitted by law,** ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment.

#### 4.14. CUTTING AND PATCHING OF WORK

- 4.14.1. **The Contractor shall do all cutting, fitting or patching of its Work** that may be required to make its several parts fit together properly, and shall not endanger any Work by cutting, excavating or otherwise altering the Work or any part of it. Any costs caused by defective or ill-timed Work shall be borne by the Contractor.

#### 4.15. CLEAN UP

- 4.15.1. **The Contractor, at all times, shall keep the premises free from accumulation** of waste materials or rubbish caused by its operations. If Contractor fails to remove debris promptly, Developer reserves right to cause same to be removed at Contractor's expense. Debris may not be burned on site without Developers permission and may not proceed until all licenses and permits are obtained from applicable government agencies. All debris removed from the site shall be disposed of in a legal manner. Upon completion of the Work, Contractor shall remove all tools, construction equipment, machinery and surplus materials, shall clean all glass surfaces and shall leave the site "broom clean".
- 4.15.2. **If the Contractor fails to clean the site,** the Developer may cause said site to be cleaned and the cost thereof shall be charged to the Contractor.

#### 4.16. COMMUNICATIONS

- 4.16.1. **All communication from the Contractor to the Developer** should be given to the Developer's Representative with a copy sent to the Developer's contact person identified in Subparagraph 2.1.1.

#### 4.17. SAFETY PRECAUTIONS AND PROGRAMS

- 4.17.1. **The Contractor shall be responsible for initiating, maintaining and supervising** all safety precautions and programs in connection with the Work.

- 4.17.2. It shall be the Contractor's responsibility to ensure** that all precautions have been taken and will be maintained during and subsequent to construction to prevent surface water from collecting in excavations or adjacent to completed and existing structures, running down the face of excavated or cut slopes, ponding in the construction area, or saturating the soils below foundations. The Contractor will do all pumping necessary to keep all excavations, floors, pits and trenches free of water at all times.
- 4.17.3. The Contractor shall at all times provide protection against** rain, wind, storms, frost and heat so as to maintain all Work, materials and apparatus and fixtures free from injury or damage. At the end of each day's Work, any new Work likely to be damaged shall be covered. During cold weather, Contractor shall protect all Work against damage. If low temperatures make it impossible to continue operations safely in spite of cold weather protection, the Contractor shall cease Work and shall so notify the Developer's Representative. Open fires will not be permitted within or adjacent to any buildings.
- 4.17.4. Work over or adjacent to finished Work shall be protected** in the best possible manner. Plank runways shall be used for wheeling over finished floors; drop cloths shall be used to protect finished Work from soiling or staining.

#### **4.18. SAFETY OF PERSONS AND PROPERTY**

- 4.18.1.** The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
- all employees on the Work and all other persons who may be affected thereby;
  - all the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of its Subcontractors or Sub-subcontractors; and
  - other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- 4.18.2. The Contractor shall comply with all applicable** laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards promulgating safety regulations and notifying owners and users of adjacent utilities.

- 4.18.3. **The use of explosives shall be carried out only with prior written approval** of the Developer, unless specifically required in the Contract Documents. Prior to the commencement of any Work employing the use of any explosives, Contractor shall obtain all necessary permits and shall file copies of insurance certificates, providing for complete coverage against damage of existing property with the Developer's Representative, for approval
- 4.18.4. **All damage or loss to any property caused in whole or in part by** the Contractor, any Subcontractor, any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor.
- 4.18.5. **The Contractor shall designate a responsible member of its organization** at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless changed in writing by the Contractor to the Developer's Representative.
- 4.18.6. **The Contractor shall not load or permit any part of the Work to be loaded** so as to endanger its safety.
- 4.18.7. **The Contractor in addition to filing notification of all accidents** with its insurance company shall simultaneously notify and file a copy of the insurance notification with the Developer's Representative.

#### 4.19. EMERGENCIES

- 4.19.1. **In any emergency affecting the safety of persons or property**, the Contractor shall act, at its discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency Work shall be determined as provided in Article X.

#### 4.20. INDEMNIFICATION

- 4.20.1. **The Contractor shall indemnify, defend and hold the Developer**, Developer's Representative, the Architect/Engineer and the Owner and their representatives, consultants, employees, clients and employers, harmless from and against all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting from the performance of the Work, (hereinafter, "Loss") including, but not limited to (a) Loss due to bodily injury, including death, and property damage (b) and other economic damage, which are caused or occasioned, in whole or in part, by any negligent or intentional act or omission, breach of contract, or violation of law, of the Contractor, or of any Subcontractor or Sub-subcontractor, their employees or agents or any of them. This indemnity, defense, and hold harmless agreement shall also inure to

the benefit of elected or appointed officials of Owner and employees of Developer's Representative.

- 4.20.2. The obligations regarding claims against the Developer or the Developer's Representative** or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and the indemnification obligation under this Paragraph 4.20 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Workmen's compensation acts, disability benefit acts or other employee benefit acts.
- 4.20.3. The obligations of the Contractor under this Paragraph 4.20 shall not extend** to the liability of any Project Architect/Engineer, its agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect/Engineer, its agents or employees, provided such giving or failure to give is the primary cause of the injury or damage.
- 4.20.4. Whenever the Work performed lies within the corporate limits of any city,** town or village, the Contractor and its Surety shall also indemnify and save harmless such municipality or municipalities, and the officers, engineers, representatives, agents, and employees thereof from all suits, actions or claims of any character, name or description bought for or on account of any injuries or damages received or sustained by any persons or property by or from the said Contractor, or by or in consequence of any neglect in safeguarding the Work, or by or on account of any act or omission, neglect or misconduct of the said Contractor.

The provisions of this Section 4.20 shall survive completion of the Work and termination of this Contract.

## **5. SUBCONTRACTORS**

### **5.1. DEFINITIONS**

- 5.1.1. A Subcontractor is a person or organization who has a direct contract** with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative thereof.
- 5.1.2. A Sub-subcontractor is a person or organization which has a direct or indirect** contract with a Subcontractor to perform any of the Work at the site. The term Sub-subcontractor is referred to throughout the Contract

Documents as if singular in number and means a Sub-subcontractor or an authorized representative thereof.

- 5.1.3. Nothing contained in the Contract Documents shall create any contractual relation** between the Developer or the Developer's Representative and any Subcontractor or Sub-subcontractor.

## **5.2. AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

- 5.2.1. Each bidder shall submit with its bid (on Form GRG 3) a list of the names** of the Subcontractors or other persons or organizations (including those who are to furnish materials or equipment fabricated to a special design) proposed for each portion of the Work.

The Subcontractors proposed shall be subject to the approval of the Developer's Representative. Prior to the award of the Contract, the Developer's Representative shall notify the successful bidder in writing if either the Developer or the Developer's Representative, after due investigation, has reasonable objection to any person or organization on such list. Failure of the Developer or Developer's Representative to make an objection to any person or organization on the list prior to the award shall constitute acceptance of such Subcontractor.

- 5.2.2. If the Developer or Developer's Representative** refuses to accept any Subcontractor, the Contractor shall submit an acceptable substitute and the Contract Sum shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued; however, no increase in the Contract Sum shall be allowed for any such substitution unless the Contractor has acted promptly and responsively in submitting said substitute.

- 5.2.3. The Contractor shall not contract with any Subcontractor** who has not been accepted by the Developer's Representative.

- 5.2.4. If the Developer or the Developer's Representative requires a change** of any proposed Subcontractor previously accepted by them, the Contract Sum shall be increased or decreased by the difference in cost occasioned by such change and appropriated Change Order shall be issued.

- 5.2.5. The Contractor shall not make any substitution for any Subcontractor** except as provided in this Article 5.

## **5.3. SUBCONTRACTUAL RELATIONS**

- 5.3.1. All Work performed for the Contractor by a Subcontractor** (and where appropriate between Subcontractors and Sub-subcontractors) shall be pursuant to a written agreement which shall contain provisions that:
- require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume to the Contractor, all of the obligations and responsibilities that the Contractor, by these Contract Documents, assumes to the Developer.
  - preserve and protect the rights of the Developer under the Contract with respect to the Work to be performed under the subcontract so that the subcontracting thereof will not prejudice such rights;
  - require that such Work be performed in accordance with the requirements of the Contract Documents;
  - require submission to the Contractor of applications for payment under each subcontract to which the Contractor is a party, in reasonable time to enable the Contractor to apply for payment in accordance with Article 8.
  - require that all claims for additional costs, extensions of time, damages for delays or otherwise with respect to subcontracted portions of the Work shall be submitted to the Contractor (via any Subcontractor or Sub-subcontractor where appropriate) in sufficient time so that the Contractor may comply in the manner provided in the Contract Documents for like claims by the Contractor upon the Developer.
  - waive all rights the contracting parties may have against one another for damages covered by the insurance as required under Section 9.2.3.
  - obligate each Subcontractor specifically to consent to the provisions of this Paragraph 5.3.

#### **5.4. PAYMENTS TO SUBCONTRACTORS**

**5.4.1. The Contractor shall pay each Subcontractor**, upon receipt of payment from the Developer, an amount equal to the percentage of completion allowed to the Contractor on account of such Subcontractor's Work, less the retained percentage held from payments to the Contractor. The Contractor shall also require each Subcontractor to make similar payments to its Sub-subcontractors.

**5.4.2. If the Developer's Representative fails to issue a Certificate for Payment** for any cause which is the fault of the Contractor and not the fault of a particular Subcontractor, the Contractor shall pay that Subcontractor on demand, made at any time after the Certificate for Payment should otherwise have been issued, for its Work to the extent completed, less the required retained percentage.

- 5.4.3. The Contractor shall pay each Subcontractor a just share** of any insurance moneys received by the Contractor under Article IX, and shall require each Subcontractor to make similar payments to its Sub-subcontractors.
- 5.4.4. The Developer's Representative may in its sole discretion,** furnish information regarding percentage of completion certified by the Contractor (on account of Work done) to any Subcontractor.
- 5.4.5. Developer shall have no obligation to make payment to any Subcontractor.** If, in its sole discretion, the Developer's Representative determines that an amount is legitimately due from the Contractor to the Subcontractor which has not been paid in a timely manner, Developer may in its sole discretion pay such amount (by joint check or otherwise) and deduct it from the payments otherwise due to the Contractor.
- 5.4.6. Contractor acknowledges and agrees that it is receiving the funds paid** in consideration of this Contract as a trustee, and said funds will be held in trust for the benefit of all subcontractors, designers, materialmen, suppliers and laborers who supplied work for which the Developer might be liable, and that the undersigned shall have no interest in such funds (other than to portions thereof paid for Contractor's self-performed work and overhead and profit) until all these obligations have been satisfied in full.

## **6. OTHER CONTRACTORS**

- 6.1. The Contractor shall afford other contractors reasonable opportunity** for the introduction and storage of their materials and equipment and the execution of their Work and shall properly connect and coordinate its Work with such other contractors.
- 6.2. If any part of the Contractor's Work depends for proper execution or results** upon the Work of a separate contractor, the Contractor shall inspect and promptly report to the Developer's Representative any apparent discrepancies or defects in such Work which in Contractor's opinion render it unsuitable for such proper execution and results. Failure of the Contractor to inspect and report shall constitute an acceptance of the other contractor's Work as appropriate to receive Contractor's Work.
- 6.3. Should the Contractor cause damage to the Work or property** of any separate contractor on the Project, the Contractor shall, upon due notice; resolve the issue of payment with the other contractor. If such separate contractor sues the Developer on account of any damage alleged to have been so sustained, the Developer shall notify the Contractor who shall defend such proceedings at the Contractor's sole expense. If a judgment or award against the Developer arises therefrom, the

Contractor shall pay or satisfy it and shall reimburse the Developer for all reasonable attorney's fees and court costs which the Developer may have incurred.

## 7. TIME

### 7.1. DEFINITIONS

- 7.1.1. **The "Contract Time" is the period allotted in the Contract Documents** for completion of the Work.
- 7.1.2. **The "Date of Commencement of the Work" is the date established** in a "Notice to Proceed".
- 7.1.3. **The date of "Substantial Completion" of the Work is the date certified** by the Developer's Representative (or such Architect/Engineer as may be designated by the Developer) when construction is sufficiently complete, in accordance with the Contract Documents, so that the Developer may occupy the Project or use it for the purpose for which it is intended. In the case of parks or trails, "Substantial Completion" shall not occur until the trail or park can be utilized by the public for the purposes intended.

### 7.2. PROGRESS OF WORK

- 7.2.1. **All time limits stated in the Contract Documents** are of the essence of the Contract.
- 7.2.2. **The Contractor shall begin the Work on the Date of Commencement** as defined in Subparagraph 7.1.2. The Contractor shall carry the Work forward expeditiously with adequate forces and shall complete it within the Contract Time.

### 7.3. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- 7.3.1. **If the Contractor is delayed at any time in the progress of the Work** by any act or neglect of the Developer or by any employee of either, or by any separate contractor employed by the Developer, or by changes ordered in the Work, or by labor disputes, fire, adverse and unusual weather conditions of a severe nature, unusual delay in transportation, unavoidable casualties, or by any cause which the Developer determines may justify the delay, the Contract Time may be extended by Change Order for such reasonable time as the Developer may determine, but Contractor shall not be entitled to a change order for additional costs for delay, except to the extent such delays are caused by the breach or



fault of Developer. Except as provided herein, weather shall not constitute a cause for granting an extension of time.

**7.3.1.1 If the Contractor falls behind the Construction Schedule for any reason,** he shall promptly take, and cause his Subcontractors to take, such action as is necessary to remedy the delay, and shall submit promptly to the Developer for approval a supplementary schedule or progress chart demonstrating the manner in which the delay will be remedied; provided, however, that if the delay is excusable, the Contractor will not be required to take, or cause his Subcontractors to take, any action which would increase the overall cost of the Work, unless the Developer shall have agreed in writing to reimburse the Contractor for such increase in cost. Any increase in cost incurred in remedying a delay which is not excusable shall be borne by the Contractor.

**7.3.1.1. If, as a result of any such cause beyond the Contractor's control,** the delay in completion of the Work in accordance with the Construction Schedule is so great that it cannot be remedied in the aforesaid manner, or if the backlog of work is so great that it cannot be remedied without incurring additional cost which the Developer does not authorize, then the time of completion and the Construction Schedule shall be extended pursuant to a change Order for the minimum period of delay occasioned by such cause.

**7.3.1.2. Notwithstanding the foregoing above,** no extension of time shall be granted for any delay the cause of which occurs more than seven (7) days before claim therefor is made in writing by the Contractor to the Developer, and no extension of time shall be granted if the Contractor could have avoided the need for such extension by the exercise of reasonable care and foresight. In the case of a continuing cause of delay, only one claim is necessary.

**7.3.2. It is hereby understood and mutually agreed,** by and between the Contractor and the Developer, that the date of beginning and the time for completion as specified in the Contract for the Work to be done hereunder are essential conditions of this Contract.

**7.3.3. It is further agreed that Time is of the essence in each and every portion** of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract and additional time is allowed for the completion of any Work, the new time limit fixed by such extension shall be of the essence of this Contract.

**7.3.4. If the said Contractor shall neglect, fail or refuse to complete the Work** within the time herein specified, or any proper extension thereof granted by the

Developer, the Contractor does hereby agree, as part consideration for the awarding of this Contract, to pay to the Developer the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of contract as set forth in the Contract, for each and every consecutive calendar day (including Saturdays, Sundays and legal holidays) that the Contractor shall be in default after the times stipulated in the Contract for substantially completing the Work.

**7.3.5. Where the liquidated damages are fixed and agreed upon by and between** the Contractor and the Developer because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Developer would in such event sustain; and said amount is agreed to be the amount of damages which the Developer would sustain. The total amount so payable to the Developer as liquidated damages may be deducted from any sums due or to become due to the Contractor from Developer.

**7.3.6. The Contractor shall not be charged with liquidated damages** or any excess cost when the delay in completion of the Work is due:

- To any change order duly issued by Developer
- To unforeseeable cause beyond the control or responsibility of Contractor under the Contract Documents or otherwise, and without the fault or negligence of the Contractor, including, but not restricted to acts of God, or of the Public enemy, acts of the Developer, acts of another contractor in the performance of a contract with the Owner or Developer, fires, floods, epidemics, quarantine restrictions, strikes, freight, embargoes

**7.3.7. Within seven (7) days from the beginning of a delay referred to** in Subsection 7.3.6 the Contractor shall notify the Developer in writing regarding the cause of the delay. In the event this written notice is not given within such seven (7) day period the Contractor shall waive its right to make a claim for exemption from liquidated damages.

## **8. PAYMENTS**

### **8.1. CONTRACT SUM**

**8.1.1. The “Contract Sum” is stated in the Contract and is the total amount payable** by the Developer to the Contractor for the performance of the Work under the Contract Documents. For any changes in the Work, Developer allows a maximum of 10% markup for overhead and profit on any Change Order.

### **8.2. SCHEDULE OF VALUES**

- 8.2.1. Before the first application for payment, the Contractor shall submit** to Developer's Representative schedule of values of the various portions of the Work, including quantities, if required.

### **8.3. PROGRESS PAYMENTS**

- 8.3.1. At least thirty (30) days before each progress payment is due,** the Contractor shall submit to the Developer's Representative an itemized application for payment, supported by such data substantiating the Contractor's right to payment as the Developer or the Developer's Representative may require.
- 8.3.2. The Contractor and each Subcontractor must submit** with each application for payment, including the final payment application, a certified payroll for the period encompassed by the application for payment, except that the full social security number and home address shall not be included on weekly transmittals. Instead the payrolls shall include an identification number for each employee (e.g., the last four digits of the employee's social security number). The certified payroll shall consist of a complete copy of the payroll records, except starting and ending times of work each day may be omitted.

The certified payroll must come with a statement signed by the Contractor or Subcontractor or an officer, employee, or agent of the Contractor or Subcontractor which avers that: (i) he or she has examined the certified payroll records submitted and such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required; and (iii) the Contractor or Subcontractor knows that filing a false certified payroll may be punishable by a fine or imprisonment.

- 8.3.3. If payments are to be made on account of materials or equipment** not incorporated in the Work, but delivered and suitably stored at the site, or at some other location agreed upon in writing, such payments shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Developer to establish the Developer's title to such materials or equipment or otherwise protect the Developer's interest, including applicable insurance and transportation to the site.
- 8.3.4. The Contractor warrants and guarantees that title to all materials** and equipment covered by an application for payment, whether incorporated in the Project or not, will pass to the Developer upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances"; and that no materials or equipment covered by an application for payment will have been acquired by the Contractor; or by any other person performing the Work at the site, or furnishing materials and equipment for the Project subject to an agreement under which an interest therein or an

encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

#### 8.4. CERTIFICATES FOR PAYMENT

- 8.4.1. When the Contractor has made application for payment,** the Developer's Representative will, with reasonable promptness but not more than seven (7) days after the receipt of the application, issue a "Certificate for Payment" to the Developer, with a copy to the Contractor, for such amount as he determines to be properly due, or state in writing the reasons for withholding a Certificate as provided in Subparagraph 8.5.1.
- 8.4.2. After the Developer's Representative has issued a Certificate for Payment,** the Developer shall make payment in the manner provided in this Agreement.
- 8.4.3. No certificate for a progress payment, nor any progress payment,** nor any partial or entire use or occupancy of the Project by the Developer, shall constitute an acceptance of any Work not in accordance with the Contract Documents.

#### 8.5. PAYMENTS WITHHELD

- 8.5.1. The Developer's Representative may decline to approve an application** for payment and may withhold the Certificate in whole or in part if in its opinion the Work is unsatisfactory. The Developer's Representative may also nullify, in whole or in part, any Certificate for Payment previously issued to such extent as may be necessary in its opinion to protect the Developer from loss because of:
- Defective Work not remedied.
  - Third party claims filed or reasonable evidence indicating probable filing of such claims.
  - Failure of the Contractor to make payments promptly to Subcontractors or others for labor, materials, or equipment.
  - Reasonable doubt that the Work can be completed for the unpaid balance of the Contract Sum.
  - Damage to another contractor.
  - Reasonable indication that the Work will not be completed within the Contract Time.
  - Unsatisfactory prosecution of the Work by the Contractor.

- 8.5.1.1.** When the above grounds in Subparagraph 8.5.1 are removed, payment shall be made for amounts withheld because of them.

## 8.6. SUBSTANTIAL COMPLETION AND FINAL PAYMENT

- 8.6.1. When the Contractor determines that the Work or a designated portion** thereof acceptable to the Developer is substantially complete, the Contractor shall prepare for submission to the Developer's Representative, a list of items to be completed or corrected ("Punch List"). The failure to include any items on such Punch List does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Developer's Representative determines that the Work is substantially complete, he will then prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of the Developer and Contractor for maintenance, heat, utilities and insurance and shall fix the time within which the Contractor shall complete the items listed in the Punch List, said time to be within the Contract Time unless extended pursuant to Article VII. The Certificate of Substantial Completion shall be submitted to the Developer and the Contractor for their written acceptance of the responsibilities assigned to them in such Certificate.
- 8.6.2. Upon receipt of written notice that the Work is ready for final inspection** and acceptance and upon receipt of a final application for payment, the Developer's Representative will promptly make such inspection, and when he finds the Work acceptable under the Contract Documents and the Contract fully performed, he will promptly issue a final Certificate for Payment stating that to the best of its knowledge, information and belief of Developer's Representative, and on the basis of its observation and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate (less any liquidated damages assessed as provided in Article VII) is due and payable.
- 8.6.3. Neither the final payment nor any part of the retained percentage** shall become due until the Contractor shall deliver to the Developer Affidavits of Payment arising out of the Contract, an affidavit that waivers include all the labor, materials and equipment for which a lien could be filed and that all payrolls, bills for material and equipment and other indebtedness connected with the Work for which the Developer or the Owner's property might in any way be responsible have been paid, consent of Surety to final payment; and such other data establishing payment of all such obligations as the Developer may require. If any item remains unsatisfied after all payments are made, the Contractor shall refund to the Developer all moneys that the latter may be compelled to pay in discharging such item or a lien thereof, including all costs and attorney's fees. Affidavits of Payment will be submitted with each monthly application for payment, except the first. The second and each subsequent application will be accompanied by waivers covering the full amount paid by

the Developer the previous month, and in no case shall more than 30 days elapse between receipt of payment and submission of such affidavits.

**8.6.4. If after Substantial Completion of the Work, final completion thereof** is materially delayed through no fault of the Contractor, and the Developer's Representative so confirms, the Developer shall without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retained percentage, the written consent of the surety to the payment of the balance due of that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Developer's Representative prior to certification of such payment, except that it shall not constitute a waiver of claims.

**8.6.5. The making of final payment shall constitute a waiver of all claims** by the Developer except those arising from;

- unsettled claims,
- faulty or defective Work appearing after Substantial Completion,
- failure of the Work to comply with the requirements of the Contract Documents, or
- terms of any special guarantees required by the Contract Documents.

**8.6.6. The acceptance of final payment shall constitute a waiver of all claims** by the Contractor except those previously made in writing and still unsettled.

## 9. INSURANCE

### 9.1. CONTRACTOR'S INSURANCE

**9.1.1. The Contractor shall purchase and maintain such insurance** as will protect it from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

- Claims under Workmen's Compensation, disability benefits, and other similar employee benefit statutes.
- Claims for damages because of bodily injury, occupational sickness or disease, or death of its employees.
- Claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
- Claims for damages insured by usual personal injury liability coverage which are sustained (a) by any person as a result of an act or omission directly or

indirectly related to the employment of such person by the Contractor, or (b) by any other person.

- Claims for damages because of injury to or distribution of tangible property, including loss of use resulting therefrom.

**9.1.2. The Contractor agrees it will carry the following Insurance Coverage** during the period of this Contract, and will provide Developer with a Certificate of Insurance on all required coverages.

**a. WORKERS' COMPENSATION:**

i. Required Minimum Insurance Coverage:

1. Statutory Limits
2. Employer's Liability: \$1,000,000 Bodily Injury Per Occurrence

ii. Each Contractor shall purchase and maintain Workers' Compensation Insurance for all of its employees employed at the site of the Project. In case any Work is sublet, the Contractor shall require the Subcontractor and the Sub-subcontractor to similarly provide Workers' Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by the Contractor. In case any class of employees of Contractor or any Subcontractor or Sub-subcontractor engaged in Work under this Contract at the site of the Project is not protected under the Workers' Compensation Act, the Contractor shall provide, and shall cause said Subcontractor or Sub-subcontractor to provide any such employees with Employer's Liability Insurance for the protection of said employees.

**b. COMMERCIAL GENERAL & UMBRELLA LAIBILITY** - Contractor agrees to maintain a commercial general liability (CGL) acceptable to Developer's Representative and if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location or Project. CGL insurance shall be written on ISO occurrence form CG 2010 1185 (or a substitute form providing the equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, product completed operations (with completed operations to remain in force for as long as Contractor or those included as additional insureds bear exposure under all applicable statutes of limitation following project completion), personal injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Developer, Owner, Architect/Engineer and the Developer's Representative shall be named as additional insured as applies to this coverage.

**c. BUSINESS AUTOMOBILE LIABILITY:** Maintain a standard ISO version Business Automobile Liability coverage form, or its equivalent, providing coverage of



not less than \$1,000,000 per occurrence for claims involving bodily injury and property damage that might arise during the term of this agreement. Coverage shall extend to owned and non-owned autos.

- d. **The Contractor shall require each of its Subcontractors to procure** and maintain during the life of its subcontract, Subcontractor's Insurance of the type and in not less than the amounts specified hereinabove, except explosion, collapse and underground coverage to be required only of Subcontractors whose Work involves these hazards.
- e. **Contractor shall provide 30-days' notice to the Developer prior to cancellation** of such insurance, and 10 days' notice prior to cancellation for nonpayment of premium. Each policy shall be endorsed to state that the insurer will provide electronic notice to the Developer, and Contractor shall provide each insurer the following contact information for Owner: Accounting, Great Rivers Greenway; E-mail: [accounting@grgstl.org](mailto:accounting@grgstl.org).

**9.1.3. A Certificate of Insurance acceptable to Developer shall be filed** with Developer's Representative prior to Contractor or any Subcontractor or Sub-subcontractor commencing Work and until all insurance required has been obtained and approved. Approval of the insurance by Developer shall not relieve or decrease the liability of the Contractor. These certificates shall contain a provision that coverages afforded under the policies shall not be canceled or materially changed until at least thirty (30) days prior written notice has been received by Developer.

**9.1.4. Upon receipt of any notice of cancellation or alteration,** Contractor shall within five (5) days procure other policies of insurance similar in all respects to the policy or policies about to be canceled or altered. If Contractor fails to provide, procure and deliver acceptable policies of insurance or satisfactory certificate or other evidence thereof, Developer may obtain such insurance at the cost and expense of Contractor without notice to Contractor.

## 9.2. ADDITIONAL INSURANCE REQUIREMENTS

**9.2.1. No Contractor shall commence Work under the Contract** until it has obtained all insurance required in Article IX as specified herein, nor shall the Contractor allow any Subcontractor or Sub-subcontractor commence Work or any portion of the Work unless all insurance required of the Subcontractor or Sub-subcontractor has been similarly approved by the Contractor.

**9.2.2. Sub-subcontractor's Insurance:** The Contractor shall require Sub-subcontractors, if any, not protected under the Contractor's Insurance policies to take out and maintain insurance of the same nature and in the same amounts as required of the Contractor for General Liability. Sub-subcontractors



shall also be required to take out and maintain Auto Insurance in like amounts to that required of the Contractor on all vehicles operated by each Sub-subcontractor on the site of the Work.

- 9.2.3. Waiver of Subrogation and Release:** Contractor and/or Subcontractors and/or Sub-subcontractors must release and waive, on behalf of themselves and their respective insurers, any and all rights of recovery against the Developer, Owner, Architect/Engineer, Developer's Representative, and their representatives, for loss of damage to Contractor or any Subcontractor, Sub-subcontractor, or any third party to the extent that such loss or damage is insured against or under any applicable insurance policy.
- 9.2.4. Insured Parties:** All of the insurance policies required to be obtained by Contractor and any Subcontractors and Sub-subcontractors set forth herein (except Workers' Compensation Insurance) shall name Developer, Owner, Architect/Engineer, and Developer's Representative as additional insured's. Contractor's Liability Coverage's are primary and non-contributing with respect to any other insurance or self-insurance, which may be maintained by Developer, Owner, Architect/Engineer, Developer's Representative and Contractor.
- 9.2.5. Certificates of Insurance:** Prior to commencement of Work, and within fifteen (15) business days after receipt of the Notice of Award, the Contractor shall cause to be delivered to Owner and Developer's Representative, for their review and approval, two (2) copies of Certificates of Insurance from the insurer, evidencing that all of the above described insurance has been obtained by Contractor and all Subcontractors and Sub-subcontractors. All of such Certificates of Insurance shall (1) specify that the respective insurance policies shall not be canceled, modified or amended without and until thirty (30) days advance written notice issued to Owner and Developer's Representative, (2) contain a specified acknowledgement of this Agreement and the Contractual liability indemnification obligations of the insurers herein, (3) evidence the additional insured's on the respective policies, and (4) evidence the coverage amounts, deductibles and limits of each policy. The certificate shall state the type of insuring agreement, whether Occurrence or Claims Made.
- 9.2.6. Indemnity Agreement:** The Contractor agrees that it will save and keep harmless, the Developer, Owner, Architect/Engineer and Developer's Representative from any and all claims that may arise on the part of any of said Contractor's employees, agents or servants, by reason of injury, death or any claim while in pursuit of the Contractor's obligations under this Contract, and that all employees, agents or servants of the Contractor shall in no way be construed to be employees of the Developer, Owner, Architect/Engineer or Developer's Representative.

- 9.2.7. Any money due the Contractor by insurance** under and by virtue of this Contract as shall be considered necessary by the Developer or Owner for such purpose, may be retained for the use of the Developer or Owner, or in case no money is due; Contractor's surety shall be held until such suite, actions or claims have been settled and suitable evidence to that effect furnished to the Developer or Owner.
- 9.2.8. The cost of providing all insurance specified herein** shall be included in the bid price submitted by the Contractor for this Project. It shall be the Contractor's sole responsibility to notify its insurance carrier of the requirements of these conditions and of the entire Contract Documents and the Contractor's non-compliance with the specified insurance requirements shall be just cause for the Developer to retain and collect the full amount of the Contractor's bid security.
- 9.2.9. Developer reserves the right to review certified copies** of any and all insurance policies to which this Contract is applicable, and with respect to all insurance required, (i) all policies must be occurrence based unless otherwise approved by Developer, and (ii) the cost of defense of claims shall not erode the limits of coverage furnished.

## **10. CHANGES AND CORRECTIONS**

### **10.1.CHANGE ORDERS**

- 10.1.1. The Developer, without invalidating the Contract may order Changes** in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such Changes in the Work shall be authorized by Change Order and shall be executed under the applicable conditions of the Contract Documents.
- 10.1.2. A Change Order is a written order to the Contractor signed by the Developer** or Developer's Representative issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The change in work Order, the Contract Sum and the Contract Time may be changed only by such written Change Order as defined by Section 10.1.2 with written authorization of the Developer.
- 10.1.2.1. Agreement on any Change Order shall constitute a full and final settlement** and accord and satisfaction of all matters relating to the change in the Work which is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum

and the construction schedule. No course of conduct, industry custom or practice, or dealings between the parties and no claim that the Developer has been unjustly enriched by any change in the Work shall govern without a written, signed Change Order. Nor shall Contractor make or be entitled to claim compensation for cumulative impacts of changes or directions. Contractor's sole remedy for changes shall be governed by Change Orders provided herein.

**10.1.3. The cost or credit to the Developer resulting from a change in the Work** shall be reasonable, allocable in accordance with generally accepted accounting procedures consistently applied, and will be determined in one or more of the following ways:

- by mutual acceptance of a lump sum properly itemized;
- by unit prices stated in the Contract Documents or subsequently agreed upon; or
- by cost and a mutually acceptable fixed or percentage fee.

**10.1.4. If none of the methods set forth in Subparagraph 10.1.3 is agreed upon,** the Contractor, provided he receives a Change Order, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Developer's Representative on the basis of the Contractor's reasonable expenditures and savings, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit collectively limited to 10%. In such case, the Contractor shall keep and present, in such form as the Developer's Representative may prescribe, an itemized accounting together with appropriated supporting data. Pending final determination of cost to the Developer, payments on account shall be made on the Certificate for Payment. The amount of credit to be allowed by the Contractor to the Developer for any deletion or change with results in a net decrease as confirmed by the Developer's Representative. When both additions and credits are involved in any one change, the allowance for overhead and profit shall be figured on the basis of net increase or decrease, if any. In no event shall the Contractor stop the Work based upon a failure to agree upon cost or credit unless the Developer's Representative shall authorize such stoppage.

**10.1.5. If unit prices are stated in the Contract Documents** or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed will create a hardship on the Developer or the Contractor, the applicable unit prices shall be equitably adjusted to prevent such hardship.

## **10.2. CLAIMS FOR ADDITIONAL COST OR TIME**

**10.2.1. If the Contractor wishes to make a claim for an increase in the Contract Sum** and/or extension in the Contract Time, it shall give the Developer written notice within ten (10) days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, and Contractor shall receive Developer's approval prior to beginning any work, except in an emergency endangering life or property, in which case the Contractor shall proceed in accordance with Subparagraph 4.19. No such claim shall be valid unless so made. Any change in the Contract Sum or Contract Time resulting from such claim shall be authorized by Change Order.

### **10.3. MINOR CHANGES IN THE WORK**

**10.3.1. The Developer's Representative shall have authority to order minor changes** in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be effected by Field Order or by other written order. Such changes shall be binding on the Developer and the Contractor.

### **10.4. FIELD ORDERS**

**10.4.1.** With consultation with the Owner and the Project Architect/Engineer, the Developer's Representative may issue written Field Orders which interpret the Contract Documents which order minor changes in the Work without change in Contract Sum or Contract Time. The Contractor shall carry out such Field Orders promptly.

### **10.5. UNCOVERING OF WORK**

**10.5.1. If any Work should be covered contrary to the Specification requirements,** it must be uncovered, at the request of the Developer's Representative for observation and replaced at the Contractor's expense.

**10.5.2. If any other Work has been covered** which the Developer's Representative has not specifically requested to observe prior to being covered, the Developer's Representative may request to see such Work, and it shall be uncovered by the Contractor. If such Work be found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Developer. If such Work be found not in accordance with the Contract Documents, the Contractor shall pay such costs.

### **10.6. CORRECTION OF WORK**

- 10.6.1. The Contractor shall promptly correct all Work rejected** by the Developer's Representative as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed, or completed. The Contractor shall bear all costs of correcting such rejected Work, including the cost of any additional services of Developer's Representative or Architect/Engineer thereby made necessary.
- 10.6.2. If, within one year after the Date of Substantial Completion,** or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of the Work is found to be defective or not in accordance with Contractor's Warranty and the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Developer to do so unless the Developer has previously given the Contractor a written acceptance of such condition. The Developer shall give such notice promptly after discovery of the condition.
- 10.6.3. All such defective or non-conforming work shall be removed from the site** where necessary and the Work shall be corrected to comply with the Contract Documents without cost to the Developer.
- 10.6.4. The Contractor shall bear the cost of making good all work** of separate contractors destroyed or damaged by such removal or correction.
- 10.6.5. If the Contractor does not remove such defective or non-conforming Work** within a reasonable time fixed by written notice from the Developer's Representative, the Developer may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage with ten (10) days thereafter, the Developer may upon ten (10) additional days' written notice sell such material or equipment at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor including compensation for additional architectural/engineering services. If such proceeds of sale do not cover all costs which the Contractor should have borne, 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 Developer.
- 10.6.6. If the Contractor fails to correct such defective or non-conforming Work,** the Developer may correct it in accordance with Paragraph 11.2.1.
- 10.6.7. The obligations of the Contractor under this Paragraph 10.6** shall be in addition to and not in limitation of any obligations imposed upon it by special guarantees required by the Contract Documents or otherwise prescribed by law.

## 10.7. ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

10.7.1. **If the Developer prefers to accept defective or non-conforming work**, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect an appropriate reduction in the Contract Sum, of if the amount is determined after final payment, it shall be paid by the Contractor.

## 10.8. PERFORMANCE STANDARDS

10.8.1. **The Contractor shall at all times employ sufficient labor and equipment** for prosecuting the Work to full completion in the manner and time required by these specifications. All workmen shall have sufficient skill and experience to perform properly the work assigned to them. The labor provided by the Contractor shall be directed to be of a workmanlike character with respect to the methods of construction and quality of completed work; and, shall not encumber the premises or adjacent property or streets with materials and/or equipment.

## 11. TERMINATION

### 11.1. BY DEVELOPER

11.1.1. **The Developer may terminate this Contract at any time without cause** by giving notice in writing to the Contractor at least three (3) days prior to termination. If the Contract is terminated by the Developer as provided herein, the Developer will pay to the Contractor (i) the cost of the Work completed prior to the termination date specified in its notice, (ii) reasonable demobilization costs directly related to the termination, plus (iii) the Contractor's profit (or fee) that is attributable to the completed Work; provided that, in no event shall the aggregate of the sums described in subparts (i) through (iii) exceed the Contract Sum minus the sums necessary to complete the Work. Contractor shall have no right to anticipated overhead, profit, or fees on the portion of the Work not completed and shall not be entitled to any consequential, indirect, or incidental damages.

11.1.2. **The Developer may terminate this Contract for cause if the Contractor defaults** or fails to perform any provision of this Contract. Said termination shall be effective after seven (7) days from the date of written notice by the Developer unless Contractor shall rectify said default or failure to the satisfaction of Developer. Contractor hereby assigns and transfers to Developer any and all of its rights under the subcontracts relating to the Work

(whether now or hereafter existing) and agrees that Developer may exercise Contractor's rights under those subcontracts as set forth in the next sentence. If Contractor defaults in the performance of any provision of this Contract or fails to carry out any Work in accordance with this Contract, Developer may (i) terminate this Contract and take possession of the work site and any and all materials, equipment, tools, and machinery thereon, finish the Work in whatever way it deems expedient, exercise any and all rights under the subcontracts, and if the expense of finishing the Work exceeds the unpaid balance of the Contract Sum at the time of termination, Contractor agrees to pay the difference to Developer immediately upon notification to do so by Developer; or (ii) elect to not terminate this Contract and, in such event, Developer may deduct the damages it suffers from the sums then or thereafter due to Contractor. Exercise of any of the rights and remedies set forth in this paragraph shall be without prejudice to any other rights under this Contract, at law or in equity that Developer may have.

## **11.2. DEVELOPER'S RIGHT TO CARRY OUT WORK**

- 11.2.1. If the Contractor defaults or neglects to carry out the Work in accordance** with the Contract Documents or fails to perform any provision of the Contract, the Developer may, after seven (7) days' written notice to the Contractor and without prejudice to any other remedy it may have, make good such deficiencies. In such case an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including the cost of the Project Architect's/ Engineer's additional services made necessary by such default, neglect or failure. If the payments then or thereafter due to Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Developer.

## **11.3. BY CONTRACTOR**

- 11.3.1. The Contractor may terminate this Contract if the Work is stopped for a period of sixty (60) days** under an order of any Court or other public authority having jurisdiction if said stoppage is not due in whole or in part by acts or omissions of the Contractor.

## **12. COMPLAINT WITH EMPLOYMENT LAWS**

### **12.1. EQUAL EMPLOYMENT OPPORTUNITY**

- 12.1.1. During the performance of this Contract the Contractor agrees to comply** with all State and Federal laws applicable to employees working on the Project, including but not limited to the following.



- a. **The Contractor will not discriminate against any employee or applicant** for employment because of race, religion, color, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this non-discrimination clause.
- b. **The Contractor will, in all solicitations or advertisements for employees** placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.
- c. **The Contractor will send to each labor union or representative of workers** with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or worker's representative of the Contractor's commitments under Section 202, of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 supplemented by Department of Labor regulations (41 CFR Chapter 60) and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. **The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965,** as amended by Executive Order No. 11375 supplemented by Department of Labor regulations (41 CFR Chapter 60) and the rules, regulations and relevant orders of the Secretary of Labor.
- e. **The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965,** as amended by Executive Order No. 11375 supplemented by Department of Labor regulations (41 CFR Chapter 60) and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- f. **The contracting agency or the Secretary of Labor may direct that any bidder** or prospective contractor shall submit, as part of its Compliance Report, a statement in writing, signed by an authorized office or agent on



behalf of any labor union or any agency referring workers or providing for supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with support information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex, or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union or the agency shall refuse to execute such a statement, the Compliance Report shall also certify and set forth what efforts have been made to secure such a statement and such additional factual material as the contracting agency or the Secretary of Labor may require.

**g. In the event of the Contractor's non-compliance with the non-discrimination clauses** of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts in accordance with procedure, authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 supplemented by Department of Labor regulations (41 CFR Chapter 60) and such remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 supplemented by Department of Labor regulation (41 CFR Chapter 60) or by rules, regulations, or by order of the Secretary of Labor, or as otherwise provided by Law.

**h. The Contractor will include the provisions of the foregoing paragraphs (a) through (g)** in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 supplemented by Department of Labor regulations (41 CFR Chapter 60) so that such provisions will be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order Developer as a means of enforcing such provision, including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

## **12.2. SCHEDULE OF OCCUPATIONAL CLASSIFICATION AND MINIMUM HOURLY WAGE RATES**

12.2.1. **Under the Statutes of the State of Missouri**, State Wage Rates will apply to this Contract.

12.2.2. **Schedules of wage rates shall consist of the current wage determination** and such rates as have been applied for: **ANNUAL WAGE ORDER NO. 26.**

## 13. DRAWINGS

### 13.1. SCHEDULE OF DRAWINGS

13.1.1. **Drawings may be amended by Addenda issued** prior to the opening of bids.

13.1.2. **Applicable Drawings are described in Form GRG 4** which is a Contract Document.

13.1.3. **Contractor shall provide to Developer drawings of all Work** including mechanical, plumbing and electrical upon completion of Project.

13.1.4. **In addition to the items required by Paragraph 4.11**, Contractor shall purchase and maintain one (1) set of prints of Contract drawings at the site at all times. Contractor shall record all deviations to the contract drawings made necessary by field change orders during the course of the Project on the prints. Upon substantial completion of Project and before final payment can be approved, one (1) complete "As-built" set of prints and one (1) electronic copy of the same must be submitted to Developer and any other regulatory agencies as instructed by the Developer (e.g., MSD, local municipalities, MoDOT etc.).

## 14. MISCELLANEOUS

### 14.1. GOVERNING LAW

14.1.1. **Missouri Law shall govern the interpretation of this Contract.**

### 14.2. SUCCESSORS AND ASSIGNS

14.2.1. **The Contractor hereunder binds itself, its partners, successors, and legal representative** to the Developer in respect to all covenants, agreements and obligations contained in the Contract Documents. Contractor hereunder shall not assign all or any part of its obligations or responsibilities hereunder without the written consent of the Developer, nor shall Contractor hereunder assign any moneys due, or to become due, to it hereunder, without the previous written consent of the Developer.

### 14.3. WRITTEN NOTICE

**14.3.1. Written notice shall be deemed to have been duly served if hand-delivered in person** to the contact person designated herein, or if delivered or sent by registered or certified mail to the last business address known to the party who gives the notice.

### 14.4. CLAIMS FOR DAMAGES

**14.4.1. Should either party to this Contract suffer injury or damage to person or property because of any act or omission** of the other party or of any of its employees, agents or others for whose acts it is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

### 14.5. PERFORMANCE BOND AND PAYMENT BOND

**14.5.1. Prior to execution of the Contract, the Developer will require the Contractor to furnish bonds** covering the faithful performance of the Contract and the payment of all obligations arising thereunder in such form and amount as the Developer may prescribe and with such Sureties as are approved by the Developer. The premiums shall be paid by the Contractor. The Contractor shall deliver the required bonds to the Developer not later than the date of execution of the Contract; or if the Work is commenced prior thereto in response to a Notice to Proceed, the Contractor shall, prior to commencement of the Work, submit evidence satisfactory to the Developer that such bonds will be issued.

**14.5.2. The Contractor is required, as a condition precedent to the execution of the Contract,** to furnish bond in a penal sum of one hundred percent (100%) of the total amount payable by the terms of the Contract.

**14.5.3. The bond required by Subparagraph 14.5.2 shall be executed on AIA Standard Form 312,** two-part Performance Bond and Labor and Material Payment Bond, with the amount shown on each part equal to 100% of the total amount payable by terms of the Contract. Surety shall be a company licensed to do business in the State of Missouri and acceptable to the Developer and listed in the Federal Register, Department of Treasury listing of companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds. The bond shall be written in favor of the Developer. The Bonds furnished shall require the attorney-in-fact who executes the required Bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney.

**14.5.4. The Contractor is required to notify the Surety Company** concerning any changes in the Contract amount which are authorized by the Developer in a written Change Order. The Change Order amount should include, under overhead expense, any additional bonding costs.

#### **14.6. RIGHTS AND REMEDIES AND COPYRIGHTS**

**14.6.1. The duties and obligations imposed by the Contract Documents** and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

**14.6.2. No reports, maps, or other documents produced in whole or in part** under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor.

#### **14.7. ROYALTIES AND PATENTS**

**14.7.1. The Contractor shall pay all royalties and license fees.** It shall defend all suits or claims for infringement of any patent rights and shall save the Developer harmless from loss on account thereof, except that the Developer shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, it shall be responsible for such loss unless it promptly gives such information the Developer's Representative.

#### **14.8. TESTS BY PUBLIC AUTHORITIES**

**14.8.1. If the Contract Documents, laws, ordinances, rules, regulations or orders** of any public authority having jurisdiction require any Work to be inspected, tested or approved, the Contractor shall give the Developer's Representative minimum 24-hour notice of its readiness and of the date arranged so the Developer's Representative may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, test, and approvals unless otherwise provided.

**14.8.2. If after commencement of the Work, the Developer's Representative determines** that any Work requires special inspection, testing or approval which Subparagraph 14.8.1 does not include, it will, upon written authorization from the Developer, instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as in Subparagraph 14.8.1. If such special inspection or testing reveals a failure of the Work to

comply (1) with the requirements of the Contract Documents or (2) with respect to the performance of the Work, with laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof, including additional services of the Developer's Representative or Architect/Engineer made necessary by such failure; otherwise, the Developer shall bear such costs, and an appropriate Change Order shall be issued.

**14.8.3. Required certificates of inspection, testing or approval shall be secured** by the Contractor and promptly delivered to the Developer's Representative.

**14.8.4. If the Developer's Representative wishes to observe the inspections, test, or approvals** required by this Paragraph 14.8, it will do so promptly.

**14.8.5. Neither the observations of the Developer's Representative, nor inspections, test or approvals** by persons other than the Contractor shall relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

#### **14.9. INTEREST OF DEVELOPER**

**14.9.1. No member of the Board of Directors of Developer shall be admitted** to any share or part of this Contract or to any benefit to arise therefrom.

#### **14.10. INTEREST OF GOVERNMENT REPRESENTATIVES**

**14.10.1. No member, officer, or employee of the City, County or governing body** of the Owner or the locality in which the Project is situated, and no other public official of such locality who exercises any functions or responsibilities with respect to the Project, shall, during his/her tenure, or for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

#### **14.11. ARCHITECTURAL BARRIERS ACT**

**14.11.1. The design of any facility (building, outdoor recreation or restroom facility)** must comply with the "American Standard Specifications for Making Buildings and Facilities Accessible and Usable by the Physically Handicapped."

#### **14.12. COMPLIANCE WITH AIR AND WATER ACTS**

**14.12.1. This Contract is subject to compliance by the Contractor with the Clean Water Act**, as amended, 42 USC 1857 et seq., the Federal Water Control Act, as



amended, 33 USC 1251 et seq., and the Regulations of the Environmental Protection Agency (EPA) with respect thereto, at 40 CFR Part 15, as amended.

**14.12.2. The Contractor and all Subcontractors and Sub-subcontractors working thereunder** shall not utilize in the performance of Work under this Contract any facility listed on the list of violating facilities issued by EPA pursuant to 40 CFR 15.20.

**14.12.3. The Contractor, all Subcontractors and Sub-subcontractors working thereunder** shall give Developer prompt notice of any notification received from the Director, Office of Federal Activities, and EPA, indicating that a facility utilized or to be utilized under the terms and conditions of said Contract is under consideration to be listed on the EPA list of violating facilities. The Contractor agrees that the requirements set forth in this paragraph will be included in every subcontract under this Contract and will take the necessary action as directed by EPA to enforce the provisions set forth above.

#### **14.13. REPORTS AND INFORMATION**

**14.13.1. The Contractor, at such times and in such form as Developer may require,** shall furnish Developer such periodic reports as it may request pertaining to the services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

#### **14.14. RECORDS AND AUDITS**

**14.14.1. The Contractor shall maintain accounts and records,** including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by Developer to assure proper accounting for all activity funds. These records will be made available for audit purposes to Developer or any authorized representative, and will be retained for five (5) years after the expiration of this Contract unless permission to destroy them is granted by the Developer.

#### **14.15. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT**

**14.15.1. Notwithstanding any other provisions of this Contract,** the Contractor shall perform all task in strict compliance with the American with Disabilities Act, As Amended, 42 U.S.C. 12101 et seq., 47 U.S.C. 225,611, and all standards set forth in the regulations promulgated by the United States Department of Justice (2010 ADA Standards and the 2009 Draft Final Accessibility

Guidelines for Outdoor Developed Areas) and Missouri's accessibility standards set out in the Missouri revised Statutes at 8.610 et seq as well as any modifications, amendments or update to any of these standards in effect at the time of construction. Regarding any trail involving property owned, leased, operated or governed by the Missouri Department of Transportation, Contractors will ensure that all requirements of that agency pertaining to this Contract are met. Any deviation from the standards of the Americans with Disabilities Act, as Amended, Missouri's accessibility standards or MoDOT requirements whether in accordance with plans or at the discretion of the Contractor must be approved in writing by the Developer or its authorized representative before construction or installation by the Contractor.

#### **14.16. COMPLIANCE WITH IMMIGRATION LAWS**

**14.16.1. The Contractor agrees to comply with all applicable Federal and State Immigration Laws** and to supply Developer and Owner with proof of compliance upon request. Contractor warrants that each invoice or request for payment submitted by Contractor certifies such compliance for the period covered by the request. Contractor agrees to comply with all applicable I-9 collection and reporting requirements and to supply Developer with proof of I-9 compliance upon request. Contractor agrees to defend and hold harmless the Developer and Owner from any actions, fines, or penalties resulting from the Contractor use of illegal workers or any non-compliance with immigration statutes.

#### **14.17. TRAFFIC CONTROL**

**14.17.1. SCHEDULING OF WORK AND INTERFERENCE WITH TRAFFIC.** The Contractor's Work must be schedule and accomplished in stages such that local traffic is maintained during construction. It shall be the Contractor's responsibility to provide a traffic way that is usable in all weather conditions. The Contractor shall construct and maintain in a safe condition temporary pavements and connections for local traffic.

**14.17.2. Temporary guardrail or other suitable temporary barriers shall be provided** to protect traffic from the Work. At all times until final acceptance of the Work, the Contractor shall provide and maintain such signs, lights, watchmen and barriers, in addition to the temporary guardrail, as may be necessary to properly protect the Work and provide for safe and convenient public travel. No additional payment shall be made for temporary guardrail, barriers, signs, light or other work as may be necessary to maintain traffic and to protect the Work and the public and all labor, equipment and material necessary to accomplish this task shall be considered incidental.

**14.17.3. Areas of intersections and roadways within the construction limits** shall be constructed in phases so that at no time will access be denied.

#### **14.18. QUANTITIES**

**14.18.1. When the plans have been altered or when disagreement exists** between the Contractor and the Developer as to the accuracy of the plan quantities of any balance, or the entire project, either party shall have the right to request a re-computation of Contract quantities within any area, by hand calculation of the average-end-area method for cubic yard quantities, and standard measurement methods for other quantities, by written notice to the other party. The written notice shall contain evidence that an error exists in the original groundline elevation or in the original computations which will affect the final payment quantity in excess of 15%. When such final measurement is required, it will be made from the latest available ground surface and the design section.

#### **14.19. DISPUTES**

**14.19.1. Any dispute regarding the performance or interpretation of this Agreement** shall be brought in the Circuit Court of St. Louis County, Missouri, or in the event of Federal Jurisdiction, such claim may be brought or removed to the United States District Court Eastern District of Missouri.

**14.19.2. In any dispute, the Developer, if it substantially prevails,** shall be entitled to recover its reasonable attorney's fees and litigation costs.

**14.19.3. UNDER NO CIRCUMSTANCES SHALL THE DEVELOPER BE LIABLE FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL OR SIMILAR DAMAGES,** WHETHER SUCH DAMAGES ARE CLAIMED UNDER A THEORY OF TORT OR CONTRACT OR OTHERWISE, ALL OF WHICH DAMAGES ARE EXCLUDED BY AGREEMENT OF THE PARTIES, EVEN IF THE PARTIES HAVE NOT BEEN ADVISED OF THEIR AVAILABILITY. UNDER NO CIRCUMSTANCES SHALL DEVELOPER'S LIABILITY TO CONTRACTOR HEREUNDER EXCEED THE CONTRACTOR'S COMPENSATION SET FORTH IN FORM GRG 4 (Contract), AS SUCH COMPENSATION SHALL BE MODIFIED AS PERMITTED HEREUNDER.



