

**NEIGHBORHOOD STABILIZATION PROGRAM GENERAL CONDITIONS
INDEX**

<u>SECTION NAME</u>	<u>SECTION NO.</u>
<u>20.1</u> <u>DEFINITIONS:</u>	1
<u>20.2</u> <u>GIVING OF NOTICE</u>	4
<u>20.3</u> <u>NOTICE TO PROCEED, PRECONSTRUCTION CONFERENCE AND WORK HOURS:</u>	5
<u>20.4</u> <u>PROJECT SUMMARY AND SCHEDULING</u>	5
<u>20.5</u> <u>TIME OF COMPLETION</u>	6
<u>20.6</u> <u>DEVELOPERS AND NSP MANAGER'S RIGHT TO SUSPEND WORK</u>	8
<u>20.7</u> <u>EXTENSION OF TIME FOR UNFORESEEABLE CAUSES</u>	8
<u>20.8</u> <u>GENERAL CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE</u>	9
<u>20.9</u> <u>DEVELOPER'S RIGHT TO EXPEDITE WORK OR TERMINATE CONTRACT</u>	9
<u>20.10</u> <u>CORRELATION, INTERPRETATION AND INTENT OF BID AND CONTRACT</u> <u>DOCUMENTS:</u>	10
<u>20.11</u> <u>COPIES OF DOCUMENTS, RECORD DOCUMENTS</u>	11
<u>20.12</u> <u>ASSIGNMENT, SUBLETTING OR SUBCONTRACTING</u>	12
<u>20.13</u> <u>MATERIALS AND WORKMANSHIP</u>	12
<u>20.14</u> <u>SUBSTITUTIONS</u>	13
<u>20.15</u> <u>ROYALTIES AND PATENTS</u>	13
<u>20.16</u> <u>COMPLIANCE WITH LAWS AND PERMITS</u>	14
<u>20.17</u> <u>GENERAL CONTRACTOR'S NON-DISCRIMINATION POLICY</u>	15
<u>20.18</u> <u>FEDERAL EMPLOYMENT REQUIREMENTS</u>	15
<u>20.19</u> <u>FEDERAL WAGE RATES</u>	18
<u>20.20</u> <u>AVAILABILITY OF LANDS: SURVEYS AND CONDITIONS AT THE SITE</u>	19
<u>20.21</u> <u>UTILITIES AND OTHER OBSTRUCTIONS</u>	20
<u>20.22</u> <u>PROTECTION OF LIFE AND PROPERTY</u>	20
<u>20.23</u> <u>USE OF JOB SITE</u>	21
<u>20.24</u> <u>NSP'S NSP CONSTRUCTION MANAGER'S STATUS DURING CONSTRUCTION</u>	21
<u>20.25</u> <u>SHOP DRAWINGS "If required in Scope of Work"</u>	22
<u>20.26</u> <u>SAMPLES</u>	23
<u>20.27</u> <u>TESTS AND INSPECTIONS</u>	24
<u>20.28</u> <u>GENERAL CONTRACTOR'S SUPERVISION</u>	25
<u>20.29</u> <u>SAFETY, PROTECTION AND EMERGENCIES</u>	26
<u>20.30</u> <u>ACCESS TO THE WORK, UNCOVERING FINISHED WORK, USE OF NEW WORK</u>	28
<u>20.31</u> <u>CHANGES</u>	28
<u>20.32</u> <u>UNAUTHORIZED WORK</u>	31
<u>20.33</u> <u>WARRANTY AND GUARANTEE</u>	31
<u>20.34</u> <u>CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK</u>	32
<u>20.35</u> <u>PROGRESS PAYMENTS</u>	32
<u>20.36</u> <u>APPROVAL OF PAYMENTS</u>	33
<u>20.37</u> <u>FINAL PAYMENT</u>	33
<u>20.38</u> <u>LIENS AND CLAIMS:</u>	34
<u>20.39</u> <u>INDEMNIFICATION:</u>	35
<u>20.40</u> <u>INSURANCE:</u>	36
<u>20.41</u> <u>CLEANING UP AND RESTORATION:</u>	38
<u>20.42</u> <u>DRAINAGE ALONG RIGHTS-OF-WAY:</u>	38
<u>20.43</u> <u>TRAFFIC INTERFERENCE:</u>	39
<u>20.44</u> <u>MISCELLANEOUS:</u>	39

<u>20.45</u>	<u>UTILITIES AND SANITARY PROVISIONS:</u>	40
<u>20.46</u>	<u>REFERENCED SPECIFICATION AND CONFLICTS:</u>	40
<u>20.47</u>	<u>INTERPRETATION OF APPROXIMATE QUANTITIES:</u>	40
<u>20.48</u>	<u>QUALIFICATIONS OF GENERAL CONTRACTOR'S PERFORMING WORK ON</u> <u>CONSTRUCTION OF BUILDINGS AND/OR STRUCTURES:</u>	41
<u>20.49</u>	<u>QUALIFICATIONS OF GENERAL CONTRACTOR'S AND CRAFTSMEN PERFORMING</u> <u>WORK IN CERTAIN SPECIALTY TRADES:</u>	41
<u>20.50</u>	<u>STATE AND FEDERAL REGULATIONS:</u>	41
<u>20.51</u>	<u>CERTIFICATION OF CHEMICALS:</u>	41
<u>20.52</u>	<u>TREE PROTECTION ON PUBLICLY-OWNED OR CONTROLLED PROPERTY</u>	41
<u>20.53</u>	<u>CONSTRUCTION AND DEMOLITION DEBRIS</u>	43
<u>20.54</u>	<u>PRECEDENCE OF DOCUMENTS:</u>	43
<u>20.55</u>	<u>PREVENTION, CONTROL AND ABATEMENT OF EROSION AND WATER</u> <u>POLLUTION</u>	44
<u>20.56</u>	<u>RESIDENT NOTIFICATION AND TOWN MEETINGS</u>	44
<u>20.57</u>	<u>GENERAL CONTRACTOR'S REPORTS</u>	45
<u>20.58</u>	<u>REQUEST FOR INFORMATION FORMS</u>	45
<u>20.59</u>	<u>DUST CONTROL</u>	45
<u>20.60</u>	<u>PROMPT PAYMENT TO SUB-CONTRACTOR'S AND SUPPLIERS:</u>	45

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GENERAL CONDITIONS FOR NSP
(June 2009)

20.1 DEFINITIONS:

The following terms as used in the Bid and Contract Documents are defined as follows:

- 20.1.1 Addenda: Written or graphic instruments issued prior to receipt of bids which modify or interpret the Bid and Contract Documents by additions, deletions, clarifications and/or corrections.
- 20.1.2 Application for Payment: The form furnished by the DEVELOPER which is used by the GENERAL CONTRACTOR in requesting progress payments.
- 20.1.3 Bid: The Proposal of the Bidder submitted on the prescribed Contract Proposal form setting forth the prices for the Work to be performed.
- 20.1.4 Bid and Contract Documents: That body of documents including but not limited to The Invitation to Bid, Instruction to Bidders, Bid Proposals, Bid Proposal Forms, Bid Proposal Worksheet, The Technical Specifications, The Contract Between the DEVELOPER and GENERAL CONTRACTOR, Affidavit for Final Payment, Improvements in Progress, Request for Information, Waiver and Release of lien, Change Order Form, Transmittal Form, Final Inspection Report and any other documents as may be required now or in the future by the Neighborhood Stabilization Program.
- 20.1.5 Bidder: Any person, firm or corporation that is authorized by the CITY'S Neighborhood Stabilization Program to submit a Bid for the Work.
- 20.1.6 Change Order: A written amendment to the Contract signed by the GENERAL CONTRACTOR and DEVELOPER, and authorized under the CITY'S NSP process, authorizing revision to the Work within the scope of the Bid and Contract Documents and authorizing adjustment to Contract price and/or contract time, if any, issued after execution of the Contract Agreement.
- 20.1.7 CITY: The City of Jacksonville, a Florida municipal corporation.
- 20.1.8 Contract Agreement: That written agreement between the DEVELOPER and the GENERAL CONTRACTOR covering the Work to be performed on the Project.
- 20.1.9 GENERAL CONTRACTOR: That entity which was selected through the CITY's RFP process to provide the services of a contractor to the DEVELOPER(S) and with whom the DEVELOPER has executed a contract for construction related services. GENERAL CONTRACTOR usually refers to the GENERAL CONTRACTOR on a specific Project and specifically refers to the GENERAL CONTRACTOR performing duties and Work as outlined herein.
- 20.1.10 Contract Time: The number of consecutive calendar days or the period of time stated in the Bid and Contract Documents for the completion of the Work.
- 20.1.11 Council: The City Council of the CITY.
- 20.1.12 Days: Except where otherwise specifically provided in the Bid and Contract Documents, calendar days including Saturdays, Sundays and Holidays.
- 20.1.13 Delay: This shall mean delay, disruption or hindrance.

- 20.1.14 DEVELOPER: That entity or individual which was selected through the CITY's RFP process to provide the services of a DEVELOPER as defined by the CITY'S Neighborhood Stabilization Program.
- 20.1.15 Drawings, Plans: Drawings provided by the GENERAL CONTRACTOR showing the character and scope of the Work to be performed, and may be referred to in the Bid and Contract Documents. The term "Plans" shall also mean drawings.
- 20.1.16 Field Modification: A modification issued by the GENERAL CONTRACTOR through the DEVELOPER, and as approved through the CITY's NSP process, which clarifies or interprets the Bid and Contract Documents where no adjustment in Contract time or Contract price is involved, and which does not otherwise trigger the need for a Change Order.
- 20.1.17 Final Completion: The Work (or a specified part thereof) has progressed to the point where, in the opinion of the DEVELOPER and the CITY (according to the CITY's NSP process), it is sufficiently complete in accordance with the scope of Work as intended for the Project, so that the Work can be utilized for the purposes for which it is intended such that final payment can be made in accordance with paragraph 20.37. As to any Final Completion where DEVELOPER requests final payment, and as a condition precedent to the CITY disbursing any final payment, DEVELOPER will provide a copy of a Certificate of Occupancy ("CO") issued by the jurisdictional entity (if a CO is legally required for the work) or final sign-off by the NSP MANAGER (*only* when a CO is not legally required for the work) to the NSP CONSTRUCTION MANAGER.
- 20.1.18 Final Payment: Final Payment is considered to be any payment which includes a reduction in the ten percent (10%) retainage when the Project is 100% complete. See section 20.1.17 where a CO or final sign off by the NSP CONSTRUCTION MANAGER is a condition precedent to the CITY disbursing any Final Payment.
- 20.1.19 Inspector: The authorized representative of the NSP CONSTRUCTION MANAGER assigned to inspect any of the materials and Workmanship of the GENERAL CONTRACTOR to ensure compliance with the requirements of the Bid and Contract Documents and/or requirements of the Neighborhood Stabilization Program.
- 20.1.20 Modification: (1) A written amendment (Titled Modification to the Bid and Contract Documents, which is time and cost neutral) signed by the DEVELOPER and NSP CONSTRUCTION MANAGER; (2) A Change Order signed by pertinent parties as outlined within this document; (3) A written clarification or interpretation issued by the DEVELOPER and approved by the CITY pursuant to its NSP process; or (4) A Field Modification which is signed by the CONSTRUCTION MANAGER or DEVELOPER that allows a minor change in the Work and does not involve adjustments in the contract sum or contract time. A Modification may be issued only after execution of the Contract Agreements.
- 20.1.21 Neighborhood Stabilization Program; or NSP: The overall program characterized as the general Work efforts associated with this scope of services. It also encompasses all coinciding information as provided by the CITY'S NSP Substantial Amendment Dated December 19, 2008 (v8) or as otherwise defined by the CITY (through its Housing and Neighborhoods Department).
- 20.1.22 NSP CONSTRUCTION MANAGER: The appointed designee, agents or entity assigned to particular Construction Management duties through the Neighborhood

Stabilization Program Request for Proposal. For purposes of this document, NSP CONSTRUCTION MANAGER shall mean Montgomery Land Company.

- 20.1.23 NSP Manager: That individual appointed by the CITY to manage the NSP Program for the CITY.
- 20.1.24 Owner: Except where context implies otherwise, the DEVELOPER, including any of its departments, designated agencies, employees or independent authorities.
- 20.1.25 Project: The entire construction Project to be performed as provided in the Bid and Contract Documents.
- 20.1.26 PROJECT MANAGEMENT FIRM(S): The authorized firm or firms and designated representative(s) retained by the DEVELOPER to perform duties as defined for all aspects of the management and oversight of planning, programming, design, and construction of the Projects.
- 20.1.27 Punch List: Before requesting a Substantial Completion inspection, the GENERAL CONTRACTOR will complete a Punch List comprised of all items to be completed and corrected, the value of items on the list, and why the Work is not completed. The GENERAL CONTRACTOR is required to advise DEVELOPER of any pending insurance changeover requirements. GENERAL CONTRACTOR will provide DEVELOPER with a submittal of specific warranties, maintenance service agreements, releases regarding restrictive use of the Work, occupancy permits, operating certificates, and similar releases. All record Drawings, operation manuals, property surveys, and similar record information will be included in said submittal. All required testing of systems will be concluded. Temporary facilities and controls will be removed. Final cleaning requirements, including touch-up painting, repair and restoration of any marred, exposed finishes that create a visual defect, shall be completed.
- 20.1.28 Shop Drawings: All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the GENERAL CONTRACTOR, a SUB-CONTRACTOR, Shop fabricator, Manufacturer, Supplier, or Distributor and which illustrate the equipment, material or some portion of the Work.
- 20.1.29 SUB-CONTRACTOR: That entity or individual which was selected through the CITY RFP process to provide the services of a Sub-Contractor to the GENERAL CONTRACTOR or to any other SUB-CONTRACTOR for the performance of any part of the GENERAL CONTRACTOR'S obligations hereunder at the site of Work.
- 20.1.30 Substantial Completion: The pre-final inspection certificate showing that GENERAL CONTRACTOR has achieved substantial completion of the Work. Prior to request for a Substantial Completion inspection, the GENERAL CONTRACTOR will submit a written request for inspection for Substantial Completion. Upon receipt of request, the DEVELOPER and NSP CONSTRUCTION MANAGER will proceed with inspection and advise GENERAL CONTRACTOR of unfulfilled requirements. NSP CONSTRUCTION MANAGER is responsible for the preparation of the Certificate of Substantial Completion after inspection and will advise GENERAL CONTRACTOR of items that must be completed or corrected before a certificate will be issued.
- 20.1.31 Technical Specifications: Those specifications as prepared by the CONSTRUCTION MANAGER which pertain to the NSP requirements and Work conducted at the Project.
- 20.1.32 Work: Workmanship, materials and equipment necessary to this Contract, and any and

all obligations, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by the GENERAL CONTRACTOR under the Contract Agreement, including the furnishing of all labor, materials, equipment and other incidentals.

20.2 GIVING OF NOTICE

- 20.2.1 Unless otherwise specified herein, any notice required under the Bid and Contract Documents shall be deemed given if deposited in the United States Mail, first class postage prepaid, addressed as follows:

If notice to the NSP CONSTRUCTION MANAGER:

Maurice M. Rudolph, P.E.
Senior Vice President
Montgomery Land Company
13400 Sutton Park Drive South, Suite 1402
Jacksonville, Florida 32224
Office (904) 683-0207

With CC to Mr. Marcus Meide and Mr. Bob Pittman
Montgomery Land Company
13400 Sutton Park Drive South, Suite 1402
Jacksonville, Florida 32224
Office (904) 683-0207

If notice to the DEVELOPER:

The DEVELOPER'S name and address
as shown in its Proposal, or its latest
given address.

The above addresses may be changed by written notification to the other parties shown above.

- 20.2.2 Notice may also be given by hand delivery at the above addresses or to the authorized representative of the above-named parties at the Work site and, if requested, a receipt will be given by the addressee.
- 20.2.3 All correspondence and/or drawings, pertinent to the Work covered by these specifications shall bear the following information: NSP Project Bid No., Project address, GENERAL CONTRACTOR'S ID number, Date, Preparer's Phone Number and Address.
- 20.2.4 Should the DEVELOPER, the CITY or its agents or its consultants suffer injury or damage to its person or property because of any error, omission or act of the GENERAL CONTRACTOR (including SUB-CONTRACTOR'S, vendors or others for whose acts the GENERAL CONTRACTOR may be liable) claim shall be made in writing to the GENERAL CONTRACTOR within a reasonable time of the first observance of such injury or damage.
- 20.2.5 Whenever any provision of the Bid and 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 or sent by registered or certified mail, postage prepaid, to the last business address known to whomever gives the notice.

20.3 NOTICE TO PROCEED, PRECONSTRUCTION CONFERENCE AND WORK HOURS:

- 20.3.1 The GENERAL CONTRACTOR shall begin Work within ten (10) days after date of written Notice to Proceed, such notice being prepared and forwarded through the mail or otherwise by the DEVELOPER to the GENERAL CONTRACTOR. No Work shall be done prior to the date of issuance of the Notice to Proceed; it being understood any Work performed before the Notice to Proceed shall not be reimbursable under the NSP, and may (in the CITY'S discretion) render the entire Project ineligible for the NSP. The DEVELOPER shall not be liable for any damages or expenses incurred by the GENERAL CONTRACTOR for any Work performed or purchases made prior to the commencement date in the Notice to Proceed.
- 20.3.2 The Contract Time shall commence not later than the eleventh (11th) day after issuance of Notice to Proceed.
- 20.3.3 Before starting the Work, a "Preconstruction Conference" will be held with the DEVELOPER, NSP CONSTRUCTION MANAGER, and GENERAL CONTRACTOR to review and determine the methods of scheduling and progress reporting of the Project, establish procedures for handling Shop Drawings and other submissions and for processing Applications for Payment, and to establish a working understanding of the NSP procedures among the parties as to NSP CONSTRUCTION MANAGER, DEVELOPER, the GENERAL CONTRACTOR, and the GENERAL CONTRACTOR'S Superintendent.

20.4 PROJECT SUMMARY AND SCHEDULING

- 20.4.1 In addition to procedures outlined in the Technical Specifications, Part 1.1, all scheduling and progress reporting of the Project shall be accomplished as directed by the NSP CONSTRUCTION MANAGER. The GENERAL CONTRACTOR shall provide documents to the DEVELOPER and the NSP CONSTRUCTION MANAGER by a line item summary or similar documentation approved by the DEVELOPER and NSP CONSTRUCTION MANAGER.
- 20.4.2 As directed by the NSP CONSTRUCTION MANAGER, and as outlined in the Technical Specifications, the GENERAL CONTRACTOR shall, at the Preconstruction Conference, submit to the DEVELOPER and NSP CONSTRUCTION MANAGER copies of Project documents covering operations, scope of Work and schedules. After approval by the DEVELOPER and NSP CONSTRUCTION MANAGER the Project documents will be used as a basis for review of Work and progress reports.
- 20.4.3 A reproducible copy of the approved Project summary shall be transmitted to the NSP CONSTRUCTION MANAGER within five (5) days after Notice to Proceed and shall include the cumulative number of calendar days to complete the Project.
- 20.4.4 Progress Chart shall include the following: A time scale, with a listing of the various Work activities required in the construction contract, including but not limited to mobilization, clearing and grubbing, line Work, paving, fencing, planting, sodding, demobilization, etc. Projected construction time shall be listed for each activity. As construction progresses, GENERAL CONTRACTOR shall indicate progress made on each activity and show percentage of completion.
- 20.4.5 Each month, the GENERAL CONTRACTOR shall report current Project status to the

DEVELOPER and NSP CONSTRUCTION MANAGER by submitting a written report detailing current progress measured against the original schedule. Should the Project time for completion be less than one month, the GENERAL CONTRACTOR shall report at the mid point of the estimated schedule.

- 20.4.6 When major changes in the Contract or in the order of Work are required (such as a Change Order), the Project summary shall be revised and four (4) reproducible copies shall be submitted to the DEVELOPER and NSP CONSTRUCTION MANAGER for approval.
- 20.4.7 If in the opinion of the DEVELOPER or NSP CONSTRUCTION MANAGER the GENERAL CONTRACTOR falls behind in scheduled progress, as indicated by the monthly submitted Project summary, such that the Work in place is more than 20% behind schedule, the GENERAL CONTRACTOR shall take whatever steps are required to improve its progress and shall submit its revised Project schedule and submit a synopsis to demonstrate the manner in which the lost progress will be regained, all without any time loss or additional cost to the DEVELOPER or Project.
- 20.4.8 Lack of satisfactory progress, as adjudged by the DEVELOPER, NSP CONSTRUCTION MANAGER, and NSP MANAGER, shall be considered grounds for the withholding of payment (in addition to any other remedy allowed at law or equity) until adequate progress, as determined by the DEVELOPER, is demonstrated, with due consideration of the GENERAL CONTRACTOR'S current Project summary, and the Contract Final Completion date.
- 20.4.9 Adequate progress is defined as that level of GENERAL CONTRACTOR effort necessary to put the Project back on schedule such that it will be ready for beneficial occupancy by the designated Final completion date, or in the absence of such date, by the date of Final Acceptance.

20.5 TIME OF COMPLETION

- 20.5.1 When GENERAL CONTRACTOR considers the entire Project ready for its intended use, GENERAL CONTRACTOR shall notify DEVELOPER and NSP CONSTRUCTION MANAGER in writing that the entire Project is complete and request that a Final Inspection be conducted and that a Certificate of Completion be issued. Prior to such request, GENERAL CONTRACTOR shall have received a Certificate of Substantial Completion. The GENERAL CONTRACTOR will include with this notification a detailed list of any items which are not complete. Within a reasonable time thereafter, GENERAL CONTRACTOR, DEVELOPER and NSP CONSTRUCTION MANAGER shall make an inspection of the Work to determine the status of completion. If the DEVELOPER or NSP CONSTRUCTION MANAGER does not consider the Work complete, the DEVELOPER will notify the GENERAL CONTRACTOR in writing giving the reasons therefore. If the DEVELOPER and NSP CONSTRUCTION MANAGER consider the Work complete, the DEVELOPER will execute a Certificate of Completion which shall fix the date thereof. There shall be attached to the certificate a list of items, if any, to be completed or corrected before final payment. See section 20.1.17 for the requirement of a Certificate of Occupancy or the NSP Manager's sign-off prior to any request for Final Payment.
- 20.5.2 The DEVELOPER shall have the right to exclude the GENERAL CONTRACTOR from the Work after the date of Final Completion, but the DEVELOPER shall allow the GENERAL CONTRACTOR reasonable access to complete or correct items on the list

to be completed.

- 20.5.3 It is agreed that the rate of progress herein required to meet the Contract time allotted has been purposely made low enough to allow for the ordinary delays incidental to construction Work of this character. No extension of time will be made for ordinary delays, inclement weather, and accidents and the occurrence of such will not relieve the GENERAL CONTRACTOR from the necessity of maintaining this rate of progress. If delays are caused by acts of God, acts of Government, strikes, extra Work, or other contingencies clearly beyond the control or responsibility of the GENERAL CONTRACTOR, the GENERAL CONTRACTOR shall be entitled to equal additional time to perform and complete this Contract. For additional time to be granted, NSP CONSTRUCTION MANAGER will determine if the GENERAL CONTRACTOR'S request is justified and will submit to the DEVELOPER for final approval. The GENERAL CONTRACTOR will not be entitled to any additional compensation for the excusable delays noted above.
- 20.5.4 The Work shall be conducted in such a manner and with sufficient labor, materials, tools and equipment necessary to affect a diligent pursuit of the Work through Final Completion. If, in the opinion of the DEVELOPER or NSP CONSTRUCTION MANAGER, the GENERAL CONTRACTOR fails to carry out the Work in such manner, then the DEVELOPER shall have the right to take charge of the Work and provide labor, materials and equipment necessary to complete the Work and charge the cost of all such Work against the GENERAL CONTRACTOR. Payments to the GENERAL CONTRACTOR for Work performed may be withheld until said costs are reimbursed to the DEVELOPER.
- 20.5.5 The GENERAL CONTRACTOR shall pay to the DEVELOPER any actual damages as well as the cost of inspection beyond the specified time for Final Completion including any extension of time granted by the DEVELOPER, such inspection cost comprised of payroll cost (direct labor plus fringe benefits) and incidental expense related to such inspection. Nothing in these Bid and Contract Documents shall be construed as precluding the DEVELOPER from recovering from the GENERAL CONTRACTOR any and all actual expenses, costs and damages incurred by the DEVELOPER as a result of the GENERAL CONTRACTOR'S failure to complete the Work by the completion date provided by the Bid and Contract Documents. The GENERAL CONTRACTOR will have 30 calendar days to complete all Work once the list of uncompleted items from the Final Completion inspection is sent to the GENERAL CONTRACTOR.
- 20.5.6 When, in the opinion of the NSP CONSTRUCTION MANAGER, a GENERAL CONTRACTOR is more than sixty (60) days behind schedule on any Project, the NSP CONSTRUCTION MANAGER may ask the NSP MANAGER to commence proceedings to remove the GENERAL CONTRACTOR from the NSP bidder's list for the specific Project, other pending Projects, and/or future Projects under the NSP. The GENERAL CONTRACTOR shall be provided written notice by the CITY and thereafter may receive a hearing as to the proposed debarment.

20.6 DEVELOPER'S AND NSP CONSTRUCTION MANAGER'S RIGHT TO SUSPEND WORK

- 20.6.1 If the Work is defective, or the GENERAL CONTRACTOR fails to supply sufficient skilled Workers or suitable materials or equipment, or if the GENERAL CONTRACTOR fails to make prompt payments to SUB-CONTRACTOR'S or suppliers for labor, materials or equipment, the NSP CONSTRUCTION MANAGER may request the DEVELOPER to order the GENERAL CONTRACTOR to stop the Work, or any portion

thereof, until the cause for such order has been eliminated. Any delay or other costs associated with the stoppage will be solely the responsibility of the GENERAL CONTRACTOR'S account and shall be paid promptly as provided herein.

- 20.6.2 The DEVELOPER and/or NSP CONSTRUCTION MANAGER may, at any time and with or without cause as described herein, suspend the Work or any portion thereof by notice in writing to the GENERAL CONTRACTOR.

20.7 EXTENSION OF TIME FOR UNFORESEEABLE CAUSES

- 20.7.1 The GENERAL CONTRACTOR shall not be entitled to any extension of time for completion of the Work as herein specified unless the GENERAL CONTRACTOR, within five (5) days from the beginning of any delay (delay shall be meant to include delay, disruption, or hindrance), notifies the DEVELOPER and NSP CONSTRUCTION MANAGER in writing of such delay and the cause thereof and NSP CONSTRUCTION MANAGER and the DEVELOPER shall determine:

20.7.1.1 That such delay arises from unforeseeable causes beyond the control and without the fault or negligence of the GENERAL CONTRACTOR, including but not restricted to, acts of God; acts of public enemy; acts of the Government in either its sovereign or contractual capacity; acts or omissions of the DEVELOPER, its agents or employees; acts of another GENERAL CONTRACTOR in the performance of a contract with the DEVELOPER; fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather; or delays of SUB-CONTRACTOR'S or suppliers arising from such unforeseeable causes beyond the control and without the fault or negligence of both the GENERAL CONTRACTOR and its SUB-CONTRACTOR'S or suppliers. Float time in the GENERAL CONTRACTOR'S schedule shall be exhausted before any time extension will be approved.

20.7.1.2 That the Work cannot be completed by the GENERAL CONTRACTOR within the time specified solely by reason of such causes.

- 20.7.2 No extension of time shall be granted for material delays or deliveries except in the case of national emergency or documented labor strikes.

- 20.7.3 The DEVELOPER and NSP CONSTRUCTION MANAGER shall make a determination as soon as practicable after the GENERAL CONTRACTOR'S written notice is received and shall decide the amount of additional time, if any, for completion of the Work which conditions justify.

- 20.7.4 NO DAMAGES FOR DELAY; ACKNOWLEDGEMENT BY GENERAL CONTRACTOR:

The GENERAL CONTRACTOR hereby waives, and shall not present nor recover on any claim from the CITY and its agents, based on any formula(s), hypothetical or statistical methodologies used in damage computation.

GENERAL CONTRACTOR hereby waives, and shall not present nor recover, any claim for damages or any other claim other than for an extension of time shall made or asserted against the DEVELOPER, NSP CONSTRUCTION MANAGER, CITY or its AGENTS by reason of any delay, disruption, interference or hindrance. The GENERAL CONTRACTOR shall not be entitled to any increase in the Contract Sum or payment or compensation of any kind from the DEVELOPER or CITY for direct, indirect, consequential, impact or other damages, including but not limited to costs of

acceleration and inefficiency, arising due to delay, disruption or hindrance or interference from any cause whatsoever. GENERAL CONTRACTOR'S sole remedy for delay, disruption, and interference damages shall be an equitable time extension, provided that a logical time impact analysis has been provided to the DEVELOPER and NSP CONSTRUCTION MANAGER so they may determine if any time extension is justified.

Where the entire Project has been suspended by active interference or fraud by the DEVELOPER; and the GENERAL CONTRACTOR is required to standby and is otherwise unable, under any circumstances, to obtain replacement Work, the DEVELOPER will equitably adjust the Contract, provided that the time impact analysis and the substantiation presented to the DEVELOPER for any Project costs shall be by discreet accounting methods and no formulas, means or hypothetical computations shall be considered as the basis for any claim or damages.

Notwithstanding the foregoing, nothing in these General Conditions shall be deemed a waiver of the CITY's sovereign immunity, and nothing herein shall be deemed to create any privity of contract with the CITY unless the CITY signs the applicable document as a party thereto.

20.8 GENERAL CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE

- 20.8.1 If, through no act or fault of the GENERAL CONTRACTOR, the Work is suspended for a period of more than ninety (90) days by the DEVELOPER or under an order of court or other public authority, or the DEVELOPER fails to pay the GENERAL CONTRACTOR any sum approved by the DEVELOPER or awarded by arbitrators, if any, within thirty (30) days of its approval and presentation, then the GENERAL CONTRACTOR may, upon seven (7) days' written notice to the DEVELOPER, terminate the Contract Agreement and recover from the DEVELOPER payment for all Work executed and any expense sustained plus a reasonable profit for the Work performed. In addition and in lieu of terminating the Contract Agreement, if the DEVELOPER has failed to make any payment as aforesaid, the GENERAL CONTRACTOR may upon seven (7) days' written notice to the DEVELOPER and the NSP CONSTRUCTION MANAGER stop the Work until it has been paid all amounts then due.

20.9 DEVELOPER'S RIGHT TO EXPEDITE WORK OR TERMINATE CONTRACT

- 20.9.1 If the GENERAL CONTRACTOR is adjudged bankrupt or insolvent, or if it makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the GENERAL CONTRACTOR or for any of its property, or if it files a petition to take advantage of any debtors' act, or to reorganize under the bankruptcy or similar laws, or if it repeatedly fails to make prompt payments to SUB-CONTRACTOR'S or Suppliers for labor, materials, services or equipment or if it disregards laws, rules, regulations or orders of the NSP, any public body having jurisdiction, or if it disregards the authority of the DEVELOPER, or should the GENERAL CONTRACTOR any time refuse, neglect or fail to supply a sufficient number of properly skilled Workmen with sufficient equipment or materials of the proper quality, or prosecute the Work with diligence and in accordance with approved schedules, or fail in the performance of any of the covenants herein contained, such refusal, neglect or failure being verified by NSP CONSTRUCTION MANAGER the

DEVELOPER may, after seven (7) days' written notice to the GENERAL CONTRACTOR, provide any such labor, equipment or materials and deduct the cost thereof from any money then due or thereafter to become due to the GENERAL CONTRACTOR under the Contract between GENERAL CONTRACTOR and DEVELOPER.

- 20.9.2 Alternatively, the DEVELOPER may, after ten (10) days' written notice to the GENERAL CONTRACTOR, terminate the employment of the GENERAL CONTRACTOR for said Work, and enter upon the premises and take possession of all materials, tools and equipment thereon and finish or contract with others to finish the Work. The GENERAL CONTRACTOR shall not be entitled to rental or other compensation for the use of its construction tools and equipment, but shall only be entitled to the return thereof in the condition existing when possession was taken, ordinary wear and tear excepted.
- 20.9.3 In case of such discontinuance of the employment of the GENERAL CONTRACTOR, the GENERAL CONTRACTOR shall not be entitled to receive any further payment under the Contract until the said Work shall be wholly finished, at which time, if the unpaid balance of the amount to be paid under the Contract shall exceed the expenses incurred by the DEVELOPER in finishing the Work, such excess shall be paid by the DEVELOPER to the GENERAL CONTRACTOR, but if such expenses shall exceed the unpaid balance, the GENERAL CONTRACTOR shall pay the difference from money then due or thereafter to become due to the GENERAL CONTRACTOR under the Contract.
- 20.9.4 The remedies of the DEVELOPER under this Paragraph are exclusive of and in addition to any others contained in the Bid and Contract Documents or provided by law. Any retention or payment of monies by the DEVELOPER due the GENERAL CONTRACTOR will not release the GENERAL CONTRACTOR from liability. In no event shall the CITY or its agents be deemed or held liable for disputes between the DEVELOPER and the GENERAL CONTRACTOR.

20.10 CORRELATION, INTERPRETATION AND INTENT OF BID AND CONTRACT DOCUMENTS:

- 20.10.1 The intent of the Bid and Contract Documents is to include in the Contract Price the cost of all labor and materials, taxes, water, fuel, tools, plant, equipment, light, utilities, transportation and all other costs and expenses as may be necessary for the proper execution of the Work.
- 20.10.2 The Bid and Contract Documents comprise the entire agreement between the DEVELOPER and the GENERAL CONTRACTOR and may be altered only by a written Modification signed by each party to the Contract and reviewed and approved by the NSP CONSTRUCTION MANAGER.
- 20.10.3 The Bid and Contract Documents are complementary; what is called for by one is binding as if called for by all. If the GENERAL CONTRACTOR finds a conflict, error or discrepancy in the Bid and Contract Documents, the GENERAL CONTRACTOR shall call it to the DEVELOPER'S attention in writing before proceeding with the Work affected thereby.
- 20.10.4 Figure dimensions on Drawings, if any, shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings. Any Work that may reasonably

be inferred from the Bid and Contract Documents as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. The GENERAL CONTRACTOR assumes full responsibility for having familiarized itself with the nature and extent of the Bid and Contract Documents, Work, locality, and local conditions that may in any manner affect the Work to be done.

- 20.10.5 Existing dimensions and clearances shall be verified by the GENERAL CONTRACTOR before laying out the Work. Any discrepancies shall be immediately forwarded to the DEVELOPER and NSP CONSTRUCTION MANAGER for resolution.
- 20.10.6 Any Addenda issued by the NSP CONSTRUCTION MANAGER prior to the opening of the bids for the purposes of changing the intent of the Bid and Contract Documents or clarifying the meaning thereof shall be binding in the same way as if written therein.
- 20.10.7 The Table of Contents for the Bid and Contract Documents, or any division thereof, is included for convenience only. It does not form a part of the Contract Agreement, nor does it show the scope or disposition of the Work.
- 20.10.8 Neither the CITY nor its agents or consultants will assume any responsibility for any bidding errors and/or omissions including, but not limited to, those caused by failure of the GENERAL CONTRACTOR or any of its SUB-CONTRACTOR'S to inspect and familiarize themselves with the complete set of Bid and Contract Documents.
- 20.10.9 The GENERAL CONTRACTOR shall be liable to the DEVELOPER for damage resulting from errors, inconsistencies, or omissions in the Bid and Contract Documents. If the GENERAL CONTRACTOR performs any construction activity knowing it involves a recognized error, inconsistency, or omission in the Bid and Contract Documents, the GENERAL CONTRACTOR shall correct all such errors, inconsistencies, or omissions at its own expense and at no cost to the Project, the CITY or the DEVELOPER. No such corrective action shall be undertaken without prior notification of the DEVELOPER and NSP CONSTRUCTION MANAGER.

20.11 COPIES OF DOCUMENTS, RECORD DOCUMENTS

- 20.11.1 At the request of the GENERAL CONTRACTOR, the DEVELOPER will furnish to the GENERAL CONTRACTOR up to two (2) copies of the Bid and Contract Documents (including Plans, Specifications and Addenda, if any) at no cost, and as reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.
- 20.11.2 The GENERAL CONTRACTOR shall keep one record copy of all Specifications, Drawings, Addenda, 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 DEVELOPER and NSP CONSTRUCTION MANAGER and one copy each shall be delivered to the DEVELOPER and NSP CONSTRUCTION MANAGER upon completion of the Project.

20.12 ASSIGNMENT, SUBLETTING OR SUBCONTRACTING

- 20.12.1 The GENERAL CONTRACTOR may sublet any portion of the Work to any of the SUB-

CONTRACTOR(s) that the CITY has previously approved to perform Work on NSP Projects.

- 20.12.2 Subletting of any Work under this Contract shall not relieve the GENERAL CONTRACTOR of its full responsibility for the proper and timely performance of all Work required hereunder and for its selection of SUB-CONTRACTOR(s).
- 20.12.3 If (in the judgment of the DEVELOPER, NSP MANAGER, or NSP CONSTRUCTION MANAGER) any SUB-CONTRACTOR has, for any reason, failed to perform its subcontract in a satisfactory or timely manner, the DEVELOPER shall advise the GENERAL CONTRACTOR in writing of its determination and the GENERAL CONTRACTOR shall promptly, and not later than three (3) Working days from the receipt of such advice, replace such SUB-CONTRACTOR with any of the other previously approved NSP SUB-CONTRACTORS, unless the CONTRACTOR, with the DEVELOPER'S and the NSP CONSTRUCTION MANAGER'S consent, requests and is allowed to perform the subcontracted Work itself.
- 20.12.4 The exercise of the above sub-section 20.12.3 by the DEVELOPER and GENERAL CONTRACTOR shall not be considered as a basis for an increase in cost to the DEVELOPER or an increase in contract time to the GENERAL CONTRACTOR, for Work performed under this Contract and neither shall be allowed.
- 20.12.5 The divisions and sections of the Bid and Contract Documents and the identifications of any Drawings shall not control the GENERAL CONTRACTOR in dividing the Work among SUB-CONTRACTORS or delineating the Work to be performed by any trade.
- 20.12.6 In all relations pertinent to the Work between the GENERAL CONTRACTOR and the DEVELOPER, the SUB-CONTRACTOR'S and its employees shall be considered as employees of the GENERAL CONTRACTOR as the term "employee" is used in these specifications. Nothing contained in the Contract or specifications shall create any contractual relations between a SUB-CONTRACTOR and the DEVELOPER, or the CITY. The GENERAL CONTRACTOR shall be responsible to the DEVELOPER and CITY for its SUB-CONTRACTOR'S.

20.13 MATERIALS AND WORKMANSHIP

- 20.13.1 All Workmanship, equipment, materials and articles incorporated in the Work covered by this Contract are to be new and of the best grade (unless re-use of used materials is otherwise specified by the Technical Specifications). When required, the GENERAL CONTRACTOR shall furnish the DEVELOPER certified copies of test results made of the materials or articles which are to be incorporated in the Work for approval. When so directed, samples of materials shall be submitted for approval. Machinery, equipment, materials and articles installed or used without such approval shall be at the risk of subsequent rejection, removal and replacement at the GENERAL CONTRACTOR'S expense.
- 20.13.2 If not otherwise provided, material or Work called for in this Contract shall be furnished and performed in accordance with the manufacturer's instructions and established practice and standards recognized by architects, engineers and the trade.

20.14 SUBSTITUTIONS

- 20.14.1 Whenever materials or equipment are specified or described in the Bid and Contract Documents by using the name of a proprietary item or the name of a particular

Supplier, the naming of the item is intended to establish the type, function and quality required. Materials or equipment of other Suppliers may be accepted by the DEVELOPER if sufficient information is submitted by the DEVELOPER to allow NSP CONSTRUCTION MANAGER to determine that the material or equipment proposed is greater than, equivalent or equal to that named. The procedure for review by the DEVELOPER and NSP CONSTRUCTION MANAGER will include the following as may be modified by any Special Conditions. Requests for review of substitute items of material and equipment will not be accepted by NSP CONSTRUCTION MANAGER from anyone other than the DEVELOPER. If the GENERAL CONTRACTOR wishes to furnish or use a substitute item of material or equipment, the GENERAL CONTRACTOR shall make written application to the DEVELOPER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice the GENERAL CONTRACTOR'S achievement of Final completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Bid and Contract Documents to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of SUB-CONTRACTOR'S affected by the resulting change, all of which shall be considered by the DEVELOPER and NSP CONSTRUCTION MANAGER in evaluating the proposed substitute. The DEVELOPER and NSP CONSTRUCTION MANAGER may require the GENERAL CONTRACTOR to furnish at the GENERAL CONTRACTOR'S expense additional data about the proposed substitute.

- 20.14.2 The DEVELOPER may require the GENERAL CONTRACTOR to furnish, at the GENERAL CONTRACTOR'S expense, a special performance guarantee or other surety with respect to any substitute.

20.15 ROYALTIES AND PATENTS

- 20.15.1 The GENERAL CONTRACTOR shall indemnify, defend and save harmless the DEVELOPER, NSP CONSTRUCTION MANAGER, and the CITY, and their employees and agents (for purposes of this section, the "Indemnified Parties"), from and against all liabilities, decrees, judgment claims or disbursements, including attorneys' fees and/or damages and expenses resulting from delay which may in any way come against or be incurred by the Indemnified Parties by reason of the use of any patented material, machinery, devices, equipment or processes furnished or used in the performance of the Work under this Contract or the use by the DEVELOPER of the completed structure or by reason of the use of patented designs furnished by the GENERAL CONTRACTOR and accepted by the DEVELOPER and NSP CONSTRUCTION MANAGER. In the event any claim, action at law or suit in equity of any kind whatsoever is made or brought against the Indemnified Parties involving any such patent rights, then the DEVELOPER shall have the right without impairment of the foregoing indemnification, to retain from the money due and to become due to said GENERAL CONTRACTOR a sufficient amount of money to protect these Indemnified Parties against loss.

20.16 COMPLIANCE WITH LAWS AND PERMITS

- 20.16.1 The DEVELOPER shall ensure that the GENERAL CONTRACTOR complies with all laws, ordinances, rules and regulations bearing on the conduct of the Work and shall, unless the Bid and Contract Documents provide otherwise, at its own cost obtain all permits and licenses necessary for the prosecution of the Work, including, but not limited to, Building and other permits specified in the Jacksonville Ordinance Code.
- 20.16.2 The DEVELOPER and/or the GENERAL CONTRACTOR shall pay per their respective contract between each other, all fees and charges required for permits, connections to utilities, downstream pollution, concurrency management, parking meter rental/removal and any and all other assessments imposed on construction or initial occupancy of the Project; including building permit fees.
- 20.16.3 The GENERAL CONTRACTOR shall be responsible for the payment of all Federal, State, or local taxes, including but not limited to sales and use taxes, applicable to the performance of the Contract and shall indemnify and save harmless the DEVELOPER, the CITY, the NSP CONSTRUCTION MANAGER, and their respective agents and employees from the consequences of the GENERAL CONTRACTOR'S failure to pay such taxes.
- 20.16.4 The GENERAL CONTRACTOR shall indemnify and save harmless the DEVELOPER, CITY, and NSP CONSTRUCTION MANAGER, and their respective agents and employees from and against all liabilities, decrees, judgments claims or disbursements, including attorneys fees and/or damages and expenses arising from or based upon the violation of any law, ordinance, regulation or permit whether by the GENERAL CONTRACTOR, the GENERAL CONTRACTOR'S employees, or Sub-CONTRACTORS.
- 20.16.5 Permits required for construction of facilities within and/or crossing the right-of-way of state and federal highways, railroads, and waterways shall be obtained by and at the expense of the GENERAL CONTRACTOR. No Work shall be performed in such areas until said permits have been obtained by the GENERAL CONTRACTOR.
- 20.16.6 The DEVELOPER shall cause the GENERAL CONTRACTOR to comply with all conditions of permits on the Project issued by Federal, State, or local governmental agencies, which are hereby incorporated into these Bid and Contract Documents, until the Project is accepted by the NSP CONSTRUCTION MANAGER as complete, unless a specific agreement otherwise is endorsed by both the DEVELOPER and the NSP CONSTRUCTION MANAGER (in which event, the NSP MANAGER shall have the final decision, in his/her sole discretion, whether to accept such proposal). Accordingly, the DEVELOPER is responsible for the resolution of any issues resulting from a finding of noncompliance during construction by any of the respective regulatory agencies including all costs for delays, litigation, fines or other costs; all of which costs shall be borne by the GENERAL CONTRACTOR at no cost to the DEVELOPER, and at no cost to the NSP CONSTRUCTION MANAGER or the CITY.

20.17 CONTRACTOR'S NON-DISCRIMINATION POLICY

- 20.17.1 In compliance with Section 126.404, *Jacksonville Ordinance Code*, the Bidder, upon affixing its signature to the Proposal and/or Contract, certifies that its firm meets and agrees to the following provisions:

(a) The GENERAL CONTRACTOR represents that it has adopted and will maintain a policy of non-discrimination against an employee or applicant for employment on account of race, religion, sex, color, national origin, age or handicap, which policy applies in all areas of employee relations throughout the term of this contract.

(b) The GENERAL CONTRACTOR agrees that on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms, and other pertinent data and records by any designee of the CITY or their designee for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Contract; provided, that the GENERAL CONTRACTOR shall not be required to produce for inspection records covering periods of time more than one year prior to the date of the Contract Agreement.

(c) The GENERAL CONTRACTOR agrees that if any of the obligations of this Contract are to be performed by a SUB-CONTRACTOR, the provisions of this paragraph, and paragraphs 20.18 and 20.19 below shall be incorporated into and become a part of the Subcontract.

20.18 FEDERAL EMPLOYMENT REQUIREMENTS

20.18.1 On federally assisted Projects including the NSP, the attention of all GENERAL CONTRACTOR'S and SUB-CONTRACTOR'S is directed to current Labor Standards Contract Provisions, Anti-Kickback Regulations and Provisions, and associated forms as shown herein, including but not limited to: Certification of Non-segregated Facilities; Certification by Proposed GENERAL CONTRACTOR or SUB-CONTRACTOR regarding Equal Employment Opportunity; Notice to Labor Unions and Other Organizations of Workers; Nondiscrimination in Employment; Weekly Statement of Compliance; and Sample Payroll Form.

- Pub. L 88-352 - Title VI of the Civil Rights Act of 1964
- Pub. L. 90-284 - Title VIII of the Civil Rights Act of 1968
- Executive Order 11063 as amended by Executive Order 12259
- Section 109 of the Act
- Labor Standards
- National Flood Insurance Program
- Relocation and Acquisition
- Employment and Contracting Opportunities:
 - Executive Order 11246 (41 CFR Chapter 60)
 - Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u)
- Lead-Based Paint
- Use of Debarred, Suspended or Ineligible Contractors or Sub-Contractors
- Displacement
- Nondiscrimination Based on Handicap
- Section 504 of the Rehabilitation Act of 1973
- Environmental Protection Agency Regulations
 - National Environmental Policy of 1969
- Code of Federal Regulation, Title 24, Volume 1, Part 135

To the extent applicable to the Project (e.g., certain provisions are applicable if 12 or more dwelling units are assisted with NSP funds), GENERAL CONTRACTORS and DEVELOPERS are also governed by the following provisions required by HUD:

1. *Equal Employment Opportunity* —All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. *Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)* —All contracts and subgrants in excess of \$2000 for construction or repair awarded by Recipients and sub-contractors shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or sub-contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Recipient shall report all suspected or reported violations to HUD.

3. *Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)* —When required by Federal program legislation, all construction contracts awarded by the Recipients and sub-contractors of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The Recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The Recipient shall report all suspected or reported violations to HUD.

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327 through 333)* —Where applicable, all contracts awarded by Recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. *Rights to Inventions Made Under a Contract or Agreement*— Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the Recipient in any

resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by HUD.

6. *Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended*—Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the Recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to HUD and the Regional Office of the Environmental Protection Agency (EPA).

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

8. *Debarment and Suspension (E.O.s 12549 and 12689)*—No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension," as set forth at 24 CFR part 24. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

9. *Drug-Free Workplace Requirements*—The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Each potential Recipient must certify that it will comply with drug-free workplace requirements in accordance with the Act and with HUD's rules at 24 CFR part 24, subpart F.

10. The Recipient shall also comply with the following requirements to the extent applicable: Non-Discrimination in Federally Assisted Programs as set forth in Title 41 Public Contracts and Property Management; 41 CFR Part 60; non-Discrimination Based on Age or Handicap as set forth in Age Discrimination Act of 1975, as amended, and 24 CFR Part 146; Employment and Contracting Opportunities as set forth in Section 3 of the Housing and Urban Development Act of 1968, 24 CFR Part 135; Minority/Women's Business Enterprise as set forth in Executive Orders 11625 and 12138, and 24 CFR Part 85 Subpart C Section 36(e); Lead Based Paint Poisoning Prevention as set forth in 24 CFR Part 35; New Restrictions on Lobbying as set forth in 24 CFR Part 87; Displacement, Relocation Assistance and Real Property Acquisition as set forth in 49 CFR Part 24 and 24 CFR Part 42; National Flood Insurance as set forth in Flood Disaster Protection Act of 1973; 42 U.S.C. 40001 Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted

Construction; HUD 4010 Federal Labor Standards Provisions; HUD 4010 Federal Labor Standards Provisions; General Provisions set forth in 24 CFR Part 135, Volume 1; Relating to the Use of Volunteers as set forth in 24 CFR Part 70; Relating to Down Payment Assistance as set forth in 24 CFR 92.354 (a)(2); HOME National Affordable Housing Act of 1990 (NAHA); and Use of Disbarred, Suspended or Ineligible Contractors or Sub-recipients as set forth in 24 CFR Part 24; 29 CFR 5.12(a)(1).

The GENERAL CONTRACTOR shall comply with Title VI of the Civil Rights Act of 1964 (42 USC 2000d) in regard to the persons served; the Recipient shall comply with Title VII of the Civil Rights Act of 1964 (42 USC 2000e) in regard to employees or applicants for employment; the Recipient shall comply with Section 504 of the Rehabilitation Act of 1973 in regard to employees or applicants for employment and clients served; and the Recipient shall comply with the Americans with Disabilities Act of 1990 (Public Law 101-336) in regard to employees and persons served.

The GENERAL CONTRACTOR shall not discriminate against any person or family on the grounds of race, color, national origin, sex, religion, family status, or handicap in the use, lease, rental, sale, or occupancy of any residential unit in the Property. Age discrimination and discrimination against minor dependents are also not permitted. Recipient shall further meet the equal opportunity and fair housing requirements of 24 CFR Part 92.350, 24 CFR Part 107, Title VI of the Civil Rights Act of 1968, as amended "Fair Housing Act", 2 U.S.C. 3601; 24 CFR Part 100, and Executive Order 11063.

If the GENERAL CONTRACTOR is or was created by a religious organization, the GENERAL CONTRACTOR agrees that all NSP Program funds disbursed shall be subject to the conditions, restrictions, and limitations of 24 CFR 5.109 and 24 CFR 92.257.

20.19 FEDERAL WAGE RATES

20.19.1 The higher of either the wages currently paid by the GENERAL CONTRACTOR or the prevailing rates of pay as determined by the United States Department of Labor shall be paid to skilled and unskilled labor on federally assisted contracts valued at over \$2,000.

20.19.2 Prompt Payment requirements are to be adhered to. Please see Paragraph 20.60.

20.20 AVAILABILITY OF LANDS: SURVEYS AND CONDITIONS AT THE SITE

20.20.1 The NSP MANAGER will provide the DEVELOPER a survey of the lands upon which the Work is located. The GENERAL CONTRACTOR will provide, as an expense, all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

20.20.2 All Work shall be done to the lines, grades and elevations shown on the Plans as provided by the GENERAL CONTRACTOR. Any Work done without being properly located may be ordered removed by the DEVELOPER and replaced at the GENERAL CONTRACTOR'S expense. The GENERAL CONTRACTOR shall also be responsible for and provide monumenting benchmarks, geometric curve data and all other boundaries at the conclusion of the Project, to allow for future reference should same be required under the scope of Work.

20.20.3 The DEVELOPER may, in its sole discretion, check from time to time the reference

marks, lines, grades and measurements established by the GENERAL CONTRACTOR, but its exercise or failure to exercise such right shall not relieve the GENERAL CONTRACTOR of its obligations under this document.

20.20.4 The GENERAL CONTRACTOR shall make such investigations of conditions above or below the surface of the ground as it may deem necessary for the proper and timely performance of its Work, including but not limited to the making of borings. No oral representations by any persons respecting such conditions shall in any manner be relied upon by DEVELOPER or GENERAL CONTRACTOR.

20.20.5 If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Bid and Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Bid and Contract Documents, the GENERAL CONTRACTOR shall give notice to NSP CONSTRUCTION MANAGER and DEVELOPER promptly before conditions are disturbed and in no event later than three (3) days after first observance of the conditions. The DEVELOPER and NSP CONSTRUCTION MANAGER will promptly investigate such condition and, if it differs materially and causes an increase or decrease in the GENERAL CONTRACTOR'S cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Price or Contract Time, or both. If the DEVELOPER or NSP CONSTRUCTION MANAGER determines that the conditions at the site are not materially different from those indicated in the Bid and Contract Documents and that no change in the terms of the Contract is justified, the DEVELOPER shall so notify the CONTRACTOR in writing stating the reasons. Claims in opposition to such determination must be made in writing within three (3) days after the DEVELOPER has given notice of the decision.

20.20.6 The GENERAL CONTRACTOR shall be responsible for any GENERAL CONTRACTOR encroachments on rights or property of the public or adjoining property owner and shall hold the Developer and CITY harmless because of any GENERAL CONTRACTOR encroachments. In this regard, the GENERAL CONTRACTOR shall, without extra cost to the Project or CITY, remove any GENERAL CONTRACTOR'S Work or that portion of any GENERAL CONTRACTOR Work that encroaches on the property of others, or that is built by the GENERAL CONTRACTOR beyond legal building or setback limits, and shall rebuild the affected Work or portion of Work at the proper location and in full compliance with the Bid and Contract Documents. In the event GENERAL CONTRACTOR work encroaches upon the property of others, the GENERAL CONTRACTOR, at C GENERAL ONTRACTOR'S expense, will remediate any impacts it caused and return the encroached upon property to its original condition.

20.20.7 The CONTRACTOR shall not (except upon written consent from the property owner) enter or occupy with personnel, tools or equipment any land outside the easements, rights-of-way or property of the DEVELOPER. A copy of the written consent shall be delivered to the DEVELOPER prior to entry.

20.21 UTILITIES AND OTHER OBSTRUCTIONS

20.21.1 Information shown on any drawings related to existing utilities, whether on the surface or underground that has been provided for whatever purpose to the CONTRACTOR may be used by the GENERAL CONTRACTOR, at the GENERAL CONTRACTOR'S own risk. The GENERAL CONTRACTOR shall have full responsibility for reviewing and

checking such information for accuracy and the DEVELOPER, the CITY and their respective agents, employees, and consultants makes no representation or guarantee concerning the accuracy or completeness of such information.

- 20.21.2 The GENERAL CONTRACTOR is responsible for locating all utilities either on or contiguous to the site (or payline width) and taking adequate precautions to safely protect, support and maintain such utilities during construction, whether or not such utilities are accurately shown on the Drawings. Where there is a direct conflict between an existing Utility and proposed construction and there is no provision in the Bid and Contract Documents for resolving the conflict, cost of resolving the conflict shall be borne by the GENERAL CONTRACTOR.
- 20.21.3 If a Utility not represented in the Bid and Contract Documents or within the payline is damaged by the GENERAL CONTRACTOR and that damage is due to bad locates being provided by the Utility, the GENERAL CONTRACTOR may seek damages from the Utility provided that the GENERAL CONTRACTOR had requested Utility locates and used same responsibly; however, until such time as the Utility compensates GENERAL CONTRACTOR, the GENERAL CONTRACTOR pays the costs of any damages.
- 20.21.4 Customer service lines and other utilities that traverse a payline width are not normally represented in Bid and Contract Documents and any damages thereto shall be the sole responsibility of the GENERAL CONTRACTOR.
- 20.21.5 It shall be the responsibility of the GENERAL CONTRACTOR to notify each Utility that may be affected by proposed construction at least 72 hours prior to construction in order for the Utility to locate and stake its facilities in the field. Should the GENERAL CONTRACTOR encounter any unidentified Utility, Work in the immediate area shall cease and the DEVELOPER and NSP CONSTRUCTION MANAGER shall be advised. Florida Statutes specifically require the GENERAL CONTRACTOR to notify gas companies at least 48 hours in advance of any digging operation in the vicinity of underground gas lines.

20.22 PROTECTION OF LIFE AND PROPERTY

- 20.22.1 Throughout the performance of the Work, the GENERAL CONTRACTOR shall, at its own expense, construct and adequately maintain suitable and safe crossings, detours, barricades, watchmen or other safety precautions.
- 20.22.2 Existing poles, wires, fences, gates, curbing, paving, property line markers, trees, shrubs, landscaping, traffic signs and signals, and other structures or items, either public or private, must be preserved in place and shall be protected from damage by the GENERAL CONTRACTOR. Should such items be damaged as a result of the GENERAL CONTRACTOR'S operations, it shall be restored, at no additional cost to the DEVELOPER, the Project or the CITY by the GENERAL CONTRACTOR to at least original condition as that in which it was found immediately before the Work was begun.
- 20.22.3 Any object, item of historical value, artifact, or other item deemed valuable by any agency having jurisdiction over such matters or the Historical and Cultural Conservation Commission, the Museum of Science and History or any other historical organization, which is encountered within the limits of the construction shall not be damaged by the GENERAL CONTRACTOR and shall remain the property of the

agency deemed to have jurisdiction.

- 20.22.4 In the event the GENERAL CONTRACTOR does not perform its obligations under the preceding paragraphs, the DEVELOPER is solely responsible to make good any damage to public or private property caused by the Work of the GENERAL CONTRACTOR. The cost thereof will be deducted from the GENERAL CONTRACTOR'S final payment application.

20.23 USE OF JOB SITE

- 20.23.1 The GENERAL CONTRACTOR shall confine its equipment, apparatus, the storage of materials and operations of its Workmen to limits indicated by law, ordinances, permits or directions of the DEVELOPER and shall not encumber the premises or surrounding areas with its materials.
- 20.23.2 The GENERAL CONTRACTOR shall not load or permit any part of any structure to be loaded to the extent that the safety of the any individual or persons may be compromised.
- 20.23.3 The DEVELOPER shall ensure that the GENERAL CONTRACTOR does not close or obstruct any portion of a street, road or private way without obtaining permits therefore from the proper authorities. If any street or private way shall be rendered unsafe by the GENERAL CONTRACTOR'S operations, it shall make such repairs or provide such temporary ways or guards as shall be acceptable to the controlling jurisdiction. Streets, roads, private ways, and walks not closed shall be maintained in a clean and passable condition by the GENERAL CONTRACTOR at its expense, and the GENERAL CONTRACTOR shall assume full responsibility for the adequacy and safety of provisions made. The GENERAL CONTRACTOR shall at least five (5) days in advance, notify the Traffic Engineer in writing and receive permission, with a copy to the DEVELOPER if the closure of a street is necessary. The GENERAL CONTRACTOR shall be responsible for maintaining proper coordination with the Traffic Engineer and the Traffic Engineering Division of the CITY.

20.24 NSP'S CONSTRUCTION MANAGER'S STATUS DURING CONSTRUCTION

- 20.24.1 The NSP CONSTRUCTION MANAGER shall be the CITY'S representative during the construction period. The duties and responsibilities and the limitations of authority of NSP CONSTRUCTION MANAGER as the CITY'S representative during construction are set forth in these Bid and Contract Documents and may be amended from time to time as deemed necessary by the NSP MANAGER, without prior notice to Contractor or DEVELOPER. In all matters pertaining to the NSP, and activities under the Bid and Contract Documents, the NSP MANAGER'S decisions are final.
- 20.24.2 The NSP CONSTRUCTION MANAGER may observe and monitor the Project. The NSP CONSTRUCTION MANAGER has authority, but not the obligation, to request the GENERAL CONTRACTOR or the DEVELOPER to stop the Work whenever such stoppage may be necessary to insure the proper Work is performed at any Project. The NSP CONSTRUCTION MANAGER is the CITY'S representative for determining GENERAL CONTRACTOR'S quality of Work; the NSP CONSTRUCTION MANAGER shall use its powers under the Bid and Contract Documents to enforce the faithful performance thereof. NSP CONSTRUCTION MANAGER shall also, within a reasonable time, make decisions on all other matters relating to the execution and progress of the Work or the interpretation of the Bid and Contract Documents. For the

purposes of this Section and depending on the urgency of the matter, five (5) business days shall be considered reasonable time unless otherwise specified within the Bid and Contract Documents.

20.24.3 Nothing in the Bid and Contract Documents shall be construed as placing the Work under the specific direction or supervision of NSP CONSTRUCTION MANAGER or the CITY. Nothing in the Bid and Contract Documents shall be construed as to relieve the DEVELOPER and GENERAL CONTRACTOR from their liability as independent contractors and, as such, they shall be solely responsible for the method, manner and means by which they shall perform their Work, including, but not limited to, supervision and control of their own personnel and scheduling of the Work as required to insure its proper and timely performance. The DEVELOPER and GENERAL CONTRACTOR shall be solely responsible for the exercise of due care to prevent bodily injury and damage to property in the prosecution of the Work, all in accordance with the governing Sections of the Technical Specifications which are part of the Bid and Contract Documents.

20.25 SHOP DRAWINGS

20.25.1 GENERAL CONTRACTOR is responsible for providing all shop drawings. The term "shop drawings" as used herein includes fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; descriptive literature, catalogs and brochures; performance and test data; wiring and control diagrams; all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and method of construction as may be required to show the CONTRACTOR that the proposed materials, equipment or systems and the position thereof are in compliance with the requirements of the Bid and Contract Documents. As used herein, the term "manufactured" applies to standard units usually mass produced, and "fabricated" means items specifically assembled or made out of selected materials to meet individual design requirements. Shop drawings shall establish the actual details of all manufactured or fabricated items; indicate proper relation to adjoining Work; amplify design details of mechanical and electrical equipment in proper relation to physical spaces in the structure; and incorporate minor changes of design or construction to suit actual conditions.

20.26 SAMPLES

20.26.1 The term "Samples" as used herein includes natural materials, fabricated items, equipment, devices, appliances or parts thereof as called for in the Specifications, and any other samples as may be required by the DEVELOPER or NSP CONSTRUCTION MANAGER to determine whether the kind, quality, construction, Workmanship, finish, color and other characteristics of the materials, etc., proposed by the GENERAL CONTRACTOR conform to the requirements of the Bid and Contract Documents. Samples approved by the DEVELOPER or NSP CONSTRUCTION MANAGER shall establish the kind, quality and other required characteristics of the various parts of the Work, and all Work shall be in accordance with the approved samples.

20.26.2 The GENERAL CONTRACTOR shall submit all required samples with such promptness as to cause no delay in its own Work or in that of any other GENERAL CONTRACTOR or SUB-CONTRACTOR. No extensions of time will be granted to the GENERAL CONTRACTOR because of its failure to submit samples in ample time to allow for review and approval.

- 20.26.3 In case considerable range of color, graining, texture or other characteristics may be anticipated in finished products, a sufficient number of samples of the specified materials shall be furnished to indicate the full range of such characteristics which will be present in the finished products. Unless otherwise called for in the various sections of the Technical Specifications, samples shall be submitted in triplicate; all samples shall be marked, tagged, or otherwise properly identified with the name of the GENERAL CONTRACTOR, the name of the Project, the purpose for which the samples are submitted, and the date, and shall be accompanied by the letter of transmittal containing similar information all in accordance with procedures outlined in the Technical Specifications. Samples of materials which are generally furnished in containers bearing the manufacturer's descriptive labels and printed application instructions shall, if not submitted in the standard containers, be supplied with such labels and application instructions.
- 20.26.4 Each SUB-CONTRACTOR shall submit all samples through the CONTRACTOR for the DEVELOPER'S and NSP CONSTRUCTION MANAGER'S approval. All samples shall be checked by the GENERAL CONTRACTOR for compliance with the Bid and Contract Documents and Technical Specifications before submitting them and shall bear the GENERAL CONTRACTOR'S signature of approval certifying that they have been so checked. If any samples are submitted without this signature, or if in the DEVELOPER'S or NSP CONSTRUCTION MANAGER'S opinion the samples are incomplete or have not been checked or only checked superficially, the CONTRACTOR will be required to re-submit additional samples until such samples are satisfactory to the DEVELOPER and NSP CONSTRUCTION MANAGER.
- 20.26.5 The DEVELOPER and NSP CONSTRUCTION MANAGER will review samples for aesthetics, general design and technical compliance; however, approval of such samples will not relieve the GENERAL CONTRACTOR from ultimate responsibility for any departure or deviations from the requirements of the Bid and Contract Documents unless it has, in writing, directed the DEVELOPER'S and NSP CONSTRUCTION MANAGER'S attention to such departures or deviations at the time of submission. The DEVELOPER and NSP CONSTRUCTION MANAGER will make a decision about the samples within five (5) days of proper submittal. If the samples are approved, they will be so signed and the GENERAL CONTRACTOR will be notified to pick them up. If the samples are not approved, the CONTRACTOR will be notified to re-submit additional samples until they are approved.
- 20.26.6 The DEVELOPER or NSP CONSTRUCTION MANAGER may revoke approval of a sample should field conditions so dictate. Absence of such revocation does not confer approval of field conditions or samples. Field conditions and samples remain, at all times, the responsibility of the GENERAL CONTRACTOR and none other.

20.27 TESTS AND INSPECTIONS

- 20.27.1 All materials and equipment prior to being incorporated in the Work shall be tested for conformance with contractual requirements. Standard items of a uniform nature may be accepted on the manufacturer's certification. Where specific performance and/or quality are referred to, it is the GENERAL CONTRACTOR'S responsibility to have the necessary tests performed by qualified persons to show that the contractual requirements are being met. Certified test results shall be submitted promptly to the DEVELOPER and NSP CONSTRUCTION MANAGER. All tests shall be performed in accordance with referenced standards. Where no reference is made, tests shall be performed in accordance with the methods prescribed by the American Society for

Testing and Materials or such other organization as would be applicable.

20.27.1.1 Testing Costs Borne by the GENERAL CONTRACTOR.

The GENERAL CONTRACTOR will pay for the following tests:

1. Geotechnical investigations (generally performed during the Design Phase prior to bidding.)
2. Testing of compaction for all structural, building or Utility backfills
3. Testing of concrete
4. Testing of welds
5. Testing of torque of bolts

The GENERAL CONTRACTOR will pay for any retests resulting from its failure to provide Work that passes required tests. Said retests shall be performed by the same testing company which failed the Work.

20.27.2 If the Bid and 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 GENERAL CONTRACTOR, the GENERAL CONTRACTOR shall give the DEVELOPER and NSP CONSTRUCTION MANAGER timely notice of readiness therefore. The GENERAL CONTRACTOR shall furnish the DEVELOPER and NSP CONSTRUCTION MANAGER the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organization as may be required by law or the Bid and Contract Documents.

20.27.3 If any Work required to be inspected, tested or approved is covered up without written approval or consent of the reviewing jurisdiction, it must, if directed by the reviewing jurisdiction, be uncovered for observation and/or testing at the GENERAL CONTRACTOR'S expense.

20.27.4 Any Work which fails to meet the requirements of any required test, inspection or approval and any Work which meets the requirements of any test or approval, but nevertheless does not meet the requirements of the Bid and Contract Documents, shall be considered defective and shall be remedied according to the reviewing jurisdiction, the NSP CONSTRUCTION MANAGER, or the NSP MANAGER as the case may be.

20.27.5 The DEVELOPER or NSP CONSTRUCTION MANAGER may, but is not obliged to, appoint inspectors to inspect any and all materials and Work. Such inspection may extend to any or all parts of the Work and to the preparation and manufacture of the materials to be used. The inspectors shall not be authorized to alter, revoke, enlarge or relax the provisions of the Bid and Contract Documents, nor will it be authorized to approve or accept any portion of the completed Work, nor to issue instructions contrary to the Bid and Contract Documents. An inspector is placed on the Work to keep the DEVELOPER and NSP CONSTRUCTION MANAGER informed as the progress of the Work and the manner in which it is being done; also to call attention of the DEVELOPER and CONTRACTOR to any infringement upon the Bid and Contract Documents. The inspector will have the authority to reject defective materials or to suspend any Work that is being improperly done subject to the final decision of the DEVELOPER. Neither observations by the Inspector, DEVELOPER or NSP CONSTRUCTION MANAGER nor inspections, tests or approvals shall relieve the GENERAL CONTRACTOR from its obligations to perform all Work in accordance with the requirements of the Bid and Contract Documents.

- 20.27.6 Until the final certification of occupancy of the Project by the reviewing jurisdiction, the Project shall be under the charge and care of the GENERAL CONTRACTOR, who shall take every precaution to protect the Work from damage by the elements or from any cause whatsoever and it shall repair and make good at its own expense any such damage. The GENERAL CONTRACTOR shall provide and maintain suitable, strong and substantial barricades and signs wherever necessary to protect the public and users of the facility. These signs and barricades shall be kept lighted from sunset to sunrise with suitable properly colored lights.

20.28 GENERAL CONTRACTOR'S SUPERVISION

- 20.28.1 The GENERAL CONTRACTOR shall supervise and direct the Work efficiently and with its best skill and attention and shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. It shall be the GENERAL CONTRACTOR'S responsibility to carefully study and compare the Bid and Contract Documents to the existing conditions and to check and verify all figures shown in the Bid and Contract Documents and all field measurements.
- 20.28.2 In case of discrepancy in the specifications, the matter shall be immediately submitted to the NSP CONSTRUCTION MANAGER and DEVELOPER without whose decision said discrepancy shall not be adjusted by the GENERAL CONTRACTOR, save only at its own risk and at no expense to the Project, the DEVELOPER or the CITY.
- 20.28.3 The GENERAL CONTRACTOR shall be responsible for ensuring that the finished Work complies accurately with the Bid and Contract Documents.
- 20.28.4 Any person employed by the GENERAL CONTRACTOR who shall be deemed to be incompetent by the DEVELOPER or NSP CONSTRUCTION MANAGER or who shall be guilty of any disorderly conduct or shall trespass on any property in the vicinity of the Work shall be removed from the Work at once by the GENERAL CONTRACTOR at the request of NSP CONSTRUCTION MANAGER or DEVELOPER.
- 20.28.5 Neither the DEVELOPER, NSP CONSTRUCTION MANAGER nor the CITY will be responsible for the acts or omissions of the GENERAL CONTRACTOR, or any SUB-CONTRACTOR'S, or any agents or employees, or any other persons performing any of the Work for the GENERAL CONTRACTOR.

20.29 SAFETY, PROTECTION AND EMERGENCIES

- 20.29.1 The GENERAL CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. It shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority; and take all necessary precautions for the safety of, and provide the necessary protection to prevent damage, injury, or loss to the following:
- 20.29.1.1 All employees and SUB-CONTRACTOR'S on the Work, the public, and all other persons who may be affected thereby, including the CITY, its employees and its agents.
 - 20.29.1.2 All the Work completed and in progress and all materials or equipment to be incorporated therein whether in storage on or off the site.
 - 20.29.1.3 Other public or private 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.

- 20.29.2 The GENERAL CONTRACTOR shall 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 shall erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection, including posting danger signs, barricades, and other warnings against hazards and promulgating safety regulations. It shall notify owners of adjacent properties and utilities when prosecution of the Work may affect them. The use of explosives is strictly prohibited. Machinery, equipment, and all hazards shall be guarded or eliminated in accordance with the recommended safety provisions of the Manual of Accident Prevention in Construction published by the Associated Contractors of America, to the extent that such provisions are contradictory to applicable laws.
- 20.29.3 The GENERAL CONTRACTOR shall provide proper facilities, take all necessary precautions and assume the entire cost for protecting the Work against weather conditions and for handling all storms, flood and ground water, sewage, or other seepage, that may be encountered during the performance of the Contract. If the GENERAL CONTRACTOR shall fail to provide adequate protection or in the event of emergencies, the DEVELOPER will provide such protection at the GENERAL CONTRACTOR'S expense and deduct its costs from the GENERAL CONTRACTOR'S next application for payment.
- 20.29.4 The GENERAL CONTRACTOR assumes all risk of damage to or destruction of the Work covered by this contract until the Work is completed and accepted by the DEVELOPER and NSP CONSTRUCTION MANAGER. The GENERAL CONTRACTOR shall repair or replace, at its expense, any Work damaged or destroyed prior to such completion and acceptance regardless of cause, including theft or vandalism, plus all events related to flood, tides, fire, or any other related occurrences.
- 20.29.5 In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the GENERAL CONTRACTOR, without special instructions or authorization from the DEVELOPER or NSP CONSTRUCTION MANAGER, is obligated to act, at its discretion, to prevent threatened damage, injury or loss. It shall give the DEVELOPER and NSP CONSTRUCTION MANAGER prompt written notice of any significant changes in the Work or deviations from the Bid and Contract Documents caused thereby. If the GENERAL 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 Price or an extension of the Contract Time, it may make a claim therefore as provided within this document. Note that acts of theft and vandalism are not events under which a GENERAL CONTRACTOR may make a claim.
- 20.29.6 If in the opinion of the DEVELOPER or NSP CONSTRUCTION MANAGER the Work is not properly lighted, barricaded, secured and in all respects safe in regard to public travel or persons on or about the Work, the DEVELOPER or NSP CONSTRUCTION MANAGER shall have the right to order such safeguards to be erected and such precautions to be taken as it deems advisable, and the GENERAL CONTRACTOR shall comply promptly with such orders. If, under such circumstances, the GENERAL CONTRACTOR does not, or cannot, immediately put the Work and the safeguards into proper and approved condition, or if the GENERAL CONTRACTOR or its

representative is not upon the site so that it can be notified immediately of the insufficiency of safety precautions, the DEVELOPER or NSP CONSTRUCTION MANAGER may put the Work into such a condition that it shall, in the DEVELOPER'S or NSP CONSTRUCTION MANAGER'S opinion, in all respects be safe. The GENERAL CONTRACTOR shall pay, at no cost to the Project, the DEVELOPER or the CITY, all expenses of such labor and materials as may have been used for this purpose. Such action of the DEVELOPER, NSP CONSTRUCTION MANAGER or the GENERAL CONTRACTOR'S failure to take such action, shall in no way relieve the GENERAL CONTRACTOR of the entire responsibility for any cost, loss or damage sustained on account of the insufficiency of the safety precautions taken by it.

20.29.7 [Intentionally Deleted]

20.29.8 The GENERAL CONTRACTOR is responsible for the actions of its employees while on site and CONTRACTOR may be liable for making restitution in the event restitution is so ordered by a court of law.

20.29.9 The GENERAL CONTRACTOR shall use extreme care in safe operations and shall provide adequate facilities for proper storage of materials, tools and/or equipment, and it shall be the responsibility of the GENERAL CONTRACTOR to provide locked storage and/or sufficient guards to prevent injury or vandalism. The GENERAL CONTRACTOR shall not (except after signed written consent from the property owner) enter or occupy with men, tools or equipment, any land outside the rights-of-way or the subject property. A copy of the written consent shall be given to the DEVELOPER and NSP CONSTRUCTION MANAGER.

20.29.10 The GENERAL CONTRACTOR shall be solely responsible for providing safe and acceptable support of excavations for the protection of Workers, proposed Work, existing structures, existing utilities and Utility poles, trees, or any other existing or new element requiring protection. The method of support utilized by the GENERAL CONTRACTOR for Worker safety shall meet the requirement of the Florida Trench Safety Act (Occupational Safety and Health Administration's Safety Standards, 29 C.F.R. 1926.650, Subpart P) and shall be sufficient to allow for proper installation and inspection of the Work. Should, in the opinion of the reviewing jurisdiction, the excavation not be properly supported to prevent the damage or loss of any element, the GENERAL CONTRACTOR shall immediately change, modify, and/or increase the support system to the satisfaction of the reviewing jurisdiction, at no additional cost to the Bid Contract Documents, the DEVELOPER, the CITY, or the Project. The cost for whatever method of excavation support the GENERAL CONTRACTOR elects to utilize shall be included in the cost of the item being installed.

20.30 ACCESS TO THE WORK, UNCOVERING FINISHED WORK, USE OF NEW WORK

20.30.1 The GENERAL CONTRACTOR shall provide safe, sufficient and proper facilities at all times for the inspection of the Work by the reviewing jurisdiction, the CITY or its agencies, the St. Johns River Water Management District, the Florida Department of Environmental Protection, the Environmental Protection Agency, the Department of Labor, the Florida Department of Pollution Control, the Florida Department of Health and Rehabilitative Services and the Florida Department of Commerce, or any other entities with review or inspection jurisdictions it being agreed that these agencies have the right of entry at any time. The GENERAL CONTRACTOR shall, within twenty-four (24) hours after receiving written notice from the reviewing jurisdiction or agency to that effect, proceed to remove all materials rejected by the reviewing jurisdiction, whether

Worked or un-Worked, and take down all portions of the Work which the reviewing jurisdiction shall by written notice reject as unsound or improper, or which is in any way failing to conform to the Bid and Contract Documents.

- 20.30.2 If any Work is covered contrary to the request of the reviewing jurisdiction, it must, if requested by the reviewing jurisdiction, be uncovered for its observation and replaced at the GENERAL CONTRACTOR'S expense and at no expense to the Project, DEVELOPER or the CITY.
- 20.30.3 Should it be considered necessary or advisable by the reviewing jurisdiction, at any time before acceptance of the entire Work, to make an examination of Work already completed by uncovering, removing or tearing out same, the GENERAL CONTRACTOR shall, on written request, promptly furnish all necessary facilities, labor, and material for that purpose. If such Work is found to be defective or non-conforming in any material respect, due to the fault of the GENERAL CONTRACTOR or its SUB-CONTRACTOR'S, it shall defray all the expenses of such examination and of satisfactory reconstruction. If however, such Work is found to meet the requirements of the Contract, an equitable adjustment shall be made in the Contract Price to compensate the GENERAL CONTRACTOR for the additional services involved in such examination and reconstruction, and if completion of the Work has been delayed thereby, the DEVELOPER and/or GENERAL CONTRACTOR shall, in addition, be granted a suitable extension of time.

20.31 CHANGES

- 20.31.1 The DEVELOPER shall have the right to make changes within the scope of the Work or change the quantities of the Work to be performed provided those changes are within NSP guidelines and approved by the NSP CONSTRUCTION MANAGER. Requests by the GENERAL CONTRACTOR for changes in the Work must be made in writing to the DEVELOPER within three Working (3) days after the need for such change becomes known to the GENERAL CONTRACTOR; and, without such written request, any claim for additional compensation or time based on such Work is specifically waived by the GENERAL CONTRACTOR. No such change shall be valid unless made in writing to the DEVELOPER and said changes are approved as provided herein.
- 20.31.2 In the event such approved changes cause an increase or decrease in the GENERAL CONTRACTOR'S cost of or time required for performance of the Contract Agreement, the Contract Amount and/or period of performance shall be equitably adjusted between the DEVELOPER and GENERAL CONTRACTOR.
- 20.31.2.1 An increase or decrease in the Work for which unit prices apply under the Bid and Contract Documents shall be computed by multiplying the change in quantities (measured as provided in the Bid and Contract Documents) of such Work by such unit prices.
- 20.31.2.2 In the absence of applicable unit prices in the Bid and Contract Documents, or Work not provided for nor fairly included under unit prices for other Work items, an increase or decrease in the Contract Amount and period of performance may be negotiated between the DEVELOPER and GENERAL CONTRACTOR. Any negotiated increase or decrease in the Contract Amount for changes shall be based on the GENERAL CONTRACTOR'S costs for labor, materials and supplies directly applicable to the increase or decrease plus fifteen percent (15%) thereof

for GENERAL CONTRACTOR'S supervision, overhead, bonds and profit.

20.31.3 No increase or decrease in the Contract Amount or the period of time for performance of the Contract shall be valid unless approved by the DEVELOPER and NSP CONSTRUCTION MANAGER and agreed to in writing by both the DEVELOPER and GENERAL CONTRACTOR.

20.31.4 Whenever the GENERAL CONTRACTOR and the DEVELOPER are unable to agree on costs for an increase in the Work and the DEVELOPER orders the GENERAL CONTRACTOR to proceed with the Work by force account, the Work will be paid for in the manner hereinafter described. The compensation thus provided shall constitute full payment for said Work. The DEVELOPER shall issue a written directive for the GENERAL CONTRACTOR to perform the specific Work with a copy to NSP CONSTRUCTION MANAGER. Payment will be determined as follows:

20.31.4.1 For all materials purchased by the GENERAL CONTRACTOR and used in the force account Work, it will be paid the actual cost of such materials, including sales taxes if required, and freight and delivery charges as shown by original receipted bills, to which will be added an amount equal to fifteen percent (15%) of the sum thereof. The DEVELOPER, however, reserves the right to approve or to reject the materials to be used and the sources of supply of any materials furnished by the GENERAL CONTRACTOR.

20.31.4.2 For all equipment and machinery used in the force account Work, the GENERAL CONTRACTOR will be paid reasonable operated and maintained monthly rental prices to which no percentages will be added.

20.31.4.3 The GENERAL CONTRACTOR will be paid the cost of wages for all labor which is engaged in the force account Work plus the actual cost chargeable to the force account Work of Worker's compensation insurance, social security taxes, unemployment compensation insurance and such additional amounts as are paid by the GENERAL CONTRACTOR by reason of an employment contract generally applicable to its employees, to which total sum will be added an amount equal to fifteen percent (15%) of wages and other costs listed above. SUB-CONTRACTOR labor costs shall be computed in the same manner. The GENERAL CONTRACTOR shall be allowed an additional five percent (5%) markup on his SUB-CONTRACTOR'S labor costs. In evidence of the costs of labor, equipment and materials for which payment is to be made under the force account order, the GENERAL CONTRACTOR and his SUB-CONTRACTOR(s) shall provide a certified statement of wages actually paid, together with copies of supporting payrolls, of equipment rental charges, and of bills for materials.

20.31.4.4 Wage rates used in determining the amount of the force payment will be the actual wage rates paid by the GENERAL CONTRACTOR for Work under this Contract, except that no rate used shall exceed the rate of comparable labor currently employed on the Project.

20.31.4.5 Payment for the services of foremen, if any, in direct charge of the specific operation will be made. Payment for the service of

superintendents, timekeepers or other overhead personnel will not be made nor will payment for the services of watchmen be made unless required specifically by the force account Work. The actual function performed by an employee rather than its payroll title will be the criterion used in determining the eligibility of an employee's services for payment under this provision.

- 20.31.4.6 The types and amounts of equipment and machinery used by the GENERAL CONTRACTOR in carrying out its Work under the force account order shall be made in keeping with normal practice for Work of similar nature, except that the DEVELOPER may, at its discretion, limit by specific instruction the types and amounts of equipment and machinery to be used.
- 20.31.4.7 In computing the hourly rental of such equipment, less than 30 minutes shall be considered 1/2 hour except when the minimum rental time to be paid is one hour. Rental time will not be allowed while equipment is inoperative due to breakdowns. The rental time of equipment to be paid for shall be the time the equipment is in operation on the force account Work being performed, and, in addition, shall include the time required to move the equipment to the Work and return it to its original location. When approved in advance by the DEVELOPER, towing or transporting costs will be allowed when the equipment is moved by means other than its own power. No payment will be made for moving time, towing or transporting the equipment if it is used at the site of the Work on other than force account Work. No payment will be allowed for the use of small tools and minor items of equipment which, as used herein, are defined as individual tools or pieces of equipment having a replacement value of \$500.00 or less.
- 20.31.4.8 The GENERAL CONTRACTOR and DEVELOPER shall compare records of the Work performed on a force account basis at the end of each week in which the change order is in effect.
- 20.31.4.9 Payment for force account Work shall be made at such time as Work is performed, judged completed and the amount is agreed to by the GENERAL CONTRACTOR and the DEVELOPER, and after said amount is added to the Contract by Change Order.
- 20.31.4.10 The DEVELOPER may authorize minor changes or alterations in the Work involving extra cost or time which are consistent with the overall intent of the Bid and Contract Documents. Payment for such minor changes shall be made after execution of a formal Change Order.

20.32 UNAUTHORIZED WORK

- 20.32.1 Work done without lines and grades given, Work done beyond lines and grades shown on the Bid and Contract Documents or as given, or any extra Work done without prior written authority will be considered as unauthorized Work and will be paid for by the GENERAL CONTRACTOR and will not be a cost to the DEVELOPER or the CITY or treated as an expense to the Project, and when so ordered by the DEVELOPER, such Work shall be removed and properly replaced by the GENERAL CONTRACTOR at its own expense.

20.33 WARRANTY AND GUARANTEE

- 20.33.1 The GENERAL CONTRACTOR warrants to the DEVELOPER and the CITY that all materials and equipment furnished under this Contract will be new unless otherwise specified and that all Work will be of good quality, and free from faults or defects and in compliance with the Bid and Contract Documents. All Work not in conformance to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the DEVELOPER, the GENERAL CONTRACTOR shall provide satisfactory evidence as to the quality, type and kind of equipment and materials furnished. This warranty is not limited by, nor limits any other warranty-related provision in these Bid and Contract Documents.
- 20.33.2 If, within one year of final completion of the Work or of a designated portion thereof, or with such longer period of time prescribed by law or by the terms of any special warranty provision of these Bid and Contract Documents, any of the Work is found to be defective or not in conformance with the Bid and Contract Documents, the GENERAL CONTRACTOR shall correct it within thirty (30) days after notice of such defect or nonconformance. Corrective Work during the warranty period shall also be warranted for a period of one year, with each corrective effort in turn being warranted for a period of one year of satisfactory performance. This obligation shall survive termination, expiration or completion of the Contract. The DEVELOPER shall give notice to the GENERAL CONTRACTOR and NSP CONSTRUCTION MANAGER promptly after discovery of the condition.
- 20.33.3 The GENERAL CONTRACTOR shall bear the cost of correcting or removing all defective or nonconforming Work, including the cost for correcting any damage caused to equipment, materials or other Work by such defect or the correcting thereof. If in the event the GENERAL CONTRACTOR refuses to correct said condition(s) then the DEVELOPER shall correct such condition(s) and shall seek any compensation for its Work from the GENERAL CONTRACTOR.
- 20.33.4 The GENERAL CONTRACTOR shall correct any defective or nonconforming Work to the satisfaction of the DEVELOPER and any of the Work, equipment or materials damaged as a result of such condition or the correcting of such condition, within thirty (30) calendar days of notice of such condition. Should the GENERAL CONTRACTOR fail to timely correct defective Work under warranty, the GENERAL CONTRACTOR may be removed from the CITY'S approved Bidders List. After a period of Twenty Four (24) months the GENERAL CONTRACTOR may apply for reinstatement.
- 20.33.5 Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which the DEVELOPER or GENERAL CONTRACTOR may have under the Bid and Contract Documents. The establishment of time period of one year after the date of final completion, or such longer period of time as may be prescribed by law or by the items of any warranty required by the Bid and Contract Documents, relates only to the specific obligation of the GENERAL CONTRACTOR to correct the Work and has no relationship to the time within which its obligation to comply with the Bid and Contract Documents may be sought to be enforced, nor the time within which proceedings may be commenced to establish the DEVELOPER'S and GENERAL CONTRACTOR'S liability with respect to its obligations other than specifically to correct the Work.

20.34 CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

20.34.1 All unsatisfactory Work, all faulty or defective Work and all Work not conforming to the requirements of the Bid and Contract Documents or of such inspections, tests or approvals shall be considered defective. Notice of all defects shall be given to the DEVELOPER. All defective Work, whether or not in place, may be rejected and if rejected, will be removed and replaced at GENERAL CONTRACTORS expense.

20.35 PROGRESS PAYMENTS

20.35.1 The GENERAL CONTRACTOR, through the DEVELOPER, shall receive as full compensation for all Work hereunder a sum equal to the value of the Work done based on the GENERAL CONTRACTOR'S proposal found in the Bid and Contract Documents.

20.35.2 Application for Payment that is in accordance with the contract between the DEVELOPER and GENERAL CONTRACTOR shall be made by the GENERAL CONTRACTOR to the DEVELOPER. GENERAL CONTRACTOR'S failure to submit an Application for Payment as otherwise agreed to by the DEVELOPER and GENERAL CONTRACTOR shall, in no way, negate the DEVELOPER'S and GENERAL CONTRACTOR'S payment obligations required pursuant to this document regarding Prompt Payment to GENERAL CONTRACTOR'S, SUB-CONTRACTOR'S and Suppliers, hereunder. Refer to Section 20.60 regarding prompt payment to JSEBs.

20.35.3 If satisfactory construction progress is made and the contract requirements between DEVELOPER and GENERAL CONTRACTOR are being adhered to the CONTRACTOR will receive partial payments based on actual periodic estimates, based on the actual value of Work performed and satisfactorily completed and as outlined in the Contract between the DEVELOPER AND GENERAL CONTRACTOR. Any payments as agreed to by the DEVELOPER and GENERAL CONTRACTOR shall be approximate only, and all partial estimates and payments shall be subject to correction in the final estimate and payment. Payment by the DEVELOPER of an unreduced partial payment shall not be construed as acceptance or approval of the GENERAL CONTRACTOR'S Work by the DEVELOPER, CITY or its agents.

20.35.4 Payment shall be made to the GENERAL CONTRACTOR by the DEVELOPER monthly, or as otherwise agreed, for the actual Work less ten percent (10%) retainage of the total amount earned. Provided the GENERAL CONTRACTOR has met and continues to meet the Project schedule and complies with all contract requirements, retainage will be paid to GENERAL CONTRACTOR by DEVELOPER upon DEVELOPER'S final acceptance of the Work performed by the GENERAL CONTRACTOR in accordance with 20.1.17 herein, payment of same shall not be unreasonably withheld. If at any time the GENERAL CONTRACTOR falls more than two (2) weeks behind schedule, the DEVELOPER shall have the right to withhold a total of fifteen percent (15%) from the GENERAL CONTRACTOR'S Progress Payments until in the opinion of the DEVELOPER, the GENERAL CONTRACTOR returns to the original Project schedule.

20.35.5 Refer to Section 20.60 for requirements on prompt payments to SUB-CONTRACTOR'S and suppliers that are JSEBs.

20.36 APPROVAL OF PAYMENTS

- 20.36.1 No payment made under the Bid and Contract Document or any Contract Agreement, except the final certificate of final payment, shall be evidence of the satisfactory performance of any contract between DEVELOPER and GENERAL CONTRACTOR, either wholly or in part. No payment shall be construed to be an acceptance of defective Work or improper materials.
- 20.36.2 The DEVELOPER may refuse to approve the whole or any part of any payment if, in its opinion, it is unable to make representations to the CITY that the Work has been completed and the GENERAL CONTRACTOR has fulfilled all of its obligations under the Bid and Contract Documents. It may also refuse to approve any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously approved, to such extent as may be necessary in its opinion to protect the DEVELOPER and CITY from loss because: the Work is defective; claims have been filed or there is reasonable evidence indicating the probable filing thereof; the Contract Price has been reduced because of Modifications; the DEVELOPER has been required to correct defective Work or complete the Work in accordance with this document; or, unsatisfactory prosecution of the Work, including failure to clean up.

20.37 FINAL PAYMENT

- 20.37.1 Upon written notice from the DEVELOPER that the Project is Complete (Final Completion), the DEVELOPER and NSP CONSTRUCTION MANAGER will make a final inspection and the DEVELOPER will notify the GENERAL CONTRACTOR in writing of any particulars in which this inspection reveals that the Work is defective or incomplete. The GENERAL CONTRACTOR shall immediately make such corrections as are necessary to remedy such defects and to otherwise make its Work conform to the contract requirements and to its performance comply with the contract requirements.
- 20.37.2 After the GENERAL CONTRACTOR has completed any such corrections to the satisfaction of the DEVELOPER and delivered all maintenance and operating instructions, schedules, guarantees, certificates of inspection, a list of contacts for correction of warranty problems and other documents, all as required by the Bid and Contract Documents, it may make application for final payment following the procedure for progress payments. The Final Application for payment shall be accompanied by such supporting data as the NSP CONSTRUCTION MANAGER and DEVELOPER may require, together with complete and legally effective releases or waivers satisfactory to the NSP CONSTRUCTION MANAGER and DEVELOPER showing satisfaction of all matters the GENERAL CONTRACTOR has obligated itself to by way of the Bid and Contract Documents and the labor, services performed and the material and equipment furnished there under. In lieu thereof and as approved by the DEVELOPER and NSP CONSTRUCTION MANAGER, the GENERAL CONTRACTOR may furnish receipts or releases in full; an affidavit of the GENERAL CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which the DEVELOPER, the CITY, the Project or the DEVELOPER'S property might in any way be responsible, have been paid or otherwise satisfied, to final payment. If any SUB-CONTRACTOR or supplier fails to furnish a release or receipt in full, the GENERAL CONTRACTOR may furnish a bond satisfactory to the DEVELOPER and the CITY to indemnify the aforementioned parties against any lien or claim by any SUB-CONTRACTOR, service provider or

supplier.

20.37.3 If, on the basis of its observation and review of the Work during construction, its final inspection and its review of the final Application for Payment, all as required by the Bid and Contract Documents, the DEVELOPER and the NSP CONSTRUCTION MANAGER are satisfied that the Work has been completed and the GENERAL CONTRACTOR has fulfilled all of its obligations under the Bid and Contract Documents, the NSP CONSTRUCTION MANAGER will, within five (5) business days after receipt of the final application for Payment, indicate in writing its approval of payment and present the Application to the DEVELOPER. Otherwise, it will return the Application to the DEVELOPER, indicating in writing its reasons for refusing to approve final payment, in which case the DEVELOPER will cause the GENERAL CONTRACTOR to make the necessary corrections and resubmit the Application.

20.38 LIENS AND CLAIMS:

20.38.1 In addition to other remedies available to the DEVELOPER hereunder, in all cases of nonpayment by the GENERAL CONTRACTOR or a SUB-CONTRACTOR of any sums of money due for labor, materials, supplies, equipment, or other items in performing under the Bid and Contract Documents, or at any time there should be evidence of a lien or claim chargeable to the GENERAL CONTRACTOR or SUB-CONTRACTOR for which, if established, the DEVELOPER or the CITY might become liable, the Surety or Bonding Company, if any, shall indemnify and hold harmless the DEVELOPER and CITY against any such liens or claims.

20.38.2 Neither final payment nor any part of the retained percentage shall become due until the GENERAL CONTRACTOR shall deliver to the DEVELOPER and NSP CONSTRUCTION MANAGER a complete waiver or release by the GENERAL CONTRACTOR and its SUB-CONTRACTOR'S and others of all liens and claims arising out of the Work, or receipts in full in lieu thereof, and if required, an affidavit that so far as it has knowledge or information, the releases and receipts include all the labor and materials for which a lien or claim could be filed.

20.38.3 If required by NSP CONSTRUCTION MANAGER or DEVELOPER, such waiver or release shall also be furnished by the GENERAL CONTRACTOR before a monthly payment or payments shall become due.

20.39 INDEMNIFICATION:

20.39.1 The GENERAL CONTRACTOR, its employees, agents, and SUB-CONTRACTOR'S shall indemnify, defend, and hold harmless the DEVELOPER, the NSP CONSTRUCTION MANAGER, and the CITY and their respective agents and consultants (including their directors, officers, employees, representatives, and agents (for purposes of this section 20.39, the "Indemnified Parties"), against and from all liabilities, damages, losses, costs, and expenses of whatsoever kind or nature, including, but not limited to, reasonable attorney's fees, reasonable expert witness fees and court costs, (all of which are collectively referred to as "Damages") to the extent such Damages are caused by the negligence, recklessness or intentional wrongful conduct of the GENERAL CONTRACTOR, or its SUB-CONTRACTORS, in the performance of its duties under the Bid and Contract Documents. Without limiting the foregoing, the above indemnification provision extends to Environmental Impact Claims. "Environmental Impact Claim" is defined as claims, suits, judgments, costs, losses, expenses, (including attorney's fees) which arise out of, are related to, or based

on the actual or threatened dispersal, discharge, escape, release, or saturation of chemicals, liquids, gasses, or any other material, irritant, contaminant or pollution in or into the atmosphere, or on, onto, upon, in or into the surface or subsurface (a) soil, (b) water or water course, (c) objects, or (d) any tangible or intangible matter, whether sudden or not.

- 20.39.2 In any and all claims against the Indemnified Parties by any employee of the GENERAL CONTRACTOR or its SUB-CONTRACTOR, the indemnification obligation under Subparagraph 20.39.4 below shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the GENERAL CONTRACTOR or any SUB-CONTRACTOR under Worker's compensation acts, disability benefit acts or other employee benefit acts.
- 20.39.3 The obligation of the GENERAL CONTRACTOR will not extend to any claim, damage, loss or expense arising out of GENERAL CONTRACTOR'S receipt of erroneous directions or instructions that may have been provided to it by the DEVELOPER, the NSP MANAGER, NSP CONSTRUCTION MANAGER, or CITY, given to the GENERAL CONTRACTOR hereunder, provided such giving or failure to give directions or instructions is, in the final analysis, the primary cause (by clear and convincing evidence) of the injury or damage; however, in any event, the CITY's liability is subject to the limitations and provisions of section 768.28, F.S. (which limitation is not altered, expanded or waived by anything herein).
- 20.39.4 For ten dollars (\$10.00) acknowledged to be included and paid for in the contract price and other good and valuable considerations, the GENERAL CONTRACTOR agrees to indemnify and hold harmless the Indemnified Parties in accordance with the provisions of this document.
- 20.39.5 The GENERAL CONTRACTOR agrees to indemnify and hold harmless the DEVELOPER, CITY and its agents based on any claim or damage resulting from the GENERAL CONTRACTOR'S alleged breach of its contract.
- 20.39.6 The GENERAL CONTRACTOR specifically waives any right to seek attorney's fees and construction claim preparation costs from the CITY and its agents.

20.40 INSURANCE:

20.40.1 GENERAL:

The amounts and types of insurance required shall be commensurate with the hazards and magnitude of the undertaking, but in no event of lesser amount nor more restrictive than the limits of liability and schedule of hazards below described. Insurance requirements should be tailored to the type of construction or operations contemplated.

- 20.40.2 Without limiting its liability under the Bid and Contract Documents, the GENERAL CONTRACTOR and its SUB-CONTRACTORS shall procure and maintain at its expense during the life of this Contract, insurance of the types and in the minimum amounts stated below:

SCHEDULE

Workers Compensation

LIABILITY

Florida Statutory Coverage

Employer's Liability	\$ 100,000 Each Accident
(Including Appropriate Federal	\$ 500,000 Disease Policy Limit
Acts)	\$ 100,000 Employee/Disease
Commercial General Liability	\$2,000,000 General Aggregate
(Including premises operations and	\$2,000,000 Products/Comp.Ops Agg
Blanket contractual liability)	\$1,000,000 Personal/Advertising Injury
	\$1,000,000 Each Occurrence
	\$ 50,000 Fire Damage
	\$ 5,000 Medical Expenses

THE CITY SHALL BE NAMED AS ADDITIONAL INSURED UNDER ALL OF THE ABOVE COMMERCIAL GENERAL LIABILITY

Automobile Liability	\$1,000,000 Combined Single Limit
(All autos owned, hired or	
Non-owned)	

Professional Liability	\$1,000,000
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Professional Liability coverage will be provided on an Occurrence Form or a Claims Made Form with a retroactive date equal to at least the first date of the Bid and Contract Documents and with a three year reporting tail beyond the annual expiration date of the policy.

In addition to the insurance required above, DEVELOPERS and GENERAL CONTRACTORS must maintain:

Pollution Liability	\$1,000,000 per occurrence
	\$2,000,000 aggregate

The CONTRACTOR shall be responsible to maintain a Builder's Risk Policy for all vertical Projects with the coverage limit being equal to 100% of the completed value of the Project.

20.40.3 Pollution Liability: The GENERAL CONTRACTOR and SUB-CONTRACTORS (where applicable) will provide Pollution Liability coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate. Such coverage will name the DEVELOPER, the CITY as additional insured and include a waiver of subrogation in favor of the DEVELOPER and CITY.

20.40.4 The GENERAL CONTRACTOR shall be responsible to maintain a Builders Risk policy for all vertical Projects with the coverage limit being equal to 100% of completed value of the Project. The Builder's Risk policy shall include the SPECIAL FORM/ALL RISK COVERAGES. A minimum deductible of \$10,000 shall be required. Named insured's shall be: GENERAL CONTRACTOR, DEVELOPER, the CITY and its respective agents and consultants.

20.40.5 Said insurance shall be written by a company or companies approved to do business in the State of Florida and acceptable to the Division of Insurance and Risk Management. Before commencing any Work hereunder, certificates evidencing the maintenance of said insurance shall be furnished to the DEVELOPER and CITY.

20.40.6 The DEVELOPER and CITY and its respective agents and consultants shall be named in each separate policy as "an additional interest" insured (except automobile policies).

20.40.7 The insurance shall provide that no material alteration or cancellation, including

expiration and non-renewal, shall be effective until 30 days after receipt of written notice to the DEVELOPER and CITY. Cancellation or non-renewal of any insurance policy shall in no way limit the GENERAL CONTRACTOR'S liabilities hereunder.

20.40.8 Prior to award of Contract, the GENERAL CONTRACTOR shall be required to present a letter (or other written statement) from its Insurance Agent affirming:

- (1) That the Agent has personally reviewed the insurance requirements of the Bid and Contract Documents, and
- (2) That the Agent is able (having proper market) to provide the coverages and limits of liability required on behalf of the GENERAL CONTRACTOR.

20.40.9 In the event that any part of the Work to be performed hereunder shall require the GENERAL CONTRACTOR or its SUB-CONTRACTORS to enter, cross or Work upon or beneath the property, tracks, or right-of-way of a railroad or railroads, the GENERAL CONTRACTOR shall, before commencing any such Work, and at its expense, procure and carry liability or protective insurance coverage in such form and amounts as each railroad shall require.

20.40.10 The original of such policy shall be delivered to the railroad involved, with copies to the DEVELOPER and the CITY. The GENERAL CONTRACTOR shall not be permitted to enter upon or perform any Work on the railroad's property until such insurance has been furnished to the satisfaction of the railroad. The insurance herein specified is in addition to any other insurance which may be required by the DEVELOPER or as required herein and shall be kept in effect at all times while Work is being performed on or about the property, tracks, or right-of-way of the railroad.

20.40.11 Depending upon the nature of any aspect of this Project and its accompanying exposures and liabilities, the DEVELOPER may, at its sole option, require an additional insurance coverage in amounts responsive to those liabilities which may or may not require that the DEVELOPER and other authorized representatives also be named as an additional insured.

20.40.12 Neither approval nor failure to disapprove insurance furnished by the GENERAL CONTRACTOR shall relieve the GENERAL CONTRACTOR from responsibility to provide insurance as required by the contract. Anything to the contrary and notwithstanding, the liabilities of the GENERAL CONTRACTOR under this agreement shall survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage.

20.41 CLEANING UP AND RESTORATION:

20.41.1 The GENERAL CONTRACTOR shall keep the premises, rights-of-way including but not limited to sidewalks and streets and adjacent property free from accumulations of dirt, waste materials, rubbish and other debris resulting from the Work, and progressively as the Work is completed it shall remove all waste materials, rubbish, dirt and debris from and about the Work areas as well as all tools, construction equipment and machinery, and surplus materials, and shall leave the site clean.

20.41.2 When the Work involves the laying of Utility lines across grassed areas, streets, sidewalks, and other paved areas, it shall be the responsibility of the CONTRACTOR to restore such areas to its original sound condition using construction techniques and materials which are the same as existing. In the case of planted areas, the GENERAL

CONTRACTOR shall maintain the restoration Work until positive and sustainable growth has evidenced.

- 20.41.3 In case of dispute, the DEVELOPER may remove the rubbish and surplus materials or perform restoration Work and charge the cost to the GENERAL CONTRACTOR. Such costs shall be deducted from the Contract amount or the GENERAL CONTRACTOR'S next application for payment, at the DEVELOPER'S option.

20.42 DRAINAGE ALONG RIGHTS-OF-WAY:

- 20.42.1 The GENERAL CONTRACTOR shall conduct its operations and maintain the Work in such condition that adequate drainage shall be provided and in effect at all times for the full duration of this contract. This requirement is in addition to any temporary drainage provisions included in the Bid and Contract Documents.
- 20.42.2 The GENERAL CONTRACTOR will not obstruct existing gutters, ditches and other runoff facilities. The GENERAL CONTRACTOR shall be solely liable for any damages caused by its failure to provide and maintain adequate drainage.

20.43 TRAFFIC INTERFERENCE:

- 20.43.1 GENERAL CONTRACTOR shall plan and coordinate its Work with the CITY Traffic Engineering Division so as to minimize traffic interferences. The rules and instructions of the Traffic Engineering Division shall be followed for the public benefit.
- 20.43.2 Construction operations on this Project shall be carefully planned and scheduled so that, except as provided for in the Bid and Contract Documents, the normal flow of local traffic shall be maintained at all times. It is understandable that providing for such local traffic will require some inconvenience to the users, but such inconvenience must be kept to an absolute minimum. Ingress and egress shall be provided at all times for local residents. The GENERAL CONTRACTOR shall furnish detour and construction signing and lighting as required and other special advanced detour signs as required by the Traffic Engineer for the CITY. Payment for Maintenance of traffic costs shall be at the lump sum price and/or unit prices submitted in the Proposal. In the absence of Maintenance of Traffic pay items, payment for maintenance of traffic shall be included in the lump sum bid price for Site Preparation.
- 20.43.3 The GENERAL CONTRACTOR will be financially responsible for damage to local vehicles caused by or as a result of construction activities. In the event of delay in GENERAL CONTRACTOR honoring such financial claims, the DEVELOPER will, after three (3) days written notice, honor the claim and deduct the cost thereof from any monies due the GENERAL CONTRACTOR.

20.44 MISCELLANEOUS:

- 20.44.1 Each and every provision of law and clause required by law to be inserted in the Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included herein. If through mistake, or otherwise, any such provision is not inserted or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion.
- 20.44.2 The CITY may at any time have access to the DEVELOPER'S and GENERAL CONTRACTOR'S Project records for the purposes of auditing the financial and contractual performance of the DEVELOPER and GENERAL CONTRACTOR during

the entire contract period and for three (3) years after final payment. The CITY, with seven (7) days prior written notice to the DEVELOPER or GENERAL CONTRACTOR, may obtain copies of all of the Projects financial and scheduling computer disks or other types of records at any reasonable time from the DEVELOPER and GENERAL CONTRACTOR and also shall have reasonable access to and obtain copies of all other documents, which includes photographs, tapes and electronics, except those that would be privileged under Florida law.

20.44.3 The GENERAL CONDITIONS are issued solely for the benefit of the DEVELOPER, GENERAL CONTRACTOR, and CITY. No other person(s) or party(s) shall be a beneficiary hereof or have any rights hereunder, and no rights are conferred by these General Conditions upon any other person(s) or party(s). The CITY and NSP CONSTRUCTION shall not be deemed to be a partner or joint venturer with the DEVELOPER or GENERAL CONTRACTOR. The GENERAL CONTRACTOR shall indemnify, defend, and hold the CITY and NSP CONSTRUCTION MANAGER harmless from and against any and all liabilities, damages, claims, demands, costs, expenses and attorneys' fees resulting from such a construction of the parties and their relationship.

20.44.4 The GENERAL CONDITIONS shall be governed by the laws of Florida without reference to the choice of law rules or conflict of law rules of that state. Venue for any action arising under the General Conditions shall lie exclusively in the courts of Duval County, Florida. The headings of paragraphs in this document are for convenience only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof. If any portion of the General Conditions is declared void by any court as illegal or against public policy, the remainder of the General Conditions in question shall continue in full effect. The General Conditions may not be modified or amended in any manner except as approved by the NSP MANAGER.

20.45 UTILITIES AND SANITARY PROVISIONS:

20.45.1 GENERAL CONTRACTOR shall provide and pay for all water, electricity, fuel for testing equipment, and any other utilities required for construction, testing and adjustment. Upon completion of the Work, all evidence of temporary lines shall be removed.

20.45.2 The GENERAL CONTRACTOR shall provide and maintain in a neat, sanitary condition such accommodations for use of its employees and DEVELOPER and CITY inspection personnel as may be necessary to comply with the regulations of the public bodies having jurisdiction. Employees shall commit no public nuisance.

20.46 REFERENCED SPECIFICATION AND CONFLICTS:

20.46.1 All materials, systems or operations specified by reference to standard trade specifications or to manufacturer's published specifications shall in all respects comply with the requirements of the referenced specifications, except as modified by the requirements of these Bid and Contract Documents. Except when a particular edition is called for, the referenced specification used shall be the latest published edition on the date of the Bid and Contract Documents. In case of a conflict between the referenced specification and the Bid and Contract Documents, the Bid and Contract Document shall govern. In case of a conflict between referenced specifications, the specification having the more stringent requirements shall govern.

20.46.2 In case of a conflict between various portions of the Bid and Contract Documents, the more stringent requirements, as determined by the NSP CONSTRUCTION MANAGER will be enforced. The GENERAL CONTRACTOR shall refer requirements that are different, but apparently equal, and uncertainties as to which quality level is more stringent, to the DEVELOPER and NSP CONSTRUCTION MANAGER before proceeding.

20.47 INTERPRETATION OF APPROXIMATE QUANTITIES:

20.47.1 Any estimate of quantities of Work to be done and materials to be furnished under the specifications provided by NSP CONSTRUCTION MANAGER or contained in the Bid and Construction Documents as required for the Project to be completed by the GENERAL CONTRACTOR as contemplated herein and subsequently utilized for its intended purpose are approximate measurements of quantities and not guaranteed measurements. The DEVELOPER, NSP CONSTRUCTION MANAGER, or the CITY, and its respective agents and consultants do not assume any responsibility that the final quantities shall be in accordance with the estimated quantities should the GENERAL CONTRACTOR plead misunderstanding or deception because of such estimate of quantities or of the character, location of the Work or other conditions pertaining thereto.

20.48 QUALIFICATIONS OF CONTRACTOR'S PERFORMING WORK ON CONSTRUCTION OF BUILDINGS AND/OR STRUCTURES:

20.48.1 All GENERAL CONTRACTORS performing Work on the Project which requires CONTRACTOR qualification, shall be registered or hold a current GENERAL CONTRACTOR Certificate in accordance with applicable State law and CITY Ordinances.

20.49 QUALIFICATIONS OF GENERAL CONTRACTOR'S AND CRAFTSMEN PERFORMING WORK IN CERTAIN SPECIALTY TRADES:

20.49.1 All GENERAL CONTRACTORS, including SUB-CONTRACTORS, and craftsmen performing Work (including, but not limited to, electrical, plumbing, heating, and air-conditioning) on the Project which applicable State law and CITY Ordinances require qualification in certain specialty trades, shall hold current GENERAL CONTRACTOR or Craftsman Certificates in appropriate trade as provided in such laws.

20.50 STATE LOCAL AND FEDERAL REGULATIONS:

20.50.1 The GENERAL CONTRACTOR shall comply with all State and Federal laws, regulations, and codes applicable to the Work as well as those of the CITY. The GENERAL CONTRACTOR'S attention is directed to the U. S. Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970.

20.51 CERTIFICATION OF CHEMICALS:

20.51.1 All chemicals used during Project construction or furnished for Project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or of other classification, must show approval of either EPA or USDA. Use of all such chemicals and disposal of residues shall be in strict conformance with instructions.

20.52 TREE PROTECTION ON PUBLICLY-OWNED OR CONTROLLED PROPERTY:

- 20.52.1 The GENERAL CONTRACTOR shall protect all trees, in accordance with Chapter 656 (Part 12 – Landscape and Tree Protection Regulations), *Jacksonville Ordinance Code*, from damage by vehicles, equipment and machinery, except those trees designated for removal (via permit) on the construction drawings. Removal of any tree not so designated nor permitted, shall be only upon specific approval by the NSP MANAGER.
- 20.52.2 Excavated dirt shall not be piled around the base of the tree. The GENERAL CONTRACTOR shall not bury or burn any refuse around or near the trees. The GENERAL CONTRACTOR shall proceed with caution when excavating in the vicinity of root structure of any tree. Excavation shall be by hand where possible.
- Roots up to 2 inches in diameter when severed do not require any pruning paint. Roots from 2 inches to 4 inches in diameter must be severed with a pruning saw.
- An axe or similar tool is not acceptable for pruning. The wood shall be treated with asphalt-type pruning paint as soon as possible after pruning. Roots over 4 inches shall not be severed except as directed by NSP CONSTRUCTION MANAGER.
- 20.52.3 Pre-Construction Barriers: Prior to any site disturbance, barriers will be put up around each tree to be protected. These barriers should be constructed of 2 x 4's or any other practical materials which will discourage disturbance near the tree. To conform to the *Jacksonville Ordinance Code* requirements, these barriers should be at least six feet away from the trunk of the tree and protect an area that is at least 50 percent of the unpaved area covered by the crown spread of the tree. When conditions permit, barriers are to be placed in such a manner as to provide the largest undisturbed area possible.
- 20.52.4 Cutting of Roots: Cutting tree roots will be kept to a minimum and only allowed when absolutely necessary. In such instances the GENERAL CONTRACTOR shall insure that all cuts are made clean with a saw, free of all loose soil. At no time will roots be pulled, ripped or cut with a blade, backhoe or other mechanical device.
- 20.52.5 Changing of Grade: Any placing of additional fill or raising the grade under the crown spread of trees will not be permitted. Lowering the grade under the crown spread of trees will not be permitted. In no event is temporary or permanent storage of fill under the crown or within the drip line of any tree permitted. Where necessary, the contractor may utilize a gradual slope of grade beginning at the crown and sloping away from the crown to achieve a gradual slope. In the instance of significant grade change or where necessary, the contractor may utilize a rock, stone or wooden retaining wall provided a 3" drain is placed every 4' of wall diameter. The drain must have an adequate drain field to accept water that may accumulate under the crown of the tree where there is a chance of ponding exists due to a grade change.
- 20.52.6 Pruning of Branches: Should branches require pruning to provide for roadway or other necessary clearance, it will be cut back to a main stem or crotch of the tree. All cuts will be made at the bench collar to allow the natural healing process of the tree to occur. To further promote the natural healing process, no pruning paint or other material will be applied to pruning cuts.
- 20.52.7 Wounds: If a tree is wounded during construction, all bark surrounding the wound shall be cut away and carefully removed. Care shall be taken to leave as much cambium as possible.

20.52.8 Any tree whose root system has been disturbed or damaged must be properly fertilized to aid in its recovery. The hole or punch-bar method shall be used for applying fertilizer. The holes should be approximately 12 inches to 18 inches deep, 1 inch to 2 inches in diameter, 2 feet apart, and extend 2 feet past the drip line of the tree. DO NOT apply fertilizer within one foot of the trunk of a small tree (up to 6 inches diameter) or within three feet of the trunk of a large tree (over 6 inches diameter). Injury to the root collar and trunk base may result. The type of fertilizer to be used shall be 25% organic 8-8-8 with minor elements included. Chemical analysis as follows: Total Nitrogen, not less than 8.0 percent available Phosphoric Acid, not less than 8.0 percent water soluble potash, not less than 8.0 percent. Fertilizer shall be applied at the following rates and shall be evenly distributed among the holes.

Hardwoods up to 6" Dia.	2 lbs. per inch of dia.
Hardwoods over 6" Dia.	4 " " " " "
Evergreens up to 6" Dia.	1 " " " " "
Evergreens over 6" Dia.	2 " " " " "

20.52.9 It shall be the responsibility of the NSP MANAGER to make all decisions pertaining to removal of trees. Any necessary removal of trees will be performed under the requirements of the Code. Each Project file is to contain documentation and a brief explanation of the NSP MANAGER'S decision to remove trees so as to provide the justification for such action for later reference. It shall be the GENERAL CONTRACTOR'S responsibility to secure any CITY permits required for tree removal and to perform the required Work in accordance with CITY requirements.

20.53 CONSTRUCTION AND DEMOLITION DEBRIS

20.53.1 The GENERAL CONTRACTOR shall dispose of construction and demolition debris only at approved sites. The CONTRACTOR must identify the site to which construction and demolition debris under this contract will be taken for disposal. During performance of the contract, the GENERAL CONTRACTOR will be required to obtain and provide receipts from the disposal site operator for all debris to the DEVELOPER and NSP CONSTRUCTION MANAGER.

20.53.2 Prior to commencement of construction, the GENERAL CONTRACTOR shall be required to submit the following completed statement of compliance:

Construction and Demolition Debris: Construction and demolition debris at the Work site will be disposed of at a site permitted to receive such materials. The Certificate of Necessity Number and designated Solid Waste Department Permit Number will be attached to a notice to DEVELOPER regarding deposit of Construction and Demolition Debris. GENERAL CONTRACTOR will obtain receipts for each load of debris deposited and will deliver these receipts to the DEVELOPER and the NSP CONSTRUCTION MANAGER. The GENERAL CONTRACTOR will retain a copy of the receipts for the duration of the contract and two (2) years thereafter.

20.54 PRECEDENCE OF DOCUMENTS:

20.54.1 In resolving conflicts, errors and discrepancies between the various Bid and Contract Documents, precedence shall be given in the following order:

20.54.1.1 Approved Change Orders

20.54.1.2 Contract Agreement

- 20.54.1.3 Addenda Issued Prior to Receipt of Bids
- 20.54.1.4 Special Conditions of the Specifications
- 20.54.1.5 Technical Provision of the Specifications
- 20.54.1.6 Drawings
- 20.54.1.7 Invitation to Bid
- 20.54.1.8 Instructions for Bidders
- 20.54.1.9 General Conditions

20.54.2 Any specific item stated in the General Conditions, Special Conditions, or Technical Specifications, takes precedence over an item which is made part of the documents by being added by reference.

20.55 PREVENTION, CONTROL AND ABATEMENT OF EROSION AND WATER POLLUTION

- 20.55.1 In addition to any erosion control measures shown on the plans or represented in the Bid and Contract Documents, the GENERAL CONTRACTOR shall take additional steps and make suitable provisions to minimize siltation and erosion of waterways which may result from, or as a result of, his operations during the course of construction of this Project. The GENERAL CONTRACTOR is hereby advised that silt barriers are to be used at all times during construction operations that may result in siltation or erosion. The GENERAL CONTRACTOR shall prepare and submit his own turbidity control plan in detail to the DEVELOPER for approval. The DEVELOPER'S approval shall not relieve the GENERAL CONTRACTOR of liability in case of a citation by the Department of Environmental Regulation.
- 20.55.2 The GENERAL CONTRACTOR is cautioned that construction or maintenance operations on the subject Project, which create turbidity and which directly or indirectly affects the water quality of any waterway to which storm water is discharged in such a manner as to exceed the limitations prescribed in Florida Administrative Code, is a violation of the Water quality Standards of the State of Florida.
- 20.55.3 Turbidity shall not exceed twenty-nine (29) NTU's, above background level within one hundred (100) feet of the construction activity.
- 20.55.4 The GENERAL CONTRACTOR shall be responsible for complying with all applicable rules, regulations, laws and ordinances and shall be solely liable for any fines, penalties, or costs caused by the GENERAL CONTRACTOR'S failure to comply with said conditions. The execution of this Work item by the GENERAL CONTRACTOR is to be done on a proactive basis throughout the Contract.
- 20.55.5 This Work shall include but not be limited to sandbagging, silt screens, hay bales, temporary grassing, sediment basins, and sediment checks as shown on the plans or deemed necessary by the GENERAL CONTRACTOR to comply with all applicable rules. The costs required to comply with permit conditions, including testing, shall be included in the Lump Sum bid price for Erosion Control and Pollution Abatement. Payment for this item shall be based on the percentage of Work completed. In the event there is no bid item for Erosion Control and Pollution Abatement, this Work shall be included in Site Preparation.

20.55.6 The GENERAL CONTRACTOR shall be solely liable for any fines or penalties imposed by the regulatory agencies having jurisdiction over this Project due to GENERAL CONTRACTOR'S failure to comply with this section.

20.56 RESIDENT NOTIFICATION AND TOWN MEETINGS

20.56.1 "Improvements in Progress" flyers, which notify local residents, homeowners and business personnel of impending construction, shall be prepared by the DEVELOPER and delivered to the GENERAL CONTRACTOR at the Preconstruction Conference. The GENERAL CONTRACTOR will be responsible for distributing 50 "Improvements in Progress" flyers to the residents, homeowners and businesses in the immediate area of the Project. The GENERAL CONTRACTOR shall not be issued Notice to Proceed until the flyers have been delivered to him, and he shall not commence any Work on the site until at least two (2) days after the flyers have been distributed.

20.56.2 When any part of the contract Work requires relocation of a resident's fences, shrubbery, irrigation or similar items located outside of a residents property and within easements or right-of-way, it shall be the GENERAL CONTRACTOR'S responsibility to notify (by certified mail, with copy to the DEVELOPER) affected residents at least fourteen (14) days prior to commencement of construction. This notice will contain the GENERAL CONTRACTOR'S name, phone number and email address and will advise residents that they have made improvements to areas outside of their property boundaries and to remove any items they wish to save. It shall also be the responsibility of the GENERAL CONTRACTOR to make personal contact with the residents 72 hours prior to construction on each specific parcel. If personal contact cannot be made, a written notice left at the residence will satisfy the 72-hour notice requirement. In no case shall Work commence on a parcel where the required notification has not been made or without written consent of the NSP CONSTRUCTION MANAGER. In the case of fence and irrigation removal, the GENERAL CONTRACTOR will, at the resident's election and at a cost to the Project, place new fencing and irrigation on the resident's property and ensure that the resident's property is returned to useable condition after placement of fencing and irrigation. Where necessary, the GENERAL CONTRACTOR shall place new sod in areas of resident's property which was disturbed by replacement of fencing and irrigation.

20.56.3 At the DEVELOPER'S discretion, the GENERAL CONTRACTOR'S Project representative shall attend Project related Town Meetings scheduled by the DEVELOPER or the City and shall be prepared to discuss concerns expressed by residents and businesses affected by the construction.

20.56.4 The costs for distributing flyers, making personal contacts with property owners, relocating fences and irrigation systems and attending Town Meetings shall be included in the lump sum amount bid for Site Preparation contained in the Proposal.

20.57 GENERAL CONTRACTOR'S REPORTS

20.57.1 The GENERAL CONTRACTOR will be required to complete Reports as specified in the Technical Specifications.

20.58 REQUEST FOR INFORMATION FORMS

20.58.1 The GENERAL CONTRACTOR will use the Request for Information Form as shown in

the Technical Specifications.

20.59 DUST CONTROL

If the DEVELOPER determines that it is necessary to control dust from time to time during the progress of the Work, the GENERAL CONTRACTOR shall do so with a method as approved by the Technical Specifications.

20.60 PROMPT PAYMENT TO SUB-CONTRACTOR'S AND SUPPLIERS:

20.60.1 GENERAL REQUIREMENTS - When the GENERAL CONTRACTOR receives payment from the DEVELOPER for labor, services, or materials furnished by SUB-CONTRACTOR'S and suppliers hired by the GENERAL CONTRACTOR, the GENERAL CONTRACTOR shall remit payment due (less proper retainage) to those SUB-CONTRACTOR'S and suppliers within seven (7) days after the GENERAL CONTRACTOR'S receipt of payment from the DEVELOPER. GENERAL CONTRACTOR'S failure to submit an Application for Payment shall, in no way, negate GENERAL CONTRACTOR'S payment obligations required under this section. Nothing herein shall prohibit the GENERAL CONTRACTOR from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its SUB-CONTRACTOR'S and suppliers. In the event of such a dispute, the GENERAL CONTRACTOR may withhold the disputed portion of any such payment only after the GENERAL CONTRACTOR has provided notice to the NSP MANAGER, DEVELOPER and to the SUB-CONTRACTOR or supplier whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and (iv) be delivered to the DEVELOPER and NSP MANAGER and said SUB-CONTRACTOR or supplier within five (5) days after GENERAL CONTRACTOR'S receipt of payment from DEVELOPER. GENERAL CONTRACTOR shall pay all undisputed amounts due within the time limits imposed by this section.

20.60.2 THIRD-PARTY LIABILITY - The Prompt Payment requirements hereunder shall, in no way, create any contractual relationship or obligation between the DEVELOPER and any SUB-CONTRACTOR, supplier, the CITY and its agents, or any third-party or create any DEVELOPER liability for the GENERAL CONTRACTOR'S failure to make timely payments hereunder.