



**Park City Municipal Corporation**

**REQUEST FOR PROPOSALS FOR**

***Inspection, Repair and Improvements to Public Works  
Parking Structure located at 1053 Iron Horse Drive and  
China Bridge Parking Structure located at  
350-460 Swede Alley***

OWNER

PARK CITY MUNICIPAL CORPORATION  
1053 IRON HORSE DRIVE  
PO BOX 1480  
PARK CITY, UTAH 84060

**PARK CITY MUNICIPAL CORPORATION  
REQUEST FOR PROPOSALS**

**Inspection, Repair and Improvements to Public Works Parking Structure located at 1053 Iron Horse Drive and China Bridge Parking Structure located at 350-460 Swede Alley**

PROPOSALS DUE AND PROPOSALS OPENING: Friday July 7, 2017 at 4:00 p.m. at the Public Works office front desk at 1053 Iron Horse Drive, Park City, UT 84060.

PROJECT NAME: **Inspection, Repair and Improvements to Public Works Parking Structure located at 1053 Iron Horse Drive and China Bridge Parking Structure located at 350-460 Swede Alley.**

PLANS AVAILABLE FOR CONTRACTORS: At Public Works 1053 Iron Horse and on our website @ [www.parkcity.org](http://www.parkcity.org)

PRE BID MEETING: **A MANDATORY pre bid meeting is scheduled for 7/5/2017 at 9:00 a.m.** location **1053 Iron Horse Drive, Park City UT** for written questions and site walk through.

PROJECT LOCATION: 1053 Iron Horse Drive Public Works Parking Structure  
350-460 Swede Alley China Bridge Parking Structure

Project Manager/Contact:  
All questions must be submitted in writing by  
7/5/2017 at 9:00 a.m. to:

Kenzie Coulson  
Project Manager  
P.O. Box 1480  
1053 Iron Horse Drive  
Park City, UT 84060  
(435) 658-9048 fax  
[mckenzie.coulson@parkcity.org](mailto:mckenzie.coulson@parkcity.org)

PROJECT DESCRIPTION: Project includes inspection, repair and improvements of two parking structures. The repairs are to generally consist of the repairing or replacing sections of waterproof top deck membranes, expansion joints, concrete walls, ceilings, floors and stairways where damage has occurred. Public Works Iron Horse Parking Structure top deck is a total of 35,680 square feet and China Bridge consists of four levels totaling 444,197 square feet.

The project will consist of furnishing all facilities, tools, equipment, materials, supplies, manufactured articles, management, planning, drawings, submittals, transportation, and services, fuel, power, water, communications, coordination, permits and permit compliance, and performing all work, or other operations required for the fulfillment of the contract in accordance with the Contract Documents. Park City reserves the right to reject any or all proposals and to waive any minor irregularities in any proposal.

Site work must be performed between August 1, 2017, and November 15, 2017. Completion date is November 15, 2017. Scheduling restrictions on specific portions of the work will apply. Penalties for missing required construction deadlines will be included. Associated penalty amounts will be related to administrative deadline requirements and project related costs. These amounts will be established at the time of project bidding.

Advertised on 6/24/2017 and 6/28/2017  
Available on the Park City website @ [www.parkcity.org](http://www.parkcity.org)  
Selection Committee Review 7/10/2017  
City Council Approval 7/20/2017

Schedule            Description

- A                    Public Works Parking Structure**
  - 33055 Square feet of waterproofing membrane
  - 2625 Square feet of walls
  - 102 Linear feet of expansion joint
  - 25 Linear feet of ramp expansion joint
  
- B                    China Bridge Parking Structure**
  - 46,973 Square feet of waterproofing membrane
  - 49,480 Square feet of walls and columns
  - 175,725 Square feet of interior floors
  - 172,011 Square feet of ceiling
  - 76.5 Linear feet of expansion joint

## **Table of Contents**

### **BIDDING DOCUMENTS**

#### **BID SCHEDULE**

- A                    Public Works Parking Structure**
  - 33,055 Square feet of waterproofing membrane
  - 2,625 Square feet of walls
  - 102 Linear feet of expansion joint
  - 25 Linear feet of ramp expansion joint
  
- B                    China Bridge Parking Structure**
  - 46,973 Square feet of waterproofing membrane
  - 49,480 Square feet of walls and columns
  - 175,725 Square feet of interior floors
  - 172,011 Square feet of ceiling
  - 76.5 Linear feet of expansion joint

BID PROPOSAL

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NOTICE TO PROCEED

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**GENERAL CONDITIONS OF THE CONTRACT**

OWNER: Park City Municipal Corporation

Project Manager/Contact:

All questions must be submitted in writing by  
9:00 a.m. on Wednesday, July 5, 2017 to:

Kenzie Coulson  
Project Manager  
P.O. Box 1480  
1053 Iron Horse Drive  
Park City, UT 84060  
(435) 658-9048 fax  
[mckenzie.coulson@parkcity.org](mailto:mckenzie.coulson@parkcity.org)

With a copy to Public Works Director:

Blake Fannesbeck  
Public Works Director  
P.O. Box 1480  
1053 Iron Horse Drive  
Park City, UT 84060  
[Blake.fannesbeck@parkcity.org](mailto:Blake.fannesbeck@parkcity.org)

A bid bond in the amount of five percent (5%) of the total bid is required at the time of bidding. Payment and Performance bonds in the amount of one hundred percent (100%) of the total bid will be required. Park City Municipal Corporation reserves the right to reject any and all proposals for any reason. Bids will remain valid for ninety (90) days after bid opening. All submittals shall be public records in accordance with government records regulations ("GRAMA") unless otherwise designated by the applicant pursuant to UCA § 63G-2-309, as amended. Award of contract is subject to approval by City Council on July 20, 2017. Proposals lacking required information will not be considered. Park City Municipal Corporation reserves the right to change any dates or deadlines. Successful bidder will be required to enter into Park City's standard Construction Agreement in a form approved by the City Attorney. A sample Construction Agreement is attached.

Park City Municipal Corporation reserves the right to cancel or modify the terms of this RFP and/or the project at any time and for any reason preceding contract award and reserves the right to accept or reject any or all proposals submitted pursuant to this request for proposals. Park City will provide respondents written notice of any cancellation and/or modification. Furthermore, the City shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.

**BID SCHEDULE A:  
IRON HORSE PARKING STRUCTURE**

In compliance with Park City Design Standards, Construction Specification and Standards.  
The Scope of work includes inspection and repair of top deck waterproof membrane, expansion joints, concrete walls, ceilings, floors, and two (2) stairways.

ITEM NO.	DESCRIPTION OF WORK	QUANTITY Estimate	UNIT COST	PRICE
1.	Prepare and install Waterproofing membrane On roof /top deck	33055 S.F.	\$ _____	\$ _____
2.	Prepare and install Caulk on 2 stair towers	500 L.F.	\$ _____	\$ _____
3.	Prepare and install Metal primer on 2 stair towers	200 L.F.	\$ _____	\$ _____
4.	Prepare and install Waterproofing membrane on 2 concrete staircases 5'x10"x15" (step size)	57 steps	\$ _____	\$ _____
5.	Prepare and install Waterproofing membrane on 2 concrete staircase <u>Landing</u> metal stringer x 6	270 S.F.	\$ _____	\$ _____
6.	Restripe of parking stalls 9 x 18 feet	84 each	\$ _____	\$ _____
7.	Prepare and install Expansion Joint	102 L.F.	\$ _____	\$ _____
8.	Prepare and install Ramp Expansion Joint	25 L.F.	\$ _____	\$ _____
TOTAL BID PRICE				\$ _____

1. Product specification sheets for all proposed products that will be used on the project including warranty information.
2. Samples of all proposed waterproofing and paint.
3. Floor plan identifying which product types that will be used in each area.
4. Total project price and square foot costs for each level including labor and mobilization costs.
5. Proposed timeline for completing the project with impacts to staff and customers outlined.

6. Reference list for at least three (3) parking structures similar to the project that are using the proposed products as installed by your company.
7. Identified environmental impacts of the project; for example the dirt and oils are to be washed off the floors and proper disposal of said material.
8. Visual appeal of proposed repairs and updated paint.
9. Site conditions guidelines.
10. Cleaning and maintenance products and procedures needed to maintain the proposed upgrades.
11. Price (although price may not be the sole deciding factor) for total cost and square foot cost for materials.
12. Nature and extent of any requested changes to our standard contract, which is attached to this RFP. Insurance requirements are outlined in the construction contract attached. Requested exceptions must be included with proposal and will affect the bid award.

\* Park City Municipal reserves the right to add or delete quantities to meet budgeted amounts.

BY: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

Company: \_\_\_\_\_

**BID SCHEDULE B:  
CHINA BRIDGE PARKING STRUCTURE**

In compliance with Park City Design Standards, Construction Specification and Standards.  
The Scope of work includes inspection and repair of top deck waterproof membrane, expansion joints, concrete walls, ceilings, floors, and two (2) stairways.

ITEM NO.	DESCRIPTION OF WORK	QUANTITY Estimate	UNIT COST	PRICE
1.	Prepare and install Waterproofing membrane Roof / top deck	49,976 S.F.	\$ _____	\$ _____
2.	Prepare and Paint 2 staircases	920 S.F.	\$ _____	\$ _____
3.	Prepare and install Caulk on 2 stair towers	1350 S.F.	\$ _____	\$ _____
4.	Prepare and install Metal primer on 2 stair towers	500 L.F.	\$ _____	\$ _____
5.	Prepare and install Waterproofing membrane on 2 concrete staircase Metal stringer 5'x10"x15"	104 steps	\$ _____	\$ _____
6.	Prepare and install Waterproofing membrane on Concrete staircase <u>Landing</u> metal stringer x 13	757 S.F.	\$ _____	\$ _____
7.	Misc. repairs to concrete	750 S.F.	\$ _____	\$ _____
8.	Restripe of parking stalls 8.5 x 17	618 each	\$ _____	\$ _____
9.	Inspect Expansion Joint	76.5 L.F.	\$ _____	\$ _____
TOTAL BID PRICE				\$ _____

1. Product specification sheets for all proposed products that will be used on the project including warranty information.
2. Samples of all proposed waterproofing and paint.
3. Floor plan identifying which product types that will be used in each area.
4. Total project price and square foot costs for each level including labor and mobilization costs.
5. Proposed timeline for completing the project with impacts to staff and customers outlined.

6. Reference list for at least three (3) parking structures that are using the proposed products as installed by your company.
7. Identified environmental impacts of the project; for example the dirt and oils are to be washed off the floors and proper disposal of said material.
8. Visual appeal of proposed repairs and updated paint.
9. Site conditions guidelines.
10. Cleaning and maintenance products and procedures needed to maintain the proposed upgrades.
11. Price (although price may not be the sole deciding factor) for total cost and square foot cost for materials.
12. Nature and extent of any requested changes to our standard contract, which is attached to this RFP. Insurance requirements are outlined in the construction contract attached. Requested exceptions must be included with proposal and will affect the bid award.

\* Park City Municipal reserves the right to add or delete quantities to meet budgeted amounts.

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

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Company: \_\_\_\_\_



**BID PROPOSAL**

To the Owner:

The undersigned states and warrants that Contractor has carefully examined the plans, specifications, form of contract, form of bond, instructions and other contract papers relating to the construction for which this proposal is made, and that Contractor has examined the site of the work and has given attention to and carefully considered all of the matters which affect the nature and the cost of construction and its several parts.

If this proposal as given on the attached Bid Schedule is accepted, the undersigned will, within ten (10) days after notice thereof, in writing, by the owner, furnish a construction bond in accordance with the form of bond herewith attached, for the full amount of the total bid price, correctly computed from the unit prices bid, and executed in favor of the Owner by \_\_\_\_\_ surety, whose address is and will sign and execute the accompanying form of construction contract.

Name of Bidder, Construction Contractor: \_\_\_\_\_

Contractor State & License No.: \_\_\_\_\_

Signature of Representative: \_\_\_\_\_

Position of Representative: \_\_\_\_\_

Bidder's Mailing Address: \_\_\_\_\_

Bidder's Street Address: \_\_\_\_\_

City, State, & Zip Code: \_\_\_\_\_

Phone/Fax: \_\_\_\_\_

\_\_\_\_\_ Signature Acknowledging Receipt of:

Amendment No. 1 \_\_\_\_\_

Amendment No. 2. \_\_\_\_\_

Amendment No. 3. \_\_\_\_\_

Date \_\_\_\_\_

A bid may be considered invalid if the Bidder fails to completely fill out and sign both the Bid Proposal and proper Bid Schedule.

**SUBCONTRACTORS**

Item

Firm


## **INVITATION TO BID**

Park City Municipal Corporation (Owner) invites your bid to contract for performing work and furnishing materials for the construction of these projects.

**RECEIPT OF PROPOSALS: Bids will be received and opened at the Public Works office front desk at 1053 Iron Horse Drive, Park City, UT 84060 on Friday, July 7, 2017 at 4:00 p.m. No proposals will be accepted after 4:00 p.m. Mountain Standard Time.**

**BID SUBMITTED:** Bids shall be submitted in a sealed envelope which is marked on the outside "Inspection, Repair and Improvements to Public Works parking structure located at 1053 Iron Horse Drive and China Bridge Parking Structure located at 350-460 Swede Alley." The date of the opening shall also be shown on the envelope. If submitted by mail, the sealed envelope containing the bid shall be enclosed in a mailing envelope. Bids shall be submitted on the "Bid Proposal" form, accompanying the specifications and shall be properly executed as indicated thereon.

**If submitting by mail, submit to:**

**Park City Municipal Corporation  
ATTENTION:  
Kenzie Coulson, Parking Department  
P.O. Box 1480  
Park City, Utah 84060**

Park City assumes no responsibility for delayed or undelivered mail or express packages. Proposals which are not delivered to Park City by the above specified time and date will not be considered.

**OWNER'S RIGHTS RESERVED:** Owner reserves the right to reject any or all Proposals and to waive any informality or technicality in any Proposal in the interest of the Owner. Park City Municipal Corporation reserves the right to reject any and all proposals for any reason. Bids will remain valid for ninety (90) days after bid opening. All submittals shall be public records in accordance with government records regulations ("GRAMA") unless otherwise designated by the applicant pursuant to UCA § 63G-2-309, as amended. Award of contract is subject to approval by City Council. Proposals lacking required information will not be considered. Park City Municipal Corporation reserves the right to change any dates or deadlines.

**BIDDERS REQUIREMENTS:** Bidders are required to carefully examine the contract, plans, specifications and fully inform themselves as to all conditions and matters which can in any way affect the work or cost thereof. Should a Bidder find discrepancies in or omission from any plans or documents or have any questions pertaining thereto, Bidder should contact the Project Manager in writing for clarification prior to submitting any bid. All Bidders must be licensed to perform the work required. If there is a conflict between the written and numerical amount, the written amount shall supersede.

## INSTRUCTION TO BIDDERS

PROPOSAL FORMS: Each Proposal shall be comprised of Schedule A, B and the Bid Proposal forms and made on the forms prepared by the City and included as one of the Contract Documents. A Proposal may be disregarded by the Owner if the Bidder fails to complete or fill in all blanks on the Proposal Forms. Proposals shall be submitted in a sealed envelope bearing the title of the work and the name of the Bidder. Two sets of the Proposal Forms are provided in addition to the set bound in the Contract Documents. One set shall be used in submitting the bid, and the second set may be retained by the Bidder.

MODIFICATIONS: Proposals shall not contain any recapitulations of the work to be done. Alternate proposals will not be considered unless called for. Oral proposals or modifications will not be considered. Proposals submitted with qualifying statements are subject to being rejected by the Owner.

DELIVERY OF PROPOSALS: Proposals shall be delivered by the time and to the place stipulated in the Invitation to Bid. It is the sole responsibility of the Bidder to see that Bidder's Proposal is received in proper time. Any Proposal received after the scheduled closing time for receipt of Proposals is subject to being returned to the Bidder unopened.

WITHDRAWAL: Any Bidder may withdraw Bidder's Proposal, either personally or by written request, at any time prior to the scheduled closing time for receipt of Proposals.

AWARD OR REJECTION: The Owner reserves the right to reject any or all Proposals for any reason or to waive any formality or technicality in any Proposal in the interest of the Owner. No Bidder may withdraw Bidder's proposal for a period of forty-five (45) days after the date of opening thereof. Subject to the above reservations, the Contract will be awarded to the lowest most qualified responsible Bidder complying with these instructions and with the Invitation to Bid and not necessarily the lowest Bidder. All submittals shall be public records in accordance with government records regulations ("GRAMA") unless otherwise designated by the applicant pursuant to UCA § 63G-2-309, as amended. Award of contract is subject to approval by City Council on July 20, 2017. Proposals lacking required information will not be considered. Park City Municipal Corporation reserves the right to change any dates or deadlines.

EXAMINATION OF CONTRACT DOCUMENTS AND SITE VISIT: Before submitting a Proposal, Bidders shall carefully examine the Drawings, read the Specifications and all other Contract Documents, shall visit the site of work, and shall fully inform themselves as to all existing conditions and limitations, and shall include in the proposal a sum to cover the cost of all items included in the Contract Documents.

PRE- BID MEETING: A pre-bid meeting will be held **Wednesday, July 5, 2017, at 9:00 a.m.** at the Public Works office, 1053 Iron Horse Drive, Park City, UT 84060. It is highly recommended for all Bidders to attend, however, it is **MANDATORY for all Contractors.**

INTERPRETATION OF DOCUMENTS: If any person contemplating submitting a Proposal is in doubt as to the true meaning of any part of the Drawings, Specifications or other Contract Documents, or finds discrepancies in or omissions from the Drawings or Specifications, he may submit to the Project Manager a written request for an interpretation or correction thereof.

The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the documents will be made only by Amendment, duly issued and a copy of the Amendment will be mailed or delivered to each person receiving a set of the Contract Documents. Neither the Owner nor the Project Manager will be responsible for any other explanations or interpretations of the Contract Documents.

AMENDMENT: Any Amendment issued prior to bid opening shall be included in the Proposal, and shall be made a part of the Contract. Receipt of each amendment shall be acknowledged by the Bidder in the Proposal.

**BID SCHEDULE:** The Bidder may, at his/her discretion, bid on any combination of **Bid Schedules A and B.**

**BIDDERS INTERESTED IN MORE THAN ONE PROPOSAL:** No person, firm or corporation shall be allowed to make, file or to be interested in more than one Proposal for the same work, unless alternate Proposals are called for. A person, firm, or corporation who has submitted a sub proposal to a Bidder, or who has quoted prices on materials to a Bidder, is not hereby disqualified from submitting a sub proposal or quoting prices to other Bidders.

**PERFORMANCE MATERIAL AND LABOR PAYMENT BONDS:** Unless otherwise specifically designated by the Owner, the successful Bidder, simultaneously with execution of the Agreement, will be required to furnish 100 percent (100%) Performance and Material and Labor Payment Bonds. These bonds shall be secured from a surety company approved by the Owner. The form of bonds required to be executed by the successful Bidder is included in the Contract Documents.

**WORKWEEK AND CONSTRUCTION SCHEDULE:** The selected Contractor shall submit in writing with its bid the following: (a) the hours and days he proposes to carry out the work; the maximum workweek that will be approved is 12 hours a day, Monday through Saturday; the Contractor's proposed hours of work shall include daily starting and stopping times (No construction shall commence prior **to 7:00 a.m. nor extend after 7:00 p.m.**); and (b) a construction schedule showing the order in which it proposes to carry out the work indicating the periods during which it will perform work on each item listed in the Bid Schedule. (c) a time schedule for a rolling closure plan for each section and or level of the China Bridge garage maximizing available parking at any given time.

Failure to submit the proposed workweek and construction schedule within the time specified may be cause for rejection of the bid.

**EQUIPMENT AND LABOR LIST, BILLING SCHEDULE:** The Contractor shall submit in writing to the Owner with its bid the following: (a) a list of the number and type of equipment it will use in the completion of the contract, and the number and type of employees it will use to do the work; and (b) an approximate schedule of progress payments that the Owner might expect from the Contractor.

**REFERENCES AND PAST WORK PERFROMANCE:** Bidder must demonstration directly related experience and documentable performance with three (3) references that show the construction of a minimum of three (3) parking structure construction repair projects with a construction cost greater than \$250,000. These projects must clearly demonstrate the capability of the contractor to complete the work anticipated for this project. Major areas of scrutiny for the submittal will include:

1. The format and completeness of the proposal.
2. The proposer's performance history with respect to quality of work, schedules, budgets, and warranty service.
  - a. Contractor shall show experience in the repair or improvement of no fewer than three (3) concrete parking structures of a square footage of at least 40,000 square feet in the past five (5) years.
  - b. Contractor must show experience with installation of top deck waterproof membrane.
  - c. Contractor must show experience with concrete repairs.

SELECTION CRITERIA: Proposals will be ranked by selection committee according to the following criteria:

Item	Point Value
1. Quality of proposed work & product	15
2. Cost Specifications	10
3. Prompt Warranty Service	10
4. References	20
5. Scheduling Ability	10
6. Personnel Qualifications	15
7. Plan for testing, Quality Control & Safety Programs	10
8. Miscellaneous Considerations	10
Total	100

Failure to submit the equipment and labor list, and the billing schedule within the time specified may be cause for rejection of the bid.

**BID BOND**

Date Bond Executed \_\_\_\_\_  
Principal \_\_\_\_\_  
Surety \_\_\_\_\_  
Sum of Bond \_\_\_\_\_  
Date of Bid \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the Owner herein known as the obligee, in the sum of the amount stated above, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH, that whereas the principal has submitted the accompanying bid, dated as shown above, for:  
NOW, THEREFORE, THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that if the said principal shall execute a contract as specified and give construction bond to be approved by the obligee for the faithful performance thereof within ten days after being notified in writing of such contract to the principal, then this obligation shall be null and void. However, if said principal shall fail to execute a contract as specified and give full construction bond, approved by the obligee, within ten (10) days of being notified of award of contract, then this bond shall be forfeited in full to obligee.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

\_\_\_\_\_  
INDIVIDUAL OR PARTNERSHIP  
PRINCIPAL

\_\_\_\_\_  
Corporate Principal

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
By

\_\_\_\_\_  
Title

## CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between PARK CITY MUNICIPAL CORPORATION, P O Box 1480, Park City, UT 84060, a municipal corporation of the State of Utah (hereinafter "City"), and \_\_\_\_\_, which is a (*check one*) \_\_\_\_\_ corporation \_\_\_ partnership \_\_\_ sole proprietorship \_\_\_ limited liability company, whose post office address is \_\_\_\_\_, (hereinafter "Contractor").

**PURPOSE:** For the project known as the (project name) (hereinafter "Project"), which consists of (brief description of work and address).

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

**SECTION 1. SCOPE OF WORK.** Contractor shall furnish all labor, materials and equipment to complete the Project, consisting of the work described in the Information for Bidders as the Basic Bid, and the following additive alternates: \_\_\_\_\_, as specifically set out in the contract specifications, which is made a part hereof by reference, herein called the "Project."

The Project will be bound by the specifications referenced herein, according to the Advertisement for Bid, the Information for Bidders, the General Project Requirements and Specifications provided by City, the Bid of the Contractor, Bid Bond, Drawings, Notice of Award and Notice to Proceed, collectively referred to as the Contract Documents, all of which are incorporated herein by reference and on file in the \_\_\_\_\_ Department. To the extent that this Agreement conflicts in any way with a proposed form agreement which may have been submitted as part of the bid specifications, this Agreement shall control.

If any of the work performed by Contractor in any phase of the Project does not meet City standards as outlined in the bid documents and specifications, then Contractor shall immediately repair or correct the work at no additional cost to City.

**A. SUBCONTRACTORS.** No part of this contract shall be subcontracted by the Contractor without prior written approval by City through the Project Manager/Engineer. The Contractor shall be fully responsible to the City for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.

If written approval is granted to subcontract a part of this contract, the Contractor shall require each subcontractor that physically performs services within Utah to submit an affidavit to the Contractor stating that the subcontractor has used E-Verify, or an equivalent program, to verify the employment status of each new employee.



The Contractor shall, within ten (10) days of submittal of request for final payment, include an affidavit showing satisfactory evidence that all claims of subcontractors, laborers and material men who supplied services or materials to the Project have been fully paid, discharged, or waived. The Contractor shall submit lien waivers for each pay release.

If the City reasonably believes that Contractor has failed to pay Subcontractors, material men, or laborers for work on the Project within a reasonable time of when payment is due, then City may, after having notified the Contractor, either pay unpaid bills or withhold from the release of Contractor's payment bond for this Project, a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged and a ten percent (10%) fee for administering such claims.

**B. STANDARDS OF WORKMANSHIP.** Contractor shall demonstrate workmanship equal to or better than current industry standards for this Project. Where Park City specifications exist (for example, asphalt, concrete, irrigation, sprinkling system and landscaping), they shall provide the benchmark for determination of acceptability.

**C. INSPECTION AND TESTING.** All materials and equipment used in the construction shall be subject to inspection by the Project Manager/Engineer. If laws, ordinances, rules or regulations of any public authority having jurisdiction require any work to specifically be inspected, tested or approved by someone other than Project Manager/Engineer, the Contractor shall give the Project Manager/Engineer timely notice of readiness. Inspections, tests or approvals by the City or appropriate authorities will not relieve the Contractor from obligations to perform the work in accordance with the requirements of the Contract Documents and/or provisions. The Project Manager/Engineer and other designated persons will at all times have access to the work. All work shall ultimately be inspected for final acceptance by the Project Manager/Engineer within a reasonable time upon receipt of notice from the Contractor that work is complete and ready for final inspection.

During construction, the work will be inspected and observed by the Project Manager/Engineer or his designated representative. All work that is deficient or does not meet specifications shall be removed and replaced with proper material at Contractor's expense.

**D. WARRANTY.** Contractor warrants that all materials and supplies used in the construction of the Project shall be new, except as otherwise agreed to in writing by the City's Representative. All materials, equipment, parts and labor and any necessary corrections to the Project shall be guaranteed for a period of at least one (1) year following the date of substantial completion of the Project under the terms of the

performance bond or as provided in the project specifications and construction documents, whichever is longer.

**E. ADOPTED CODES.** All work shall be completed at a minimum in accordance with all building, electric and energy codes adopted by Park City.

**SECTION 2. PERFORMANCE AND PAYMENT BONDS.** Contractor shall furnish to the City payment and performance bonds satisfactory to the City guaranteeing Contractor's payment and performance, in the amount, for each separately, of one hundred percent (100%) of the Contract Amount.

**SECTION 3. INSURANCE.** Unless otherwise specified in the bid documents, the Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees, or subcontractors.

The Contractor shall provide Park City Municipal Corporation a Certificate of Insurance evidencing:

**A.** General Liability insurance written on an occurrence basis with limits no less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and Three Million Dollars (\$3,000,000) aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; products/completed operations; broad form property damage; explosion, collapse and underground (XCU) if specifically requested; and employer's practices.

The Contractor shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in Section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years and stated in Utah Admin. Code R37-4-3.

**B.** Automobile Liability insurance with limits no less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage.

- C. Workers Compensation insurance limits written as follows:  
Bodily Injury by Accident Five Hundred Thousand Dollars (\$500,000) each accident;  
Bodily Injury by Disease Five Hundred Thousand Dollars (\$500,000) each employee, Five Hundred Thousand Dollar (\$500,000) policy limit.

Park City Municipal Corporation shall be named as an additional insured on general liability and auto liability insurance policies and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The City reserves the right to request certified copies of any required policies. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

The Contractor's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**SECTION 4. CONTRACT AMOUNT, ACCEPTANCE OF WHOLE, ADDITIONS.** City shall pay Contractor a total sum not to exceed (**insert amount, in words**) (**\$ numerically**) ("Contract Amount") for all work and materials expended to complete this Project, which shall include the cost of all bonds, insurance, and all charges, fees, permits (including water and sewer fees, unless waived), expenses or assessments of whatever kind or character that are or may be necessary to complete this Project, including any additive alternates listed within the Scope of Work described in Section 1.

**SECTION 5. PERMITS AND FEES.** As set out in Section 4 above, the Contract Amount includes the price of all normally applicable fees and permits. The City may, at its discretion, arrange for the waiver of certain fees, permits and expenses.

**SECTION 6. TERMS OF PAYMENT.** The City shall pay for services provided hereunder according to and in an aggregate amount not to exceed the Contract Amount or as detailed in an attached payment schedule (if attached, will be **Attachment A**) and only upon Contractor's request on forms approved by and submitted to the Project Manager. The City shall make payment within thirty (30) days thereafter. Requests for a more rapid payment may be considered if a discount is offered for early payment. At no time shall the aggregate amount of money paid to the Contractor in proportion to the Contract Amount be greater than the proportion of the work performed at that point to the total Project work. No payment shall be made for any service rendered by the Contractor except for services set forth and identified in this Agreement. The City reserves the right to withhold payment in whole or part from the Contractor for non-compliance with the provisions of the Contract Documents.

**A. RETAINAGE.** The City may, in its sole discretion; (1) retain five percent (5%) of the value of all work done and materials or equipment supplied as part security for the fulfillment of the Agreement by the Contractor; or (2) retain the final payment of up to five percent (5%) of the total project amount. As work nears completion and solely at the City's discretion, the City may reduce the retainage to an amount more in line with the work remaining. The City reserves the right to retain all amounts previously withheld or due, including any liquidated damages, until all services specified herein are complete. Any money withheld pursuant to this section shall be placed in an interest bearing account and the interest shall also be payable to the Contractor upon final payment.

Before final payment is made, the Contractor must submit evidence satisfactory to the City that all payrolls, material bills, subcontracts and all outstanding indebtedness in connection with the Project have been paid for.

The City may withhold a reasonable amount of the payment bond sufficient to cover any outstanding indebtedness or monies owed or claimed by any person who supplied work or materials to the Project plus ten percent (10%) of such indebtedness as the City's cost of administering such claims until Contractor supplies a release satisfactory to the City, signed by all persons who have supplied labor or materials to the Project or, at the City's option if no claim is made, until one hundred five (105) days after the date on which any person performed the last of the labor or supplied the last of the material for the Project and upon written request from the Contractor.

The Contractor shall supply to the Project Manager/Engineer within a reasonable time after his request a signed statement verifying all the suppliers, subcontractors and other persons who have supplied labor or materials to the Project.

**B. FINAL PAYMENT.** Acceptance by the Contractor of the final payment from the City shall release the City of all claims, demands and liability of the Contractor, its officers, agents, employees and subcontractors, whether communicated or not by the Contractor, except with respect to those matters referred to in writing delivered to the Contractor and approved in a signed writing by the Project Manager.

**SECTION 7. COMPLETION TIME.** The work on this Project shall commence within ten days of receipt of the Notice to Proceed and shall be completed by **November 15, 2017**. Work stoppage due to inclement weather conditions and other factors must be approved in writing by the Project Manager. Inclement weather shall not otherwise constitute cause for delay. Unless otherwise agreed by the City by Change Order, no damages shall become due to Contractor for City caused delay. A Change Order for delay will generally be accepted for delay so excessive and unreasonable that it is beyond the scope of the Contract or delay attributed to direct, active or willful interference by the City. The Change Order must be based upon actual damages sustained by the Contractor which are directly attributed to the delay.

In the event that Contractor fails to complete all of the work required herein within the time limit set out above, then for each partial or complete day during which the work remains uncompleted thereafter, the Contractor agrees to pay the City **One Hundred Dollars (\$100.00)**, \_\_\_\_\_ **(Contractor Initials)** which the parties believe, due to the difficulty of actually assessing the damages the City will suffer in the event of such a delay, is a fair estimate of the loss the City will suffer. The parties agree that the daily liquidated damages provided for herein is reasonable and fair, and is not a penalty. **TIME IS OF THE ESSENCE IN THIS AGREEMENT.**

**SECTION 8. ADDITIONAL WORK/CHANGE ORDERS.** The City may enlarge or reduce the work to be performed by Contractor hereunder by written notification to Contractor, including changes to the plans and specifications. The City shall pay Contractor for any additional work so requested, and shall reduce the payment to the Contractor for any reduction in labor, materials, overhead and profit margin resulting from the reduction in the work. Except as the City shall so notify the Contractor in writing, it is understood and agreed by the parties hereto that no money will be paid to the Contractor for any new or additional labor or materials furnished unless a written modification is agreed to in a document signed by both parties.

The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined by one or more of the following methods in order of precedence listed below:

- A. An agreed lump sum; or in the event the parties cannot agree; then
- B. The unit rate for the work bid by the Contractor, if applicable, or in the event there was no such rate bid; then
- C. The actual cost for: (1) labor; (2) materials; (3) supplies; (4) equipment; (5) direct overhead (not to exceed 5% of the sum total of items 1-4, unless approved by the City); and (6) other services necessary and approved by the City to complete the work. In the event of a net increase in the Contract Amount for a change order as a whole, the City shall allow a payment to the Contractor of an additional ten percent (10%) of the actual cost of the work, not including direct overhead or bond costs, to cover the cost of general overhead and profit. The Contractor may also charge the City for actual cost of the net increase in bond costs as a result of the overall change to the Contract Amount. The City specifically reserves the right to request documentation, including but not limited to payroll stubs, bond bills, and invoices, to validate the Contractor's calculations.

**SECTION 9. DISPUTES.** Except as otherwise provided in this Agreement, any disputes concerning a question of fact arising under this Agreement which is not disposed of by Agreement shall be decided by the City. The decision of the City shall be final and conclusive unless, within thirty (30) days from the date of receipt of such decision, the Contractor shall mail

or otherwise furnish the City a written signed appeal addressed to the Project Manager/Engineer. In connection with any appeal proceeding under this clause, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor will proceed diligently with the performance of the contract and in accordance with the City's decision. The decision of the City shall be final and conclusive, but shall not be arbitrary or unreasonable. Although this Contract has been drafted by the City, the Contractor expressly agrees that any ambiguity herein shall be resolved in favor of the City.

**SECTION 10. DEFAULT, REMEDY AND TERMINATION.** The City may terminate this agreement upon the occurrence of one or more of the following events:

- A.** If Contractor or any Subcontractor should substantially violate any of the provisions of this Agreement;
- B.** If Contractor substantially fails to perform any part of this Agreement;
- C.** If Contractor repeatedly fails or becomes unable to perform the services under this Agreement as required herein, or substantially fails to provide services under this Agreement for a period of seventy two (72) hours;
- D.** If Contractor (1) shall become insolvent in a bankruptcy case; (2) shall be generally not paying its debts as they become due, or within a reasonable time thereafter; (3) shall suffer, voluntarily or involuntarily, the entry of an order by any court or governmental authority authorizing the appointment of or appointing of a custodian (as that term is defined in 11 U.S.C. §101(11)), receiver, trustee, or other officer with similar powers with respect to it or any portion of its property which remains undismissed for a period of ninety (90) days; (4) shall suffer, voluntarily or involuntarily, with or without judicial or governmental authorization, any such custodian, receiver, trustee, or other officer with similar powers to take possession of any part of its property which third party remains in possession for an excess of ninety (90) days; (5) shall suffer, voluntarily or involuntarily, the filing of a petition respecting an assignment for the benefit of creditors which is not dismissed for a period of ninety (90) days; (6) shall be dissolved; (7) shall become the subject of any proceeding, suit, or action at law or in equity under or relating to any bankruptcy, reorganization or arrangement of debt, insolvency, readjustment of debt, receivership, liquidation, or dissolution law or statute or amendments thereto to be commenced by or against it or against any of its property which remains undismissed for a period of ninety (90) days; (8) shall voluntarily suspend substantially all of its business operations; (9) shall be merged with, acquired by, or otherwise absorbed by any individual, corporation, or other business entity or organization of any kind except for any individual corporation or other business entity or organization which is controlled by,

controlling, or under common control with the Contractor; or (10) shall take action for the purpose of any of the foregoing.

After serving ten (10) days written notice on the Contractor and its surety of its intention to terminate the services of Contractor, and if within ten (10) days after serving such notice, the violation is not corrected to City's reasonable satisfaction, the City then may take over the work and prosecute it to completion by contract or by any other method it may deem advisable at the expense of the Contractor. The Contractor and the bonding company shall be liable to the City for any reasonable cost occasioned by the City in excess of the amount agreed for the service herein.

The Contractor shall be entitled to a hearing before a City hearing officer upon the issue of termination if it submits a written request therefore within seven (7) days of the service of the notice of the City's intent to terminate. The Contractor shall be entitled to be heard at such hearing on the issue of termination. The Contractor shall not bring an action against the City, its officers, agents or employees arising out of or relating to the termination of this Agreement before the decision is issued by the City's hearing officer(s).

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver of any provision of this Agreement shall not be construed to be modification of the terms of this Agreement, unless stated to be such in writing, signed by the City's authorized representative.

The Contractor shall continue the performance of this Agreement to the extent not terminated under the provisions of this section.

The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**SECTION 11. HOLD HARMLESS INDEMNIFICATION.** The Contractor clearly and unequivocally agrees to indemnify and to hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Contractor's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or others; and provided further, that nothing herein shall require the Contractor to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Contractor expressly agrees that the indemnification provided herein constitutes the contractor's waiver of immunity under Utah Code Section 34A-2-105 for the purposes of this Agreement. This waiver has been mutually negotiated by the parties.

The provisions of this section shall survive the expiration or termination of this Agreement. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein.

**SECTION 12. CONTROLLING LAW AND ATTORNEY FEES AND COSTS.** These general conditions shall be construed in accordance with and enforced under the laws of the State of Utah. Any action of law, suit in equity, or judicial proceeding for the enforcement of the Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah. If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in connection with that action or proceeding.

**SECTION 13. ASSIGNMENT.** The Contractor shall not assign nor transfer any interest in this agreement without the prior written consent of the City, provided however, that claims for compensation due or to become due the Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment shall be promptly furnished to City.

**SECTION 14. SAFETY AND TRAFFIC CONTROL.** Contractor shall take all reasonable precautions to protect the safety of pedestrians, school children, motorists, and others who may use or come near to the Project site, including but not limited to compliance with the Manual of Uniform Traffic Control Devices.

**SECTION 15. SAFETY AND PROTECTION OF THE WORK.** Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the project work. Contractor shall provide reasonable protection to prevent damage, injury or loss to employees on the Project work and all other persons who may be affected thereby, materials and equipment, whether on or off the site, and other property at the work 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. In addition, the Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

The Contractor shall erect and maintain, as required by the existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, setting safety regulations, and notifying owners and user of adjacent utilities.



The Contractor shall promptly remedy all damage or loss to any property referred to in this Section caused in whole or in part by the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible, except for acts or omissions by the City or anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable, and not attributable to the fault or negligence of the Contractor. Contractor shall remove from the site all cuttings, debris, equipment and unused material.

**SECTION 16. UNENFORCEABLE CONTRACT, WAIVERS.** In the event that any provision of this Agreement shall be ruled invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same provision by the other party.

**SECTION 17. ENTIRE AGREEMENT.** This Agreement represents the entire integrated agreement between City and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written modification signed by both parties.

**SECTION 18. COMMENCEMENT OF WORK.** Contractor will commence work as required by the specifications within ten (10) calendar days after receiving the NOTICE TO PROCEED.

**SECTION 19. UTILITIES.** The right is reserved to the owners of public utilities and franchises to enter upon the street or work site for the purpose of making repairs or changes of their property that may become necessary by the work. The City shall also have the privilege of entering upon the street or work site for the purpose of repairing culverts, storm drains, water system repairs or adjustments, and any and all other necessary City work.

The Contractor takes the whole risk, responsibility and expense with respect to the location of utilities, and in working with utility owners about locating, moving, repairing, and modifying utilities. All utility locations shown on the plans and specifications are approximate and are marked on the plans, if at all, only for convenience. The City makes no representation about the location of any such utilities, and Contractor is encouraged to contact utility companies and owners about the location of all utilities that may be impacted by or impact the Project work.

**SECTION 20. HOURS AND DAYS OF WORK.** All work performed by the Contractor, its subcontractors, materialmen, agents and employees shall be performed during work hours of 7:00 a.m. to 7:00 p.m. Monday through Saturday unless otherwise specified in a Conditional Use Permit or Construction Mitigation Plan. In individual Construction Mitigation Plans, the Building Official may further reduce the hours or days of work for Special Events or as other circumstances may reasonably warrant. When work is prohibited, no exterior construction,

excavation or delivery of supplies and concrete are allowed. Interior work, however, may be allowed Monday through Sunday, with no limitation on hours for the following types of construction:

- A. Interior work on individual single-family home construction or addition projects not involving materials or supply deliveries
- B. Construction of decks, patios, landscape walls less than 4 feet in height, and fences on individual single-family lots
- C. Non-mechanized exterior painting on individual single-family residences
- D. Non-mechanized landscaping on individual single-family residences
- E. Survey work not involving grading or use of power equipment to cut vegetation.

**Extended Hours Special Permit.** The Building Official may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation, or modify or waive the hours of work on projects in generally isolated areas where the extended hours do not impact upon adjoining property occupants. In such cases, the Building Official shall issue a Special Permit identifying the extended hours. Contractor shall display the special permit on site.

**Special Event Regulations.** The Building Official and/or Police Chief may, at their discretion, restrict construction activity, including governmental or special improvement agencies, in order to assure the public safety during special events within the City. Special events shall include, but not be limited to the Art Festival, Film Festival, ski events, and holiday events.

**SECTION 21. CONSTRUCTION MANAGEMENT PLANS.** Contractor shall submit a Construction Mitigation Plan to be approved by the City Engineer or his designee, for all building permits. The Community Development Department may waive this requirement for minor remodels, additions and interior construction where the impact on adjacent property is minimal. This plan shall be written and shall address, to the satisfaction of the City Engineer or his designee:

- A. **Hours and Days of Operation.** The Construction Mitigation Plan shall specify the daily construction start and finish times. Construction activity occurring outside of the times specified in Section 11-14-6 of the Park City Municipal Code may only be allowed by Special Permit issued by the Building Official or the City Engineer.

**B. Parking.** The Construction Mitigation Plan shall include a parking plan. Construction vehicle parking may be restricted at construction sites so as to not block reasonable public and safety vehicle access along streets and sidewalks. Construction parking in paid or permit only parking areas require the Public Works Department to review and approve a parking plan. The plan shall also include anticipated temporary parking, e.g. delivery vehicles, and large equipment parking.

**C. Deliveries.** The Construction Mitigation Plan shall identify proposed delivery locations and routes. Deliveries of construction materials and supplies including concrete may be regulated as to time and routing if such deliveries will cause unreasonable noise, parking, or access issues. In order to reduce the number of delivery trips to construction sites, the stockpiling of materials on or near the site may be required. In the case of multiple construction sites in close proximity, a common materials storage and staging site may be required.

**D. Construction Phasing.** Due to the narrow streets, small lot configuration, topography, traffic circulation, weather, construction parking and material staging problems, projects in the Historic District and other areas of the City may be required to be phased if more than one project is under construction in close enough proximity to create public safety or nuisance problems. In cases where phasing is deemed necessary by the City Engineer or his designee, the first project to receive a building permit shall have priority, however, the Building Official shall have the authority to phase projects as necessary to assure efficient, timely and safe construction.

**E. Trash Management and Recycling.** Construction sites shall provide adequate storage and a program for trash removal.

**F. Control of Dust and Mud on Streets.** A program for the control of dust or other airborne debris shall be required. Provision must be made to eliminate the tracking of mud on streets and a program shall be required to remove any such mud daily.

**G. Noise.** Construction activity shall not exceed the noise standards as specified in Section 6-3-9 of the Park City Municipal Code.

**H. Grading and Excavation.** Because of the truck hauling involved in grading and excavation, restrictions on trucking routes as well as the hours of operation may be necessary to mitigate the adverse impacts from such operations. Destination and total cubic yards of excavated material shall be noted.

**I. Construction Sign Requirements.** A sign, indicating the name of the party responsible for the Project shall be posted in a location where such sign is readable from the street or driveway to the construction site. The sign shall not exceed 12 square feet in size, six feet in height and shall not exceed a letter type of 4". Information on the sign shall include, at a minimum:

1. Name, address and phone number of contractor;
2. Name, address, and phone number of person responsible for the project;  
and
3. Phone number of party to call in case of emergency.

No additional fee is required for this sign.

**SECTION 22. TOILET FACILITIES AND CONTAINERIZED TRASH SERVICE REQUIRED.**

**A.** The Contractor shall obtain and maintain on the site a container of suitable size and design to hold and confine trash, scraps, and other construction related refuse created or accumulated on the site. All such construction refuse shall be maintained in a closed container at all times, until transferred to the landfill. Containers may be placed in setback areas, provided that the placement of the container does not obstruct the view of motorists on adjoining streets and thereby create traffic hazards. Contractor shall not permit accumulated debris, litter, or trash on the construction site to blow or scatter onto adjoining properties, including the public street or to accumulate on the site outside of the container, or in transit to the landfill or dump. The owner or contractor shall service the container as frequently as needed to prevent trash from over-flowing.

**B.** The Project site shall have permanent toilets, or an approved temporary toilet facility positioned in a location approved by the Building Department, at the rate of one toilet per fifteen on-site employees (1-15 employees = one toilet, 16-30 employees= two toilets and so on).

**SECTION 23. OBEY LAWS.**

**A.** The Contractor shall obey all laws, ordinances and regulations of the United States, the State of Utah, and Park City in performing this Agreement.

**B.** The Contractor shall register and participate in E-Verify, or an equivalent program. The Contractor agrees to verify employment eligibility through E-Verify, or an equivalent program, for each new employee that is employed within Utah, unless exempted by Utah Code Ann. § 63G-12-302.

**SECTION 24. NONDISCRIMINATION.**

**A.** The City is an equal opportunity employer.

**B.** In the performance of this Agreement, the Contractor will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular worker involved. The Contractor shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and programs for training including apprenticeships. The Contractor shall take such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

**C.** The Contractor will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

**D.** If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Contractor shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

**SECTION 25. THIRD PARTY RIGHTS.** Nothing herein is intended to confer rights of any kind in any third party. No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

**SECTION 26. PROJECT MANAGER/ENGINEER.** The Project Manager for this Project is Troy Dayley, or such other person designated by the City Engineer or Public Works Director to the Contractor orally or in writing.

**SECTION 27. PARTIES' REPRESENTATIVES.** For purposes of notice required or desired by the parties, or communication involving the services under this Agreement, such notice or communication shall be deemed to have been given when personally delivered or mailed certified mail, postage pre-paid, or sent by facsimile transmission, to the parties at the following addresses:

**Contractor:** \_\_\_\_\_, or such other person designated in writing by the Contractor's chief administrative officer, at the Contractor's address set out first above;

Park City: Project Manager/Engineer, at the address set out first above for the City, or when given to such other person as either of the above representatives shall designate in writing. The designation of any address may be changed by notice given in the same manner as provided in this paragraph.

**SECTION 28. SEVERABILITY.** Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. If any provision of this Agreement is held invalid or unenforceable with respect to particular circumstances, such provision shall nevertheless remain in full force and effect in all other circumstances.

**IN WITNESS WHEREOF**, the parties have entered into this agreement on the day and year set out at the top of this Agreement.

**PARK CITY MUNICIPAL CORPORATION**

\_\_\_\_\_  
Diane Foster, City Manager

ATTEST:

\_\_\_\_\_  
City Recorder's Office

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

**INSERT CONTRACTOR NAME**

Address:

Address:

City, State, Zip:

\_\_\_\_\_  
Utah Contractor License No.

Tax ID#: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

STATE OF UTAH            )  
                                  ) ss.  
COUNTY OF SUMMIT    )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirmed, did say that he/she is the \_\_\_\_\_ (*title or office*) of \_\_\_\_\_ Corporation by Authority of its Bylaws/Resolution of the Board of Directors, and acknowledged that he/she signed it voluntarily for its stated purpose as \_\_\_\_\_ (*title*) for \_\_\_\_\_, a \_\_\_\_\_ corporation.

\_\_\_\_\_  
Notary Public

## **PROCEDURAL DOCUMENTS**

NOTICE OF AWARD

NOTICE OF PROCEED

CERTIFICATE OF SUBSTANTIAL COMPLETION

GENERAL CONDITIONS OF THE CONTRACT



**NOTICE OF AWARD**

\_\_\_\_\_  
Contractors Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State & Zip Code

**Project Description:**

\_\_\_\_\_  
Contractor:

Park City Municipal Corporation has reviewed and considered all proposals submitted at the bid opening held July 7, 2017 at 4:00 PM for the construction of the above captioned project. It appears that your Proposal for performing the work outlined is fair, equitable and to the Owner's best interest, and your Proposal is hereby accepted at the unit bid price submitted in your bid.

In accordance with the terms of the Contract Documents, you are required to execute the formal Contract Agreement and furnish the required Performance and Labor and Material Payment Bonds within ten (10) calendar days from and including the date of this notice. Three (3) complete copies of the Contract Documents are transmitted herewith for your use, together with three (3) copies each of the Agreement and Bond forms. Please execute and return all copies to us. Upon execution by the Owner, a full set of executed Contract Documents will be returned for your file.

In addition, you are requested to return with the above documents three (3) copies of certificates of insurance as specified in the Contract Documents. Your certificates must be accompanied by a letter from your insurance company stating that the insurance certified meets the requirements of the entire Contract Documents.

Yours truly,

\_\_\_\_\_  
Park City Municipal Corporation    Owner

\_\_\_\_\_  
BY

\_\_\_\_\_  
TITLE

**ACCEPTANCE OF NOTICE OF AWARD**

Receipt of the above NOTICE OF AWARD is hereby acknowledged

By \_\_\_\_\_ this the \_\_\_\_ day of \_\_\_\_\_, 2017.

Title \_\_\_\_\_

**NOTICE TO PROCEED**

\_\_\_\_\_  
Contractors Name \_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State & Zip Code

**Project Description:**

\_\_\_\_\_

Contractor:

You are hereby authorized to proceed on this date, or within ten (10) calendar days hereafter with the construction of the above-captioned project. The date of \_\_\_\_\_, 2017 (10 days from the date of this notice), is herewith designated as the date on which the Contract Time commences.

Yours truly,

\_\_\_\_\_  
Park City Municipal Corporation    Owner

\_\_\_\_\_  
BY TITLE

**ACCEPTANCE OF NOTICE TO PROCEED**

Receipt of the above NOTICE OF AWARD is hereby acknowledged

by \_\_\_\_\_ this the \_\_\_\_ day of \_\_\_\_\_, 2017.

Title \_\_\_\_\_

**CERTIFICATE OF SUBSTANTIAL COMPLETION**

\_\_\_\_\_  
Contractors Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State & Zip Code

**Project Description:**

\_\_\_\_\_

Contractor:

The construction performed under this Contract has been inspected by authorized representatives of the Owner, the Engineer and your firm, and the Project is hereby declared to be substantially completed on the above date.

A tentative list of items to be completed or corrected is appended hereto. This list may not be exhaustive, and the failure to include an item on it does not alter the responsibility of the Contractor to complete all the work in accordance with the Contract Documents. These items shall be completed by the Contractor within calendar days of the above date.

The date of substantial completion is the date upon which all guarantees and warranties begin (unless otherwise specifically defined below).

Yours truly,

\_\_\_\_\_  
Project Manager

\_\_\_\_\_  
By

\_\_\_\_\_  
Title

## **GENERAL CONDITIONS OF THE CONTRACT**

### **SECTION 401 . . . . . DEFINITIONS**

### **SECTION 402 . . . . . PRECONSTRUCTION PROCEDURES**

- 01 . . . . . Award
- 02 . . . . . Execution of Agreement
- 03 . . . . . Delivery of Bonds
- 04 . . . . . Forfeiture of Bid Security
- 05 . . . . . Copies of Documents
- 06 . . . . . Progress Schedule
- 07 . . . . . Preconstruction Conference
- 08 . . . . . Review of Contract Documents
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## SECTION 401

### DEFINITIONS

**CONTRACT DOCUMENTS:** The Contract comprises the following Contract Documents, including all additions, deletions and modifications incorporated therein by Amendment before the execution of the Contract:

- (a) Bidding Documents
  - (1) Bid Schedule
  - (2) Bid Proposal
  - (3) Subcontractors List
  - (4) Invitation to Bid
  - (5) Instructions to Bidders
  - (6) Bid Bond
  
- (b) Contractual Documents
  - (1) Agreement
  - (2) Performance
  - (3) Labor and Material Payment Bond
  
- (c) Procedural Documents
  - (1) Notice of Award
  - (2) Notice to Proceed
  - (3) Certificate of Substantial Completion
  
- (d) General Conditions of the Contract
  
- (e) Special Provisions
  
- (f) Items of Work and Construction Details and Construction Phasing
  
- (g) Technical Specifications

**OWNER:** **Park City Municipal Corporation** and its designated representatives for whom the work is to be performed.

**OWNER'S REPRESENTATIVE:** Kenzie Coulson, Project Manager, acting directly for the Owner, Park City Municipal Corporation.

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

**SUBCONTRACTOR**: An individual, firm or corporation having a direct contract with the Contractor or with any other subcontractor for the performance of a part of the Work at the site.

**PROPOSAL**: The offer submitted on the prescribed bid form setting forth the prices for the Work to be performed.

**SPECIFICATIONS**: Bidding Documents, Contractual Documents, Amendment (whether issued prior to opening of bids or the execution of the Agreement), the General Conditions, the Special Provisions and the Technical Specifications.

**DRAWINGS**: The drawings which show the character and scope of the Work to be performed and which have been prepared by the Engineer.

**CONTRACT TIME**: The number of calendar days and deadlines stated in Section 7 of the Construction Agreement for the completion of the work.

**CHANGE ORDER**: Written order to the Contractor signed by the Owner authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Cost or the Contract Time issued after execution of the Agreement.

**SHOP DRAWINGS**: All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a subcontractor, manufacturer, supplier or distributor and which illustrates the equipment, material or some portion of the Work.

**MODIFICATION**: (a) A written amendment of the Contract Documents signed by both parties, (b) a Change Order, a written clarification or interpretation issued by the Owner's Representative or Engineer. A modification may only be issued after execution of the Agreement.

**SUBSTANTIAL COMPLETION**: The date as certified by the Owner's Representative when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it was intended.

**WORK**: Any and all obligations, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by the Contractor under the Contract Documents, including the furnishing of all Project management, labor, materials, equipment or other incidental.

CONTRACT COST: The total amount payable by the Owner to the Contractor under the Contract Documents, and any amendments thereto.

PCMC: Park City Municipal Corporation (Owner).

PCDS: Park City Design Standards, Construction Specifications and Standard Drawings, Current Edition.

SBWRD: Snyderville Basin Water Reclamation District.

MUTCD: Manual on Uniform Traffic Control Devices, Current Edition.

## SECTION 402

### PRECONSTRUCTION PROCEDURES

AWARD: The Award of the Contract, if it is awarded, will be to the lowest qualified Bidder whose qualifications indicate the award will be in the best interest of the Owner and whose proposal complies with all the prescribed requirements. No Notice of Award will be given until the Owner has concluded such investigations as it deems necessary to establish the responsibility, qualifications and financial ability of the Bidders to do the Work in accordance with the Contract Documents to the satisfaction of the Owner within the time prescribed. The Owner reserves the right to reject the Bid of any Bidder who does not pass such investigation to the Owner's satisfaction. In analyzing Bids, the Owner may take into consideration alternates and unit prices, if requested by the Bid Document. If the Contract is awarded, the Owner will give the successful Bidder a Notice of Award within forty-five (45) days after the opening of the Bids.

EXECUTION OF AGREEMENT: At least three copies of the Agreement and such other Contract Documents as practicable will be signed by the Owner and the Contractor within ten (10) days of the date of Notice of Award.

DELIVERY OF BONDS: Simultaneously with the execution and delivery of the Agreement, the Contractor will deliver to the Owner the required bonds.

FORFEITURE OF BID SECURITY: Failure of the successful Bidder to execute and deliver the Agreement and deliver the required Bonds within ten (10) days of the Notice of Award shall be just cause for the Owner to annul the Notice of Award and declare the Bid, and any security therefor, forfeited.

COPIES OF DOCUMENTS: The Owner will post Specifications and Drawings on the Owner website. Additional document copies will be furnished, at cost to the Contractor.

PROGRESS SCHEDULE: Within ten (10) days after execution of the Agreement, the Contractor will submit to the Owner's Representative for approval, an estimated progress schedule indicating the starting and completion dates of the various stages of the Work, a schedule of Shop Drawing submissions, and material plan. This schedule shall be updated twice monthly or as requested by the Owner's representative until Project completion.

PRECONSTRUCTION CONFERENCE: Before starting the Work the Contractor will furnish the Owner the Progress Schedule and certificates of insurance as required by Section 406; and a conference will be held to review the schedule, to establish procedures for handling Shop Drawings and other submissions and for processing Applications for Payment, and to establish a working understanding between the parties as to the Project.

REVIEW OF CONTRACT DOCUMENTS: Before undertaking the Work the Contractor will carefully study and compare the Contract Documents and check and verify all figures shown thereon and all field measurements. The Contractor assumes full responsibility for having familiarized himself with the nature and extent of the Contract Documents, Work, locality, local conditions and visiting the site.

QUALIFICATIONS OF SUBCONTRACTORS AND SUPPLIERS: Unless specifically requested otherwise in the Proposal, the apparent low Bidder, within 48 hours of Bid Opening, shall submit to the Owner's Representative for acceptance, a list of the names of Subcontractors, agents, and such other persons and organizations (including those who are to furnish principal items of materials or equipment) proposed for those portions of the Work. Prior to the Notice of Award, the Owner's Representative will notify the apparent low Bidder in writing if the Owner, after due investigation, has reasonable objection to any Subcontractor, person or organization on such list. The failure of the Owner to make objection to any Subcontractor, person or organization on the list prior to the Notice of Award shall constitute provisional acceptance of such Subcontractor, person or organization. Acceptance of any such Subcontractor, person or organization shall not constitute a waiver of any right of the Owner to reject defective Work, material or equipment not in conformance with the requirements of the Contract Documents, nor shall it constitute a waiver of Owner's right to require the Contractor to control the work site and, if necessary, cause a different Subcontractor to complete the work.

If, prior to the Notice of Award, the Owner has reasonable objection to and refuses to accept any Subcontractor, person or organization on such list, the apparent low Bidder may, prior to Notice of Award either submit an acceptable substitute without an increase in its Bid price, or withdraw its bid. If, after the Notice of Award the Owner refuses to accept any Subcontractor, person or organization on such list, the Contractor will submit an acceptable substitute and the Bid Price shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued or the Owner may reject the bid and proceed to the next lowest responsible Bidder.

STARTING THE WORK: The Contractor will start the Work within ten (10) days of the written Notice to Proceed. No work shall be done prior to the date of the Notice to Proceed unless authorized by the Owner's Representative. The Contract Time shall commence on the date specified in the Notice to Proceed.

## **SECTION 403**

### **CORRELATION AND INTERPRETATION OF CONTRACT DOCUMENTS**

GENERAL: It is the intent of the Specifications and Drawings to describe a complete Project to be constructed in accordance with the Contract Documents. The Contract

Documents comprise the entire Agreement between the Owner and the Contractor. They may be altered only by a Modification.

**CORRELATION AND INTERPRETATION:** The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If the Contractor finds a conflict, error or discrepancy in the Contract Documents, it will call to the attention of the Owner's Representative in writing before proceeding with the Work affected thereby. In resolving such conflicts, errors and discrepancies, the documents shall be given precedence in the following order: Agreement, Specifications, Drawings, Within the Specifications the order of precedence shall be as follows: Amendment, Items of Work and Construction Details, Special Provisions, Supplementary Provisions, Instructions to Bidders, General Conditions, Construction Specifications, and Material Specifications.

Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings. Any Work that may reasonably be inferred from the Specifications or Drawings as being required to produce the intended result shall be supplied whether or not it is specifically called for.

Work, materials or equipment which have a well-known technical or trade meaning shall be deemed to refer to such recognized standards.

**INTERPRETATION OF QUANTITIES IN BID SCHEDULE:** The quantities appearing in the Bid Schedule are approximate only and are prepared for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of work performed and accepted or materials furnished in accordance with the Contract. The scheduled quantities of work to be done and materials to be furnished may each be increased, decreased, or omitted as hereinafter provided.

#### **SECTION 404**

#### **CONTRACTOR'S RESPONSIBILITY FOR WORK**

**LAWS TO BE OBSERVED:** The Contractor shall keep fully informed of all Federal, State and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. It shall at all times observe and comply with all laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Owner and its representatives against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself or its employees.

**PERMITS, LICENSES AND TAXES:** The Contractor shall procure all permits and licenses, pay all charges, fees and taxes, and give all notices necessary and incident to the due and lawful prosecution of the work.

PATENTED DEVICES, MATERIALS AND PROCESSES: If the Contractor employs any design, device, material or process covered by letters of patent or copyright, it shall provide for such use by suitable legal agreement with the patentee or Owner. The Contractor and the surety shall indemnify and save harmless the Owner and affected third party from any and all claims for infringement by reason of the use of such patented design, device, material or process, or any trademark or copyright, and shall indemnify the Owner for any costs, expenses and damages which it may be required to pay by reason of any infringement at any time during the prosecution or after the completion of the work.

SANITARY PROVISIONS: The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements of the State and Local Boards of Health, or of other bodies or tribunals having jurisdiction therewith.

PUBLIC CONVENIENCE AND SAFETY: The Contractor shall at all times so conduct its work as to insure the least possible obstruction to traffic. The safety and convenience of the general public and the residents along the roadway, and the protection of persons and property, shall be provided for by the Contractor.

MAINTENANCE OF TRAFFIC: Unless otherwise provided, the road while under construction shall be kept open to public traffic by the Contractor. Potholes and other irregularities that develop under traffic shall be repaired as directed by the Project Manager. The Contractor shall also provide and maintain in a safe and usable condition temporary connections or crossings and intersections with trails, roads, streets, businesses, parking lots, residences, garages and farms. The Contractor shall maintain a smooth riding dust free surface at all times, 24 hours a day and 7 days a week. Watering shall be applied in the amount ordered and, if directed by the Project Manager, bituminous material shall be applied as directed to provide a dustless temporary surface.

The Contractor shall provide for two-way traffic through construction operations, except where conditions warrant, as determined by the Project Manager, one-way traffic will be allowed. One-way traffic provisions shall apply when fresh bituminous material is being placed, when half-width pavement is being laid, or when necessary due to construction operations. The Contractor shall furnish adequately trained flagmen, warning signs and warning lights, and if necessary, pilot cars for the safe control of traffic. During suspension of work, two-way traffic operations shall be provided.

Snow removal will not be required by the Contractor for traffic service. Watering, or bituminous material used for dust control, and flagging and pilot car operation for protection of traffic on the road under construction will not be paid for separately, but costs shall be included in other items of work.



When so provided on the Plans or Special Provisions or required by the Project Manager, the Contractor shall bypass through traffic over an existing road or other specified detour route. Unless otherwise provided in the Contract, the Contractor will be paid for the cost of any work ordered performed by it for construction, maintenance and signing of the detour route at Contract unit prices.

During any suspension of work, the Contractor shall make passable and shall open to traffic such portions of the Project as may be agreed upon with the Project Manager. Thereafter, and until construction operations are resumed, the portions open to traffic shall be maintained by the Owner. When work is resumed, the Contractor shall replace or renew any work or materials lost or damaged because of such temporary use of the Project; shall remove as directed by the Project Manager any work or materials lost or damaged because of such temporary use of the Project; shall remove as directed by the Project Manager any work or materials used for temporary maintenance by the Owner; and shall complete the Project in every respect as though its prosecution had been continuous and without interference. All additional work caused by such suspensions, for reasons beyond the control of the Contractor, will be paid for by the Owner at Contract unit prices or as extra work.

If the Project Manager orders special maintenance for the benefit of the traveling public, then the Contractor shall be paid on the basis of unit prices or as extra work. No compensation will be allowed for special maintenance except that ordered in writing by the Project Manager. The Project Manager will be the sole judge of work classed as special maintenance. All work shall be in accordance with M.U.T.C.D. Standards. **BARRICADES AND WARNING SIGNS:** The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient lights, danger signals signs and other traffic control devices, and shall take all necessary precautions for the protection of the work and safety of the public. Roadways closed to traffic shall be illuminated during hours of darkness. Suitable warning signs shall be provided to properly control and direct traffic.

The Contractor shall erect warning signs in advance of any place on the Project where operations interfere with the use of the road by traffic, and at all intermediate points where the new work crosses or coincides with an existing road. Such warning signs shall be constructed and erected in accordance with the plans.

All barricades, warning signs, lights, temporary signals and other protective devices must conform with the Manual on Uniform Traffic Control Devices (MUTCD), current edition or as directed by the Project Manager.

**USE OF EXPLOSIVES:** When the use of explosives is necessary for the prosecution of the work, the Contractor shall exercise the utmost care not to endanger life or property, including new work. The Contractor shall be responsible for any and all damage resulting from the use of explosives.

All explosives shall be stored in a secure manner, in compliance with local laws and ordinances and all such storage places shall be clearly marked. Where no local laws or ordinances apply, storage shall be provided satisfactory to the Project Manager and in general not closer than 1,000 feet from the road or from any building or camping area or place of human occupancy.

The Contractor shall notify each public utility company having structures in proximity to the site of the work of its intention to use explosives and such notice shall be given sufficiently in advance to enable the companies to take such steps as they may deem necessary to protect their property from injury.

**PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE:** The Contractor shall be responsible for the preservation of all public and private property and shall protect from disturbance or damage all land monuments and property markers until the Project Manager has witnessed or otherwise referenced their location and shall not move them until directed.

The Contractor, during the prosecution of the work, shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in its manner or method of executing the work, or at any time due to defective work or materials; said responsibility will not be released until the Project has been completed and accepted. The Contractor will not be responsible for damage to persons or property due to design failure.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the non-execution thereof by the Contractor, he shall restore, at its own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed, or it shall make good such damage or injury in an acceptable manner.

Where the work involves changes in or protection of water supply lines, irrigation or drainage systems, and appurtenant structures and facilities, the Contractor will be required to conduct its operations in such manner and sequence as not to interfere with the property delivery or disposal of water, and the Contractor shall at all times cooperate with irrigation districts, drainage districts and corporate or individual Owners or users in providing for the continuance of established use and disposal of water. The Contractor shall be responsible for all claims caused by its negligence and shall indemnify and hold Owner harmless from all such claims.

The Contractor shall fence the right-of-way through all private property where specified on plans or directed before cutting or removing existing fences, and shall be responsible

for all damage due to livestock entering or leaving adjacent private property due to failure to comply with this subsection or other negligence on its part.

**RESPONSIBILITY FOR DAMAGE CLAIMS:** The Contractor shall indemnify and save harmless the Owner, its officers, and employees, from all suits, actions, or claims of any character brought about because of any injuries or damage received or sustained by any person, persons, or property on account of the negligent or intentional operations of the said Contractor, its agents, Subcontractors or assigns; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act of omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringement of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act," or any other law, ordinance, order, or decree. The Contractor acknowledges that such indemnify and hold harmless may obviate certain immunity provided under the Workmen's Compensation Act and hereby expressly waives such statutory immunity for the purposes of this Contract's provision.

**OPENING SECTIONS OF PROJECT TO TRAFFIC:** Opening of sections of the work to traffic prior to completion of the entire Contract may be desirable from a traffic service standpoint, or may be necessary due to conditions inherent in the work, or by changes in the Contractor's work schedule, and may be necessary due to conditions or events unforeseen at the time of the Contract. Such openings as may be necessary due to any of the foregoing conditions shall be made when so ordered by the Project Manager. Under no condition shall such openings constitute acceptance of the work or a part thereof, or a waiver of any provisions of the Contract.

On any section opened by order of the Project Manager, whether covered in the Special Provisions or not, the Contractor shall not be required to assume any expense entailed in maintaining the road for traffic. Such expense shall be borne by the Owner, or compensated for on a time and material basis. On such portions of the Project which are ordered by the Project Manager to be opened for traffic, in the case of unforeseen necessity which is not the fault of the Contractor, compensation for additional expense, if any, to the Contractor and allowance of additional time, if any, for completion of any other items of work on the portions of the Project ordered by the Project Manager to be opened in the event of such unforeseen necessity, shall be as set forth in a change order mutually agreed on by the Project Manager and the Contractor as set forth hereinafter.

If the Contractor is dilatory in completing shoulder, drainage structures, or other features of the work, the Project Manager may so notify it in writing and establish herein a reasonable period of time in which the work should be completed. If the Contractor is dilatory, or fails to make a reasonable effort toward completion of this period of time, the Project Manager may then order all or a portion of the Project opened to traffic. On such sections which are so ordered to be opened, the Contractor shall conduct the

remainder of the construction operations so as to cause the least obstruction. Cost of the Work by reason of opening such section to traffic shall be included under other items of work.

On any section opened to traffic under any of the above conditions, whether stated in the Special Provisions or opened by necessity of Contractor's operations or unforeseen necessity, any damage to the roadway not attributable to traffic which might occur on such section shall be repaired by the Contractor at its expense.

**CONTRACTOR'S RESPONSIBILITY FOR WORK:** Until final acceptance of the work by the Project Manager, as evidenced in writing, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof by the action of the elements, vandalism or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above caused before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of, and without the fault or negligence of the Contractor, including but not restricted to "Act of God", of the public enemy or of government authorities. An "Act of God" is construed to mean an earthquake, flood, cloudburst, cyclone, or other natural occurrence of unusual violence. A rain, windstorm, flood, or other natural phenomenon of normal intensity for the particular locality shall not be construed as an "Act of God: and no reparation to the Contractor shall be made for damages to the work resulting therefrom. The Project Manager shall be the sole judge as to whether a particular natural phenomenon shall be classed as an "Act of God" or as a normal occurrence.

In case of suspension of work from any cause whatever, except as provided in Subsections 404 and 412, the Contractor shall be responsible for the Project and shall take such precautions as may be necessary to prevent damage to the Project, provide for normal drainage and shall erect any necessary temporary structures, signs, or other facilities at its expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established plantings, seeding, and sodding furnished under this Contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against injury.

**COOPERATION BY CONTRACTOR:**The Contractor shall give the Work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the Project Manager, regulating agency inspectors, and other Contractors in every way possible.

The Contractor shall have on the Work site at all times, as its agent, a competent superintendent capable of reading and thoroughly understanding the plans and specifications and thoroughly experienced in the type of work being performed, who

shall receive instructions from the Project Manager or its authorized representatives. The Superintendent shall have full authority to execute the orders or directions of the Project Manager without delay and to promptly supply such materials, equipment, tools, labor and incidentals as may be required. Such superintendence shall be furnished irrespective of the amount of work sublet. It shall keep the Project Manager informed as to its work schedule including prior notice before starting each phase of the Contract.

COOPERATION WITH UTILITIES: The Owner will notify all Owners of utilities of the proposed construction and conflicts requiring adjustment and endeavor to have all necessary adjustments of the utilities and other appurtenances within or adjacent to the limits of construction, made as soon as practicable.

All utilities and all other utility appurtenances within the limits of the proposed construction which are to be relocated or adjusted, are to be moved by the Owners at no expense to the Contractor, except as otherwise provided for in the Special Provisions or as noted on the Plans.

It is understood and agreed that the Contractor has considered in its bid all of the permanent and temporary utility appurtenances in their present or relocated positions as shown on the Plans and that no additional compensation will be allowed for any delays, inconvenience, or damage sustained by it due to any interference from the said utility appurtenances or the operation of moving them.

In general, the Contract will indicate various utility items, certain of which are to be relocated or adjusted by the utility Owner and others which are to be relocated and adjusted by the Contractor. The special provision shall indicate the means of adjudication, if any, in case of failure by the utility Owner(s) to comply with their responsibility in relocating or adjusting their facility.

COOPERATION BETWEEN CONTRACTORS: The Owner reserves the right at any time to Contract for and perform other or additional work on or near the work covered by this Contract.

When separate Contracts are let within the limits of any one Project, each Contractor should conduct its work so as to keep to a minimum any interference or hindrance with the progress or completion of the work being performed by other Contractors. In case of unavoidable interference, the Project Manager will establish work priority which in general will be in the sequence that the Contracts were awarded. It is expected that there will be a reasonable amount of inconvenience and delay by reason of Contractors working within the limits of the same Project and to minimize this delay and inconvenience, they shall cooperate with each other as directed.

When separate concurrent Contracts are let within the limits of any one Project or multiple Contracts, each Contractor involved will submit a current realistic progress schedule. Before the Owner accepts the schedule, each party shall have the

opportunity to review all schedules. After this review and consultation, the Owner shall determine acceptable schedules.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with its Contract and shall protect and save harmless the Owner from any damages or claims that may arise because of inconvenience, delay or loss because of the presence of other Contractors working within the same Project.

The Contractor shall arrange its work and shall place and dispose of the materials being used so as not to interfere with the operations of the other Contractors within the limit of the same Project. It shall join its work with that of others in an acceptable manner and shall perform it in proper sequence to that of the others.

**CONTRACTOR'S RESPONSIBILITY FOR UTILITY PROPERTY AND SERVICES:** At points where the Contractor's operations are adjacent to properties or railway, telegraph, telephone, gas, cable T.V. and power companies, or are adjacent to other property, damage to which might result in considerable expense, loss, or inconvenience, work shall not be commenced until all arrangements necessary for the protection thereof have been made.

The Contractor shall cooperate with the Owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner, and that duplication of rearrangement work may be reduced to a minimum, and that services rendered by those parties will not be unnecessarily interrupted.

In the event of interruption to water or utility services as a result of accidental breakage or as a result of being exposed or unsupported, the Contractor shall promptly notify the proper authority and shall cooperate with the said authority in the restoration of service. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority. The Owner shall not be responsible for damages to any existing utilities caused by the Contractor.

**NO WAIVER OF LEGAL RIGHTS:** The Owner or the Contractor shall not be precluded or stopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefore, from showing the true amount and character of the work performed, and materials furnished by the Contractor, nor from showing that any such measurement, estimate, or certificate is untrue or is incorrectly made, nor that the work materials do not in fact conform to the Contract. The Owner shall not be precluded or stopped, notwithstanding any such measurement, estimate or certificate and payment in accordance therewith, from recovering from the Contractor or its sureties, or both, such damages as it may sustain by reason of Contractor's failure to comply with the terms of the Contract. Neither the acceptance by the Owner or any representative of the Owner nor any payment for or acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the Owner, shall operate as a waiver of any portion of the Contract or of any power

herein reserved, or of any right to damages. A waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach.

DUST AND SMOKE CONTROL: Dust and smoke control will be required in all areas.

PRESERVATION OF VEGETATION, LAND FEATURES, STREAMS, and LAKES AND RESERVOIRS: Any removal, destruction or damage of vegetation shall be avoided unless approved by the Project Manager. Equipment access roads, turnarounds and other grading and crossing of areas beyond the limits of construction shall be kept to a minimum. Such areas shall be designated on the Plans by the Contractor, subject to review of and approval by the Project Manager. Roads for fence construction shall be constructed only when necessary as determined by the Project Manager.

Destruction of or damage to streams, lakes, reservoirs, rock and other land formations having aesthetic value shall be avoided. Areas outside the roadway limits including equipment access roads, turnarounds, and other areas used by equipment which are damaged, denuded or obliterated by the Contractor's operations shall be replanted or repaired by the Contractor at its own expense.

The Contractor shall take precautions to prevent pollution of streams, lakes and reservoirs with fuels, oils, bitumens, calcium chloride, or other harmful minerals. It shall conduct and schedule its operations so as to avoid or minimize siltation of streams, lakes and reservoirs and to avoid interference with movement of migratory fish.

## **SECTION 405**

### **PROPERTY, SUBSURFACE CONDITIONS AND SURVEYS**

AVAILABILITY OF LANDS: If applicable, the Owner will furnish, as indicated in the Contract Documents and not later than the date when needed by the Contractor, the lands upon which the Work is to be done, rights-of-way for access thereto, and such other lands which are designated for the use of the Contractor. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the Owner, unless otherwise specified in the Contract Documents. If the Contractor believes that any delay in the Owner's furnishing these lands or easements entitles it to an extension of the Contract Time, it may make a claim therefor as provided in Section 413.

The Contractor will provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

The Owner will, upon request, furnish to the Contractor copies of all available boundary surveys and subsurface tests.

**UNFORESEEN SUBSURFACE CONDITIONS:** The Contractor will promptly notify the Project Manager in writing of any subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents. The Project Manager will promptly investigate those conditions and advise the Owner in writing if further surveys or subsurface tests are necessary. Promptly thereafter, the Owner, through the Project Manager, will obtain the necessary additional surveys and tests and furnish copies to the Contractor. If the Project Manager finds that the results of such surveys or tests indicate subsurface or latent physical conditions differing significantly from those indicated in the Contract Documents, a Change Order shall be issued incorporating the necessary revisions.

**SURVEYS:** (If included in Contract)

- (a) **Staking Out Work:** Prior to construction activities the Contractor will begin staking operations to establish the horizontal and vertical control for the job site. The Contractor will be responsible for, without any additional cost to the Owner, all surveying required.
- (b) **Replacement of Stakes:** The Contractor is responsible for the protection and preservation of all established reference points and stakes. Should the Contractor disturb or remove any stakes due to its negligence the Contractor will reestablish such stakes at the Contractor's expense.

## **SECTION 407**

### **PROSECUTION AND PROGRESS**

**NOTICE TO PROCEED:** Following the execution of the Contract, notice will be given the Contractor in writing to proceed with the work. The Contractor shall begin the work on or before the 10th day following the date of the Notice to Proceed. It shall notify the Project Manager at least 2 days before beginning work.

**SUBLETTING OF CONTRACT:** The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract or any portion thereof, or of its right, title, or interest therein, without written consent of the Project Manager. In case such consent is given, the Contractor will be permitted to sublet a portion thereof, but shall perform with its own organization work amounting to not less than fifty percent (50%) of the Contract Cost except that any items designated in the Contract as "specialty items" may be performed by Subcontractor and may be deducted from the total cost before computing the amount of work required to be performed by the Contractor with its own organization. No Subcontracts or transfer of Contract shall release the Contractor of its liability under the Contracts and Bonds.



If any portion of a Contract item is subcontracted, the entire item shall be considered as subcontracted in computing the percentage of work sublet. Under no condition may a Subcontractor subcontract any portion of the work except portions of specialty items as listed in the Proposal.

Contractor shall be fully responsible for all acts and omissions of its Subcontractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by Contractor. Nothing in the Contract Documents shall create any Contractual relationship between Owner or Project Manager and any Subcontractor or other person or organization having a direct contact with Contractor, nor shall it create any obligation on the part of Owner or Project Manager to pay or to see to the payment of any moneys due any Subcontractor or other person or organization, except as may otherwise be required by law. Owner or Project Manager may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to Contractor on account of specific Work done.

**PROSECUTION AND PROGRESS:** The Contractor shall furnish the Project Manager with a "Progress Schedule" for its approval. The Progress Schedule may be used as the basis for establishing major construction operations and as a check on the progress of the work.

The Contractor shall provide sufficient material, equipment and labor to guarantee the completion of the Project in accordance with the Plans and Specifications within the time set forth in the proposal. Should the prosecution of the work for any reason be discontinued, the Contractor shall notify the Project Manager at least twenty-four (24) hours in advance of resuming operations.

**LIMITATIONS OF OPERATION:** The Contractor shall conduct its work at all times in such a manner and in such sequence as will assure the least interference with use by the public traffic. Sections of the road used by traffic or where satisfactory detours are impracticable shall not be disturbed until the construction work over these sections can be promptly completed including the placing of a satisfactory surface or base course.

Night Work will not be allowed.

**CHARACTER OF WORKERS, METHODS AND EQUIPMENT:** The Contractor shall at all-time employ sufficient labor and equipment for prosecuting the several classes of work to full completion in the manner and time required by these Specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work in the operation of the equipment required to perform all work properly and satisfactorily.

All equipment which is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment used on any portion of the Project shall be such that no injury to the roadway, adjacent property or other roadways will result from its use.

When the methods and equipment to be used by the Contractor in accomplishing the construction are not prescribed in the Contract, the Contractor is free to use any methods or equipment that it demonstrates to the satisfaction of the Project Manager will accomplish the Contract work in conformity with the requirements of the Contract.

When the Contract specifies that the construction be performed by the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized by the Project Manager. If the Contractor desires to use a method or type of equipment other than those specified in the Contract, it may request authority from the Project Manager to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed to be used and an explanation of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing construction work in conformity with Contract requirements. If, after trial use of the substituted methods or equipment, the Project Manager determines that the work produced does not meet Contract requirements, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining construction with the specified methods and equipment. The Contractor shall remove the deficient work and replace it with the work of specified quality, or take such other corrective action as the Project Manager may direct. No change will be made in basis of payment for the construction items involved nor in Contract time as a result of authorizing a change in methods or equipment under these Provisions.

**SUPERVISION AND SUPERINTENDENT:** The Contractor will supervise and direct the Work efficiently and with its best skill and attention. It will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will be responsible to see that the finished work complies accurately with the Contract Documents.

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

**RECORD DRAWINGS:** The Contractor will keep one record copy of all Specifications, Drawings, Amendments, Modifications, and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. These shall

be available to the Project Manager and shall be delivered to it for the Owner upon completion of the Project. The Contractor also shall provide to the Owner, Park City and SBWRD an accurate reproducible record of all facilities, the locations of which to have been determined and noted by reasonable Standard Survey Practices and certified by a Utah licensed surveyor at the completion of the Contract and prior to acceptance by the Owner. These record drawings must be approved by Park City and SBWRD before they will be acceptable to the Owner.

DETERMINATION OF CONTRACT TIME: The Contract time for completion will be stated in the proposal and Contracted by target dates for item completion.

- (a) No exclusion of Contract time will be made if the work is suspended due to noncompliance.
- (b) Suspension of work on some, but not all items as ordered by the Project Manager shall be considered partial suspension. In case of partial suspension, not due to any fault of the Contractor, the amount of time to be charged shall be computed on the basis of the proportion of the value of items of work that could be performed to the total value of the original Contract amount.
- (c) When suspended work is ordered resumed by the Project Manager, computation of Contract time shall commence on the date specified in the order.

EXTENSION AND ADJUSTMENT OF TIME: Contract time specified for performance of the Contract as awarded is based on the original quantities as defined in Subsection 403 (Correlation and Interpretation of Contract Documents). If satisfactory fulfillment of the Contract requires performance of extra work, or work in greater quantities than those set forth in the proposal, the number of days allowed for performance will be increased in the same proportion as the cost of increased work bears to the Contract amount. If extra work is required which delays the progress of Contract items or the completion of the Contract, adjustments in Contract time may be made commensurate with the delays caused by the performance of the extra work. The Contractor shall be notified in writing by the Project Manager of the extension of time allowed, if any, for this work at the time of negotiations. Adjustments in Contract time or the completion date may also be made to allow for time lost due to strikes, lockouts, unusual delays in transportation, acts of God or for suspension of work ordered by the Project Manager for reasons which are not the fault of the Contractor. If the Contractor finds it impossible for reasons beyond its control to complete the work within the Contract time, as specified or as extended in accordance with the provisions of this subsection, it may, at any time prior to the expiration of the Contract time as extended, make a written request to the Project Manager for an extension of time setting forth therein the reasons which it believes will justify the granting of its request. The Contractor's plea that insufficient time was specified is not valid reason for extension of time. If the Project Manager finds

that the work was delayed because of conditions beyond the control and without the fault of the Contractor, it may extend the time for completion in such amount as the conditions justify. The extended time for completion shall then be in full force and affect the same as though it were the original time for completion.

FAILURE TO COMPLETE ON TIME: For each calendar day that any work shall remain uncompleted, surpassing Contract time provided for in the Contract, the agreed sum specified below will be deducted from any money due the Contractor, not as a penalty, but as liquidated damages; provided, however, that due account shall be taken of any adjustment of the Contract time for completion of the work granted under the provisions of Subsection 407 (Determination of Contract Time).

The sum agreed to herein by the Contractor as liquidated damages to the Owner is as set forth in section 7 of the Contract Agreement.

Permitting the Contractor to continue and finish the work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, will in no way operate as a waiver on the part of the Owner of any of its rights under the Contract.

DEFAULT AND OWNER'S RIGHT TO PROSECUTE THE WORK: If the Contractor:

- (a) Fails to begin work under the Contract within the time specified in the Contract, or
- (b) Fails to perform the work with sufficient workmen and equipment or with sufficient materials to assure the completion of said work within the time specified, or
- (c) Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or
- (d) Discontinues the prosecution of the work, or
- (e) Fails to resume work which has been discontinued within a reasonable time after notice to do so, or
- (f) Becomes insolvent, or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- (g) Allows any final judgment to stand against it unsatisfied for a period of 10 days, or

- (h) Makes an assignment for the benefit of creditors, or
- (l) For any other causes whatsoever, fails to carry on the work in an acceptable manner, the Project Manager will give the Contractor and Surety written notice specifying the delay, neglect, or default and the action to be taken by them.

If the Contractor or Surety, within a period of 10 days after such notice, shall not proceed in accordance therewith, then the Owner will, upon written notification from the Project Manager of the fact of such delays, neglect, or default and the Contractor's failure to comply with such notice, have full power and authority without violating the Contract to take the prosecution of the work out of the hands of the said Contractor. The Owner may appropriate or use any and all materials and equipment on the ground as may be suitable and acceptable and may enter into an agreement for the completion of said Contract according to the terms and provisions thereof, or use such other methods as in the opinion of the Project Manager will be required for the completion of said Contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the cost of completing the work under Contract, will be deducted from any monies due or which may become due said Contractor. If such expense exceeds the sum which would have been payable under the Contract, then the Contractor and the Surety shall be liable and shall pay to the Owner the amount of such excess.

**SAFETY REQUIREMENTS:** In order to protect the life and health of employees in the performance of this Contract, the Contractor shall comply with the General Safety orders Covering Utah Industries, other than mining, issued by the Industrial Commission of Utah, and all provisions of the current Occupational Safety and Health Act.

The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. It will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:

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

The Contractor will comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. It will erect and maintain as required by the conditions and progress of the work, all necessary safeguards for safety and protection, and in addition it will comply with all applicable recommendations of the Manual of accident Prevention in Construction of the Associates General Contractors of America, Inc. It will notify Owners of adjacent utilities when prosecution of the work may affect them. All damage, injury or loss to any property referred to in paragraphs b. and c. (Safety Requirements) above, caused directly or indirectly by employees of any of them or anyone for whose acts any of them may be liable, will be remedied by the Contractor, except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of the Owner or the Project Manager or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly in whole or in part, to the fault or negligence of the Contractor.

The Contractor will 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 otherwise designated in writing by the Contractor to the Owner.

**EMERGENCIES:** In emergencies affecting the safety of persons or the work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Project Manager is obligated to act, at its discretion, to prevent threatened damage, injury or loss. It will give the Project Manager prompt written notice of any significant changes in the work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved. If the Contractor believes that additional work done by it in an emergency which arose from causes beyond its control entitles it to an increase in the Contract Cost or an extension of the Contract Time, it may make a claim as provided in Section 412 (Suspension and Termination of Work) of the Contract Documents.

Nothing in the Contract shall relieve the Contractor of responsibility assigned in the Specifications, State Industrial Commission's requirements, or State and local laws and ordinances.

The Contractor shall also cooperate in enforcing any additional safety measures the Project Manager may determine to be necessary.

The Contractor shall maintain an accurate record of and shall report to the Project Manager on specified forms, all cases of death and accidents arising out of or in the course of employment on Work under this Contract.

The Project Manager may notify the Contractor in writing of any noncompliance with the foregoing provisions and the Contractor shall, after receipt of such notice, immediately correct the conditions to which attention has been directed.

If the Contractor fails or refuses to comply promptly, the Project Manager may issue an order stopping all or any part of the work. Such stoppage of work will not relieve the Contractor of finishing the Project within the specified Contract completion time. When satisfactory corrective action is taken a start order will be issued.

MEASUREMENT OF QUANTITIES: All Work completed under the Contract will be measured by the Owner's Representative or its agent according to United States standard measure.

A station when used as definition or term of measurement will be 100 linear feet. The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the Contract will be of those methods generally recognized as conforming to good Project Managing practice.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the Plans or ordered by the Project Manager.

All items which are measured by the linear foot, such as pipe culverts, fences, under drains, etc., will be measured parallel to the base of foundations upon which structures are placed, unless otherwise shown on the Plans.

In computing volumes of excavation, the average end area method or other acceptable methods will be used.

The Term "gage" when used in connection with the measurement of sheet steel, will mean the manufacturers standard gage and inch thickness equivalent and tolerances in accordance with ASTM Designation A568.

The term "gage" when used in connection with aluminum alloy pipe will be the thickness specified in AASHO M196 or AASHO 197. When the term "gage" refers to the measurement of steel wire, it will mean the equivalent thickness specified in AASHO Designation M-32, and tolerances specified in ASTM Designation A-510.

The term "ton" will mean the short ton consisting of 2,000 pounds avoirdupois. All materials which are measured or proportioned by weight shall be weighted on accurate approved scales by competent, qualified personnel at the location designated by the Project Manager. If platform scales are used, they shall be of sufficient size to permit the entire vehicle or a combination of vehicles to rest upon the scales. If material is shipped by rail, the car weight may be accepted provided the actual weight of material only will be paid for. However, car weights will not be acceptable for material to be passed through mixing plants. Trucks used to haul material being paid for by weight shall be weighted empty daily at such times, as the Project Manager directs, and each truck shall bear a legible identification mark.

Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured therein at the point of delivery. Vehicles for this purpose may be of any size or type acceptable to the Project Manager, provided that the body is of such shape that the actual contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity and all loads shall be leveled when the vehicles arrive at the point of delivery.

When requested by the Contractor and approved by the Project Manager in writing, material specified to be measured by the cubic yard may be weighted and such weights will be converted to cubic yards for payment purposes. Factor for conversion with weight measurement to volume measurement will be determined by the Project Manager and shall be agreed to by the Contractor before such method of measurement of pay quantities is used.

Bituminous materials will be measured by the gallon or ton unless otherwise specified. Volumes will be measured at 60° F. or will be corrected to the volume at 60° F. using ASTM D 1250 for asphalt or ASTM D 633 for tars. Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when bituminous material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the Work. When bituminous materials are shipped by truck or transport, net certified weights or volume subject to correction for loss of foaming may be used for computing quantities. Trucks or truck transports may also be weighed on the Contractor's scales on the Project. If discrepancies between weights there obtained and certified refinery weights exist, the weight determined on the Project will be used in computing quantities for payment.

Cement will be measured by the barrel or bag. A bag is one-quarter of a barrel or 94 pounds. The term barrel will mean 376 pounds of cement.

Timber will be measured by board feet (B.F.) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The term "lump sum" when used as an item of payment will mean complete payment for the work described in the Contract.

When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will include all necessary fittings and accessories.

Rental of equipment will be measured by time in hours of actual working time and necessary traveling of the equipment within the limits of the Project unless special equipment has been ordered by the Project Manager in connection with force account work in which case travel time and transportation to the Project will be measured. If equipment has been ordered held on the job on a standby basis by the Project



Manager, standby rates for the equipment will be paid according to the standby equipment rental rate.

When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gage, unit, weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specification, manufacturing tolerances established by the industries involved will be accepted.

**SCOPE OF PAYMENT:** The Contractor shall receive and accept compensation provided for in the Contract as full payment for furnishing all materials and for performing all work under the Contract in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof, subject to the provisions of Subsection 404 (Preservation of Vegetation, Land Features, Streams, Lakes and Reservoirs).

If the "Basis of Payment" clause in the Specifications relating to any unit price in the bid schedule requires that the said unit price cover and be considered compensation for certain work or material essential to the item, this same work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the Specifications.

Except as otherwise specified herein, no direct payment will be made for the various miscellaneous and incidental items of work to be performed, nor for accessories to be furnished and installed. All cost in connection therewith shall be considered as incidental to the construction and shall be included in the unit Contract price of the appropriate item(s) in the Bid proposal. E.G. Construction Surveying.

**COMPENSATION FOR ALTERED QUANTITIES:** When the accepted quantities of work vary from the quantities in the bid schedule, the Contractor shall accept as payment in full, so far as Contract items are concerned, payment at the original Contract unit prices for the accepted quantities of work done. No allowances will be made for any increase expense, loss of expected reimbursement therefor, or from any other cause.

**EXTRA WORK:** Extra work will be paid for at the unit prices, approved rental rates, lump sum, or "time and materials basis", as stipulated in the order authorizing the work subject to the provisions of Section 410 (Changes in the Work).

**PARTIAL PAYMENT:** Partial payments will be made once each month as the work progresses. Said payments will be based upon estimates prepared by the Project Manager of the value of the work performed and materials complete in place in accordance with the Contract and for materials delivered.

No partial payment will be made when the total value of the work done since the last estimated amounts to less than Five Hundred Dollars (\$500.00).

From the total of the amounts ascertained as payable, an amount equivalent to ten percent (10%) of the whole will be deducted and retained by the Owner until after completion of the entire Contract in an acceptable manner. The balance, or an amount equivalent to ninety percent (90%) of the whole, less all previous payments, shall be certified for payment.

Partial payments of the amounts ascertained as payable, less retainage, shall be made by the Owner to the Contractor within thirty (30) days of receipt of partial payment request from Contractor.

#### REQUESTS FOR PARTIAL PAYMENT AND CONTRACTOR'S WARRANTY OF TITLE:

- (a) At least ten (10) days before each progress payment falls due (but not more often than once a month), the Contractor will submit to the Project Manager for review the Request for Payment filled out and signed by the Contractor covering the work completed as of the date of the Request and supported by such data as the Project Manager may reasonable require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Request for Payment shall also be accompanied by such supporting data, satisfactory to the Owner, as will establish the Owner's title to the material and equipment and protect its interest therein, including applicable insurance.
- (b) The Contractor warrants and guarantees that title to all work, materials and equipment covered by a Request for Payment, whether incorporated in the Project or not, will have passed to the Owner prior to the making of the Request for Payment, free and clear of all liens, claims, security interests and encumbrances (hereafter in these General conditions referred to as "Liens"); and that no work, materials, or equipment covered by Request 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 encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

The Contractor shall furnish a partial waiver of lien for the full amount of payment due at the time of its first request for partial payment. Each subsequent payment application shall include the Contractor's current partial waiver of lien and partial waivers of lien of Subcontractors and suppliers included in the previous month's payment application, to the full extent of that portion of the payment due to them.

## ACCEPTANCE AND FINAL PAYMENT:

(a) PARTIAL ACCEPTANCE

If at any time during the prosecution of the Project the Contractor satisfactorily completes a unit or portion of the Project, and such unit or portion is deemed necessary for the convenience of the public, such as a structure, pipeline, pump station or section of road, it may request the Project Manager to make final inspection of that unit. If the Project Manager finds upon inspection that the unit has been satisfactorily completed in compliance with the Contract it may make written acceptance of that unit as being completed and the Contractor may be relieved of further responsibility for that unit. Such partial acceptance shall in no way void or alter any of the terms of the Contract.

(b) FINAL ACCEPTANCE

Upon due notice from the Contractor of presumptive completion of the entire Project, the Project Manager will make an inspection. If all construction provided for and contemplated by the Contract is found completed to its satisfaction that inspection shall constitute the final inspection and the Project Manager will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of the final inspection.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the Project Manager will give the Contractor the necessary instruction for correction of same, and the Contractor shall immediately comply with and execute such instructions. Upon correction of the work, another inspection will be made which shall constitute the final inspection provided the work has been satisfactorily completed. In such event, the Project Manager will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

When the Project has been accepted as provided above, the Project Manager will prepare the final estimate of the quantities of the various classes of work performed. After approval of such final estimate by the Contractor, it will be paid the entire sum found to be due after deducting all previous payments and all amounts to be retained or deducted under the provisions of the Contract.

All prior partial estimates shall be subject to correction in the final estimate and payment.

Should the Contractor be of the opinion that it is entitled to more or additional payment, the Contractor shall, within thirty days after the final estimate is submitted for its approval, file with the Owner a full, complete and itemized written statement setting forth its claim for adjustment. All claims not itemized in said statement are waived by the Contractor. Submission of claims by the Contractor will not be reason for withholding full payment of the total value of work shown on the Project Manager's final estimate. The claim will be evaluated by the Owner. If it is determined that additional payment is due, the final estimate will, under the terms of the Contract, be revised accordingly; otherwise, the estimate as submitted will be final.

(c) ACCEPTANCE AND FINAL PAYMENT:

All work must be accepted by both the Park City Municipal Corporation and the Snyderville Basin Water Reclamation District before Final Payment can be made. Upon such acceptance, the warranty period begins and the entire balance found to be due the Contractor, including retained percentages, but except such sums retained by the Owner, as per other sections of this specification shall be paid to the Contractor within 30 days of completion and acceptance of the work. Release of liens required from all Subcontractors prior to final payment.

CLAIMS FOR ADJUSTMENT AND DISPUTES: If, in any case, where the Contractor deems that additional compensations due it for work or material not clearly covered in the Contract or not ordered by the Project Manager as extra work as defined herein, the Contractor shall notify the Project Manager in writing of its intention to make claim for such additional compensation before it begins the work on which it bases the claim. If such notification is not given and the Project Manager is not afforded proper facilities by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation.

Such notice by the Contractor, and the fact that the Project Manager has kept account of the cost as aforesaid, shall not in any way be construed as proving or substantiating the validity of the claim. If the claim after consideration by the Project Manager is found to be just, it shall be paid as extra work as provided herein.

## **SECTION 408**

### **OWNER'S RESPONSIBILITIES**

COMMUNICATION WITH CONTRACTOR: The Owner will issue all communications to the Contractor through the Project Manager.

DATA AND PAYMENTS: The Owner will furnish the data required of it under the Contract Documents promptly and shall make payments to the Contractor promptly after they are due as provided in Section 407 (Prosecution and Progress).

SURVEYS AND LANDS: The Owner's duties in providing lands, boundary surveys and establishing reference points is set forth in Section 405 ( Property, Subsurface Conditions & Surveys).

CHANGES IN THE WORK: In addition to its rights to request changes in the Work in accordance with Section 410 (Change Orders), the Owner will be obligated to execute Change Orders in accordance therewith.

SUSPENSION OR STOPPING OF WORK: In connection with the Owner's right to stop Work or suspend Work, Section 412 (Suspension and Termination of Work) is applicable. The Owner's right to terminate the Contractor is also defined in Section 407 (Prosecution and Progress).

## **SECTION 409**

### **OWNER'S REPRESENTATIVE STATUS DURING CONSTRUCTION**

OWNER'S REPRESENTATIVE: An Owner's Representative may be present during the construction period. The duties and responsibilities and the limitations of authority of the Owner's Representative during construction are set forth in these General Conditions and shall not be extended without written consent of the Owner.

VISITS TO SITE: An Owner's Representative may make periodic visits to the site to observe the progress and quality of the executed Work and to determine in general, if the Work is proceeding in accordance with the Contract Documents. It will not be required to make exhaustive or continuous onsite observations to check the quality or quantity of the Work. Its efforts will be directed toward providing assurance for the Owner that the complete Project will conform to the requirements of the Contract Documents. On the basis of its periodic onsite observations as an experienced and qualified professional, it will keep the Owner informed of the progress of the Work and will endeavor to guard the Owner against defects and deficiencies in the Work of Contractors.

**DECISIONS ON DISAGREEMENTS:** The Project Manager will be the initial interpreter of the terms and conditions of the Contract Documents and the judge of the performance thereunder. In its capacity as interpreter and judge it will exercise its best efforts to insure faithful performance by both the Owner and the Contractor. It will not show partiality to either, and shall not be liable for the result of any interpretation or decision rendered in good faith. Claims, disputes and other matters relating to the execution and progress of the Work or the interpretation of or performance under the Contract Documents shall be referred initially to the Project Manager for decision; which it shall render in writing within a reasonable time.

**LIMITATIONS ON OWNER'S RESPONSIBILITIES:** Neither the authority of the Owner's Representative to act under this Section nor any decision made by it in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the Owner to the Contractor, any Subcontractor, any of their agents or employees or any other person performing any of the work.

Neither the Owner nor Owner's Representative will be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions and programs incident thereto, and will not be responsible for the Contractors failure to perform the Work in accordance with the Contract Documents.

The Owner or Owner's Representative will not be responsible for the acts or omissions of the Contractor, or any Subcontractors, or any of its or their agents or employees, or any other persons performing any of the Work.

## **SECTION 410**

### **CHANGES IN THE WORK:**

- (A) Without invalidating the Agreement, Owner may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, Contractor shall proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Time, an equitable adjustment will be made as provided in Subsection 410 (Change of Contract Price) or Subsection 407 (Extension & Adjustment of Time) on the basis of a claim made by either party.
- (B) Project Manager may authorize minor changes in the Work (not involving an adjustment in the Contract Price or the Contract Time) which are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order and shall be binding on Owner, and also on Contractor who shall perform the change promptly. If Contractor believes that a Field Order justifies an increase in the Contract Price or Contract Time, Contractor may make a claim therefore as provided in

Subsection 410 (Change of Contract Price) or Subsection 407 (Extension & adjustment of Time).

- (C) Additional Work performed without authorization of a Change Order will not entitle Contractor to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided in Subsection 407 (Emergencies).
- (D) Owner shall execute appropriate Change Orders prepared by Project Manager covering changes in the Work which are required by Owner, or required because of unforeseen physical conditions or emergencies, or because of uncovering Work found not to be defective, or as provided in paragraphs 410-I (Deleted) 410-J Cash Allowances, or because of any other claim of Contractor for a change in the Contract Time or the Contract Price which is recommended by Project Manager.
- (E) If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the Surety, it will be Contractor's responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. Contractor shall furnish proof of such adjustment to Owner.

#### CHANGE OF CONTRACT PRICE:

- (A) A Contract Price constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at its expense without change in the Contract Price.
- (B) The Contract Price may only be changed by a Change Order. Any claim for an increase in the Contract Price shall be based on written notice delivered to Owner and Project Manager within fifteen days of the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data shall be delivered within forty-five days of such occurrence unless Project Manager allows an additional period of time to ascertain accurate cost data. All claims for adjustment in the Contract Price shall be determined by Project Manager if Owner and Contractor cannot otherwise agree on the amount involved. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order.
- (C) The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

- (1) Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of paragraph 410-I, (Deleted).
- (2) By Mutual Acceptance of a lump sum.

## **SECTION 411**

### **GUARANTEES, TESTS, INSPECTIONS CORRECTION OR ACCEPTANCE OF DEFECTIVE WORK**

WARRANTY AND GUARANTEE: The Contractor warrants and guarantees to the Owner that all materials and equipment will be new unless otherwise specified and that all Work will be of good quality and free from faults or defects and in accordance with the requirements of the Contract Documents and of any inspections, test or approvals referred to in paragraph (Tests and Inspections) below. All unsatisfactory Work, all faulty or defective Work and all Work not conforming to the requirements of the Contract Documents or of such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the Contractor. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in the Section.

TESTS AND INSPECTIONS: If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to specifically be inspected, tested or approved by someone other than the Contractor, the Contractor will give the Project Manager timely notice of readiness therefore, the Contractor will furnish the Project Manager the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society of Testing and Materials or such other applicable organizations as may be required by law or the Contract Documents. If any such Work required to be inspected, tested or approved is covered without written approval of the Project Manager it must, if requested by the Project Manager be uncovered for observation at the Contractor's expense. The cost of all such inspections, tests and approvals shall be borne by the Contractor unless otherwise provided.

Neither observations by the Project Manager, nor inspections, tests or approvals by persons other than the Contractor shall relieve the Contractor from its obligations to perform the Work in accordance with the requirements of the Contract Documents.

ACCESS TO THE WORK: The Owner's Representative and Project Manager, and their representatives and other representatives of the Owner will at all times have access to the Work. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection, or testing thereof by others.



UNCOVERING THE WORK: If any work is covered contrary to the written request of the Project Manager it must, if requested by the Project Manager be uncovered for its observation and replaced at the Contractor's expense.

If any Work has been covered which the Project Manager has not requested to observe prior to its being covered, or the Project Manager considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the request of the Project Manager will uncover, expose or otherwise make available for observation inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such Work is not found to be defective, the Contractor will be allowed an increase in the Contract Cost or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction if it makes a claim therefor as provided in Section 407 (Prosecution and Progress) and Section 410 (Change Orders).

CORRECTION OR REMOVAL OF DEFECTIVE WORK: If required by the Project Manager prior to approval of final payment, the Contractor will promptly, without cost to the Owner and as specified by the Project Manager either correct any defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the Project Manager remove it from the site and replace it with non-defective Work. If the Contractor does not correct such defective Work or remove and replace such rejected Work within a reasonable time, all as specified in a written notice from the Project Manager, the Owner may have the deficiency corrected or the rejected Work removed and replaced. All direct and indirect costs of such correction or removal and replacement, including compensation for additional professional services, shall be paid by the Contractor, and an appropriate deductive Change Order shall be issued. The Contractor will also bear the expense of making good all Work destroyed or damaged by its correction; and the expense of removal or replacement of its defective Work.

CORRECTION PERIOD: If, after the approval of final payment and prior to the expiration of eighteen (18) months after the date of Substantial Completion as granted by the Park City and SBWRD Engineers or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, and Work is found to be defective the Contractor will promptly, without costs to the Owner and in accordance with the Owner's written instruction, either correct such defective Work or, if it has been rejected by the Owner, remove it from the site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, the Owner may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, will be paid by the Contractor.

ACCEPTANCE OF DEFECTIVE WORK: If, instead of requiring correction or removal and replacement of defective Work, the Owner prefers to accept it, it may do so. In such cases, if acceptance occurs prior to approval of final payment, a Change Order shall be issued incorporating the necessary revisions in the Contract Documents, including appropriate reduction in the Contract Price; or, if the acceptance occurs after approval of final payment, an appropriate amount shall be paid by the Contractor to the Owner.

NEGLECTED WORK BY CONTRACTOR: If the Contractor should neglect to prosecute the Work in accordance with the Contract Documents, including any requirements of the progress schedule, the Owner, after three days' written notice to the Contractor may, without prejudice to any other remedy it may have, make good such deficiencies and the cost thereof (including compensation for additional professional services) shall be charged against the Contractor. A Change Order shall be issued incorporating the necessary revisions in the Contract Documents including an appropriate reduction in the cost. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the Owner.

## **SECTION 412**

### **SUSPENSION AND TERMINATION OF WORK**

OWNER'S SUSPENSION OF WORK: The Owner may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to the Contractor which shall fix the date on which Work shall be resumed. The Contractor will resume the Work on the date so fixed. The Contractor will resume the Work on the date so fixed. With the exception of the period from November 1 to May 1 the Contractor will be allowed an increase in the Contract Cost or an extension of the Contract Time, or both, directly attributable to any suspension if it makes a claim therefor as provided in Section 412 (Suspension and Termination of Work). In no manner shall this paragraph be construed to compromise the determination of Contract time as outlined by Section 407 (Determination of Contract Time).

OWNER'S TERMINATION OF WORK: If the Contractor is adjudged bankrupt or insolvent, or if it makes a general assignment for the benefit of its creditor, or if a trustee or receiver is appointed for the Contractor or for any of its property, or if it files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws, or if it fails to supply sufficient skilled workers or suitable materials or equipment, or if it fails to make prompt payments to Subcontractors or for labor, materials or equipment or if it disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or if it disregards the authority of the Project Manager or if it otherwise violates any provision of the Contract Documents, then the Owner may, without prejudice to any other right or remedy and after giving the Contractor and its Surety seven days' written notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools construction equipment

and machinery thereon owned by the Contractor, and finish the Work by whatever method it may deem expedient.

In such case the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Cost exceeds the direct and indirect costs of completing the Project, including compensation for additional professional services, such excess shall be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor or its Surety will pay the difference to the Owner. The direct and indirect costs of completing the Project incurred by the Owner will be determined by the Project Manager and incorporated in a Change Order.

Where the Contractor's services have been so terminated by the Owner, said termination shall not affect any rights of the Owner against the Contractor then existing or which may thereafter accrue. The termination does not relieve the Owner of the responsibility for payment of monies due to the Contractor for work completed satisfactorily.

Upon seven (7) days' written notice to the Contractor, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Agreement. In such case, the Contractor shall be paid for all Work executed and any expense sustained plus a reasonable profit (15%) for work executed.

**CONTRACTOR'S STOPPING OR TERMINATION OF WORK:** If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days by the Owner or under an order of court or other public authority, or the Owner fails to act on any Request for Payment within thirty days after it is submitted, or the Owner fails to pay the Contractor any sum approved by the Project Manager then the Contractor may, upon seven days' written notice to the Owner, terminate the Agreement and recover from the Owner payment for all Work executed and any expense sustained plus a reasonable profit (5%) for work executed. In addition and in lieu of terminating the Agreement, if the Owner has failed to make any payment as aforesaid, the Contractor may upon seven days' notice to the Owner to stop the Work until it has been paid all amounts then due.

## **SECTION 413**

### **MISCELLANEOUS**

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

**OWNERSHIP OF SPECIFICATIONS AND DRAWINGS:** All specifications, drawings and copies thereof furnished by the Project Manager are instruments of professional service and shall remain the property of the Project Manager. They shall not be used

on another Project and, with the exception of those sets which have been signed in connection with the execution of the Agreement, shall be returned to it on request upon completion of the Project.

**RIGHTS AND REMEDIES:** The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder, and in particular but without limitation, the warranties, guarantees and obligations imposed upon the Contractor by the General Conditions of the Contract, and the rights and remedies available to the Owner thereunder, shall be in addition to and not a limitation of any otherwise imposed or available law, by special guarantee or other provisions of the Contract Documents.

## **SECTION 450**

### **SPECIAL PROVISIONS**

Construction Specifications and Standard Drawings" (PCDS), as presented in the May 1996 edition of the Park City Design Standards and updated in the May 1997 edition, will be used as the basis for the design, specification and construction of this Project except as modified and amended herein. Copies of the PCDS may be obtained from the Office of the City Project Manager.

Where reference is made in the PCDS to SBWRD Standards and Specifications, such reference shall be to the "Design Standards and Construction Specifications for Sanitary Sewers in the Snyderville Basin Sewer Improvement District, and any addendum or revisions adopted since that time. Copies of the SBWRD Standards and specifications may be obtained from the SBWRD office.

The following sections of the PCDS are applicable to this Project, including all modifications and amendments as listed herein:

- Section 100 - General Requirements
- Section 200- General Improvement Requirements and Design Guidelines
- Section 500 - Street Construction and Related Work
- Section 501 - Earthwork
- Section 503 - Subgrade, Borrow and imported fill materials
- Section 505 - Watering
- Section 506 - Excavation for Structures
- Section 510 - Untreated Aggregate Base Course
- Section 520 - Asphalt Materials
- Section 521 - Plant Mix Bituminous Pavement
- Section 522 - Bituminous Prime Coat
- Section 523 - Bituminous Tack Coat
- Section 524 - Bituminous Seal Coat
- Section 525 - Plant Mix Bituminous Seal Coat
- Section 530 - Portland Cement Concrete
- Section 532 - Concrete Curb and Gutter, Concrete Gutter, Driveways
- Section 540 - Street Lighting and Signing

Section 541 - Topsoil  
Section 542 - Seeding, Lawn Removal and Replacement  
Section 543 - Rip-rap  
Section 550 - Removal of Existing Street Improvements  
Section 551- Placement and adjustment of new and existing utility structures  
to finish grade  
Section 552 - Pavement Patching  
Section 553 - Finishing and Cleanup  
Section 600 - Sanitary Sewers and Storm Drains  
Section 601 - Pipe, Materials and Testing  
Section 602 - Trench Excavation, Backfill, Foundation and Bedding for  
Sewers, Drains, and Culverts  
Section 603 - Pipe Laying and Jointing  
Section 604 - Manholes  
Section 605 - Catch Basins and Inlets  
Section 606 - Subsurface Undertrains  
Section 607 - Sewer Laterals and Cleanouts  
Section 700 - Water Main and Service Line Construction  
Section 701 - Pipe for Water Mains  
Section 702 - Trench Excavation and Backfill for Water Mains  
Section 703 - Pipe Installation for Water Mains  
Section 704 - Valves for Water Mains  
Section 705 - Water Service Connections and Fire Lines  
Section 706 - Fire Hydrants  
Section 707 - Restoration and Cleanup of Water Main Construction  
Appendix - Section 12.2 of Utah State Board of Health Drinking Water  
Regulations

Additional provisions to the PCDS are as follows:

#### 100.8 Explanation of Measurement and Payment.

The method of measurement and basis of payment in sections of the PCDS applicable to this Project shall be deleted. The method of measurement and basis of payment as set forth in the Supplementary Specifications contained herein shall be used for this Project.

All completed work must be approved by the Park City Project Manager and the Snyderville Basin Sewer Improvement District prior to final acceptance and payment by the Owner. Necessary inspection services shall be scheduled by the Contractor.

Contractor's License: All Contractors, Subcontractors and specialty Contractors shall be licensed and bonded in the State of Utah and shall also have a current and valid Park City business license. All licensing must be valid prior to execution of the Contract agreement and shall remain so throughout the entire Contract.

Pre-Construction Conference: The pre-construction conference will be arranged by the Project Manager within five (5) days after the award of the Contract. The Contractor's supervisory personnel for this Project shall attend this meeting.

Cooperation with Utilities: The Contractor will notify all Owners of utilities, including, but not limited to water, sanitary sewer, telephone, electrical, natural gas, and television cable of the proposed construction.

The Contractor is responsible for meeting with and coordinating its construction activities with those of the utility companies involved.

Should the Contractor experience a failure by the utility Owners to comply with their responsibility of relocating or adjusting their facility, the Owner must be notified immediately in writing.

The Contractor shall be responsible for locating and marking existing utilities before any excavation is begun and shall also be responsible for all damage done to any public utility.

"OR EQUAL CLAUSE": When the clause "or equal" or "or approved equal" is used following the description of an item of equipment, etc., the Contractor shall not purchase or install a substitute without written permission from the Project Manager.

Where material is listed by manufacturer and trade name, with no qualifying statement, such material shall be furnished without substitution.

Where material is listed by manufacturer and trade name, and such name is preceded by word "as" or "similar" to, or followed by words "or equal" or "approved equal". Bidder shall have option of submitting for approval substitute material which it considers equal to that specified, only if request is submitted for approval at least seven (7) days before the bids are due. The burden of proof that materials are equal shall be upon the Bidder requesting their use. Therefore, the Bidder shall furnish three copies of this request for approval and supporting data. If approved, the Project Manager will approve the request in writing and by addendum. No equal material may be used without written approval.

Where more than one material or manufacturer is named, the Bidder has the option of selecting any one of the manufacturers or materials named.

Where materials listed by description or by ASTM or AWWA numbers only, any product meeting or exceeding requirements of such specification will be acceptable.

SURVEYING: Should all construction surveying be by the Contractor, he shall furnish to Owner copies of, complete and reduced field notes.

PERIODICAL ON-SITE CONSTRUCTION MEETING: At the pre-construction meeting, the Project Manager and Contractor's superintendent will schedule regular onsite meetings. At these on-site meetings, the Contractor will provide a written outline of the upcoming work to be performed and requests for the necessary reviewing agency inspections.

RECORD DRAWING: As per Section 407 (Record Drawings), the Contractor is responsible for keeping good records of all construction including, but not limited to, vertical and horizontal measurements of water valves, tees, crosses, and house connections, sewer lines, sewer manholes, sewer lateral tees or ties, lateral lengths, and lengths and locations of all public utility crossings, conduits, and/or stubs. These records are to be certified as correct by a Utah licensed Surveyor or Engineer and shall be in accordance with Park City and S.B.S.I.D. requirements. Failure by the Contractor to perform this necessary record keeping may result in additional surveying and exploration by the Contractor and its surveyor to fulfill obligations to appropriate government agencies. The cost of this additional work will be born by the Contractor at no additional cost to the Owner.

Incentive for Completion/Liquidated Damages: If the work, or any part thereof, is not completed within the time agreed upon in this Contract or any revisions thereof, the Contractor shall be liable to the Owner in the amount as outlined in the General Conditions. The Owner shall have the right to deduct from and retain out of the monies which may be then due or which may become due and payable to the Contractor, the amount of such liquidated damages; and if the amount so retained by the Owner is insufficient to pay in full such liquidated damages, the Contractor shall pay to the Owner the amount necessary to effect payment in full of such liquidated damages.

Seasonal Shutdown: No seasonal shut down is anticipated.

Time of Completion: All work associated with this Contract shall be completed per the schedule of completion dates within Section 7 of the Contract Agreement.

Calendar Days and Time Extension: Calendar days are defined in the General Conditions. Extension of time will be handled as defined in the General Conditions.

Workweek and Construction Schedule: A detailed construction schedule is required, along with a list of equipment and anticipated manpower. Please submit this schedule and list along with the bid package. Any bids received without this schedule will have cause for rejection.

Concrete: All concrete must be completely poured into its forms no later than ninety (90) minutes from the time water was first added to the mix. Any concrete not meeting these requirements will be rejected.

Water Pipe Joint Deflection: As per requirement from the Project Manager, water pipe joints will not be pulled. Installation of bends shall be required when necessary to

maintain design alignment, unless otherwise specifically approved by the Project Manager.

Limits of Operation: The Contractor shall limit operations for sidewalk and landscape construction to within the road rights-of-way and construction easements as designated on the plans. The Contractor shall limit paving improvement operations to the limits of existing pavement of roads as shown on the location map. The Contractor shall limit cart path construction operations to a 12-foot strip centered about the new or existing cart path under construction as shown on the location map. If the Contractor fails to limit his operations as described above and thus, damages or disturbs areas outside of the construction limits, the Contractor shall be responsible for mitigation of damages to such areas at the Contractors expense. The mitigation plan will be determined by Park City Municipal Corporation and shall be binding on the Contractor and will be non-negotiable.

Maintenance of Traffic: Do not close roadways without approval from Park City Municipal Corporation. Notify Park City Municipal Corporation a minimum of twenty (24) hours in advance of proposed road closure. Provide and maintain required signs in accordance with Park City regulations for road closure.

Hours of Operation: No construction shall commence prior to 7:00 a.m. No new construction shall commence after 6:00 p.m. to allow all operations to be completed for the day by 7:00 p.m. Construction activities must be sensitive to the resort nature of Park City and have appropriate detour signage and advance notification of areas affected to facilitate non-intrusive activities. Prior notice must be given and approval obtained from Kenzie Coulson, Project Manager, prior to initiating work on these streets.

The Contractor accepts the above General Conditions of the Contract and agrees to complete the Work within the time indicated.

\_\_\_\_\_  
Contractor's Name

\_\_\_\_\_  
By Title