



GENERAL TERMS AND CONDITIONS

subcontractors and suppliers with each statement submitted to the City. The City shall retain the right to withhold payments if required proof of payment to subcontractor and suppliers is not included with a statement.

- b. Timing of Payments: Progress payments, ~~less a five percent retainage as authorized by ORS 279C.555~~, shall be made to the Contractor within ~~twenty (20)~~ thirty (30) days of the City's receipt of the statement of services.
- c. Final Payment: The Contractor shall notify the City in writing when the Contractor considers the project complete, and the City shall, within 15 days after receiving the written notice, either accept the work or notify the Contractor of work yet to be performed on the contract. If accepted by the City, the remaining balance due to the Contractor, including the retained percentage, shall be paid to the Contractor by the City within 30 days after the date of said acceptance.

~~The City shall pay to the Contractor interest at the rate of one and one half percent per month on the final payment due the Contractor, to commence 30 days after the work under the Contract has been completed and accepted and to run until the date when final payment is tendered to the Contractor. If the City does not, within 15 days after receiving written notice of completion, notify the Contractor of work yet to be performed to fulfill contractual obligations, the interest provided by this subsection shall commence to run 30 days after the end of the 15 day period.~~

d. Deposit in Interest Bearing: Upon written request of the contractor, or any time the contract price exceeds \$500,000, the City shall deposit any amounts withheld as retainage in an interest-bearing account in a bank, savings bank, trust company, or savings association for the benefit of the City. Interest earned on such account shall accrue to the contractor. If the contractor deposits bonds, securities, or other instruments in lieu of cash retainage, the City shall accept the contractor's alternative retainage method in lieu of depositing the retainage in an interest-bearing escrow account, subject to the limitations and requirement of ORS 279.560.

As a further condition of final acceptance, the City may require the Contractor to submit evidence, satisfactory to the City's Representative, that all payrolls, material bills, and other indebtedness connected with the project have been paid. If any indebtedness or liens are in dispute, the Contractor may submit a surety bond satisfactory to the City guaranteeing payment of all such disputed amounts if such payment has not already been guaranteed by surety bond.

All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed to the attention of the Buyer and/or Authorized Bidder at the addresses identified in the Invitation for Bid and shall be deemed given upon deposit in the United States mail, postage paid. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving written notice pursuant to this paragraph.

- 8. **LIQUIDATED DAMAGES:** The Contractor agrees that the "Time of Completion" is defined in the Bid and agrees to complete the work by said date. The Contractor and City agree that the City will suffer damages each day the work remains uncompleted after the Time of Completion and that the amounts of those damages are difficult to calculate. Contractor and City agree that a reasonable amount of damages for late completion is **\$100 per calendar day** and Contractor agrees to pay such amounts as liquidated damages if the work is not completed by the Time of Completion. Contractor agrees that the liquidated damages specified herein are a fair way of ascertaining damages to the City and are not a penalty for late completion.
- 9. **STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR:** Contractor certifies that:
 - a. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an Independent Contractor as defined by ORS 670.600 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives