

GARRETT COLLEGE

CONSTRUCTION TERMS AND CONDITIONS

Construction Terms and Conditions are in addition to the General Terms and Conditions and Formal Solicitation Terms and Conditions

ACCESS TO SITE, INSPECTIONS, CONCURRENT OPERATIONS

The College and its authorized representatives shall at all times have access to the work, to ensure that all instructions, terms and conditions and specifications are being strictly adhered to. The Contractor shall provide proper facilities for access. If the instructions, specifications, or any laws or ordinances require specific approvals or inspections, the Contractor shall give the College or other authority timely notice of its readiness of same. If any work should be covered up without such approvals or inspections, the College may require that it be uncovered at the Contractor's expense. The College reserves the right to perform work with its own forces, or to award separate contracts for work at the site under these, or similar, conditions. The Contractor shall cooperate with the College to ensure that all work progresses in a manner that does not unduly conflict with these activities or with normal operations of the College.

BONDING REQUIREMENTS

BID/PROPOSAL SECURITY:

For construction solicitations estimated to exceed \$100,000.00, Contractor's submittal must be accompanied by a bid/proposal security. Security may be a bond issued by a Surety licensed in the State of Maryland, properly executed in favor of the Board of Trustees of Garrett College in an amount not less than five percent (5%) of the Contractor's submitted price or may be a Cashier's check, in an amount of not less than five percent (5%) of the submittal price. Submittals received without security will be rejected. Contractors who submit a cashier's checks as security for projects requiring performance and payment bonds must state on their submittal the name and address of the Surety that will furnish such bonds. Attorney-in-fact that executes the required bonds on behalf of the Surety shall affix thereto a certified and current copy of his power of attorney. Bid/proposal security will be returned to unsuccessful Contractors within 48 hours after the College and the awarded Contractor have executed the contract. If no contract is executed within ninety (90) days after the solicitation due date, bid/proposal security will be returned upon demand, provided that the Contractor has not received notice of intent to award.

PAYMENT AND PERFORMANCE BOND:

For construction contracts exceeding \$100,000.00, prior to contract execution, the successful Contractor shall deliver to the College a Performance Bond and a Payment Bond in the amount of 100% of the contract amount covering faithful performance of the contract. In the event of contract termination for cause as provided for in the *General Terms and Conditions*, the College shall immediately serve notice upon the Contractor and the Surety, and the Surety shall have the right to assume and perform the contract. Should the Surety fail to commence performance thereof within ten (10) calendar days of such notice, the College shall have the right to take over and complete the contract, and the Contractor and the Surety shall be liable for any excess costs incurred thereby. The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, except as provided herein, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation. Language to automatically increase the bond value without request by the College or approval from the Surety must be reflected in the bond documents.

CHANGES IN THE WORK

The College may order additions or modifications to, or deletions from the work specified, and the contract prices and time may be adjusted accordingly by written change order. The cost or credit for changes shall be based upon one or more of the following: 1) unit prices previously approved; and/or 2) a lump sum determined by mutual agreement; and/or 3) the actual cost of direct labor, direct materials, plus overhead and profit at a fixed fee determined by mutual agreement. No claims for extra work or costs shall be allowed except upon issuance of a written change order from the College. The Contractor shall furnish an estimate of such costs with his request, and must furnish such bills, vouchers and payrolls as the College may request to support such claim(s).

CONTRACTOR'S EMPLOYEES, SAFETY & SECURITY

The Contractor shall at all time enforce strict discipline and good order among its employees, who shall be thoroughly experienced in the particular class of work for which they are employed. The Contractor shall supervise and direct the work using the best skill and attention to detail and shall be solely responsible for the adequacy, efficiency and safety of the plant, equipment, and methods, and for coordination of all work performed under the contract. The Contractor shall be represented at all times at the site by a supervisor or foreman satisfactory to the College, who shall meet with its representative regularly to ensure coordination of schedules and enforcement of College policy. The Contractor shall provide to the College's representative the qualifications of the site supervisor or foreman with evidence of their ability to manage the day-to-day operations of the project. The Contractor shall be responsible to the College for the acts and omissions of its employees, subcontractors and their agents or employees, and other persons performing any work under the contract. In the event of an accident or injury of any kind, the Contractor shall immediately notify the College's Security officers and furnish information for a full written report of the incident.

HAZARD COMMUNICATION PROGRAM

Contractors, subcontractors and their employees are required to exchange information with the College if they will be working in an area that uses or stores hazardous chemicals or if they will be bringing or using hazardous chemicals on the College campus. Contractors, subcontractors

and their employees shall be permitted to view the Chemical Information Lists and the Safety Data Sheets (SDS) for all chemicals in the work area and shall be informed of the availability of the College's Hazard Communications Program. This information exchange shall be conducted by the College's Facilities Director or designee.

LAWS AND REGULATIONS, ROYALTIES AND PATENTS

The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work, and promptly notify the College if the specifications or drawings are at variance therewith. Should the Contractor knowingly perform work contrary to such laws or regulations, and without such notice, they shall bear all costs arising therefrom. The Contractor shall pay all royalties and license fee and shall defend all suits or claims for infringement of patent rights, and save the College harmless from loss on account thereof.

LIQUIDATED DAMAGES

If specified in the solicitation document, the Contractor agrees that the work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time for completion. It is expressly understood and agreed, by and between the Contractor and the College, that the time for completion, takes into consideration the average climatic range and usual industrial conditions prevailing in this locality. If the Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the College, then the Contractor does hereby agree, as a part of consideration for the awarding of the contract, to pay to the College the amount set forth in the specifications for each calendar day past the date of Final Completion, not as a penalty, but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day or as otherwise described in the specifications, that the Contractor shall be in fault after the time stipulated in the contract for completing the work. The said amount is fixed and agreed upon by and between the Contractor and the College because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the College would in such event sustain, and said amount is agreed to be the amount of damages which the College would sustain and said amount shall be retained by the College from the payments due the Contractor.

MATERIALS

Unless otherwise specified, the Contractor shall provide and pay for all materials, labor, construction equipment and machinery, tools, utilities, water, transportation and other services and facilities necessary for the completion of the work, whether temporary or permanent. The Contractor warrants that all materials and equipment shall, unless otherwise specified, be new and that all work will be of good quality, free from faults and defects and in conformance with the specifications. The use of a brand or manufacturer's name in the description of any item is meant to indicate the quality, style, type or character or the article(s) desired, and shall be the basis upon which submittals are submitted and evaluated; it is not intended in any way to restrict competition.

PERMITS, LICENSES, CERTIFICATES

The Contractor shall obtain and pay for all necessary permits, licenses, and/or certificates, unless otherwise specified herein.

PREVAILING WAGE

The Contractor will follow [Maryland Department of Labor Prevailing Wage requirements](#) for any construction project with a value of \$250,000 or more and with at least 25% State funding.

PROTECTION OF PUBLIC, WORK AND PROPERTY

The Contractor shall take all necessary precautions to ensure the safety of employees on the worksite and other persons who may be affected thereby, and comply with all applicable federal, state and municipal safety laws, ordinances, rules and regulations, and orders of public authorities. The Contractor shall be responsible for initiating and maintaining all safety programs, including erection of safeguards for the protection of workmen and the public required by the progress of the work. The Contractor shall give all notices and post all required signs warning against hazards created by such features of the work, including, but not limited to, stairways, hatchways, hoists, scaffolding, and falling materials. The Contractor shall advise the College of the name of a member of its organization on the worksite responsible for enforcement of the above requirements. The Contractor shall at all times provide reasonable protection to prevent damage or loss to the work and all equipment and materials to be incorporated therein, as well as other property at or adjacent to the worksite. The Contractor shall promptly make good any such damage or loss it caused, or by its subcontractors, or anyone directly or indirectly employed, or for whose acts any of them may be liable, except for damage or loss directly attributable to the College, or to errors in the contract documents. The Contractor shall not load or permit any part of the structure to be loaded with a weight that will endanger its safety.

RETAINAGE

The College shall make progress payments on account of the Contract Price on the basis of the approved Contractor's Applications for Payment. If specified in the solicitation document, the College shall retain a portion of the amount due the Contractor in accordance with the following:

- a) Withholding may be five percent (5%) of the payment claimed; b) Any reduction in the percentage shall be made at the sole discretion of the College and will be considered only if the Contractor is making satisfactory progress and there is no specific cause for greater withholding;
- c) The College may retain up to ten percent (10%) withholding if the Contractor is not making satisfactory progress or if there is other specific cause for such withholding. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage of work completed but, in each case, less than the aggregate of payments previously made and less such amounts as the College may withhold, including but not limited to, liquidated damages, in accordance with the Contract. Upon Final Completion and acceptance of the work by the College, the College shall pay an amount sufficient to increase total payments to the Contractor to one hundred percent (100%) of the work completed, less any liquidated damages assessed.

SHOP DRAWINGS

The Contractor shall review and submit for approval all shop drawings, schedules, and samples required. The College will check and approve same for conformance with the design concept and compliance with the contract documents, and all work shall be in accordance with approved submittals.

STANDARD OF PERFORMANCE

The Contractor agrees to complete the work specified herein in good, workmanlike fashion, with that standard of care, skill and diligence normally provided by like professional organizations in the performance of similar services. The Contractor shall permit inspection of its operations, at any time, by the Board of Trustees of Garrett College or its authorized representatives, to determine that standards of quality are being met.

SUBCONTRACTORS

The Contractor shall submit for approval a written statement concerning proposed award to any subcontractor, furnishing such information as the College may require, and shall not award work to any subcontractor until the College's written approval is secured. The Contractor shall be as fully responsible to the College for the acts and omissions of its subcontractors, and their agents or employees, as it is for the acts of person directly employed. Contracts between the Contractor and the subcontractor(s) shall require each subcontractor to assume toward the Contractor all obligations and responsibilities which the Contractor assumes toward the College, insofar as applicable to the extent of the subcontractor's work. Nothing herein shall create any contractual relationship between any subcontractor and the College.

SUBSTITUTIONS

During the solicitation phase, any request for substitutions must be in writing and submitted to the Procurement Officer or designee specified by the questions due date and time. Articles offered by the awarded Contractor must equal to those specified by the solicitation. Requests for substitutions must be in writing, accompanied by documentary proof of equality from the manufacturer or supplier, and a statement of any credit or extra involved. Such requests shall not be considered a valid cause for delay. The decision of the College with regard to any such request shall be final in all cases, and no substitutions shall be purchased or installed without written approval.

TIME

All time limits stated herein are of the essence to the contract; thus, the Contractor shall expedite the work and achieve substantial completion within those limits.

UNCOVERING AND CORRECTION OF WORK

If re-examination of questioned work is ordered by the College or its authorized representative, the contractor must uncover that portion, and, if it is found to be defective or non-conforming, must bear all costs of uncovering and correction. Should the work be found in accordance with the specifications, or if the defects are determined attributable to another contractor, the costs of uncovering and replacement will, by written change order, be assumed by the College.

USE OF PREMISES, RESPONSIBILITY FOR TOOLS, MATERIALS, ETC.

The Contractor shall confine its equipment, storage of materials, and operations to the limits indicated by law, ordinances and the directions of the College, and shall not unreasonably encumber the premises with these materials. The Contractor shall store equipment and materials in such orderly fashion as will not unduly interfere with the progress of the work, the work of other contractors, or the routine operations of the College. The Contractor shall dispose of refuse, scrap, and debris daily, and ensure that the worksite has an orderly and workmanlike appearance at all times. The College shall have no responsibility for the loss, theft, disappearance of or damage to, equipment, tools, materials, or personal property of the Contractor or its employees, subcontractors, or materialmen, which may be stored at the jobsite.

WARRANTY

The Contractor shall correct, at his own expense, any work found to be defective or non-conforming within one (1) year after final acceptance, or such longer period as may be prescribed by law or any applicable special warranty. This provision is applicable to work of subcontractors, as well as direct employees of the Contractor.