## **15. SPECIAL LABOR PROVISIONS**

### **15.1. PREVAILING WAGES**

- 15.1.1. The Contractor shall comply in all respects with the provisions** of Sections 290.210 through 290.340 R.S. Mo. 1959 as currently amended, and shall pay to all workmen performing the work under this Contract not less than the prevailing hourly rate of wages determined by the Department of Labor and Industrial Relations.
- 15.1.2. The Contractor and each subcontractor shall keep full and accurate records** clearly indicating the names, occupations, and crafts of every workman employed by them, the number of hours worked by each workman, the actual wages paid therefore. The payroll records required to be so kept shall be opened to inspection by any authorized representative of the Developer or of the Department of Labor & Industrial Relations at any reasonable time and as often as may be necessary, and such records shall not be destroyed or removed from the State of Missouri for a period of one year following completion of the Contract.
- 15.1.3. The Contractor is advised that the prevailing hourly rate of wages** is subject to change by the Department of Labor & Industrial Relations during the life of this Contract, and such change shall not be the basis of any claim by the Contractor against the Developer.
- 15.1.4. A clearly legible statement of all prevailing hourly wage rates to be paid to all workmen employed** under this Contract shall be kept posted in a prominent and easily accessible place at the Contract site by each Contractor and subcontractor, and such notice shall remain posted during the full time that any such workmen shall be employed under this Contract.
- 15.1.5. The Contractor, in accordance with Section 290.250 R.S. Mo. 1959,** as currently amended, shall forfeit as a penalty to the Developer \$100.00 for each workman employed for each calendar day or portion thereof if such workman is paid less than the stipulated rate for any work done under this Contract by him or by any subcontractor under him and the Developer, in accordance with the provisions of Section 290.250 R.S. Mo. 1959, shall withhold and retain therefrom all sums and amounts due and owing as the result of any violations of Section 290.210 through 290.345 R.S. Mo. 1959.
- 15.1.6. The Contractor is further advised that in accordance with Developer's request** to ascertain the prevailing hourly rate of wages for workman required to perform the work required by this Contract, and pursuant to Section 290.210 to 290.340 R.S. Mo. 1959, as currently amended, the Department of Labor and Industrial Relations Commission of Missouri, being duly informed

and having considered the matter finds, determines, declares, and certifies to you and to the Developer the following:

- 15.1.6.1. That the general prevailing hourly rate of wages for heavy construction work** in said County for each of the crafts or types of workmen, listed on the attached rate schedules, are the prevailing straight time hourly wage rates for said County for project or construction contract named and described in the caption thereof.
- 15.1.6.2. That the straight time hourly rates do not include** any possible payments made by the contractors for pension funds or health and welfare funds, or for other purposes.
- 15.1.6.3. That "Prevailing Hours of Labor" for all classifications of laborers, workmen, and mechanics** to be employed on said contemplated construction work are eight (8) hours per day and forty (40) hours per week.
- 15.1.6.4. That general prevailing hourly rates for legal holidays and overtime work** are shown on the attached wage rate schedules for the crafts listed thereon, as certified in Annual Wage Order No. 10 attached.

## **15.2. BUY MISSOURI/BUY AMERICAN**

- 15.2.1. By virtue of statutory authority, Contractor shall purchase and use only** those materials, products, supplies, provisions and other needed articles produced, manufactured, compounded, made or grown within Missouri, when such articles are found in marketable quantities in Missouri and are of a quality suited to the purpose intended and can be secured without additional cost over foreign products or products of other states, provided that Developer may consider quality and fitness of articles in purchasing or letting contracts for articles mentioned above. (See RSMo. Section 67.1748). In addition, preference may be given to firms, corporations, or individuals doing business as Missouri firms, corporations, or individuals, or that maintain Missouri offices or places of business. Out-of-state contractors may be subject to additional requirements imposed pursuant to Missouri statutes. (See RSMo. Sections 34.073 and 34.076). Furthermore, Contractor shall be required to comply with and certify to the compliance with the Missouri Domestic Products Procurement Act, Section 34.350 RSMo. et. seq. As required by Section 34.350 RSMo., Contractor shall comply with the following: "any manufactured goods or commodities used or supplied in the performance of the contract or any subcontract shall be manufactured or produced in the United States, provided the contract, purchase or leases of such goods or commodities exceeds \$25,000.00."

### 15.3. TEN-HOUR OSHA CONSTRUCTION SAFETY PROGRAM

**15.3.1. Contractor acknowledges that it must comply,** and that it shall assist Developer and Contractor's Subcontractors in complying, with Section 292.675 of the Missouri Revised Statutes. Specifically, Contractor and its Subcontractors must provide a ten-hour Occupational Safety and Health Administration ("OSHA") construction safety program for their on-site employees, which must include a course in construction safety and health approved by OSHA or a similar program approved by the Missouri Department of Labor and Industrial Relations that is at least as stringent as a program approved by OSHA. All of Contractor's and its Subcontractors' employees must complete such a program within sixty (60) days of beginning work on the Project. If the Contractor fails to comply with the provisions of Section 292.675, then the Contractor shall forfeit as a penalty to Developer \$2,500 plus \$100 for each employee employed by the Contractor or its Subcontractors for each calendar day (or portion thereof) that such employee is employed without the required training. Such penalty shall be paid by the Contractor to Developer upon demand, or, at Developer's option, Developer shall have the right to withhold from Contractor's payments hereunder an amount equal to the amount of such penalties.

### 15.4. UNAUTHORIZED WORKERS - 285.530

**15.4.1. It shall be the responsibility of Contractor to ensure** that no aliens unauthorized to work in the United States are employed by Contractor or any subcontractor in connection with the Project. Developer may require Contractor to discharge any alien unauthorized to work in the United States. Furthermore, Contractor shall, no more than once annually, deliver to Developer a certificate stating that Contractor has not employed any aliens unauthorized to work in the United States in the form attached hereto at Attachment 1.



# Attachment 1: **To SPECIAL LABOR PROVISIONS**

## Affidavit of Work Authorization

**Contract:** \_\_\_\_\_ (“the Contract”).

**Contractor:** \_\_\_\_\_ (“Contractor”).

I, \_\_\_\_\_, the Contractor’s \_\_\_\_\_ (title),  
do solemnly affirm under penalties of perjury that the following facts are true and correct:

1. **I am the Contractor’s registered agent, legal representative, a corporate officer, human resources director, or equivalent.** I am authorized to make this Affidavit on behalf of the Contractor.
2. **The Contractor is enrolled in, and will continue to participate in, the E-verify federal work authorization program,** or other equivalent electronic verification of work authorization program operated by the United States Department of Homeland Security under the Immigration Reform and Control Act of 1986 for the duration of the Contract for all persons hired after enrollment that are working in connection with Contract services.
3. **The Contractor does not, and will not, knowingly employ a person who is an unauthorized alien** in connection with Contract services for the duration of the Contract.
4. **Documentation of Contractor’s enrollment and participation** in a federal work authorization program for employees hired after enrollment that are working in connection with the Contract services is attached.
5. **Subcontractor’s employees are lawfully present** in the United States.

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**Notary**



My Commission expires on: \_\_\_\_\_ Seal

**PLEASE NOTE:**

**Acceptable enrollment and participation documentation consists of the following 2 pages of the E-Verify Memorandum of Understanding:**

- 1. A valid, completed copy of the first page** identifying the Contractor; and
- 2. A valid copy of the signature page completed and signed by the Contractor,** the Social Security Administration, and the Department of Homeland Security - Verification Division



# Form 7: **FINAL RECEIPT OF PAYMENT AND RELEASE FORM**

AI Foster Slope Stabilization

KNOW ALL MEN BY THESE PRESENTS THAT: \_\_\_\_\_,

hereinafter called "Contractor", has performed work and/or furnished material for the construction of a "Project" entitled \_AI Foster Slope Stabilization\_\_\_\_\_, Project No. \_\_\_\_\_, for Great Rivers Greenway, hereinafter called "Developer", pursuant to a contract with Developer or for a contractor of Developer, and in consideration of payment in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

**Contractor DOES HEREBY:**

1. **ACKNOWLEDGE** that it has been paid in full all sums due for everything done by Contractor, or its subcontractors, material vendors, equipment and fixture suppliers, agents and employees, or otherwise in the performance of the work required for the Project or otherwise and all modifications or extras or additions.
2. **RELEASE** and fully, finally and forever discharge Developer of and from any and all suits and actions, claims and demands of whatsoever kind of character arising out of or in any manner related to anything and everything done or omitted by Contractor, or its subcontractors, material vendors, equipment and fixture suppliers, agents and employees, in the performance of or connected with its/their performance of said work, or otherwise.
3. **REPRESENT** that all of its employees, subcontractors, material vendors, equipment and fixture suppliers and everyone else has been paid in full all sums due them, or any of the, in connection with performance of said work, or anything done or omitted by them or any of them in connection with the construction of said improvements, or otherwise.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

Name of Contractor: \_\_\_\_\_

By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_