CONTRACT DOCUMENTS
FOR
2017 GREENEVILLE WASTEWATER TREATMENT PLANT IMPROVEMENTS, UV SYSTEM
2017 CDBG PROJECT - CONTRACT # 53789-12010
GREENEVILLE, TN

#18-02

JULY 2018

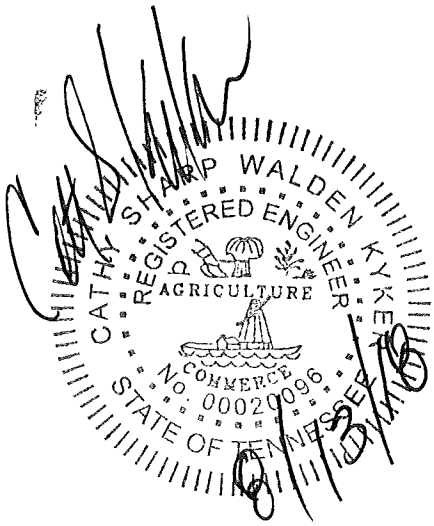

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TABLE OF CONTENTS
FOR CONTRACT DOCUMENTS FOR
2017 GREENEVILLE WASTEWATER TREATMENT PLANT IMPROVEMENTS, UV SYSTEM
2017 CDBG PROJECT - CONTRACT # 53789-12010
GREENEVILLE, TN

ADVERTISEMENT FOR BID (Page 1)

INFORMATION FOR BIDDERS (Page 2 thru Page 6A)

BID BOND FORM (Page 7 thru Page 8)

INTENTIONALLY LEFT OUT OF DOCUMENTS (Pages 9, 10A through 10J, and 11)

BID FOR LUMP SUM CONTRACTS (Page 12 thru Page 14)

CERTIFICATION OF BIDDER REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION (Page 15)

CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY (Page 16)

CERTIFICATION OF BIDDER REGARDING USE OF FEMALE/MINORITY SUBCONTRACTORS (Page 17)

CERTIFICATION OF BIDDER REGARDING SECTION 3 AND SEGREGATED FACILITIES (Page 18)

DRUG-FREE WORKPLACE AFFIDAVIT (Page 19)

CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT (Page 20)

CERTIFICATION OF PROPOSED SUBCONTRACTORS REGARDING SECTION 3 AND SEGREGARTED FACILITIES (Page 21)

STATEMENT OF COMPLIANCE CERTIFICATE, ILLEGAL IMMIGTRANTS W/ ATTACHMENTS (Page 22)

WAGE DETERMINATIONS- Heavy (Page 24)

AGREEMENT (Page 25 thru Page 26)

BONDING AND INSURANCE REQUIREMENTS (Page 27)

CERTIFICATE OF OWNER'S ATTORNEY (Page 28)

NOTICE TO PROCEED (Page 29)

REQUIRED DISCLOSURES BY BIDDERS (TCA §62-6-119) AND DRUG FREE WORKPLACE AFFIDAVIT REQUIREMENT (TCA§50-09-113) (Page 30)

INSURANCE REQUIREMENTS (Page 31)

GENERAL CONDITIONS (Page 1 thru Page 37)

SUPPLEMENTAL GENERAL CONDITIONS (Page 38 thru Page 70)

LAND ACQUISITION FORM (Page 71)

CLEARANCE OF LOREC (FORM A-30) (2-PAGES)

IRAN DIVESTMENT ACT NOTICE & FORM (3-PAGES)

TECHNICAL SPECIFICATIONS

GREENEVILLE WWTP TEST RESULTS

ADVERTISEMENT FOR BIDS

Project No. 18-02

Town of Greeneville Water and Light Commission (Owner)

Separate sealed bids for 2017 Greeneville Wastewater Treatment Plant Improvements, UV System - 2017 CDBG Project - Contract # 53789-12010 for Town of Greeneville Water and Light Commission will be received by Town of Greeneville Water and Light Commission, 516 North Main Street, Greeneville, TN 37745 at the Boardroom until 3:00 P.M., E.S.T.(Local Time) Thursday, October 25, 2018, and then at said office publicly opened and read aloud. The project includes the construction of a concrete flume with two channels, installation of a 20 MGD Ultraviolet disinfection system, piping, grading, electrical, generator, pre-engineered metal cover and related work.

The Information for Bidders, Form of Bid, Form of Contract, Plans, Specifications, and Forms of Bid Bond, Performance and Payment Bond, and other contract documents may be examined at the following:

Town of Greeneville Water and Light Commission, 516 North Main Street, Greeneville, TN 37745
Associated General Contractors, 249 Neal Drive, Blountville, TN 37617
Builders Exchange of Tennessee, 300 Clark Street, Knoxville, TN 37291
Governor's Office of Diversity Business Enterprise State of Tennessee, Central Procurement Office, Attn: Sheila Simpson, 615-253-4634; GO.DBE@tn.gov
W&W Engineering, 130 West Summer Street, Ste. 3, Greeneville, TN 37743

Copies may be obtained at the office of W&W Engineering, LLC located at 130 West Summer Street, Suite 3, Greeneville, TN 37743 upon payment of $ 300.00 for each set. Any unsuccessful bidder, upon returning each set promptly and in good condition, will be refunded his payment, and any non-bidder upon so returning such a set will be refunded $ 0 .

The owner reserves the right to waive any informalities or to reject any or all bids.

Each bidder must deposit with his bid, security in the amount, form and subject to the conditions provided in the Information for Bidders.

All bidders must be licensed General Contractors as required by the Contractor's Licensing Act of 1994 of the General Assembly of the State of Tennessee, and qualified for the type of construction being bid upon.

Attention of bidders is particularly called to the requirements as to conditions of employment to be observed and minimum wage rates to be paid under the contract, Section 3, Segregated Facility, Section 109 and E.O. 11246.

No bidder may withdraw his bid within 60 days after the actual date of the opening thereof.

September 20, 2018 (Date) Laura White, Superintendent

INFORMATION FOR BIDDERS

1. Receipt and Opening of Bids

The Town of Greeneville Water and Light Commission (herein called the "Owner), invites bids on the form attached hereto, all blanks of which must be appropriately filled in. Bids will be received by the Owner at the Town of Greeneville Water and Light Commission, 516 North Main Street, Greeneville, TN 37745 until 3:00 P.M., E.S.T. Thursday, October 25, 2018, then at said office publicly opened and read aloud. The envelopes containing the bids must be sealed, addressed to Town of Greeneville Water and Light Commission, 516 North Main Street, Greeneville, TN 37745 (PO Box 368, Greeneville, TN 37744) and designated as bid for 2017 Greeneville Wastewater Treatment Plant Improvements, UV System - 2017 CDBG Project - Contract # 53789-12010.

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 60 days after the actual date of the opening thereof.

2. Preparation of Bid:

Each bid must be submitted on the prescribed form and accompanied by *Certification of Bidder Regarding Equal Employment Opportunity, Certification of Bidder Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Certification of Bidder Regarding Section 3 and Segregated Facilities, Drug-Free Workplace Affidavit, Statement of Compliance Certificate Illegal Immigrants Form and the Iran Divestment Act Form.* All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures, and the foregoing Certifications must be fully completed and executed when submitted.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his/her address, the name of the project for which the bid is submitted, license number, expiration date thereof, and license classification of the contractors applying to bid for the prime contract, and for the electrical, plumbing, heating, ventilation, and air conditioning contracts, and all other information required by State law.

All bidders must be licensed General Contractors as required by the Contractor's Licensing Act of 1994 of the General Assembly of the State of Tennessee, and qualified for the type of construction being bid upon. Each bidder shall write on the outside of the envelope containing its bid: 1) its Contractor's license number: 2) that Part of the classification applying to the bid. If this is not done the bid will not be opened.

3. Subcontracts:
The bidder is specifically advised that any person, for, or other party to whom it is proposed to award a subcontract under this contract:

a. Must be acceptable to the owner; and

b. Must submit Certification by Proposed Subcontractor Regarding Equal Employment Opportunity, and Certification of Proposed Subcontractor Regarding Section 3 and Segregated Facilities. Approval of the proposed subcontract award cannot be given by the owner unless and until the proposed subcontractor has submitted the Certifications and/or other evidence showing that it has fully complied with any reporting requirements to which it is or was subject.

Although the bidder is not required to attach such Certifications by proposed subcontractors to his/her bid, the bidder is here advised of this requirement so that appropriate action can be taken to prevent subsequent delay in subcontract awards.

4. Telegraphic Modification:
Any bidder may modify his/her bid by telegraphic communication at any time prior to the scheduled closing time for receipt of bids provided such telegraphic communication is received by the Owner prior to the closing time, and, provided further, the Owner is satisfied that a written confirmation of the telegraphic modification over the signature of the bidder was mailed prior to the closing time. The telegraphic communication should not reveal the bid price but should provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened. If written confirmation is not received within two days from the closing time, no consideration will be given to the telegraphic modification.

5. Method of Bidding:

The Owner invites the following bid(s):

Lump Sum bid for 2017 Greeneville Wastewater Treatment Plant Improvements, UV System - 2017 CBDG Project - Contract # 53789-12010.

6. Qualification of Bidder:
The Owner may make such investigations as s/he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the owner that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids will not be accepted.

7. Bid Security:

Each bid must be accompanied by cash, certified check of the bidder, or a bid bond prepared on the form of bid bond attached thereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the Owner, in the amount of 5% of the bid. Such cash, checks or bid bonds will be returned to all except the three lowest bidders within three days after the opening of bids, and the remaining cash, checks or bid bonds will be returned promptly after the Owner and the accepted bidder have executed the contract, or, if no award has been made within 60 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he/she has not been notified of the acceptance of his/her bid.

8. Liquidated Damages for Failure to Enter into Contract:

The successful bidder, upon his/her failure or refusal to execute and deliver the contract and bonds required within 10 days after s/he has received notice of the acceptance of his/her bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his/her bid.

9. Time of Completion and Liquidated Damages:

Bidder must agree to commence work on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete the project within 210 consecutive calendar days thereafter. Bidder must agree also to pay as liquidated damages, the sum of $ 250.00 for each consecutive calendar day thereafter as hereinafter provided in the Supplemental General Conditions.

10. Condition of Work:

Each bidder must inform him/herself fully of the conditions relating to the construction of the project and the employment of labor thereof. Failure to do so will not relieve a successful bidder of his/her obligation to furnish all material and labor necessary to carry out the provisions of his/her contract. Insofar as possible, the contractor, in carrying out the work, must employ such methods as will not cause any interruption of or interference with the work of any other contractor.

11. Addenda and Interpretations:

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally.

Every request for such interpretation should be in writing addressed to Cathy W. Kyker at W&W Engineering, LLC, 130 West Summer Street, Suite 3, Greeneville, TN 37743 and to be given consideration must be received at least five days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be sent by fax or email (at the respective addresses or fax number furnished for such purposes), not later than forty eight (48) hours prior to the time set for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his/her bid as submitted. All addenda so issued shall become part of the contract documents.

12. Security for Faithful Performance:

Simultaneously with his/her delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract, as specified in the General Conditions included herein. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the Owner.

13. Power of Attorney:

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

14. Notice of Special Conditions:

Attention is particularly called to those parts of the contract documents and specifications which deal with the following:

a. Inspection and testing of materials.
b. Insurance requirements.
c. Wage rates.
d. Stated allowances.

15. Laws and Regulations:

The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

16. Method of Award – Lowest Qualified Bidder:

After receiving bids and determining the amount of funds estimated by the OWNER as available to finance the contract, the OWNER will award the contract to the lowest responsible bidder. The lowest responsible bidder will be determined upon the basis of the lowest base bid or lowest base bid combined with alternates (additive or deductive). If the contract is to be awarded based on the lowest base bid with alternates, alternates will be accepted in the numerical order in which they are listed in the Form of Bid. *No more than one alternative related to other brands of equipment will be awarded (if any). Consideration of other brands will be as stated in specifications.*

17. Obligation of Bidder:

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

18. Safety Standards and Accident Prevention: With respect to all work performed under this contract, the Contractor shall:

a. Comply with the safety standards provisions of applicable laws, building and construction codes and the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, the requirements of Occupational Safety and Health Act of 1970 (Public Law 91-596), and the requirements of Title 29 of the Code of Federal Requlations, Section 1518 as published in the "Federal Register", Volume 36, No. 75, Saturday, April 17, 1971.

b. Exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property.

c. Maintain at his/her office or other well known place at the jobsite, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees), who may be injured on the job site. In no case shall employees be permitted to work at a job site before the employer has made a standing arrangement for removal of injured persons to a hospital or a doctor's care.

19. Drug-Free Workplace

Under the provisions of Tennessee Code Annotate §50-9-113 enacted by the General Assembly effective 2001, a) employers with five (5) or more employees who contract with either the state or a local government to provide construction services are required to submit an affidavit stating that they have a drug free workplace program that complies with Title 50, Chapter 9, in effect at the time of submission of a bid at least to the extent required of governmental entities. The statute imposes other requirements on the contractor, but the grantee's responsibility is specifically limited in section (b) of the state as follows:

(b) A written affidavit by the principal officer of a covered employer provided to a local government at the time such bid or contract is submitted stating that the employer is in compliance with this section shall absolve the local government of all further responsibility under this section and any liability arising from the employer's compliance or failure of compliance with the provisions of this section.

20. Statement of Compliance Certificate Illegal Immigrants

Under the provisions of the requirements of Chapter 878 which servers to amend Tennessee Code Annotated Title 12, Chapter 4, Part I attached here in for reference, all Bidders for construction services on this project shall be required to submit an affidavit (by executing this compliance document) as part of their bid, that attests that such Bidder shall comply with requirements of Chapter no. 878.

21. Iran Divestment Act Notice Form

Under the provisions of Tennessee Code Annotate §12-12-106 the chief procurement officer of Tennessee is to publish a list of persons it determines engage in investment activities in Iran and those listed are ineligible to contract with the State or any political subdivision of the state. All bidders shall comply with the requirements of this act. All bidders must certify, by completing and signing the form included in these documents, that they meet the requirements of §12-12-106.

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____

_____

as Principal, and _____

as Surety, are hereby held and firmly bound unto _____

as owner in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed, this _____ day of _____, 20____.

The condition of the above obligation is such that whereas the Principal has submitted to _____ a certain Bid, attached hereto and hereby made a part hereof to enter into a contract in writing for the

_____

_____

_____

NOW, THEREFORE,

(a) If said Bid shall be rejected, or in the alternate.

(b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect, it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The surety for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hand and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____ (L.S.)
Principal

_____
Surety

SEAL

By: _____

BID FOR LUMP SUM CONTRACTS

Place _____
Date _____
Project No. _____

Proposal of _____ (hereinafter called "Bidder") (a

_____ corporation/a partnership/an individual doing
STRIKE OUT INAPPLICABLE TERMS
(State)
business as _____
To the Town of Greeneville Water and Light Commission _____
(hereinafter called "Owner")

Gentlemen:
The Bidder, in compliance with your invitation for bids for the construction of

2017 Greeneville WWTP Improvements, UV System, 2017 CDBG Project
Contract # 53789-12010

having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies; and to construct the project in accordance with the Contract Documents, within the time set forth therein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this proposal is a part.
Bidder hereby agrees to commence work under this contract on or before a date to be specified in written "Notice to Proceed" of the Owner and to fully complete the project within 210 consecutive calendar days thereafter as stipulated in the specifications. Bidder further agrees to pay as liquidated damages, the sum of $ 250.00 for each consecutive calendar day thereafter as hereinafter provided in Paragraph 3.c. of the Supplemental General Conditions.

Bidder acknowledges receipt of the following addendum:

_____
_____
_____

BASE PROPOSAL: Bidder agrees to perform all of the work described in the specifications and shown on the plans for the sum _____
_____ ($ _____) (Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.)

The following is a breakdown of the lump sum listed on the previous page:

1) UV Disinfection System & Channels $_____

2) Yard Piping $_____

3) Concrete Sidewalks, Retaining Wall and Equipment Pads $_____

4) Gradework $_____

5) Electrical $_____

6) Generator $_____

7) Fence $_____

8) Cover (same number as Alternative 1 Deduct on page 13) $_____

Total Lump Sum Price listed on page 12 of bid $_____

ALTERNATE PROPOSALS:

Alternate No. 1: Deduct the Cover over the UV Unit

Deduct the sum of _____ ($_____)

Alternate No. 2: Utilize Other Brand of UV Equipment

Brand Used in Alternate 2 Price: _____

Deduct the sum of _____ ($_____)

Alternate No. 3: Utilize Other Brand of UV Equipment

Brand Used in Alternate 3 Price: _____

Deduct the sum of _____ ($_____)

UNIT PRICES (N/A)

For changing quantities of work items from those indicated by the contract drawings upon written instructions from the Architect/engineer, the following unit prices shall prevail:

1. _____ $_____

2. _____ $_____

3. _____ $_____

The above unit prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for. Changes shall be processed in accordance with Article 11.3.1 of the General Conditions.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The bidder agrees that this bid shall be good and may not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

Upon receipt of written notice of the acceptance of this bid, the bidder will execute the formal contract attached within 10 days and deliver a Surety Bond or Bonds as required by Article 5 of the General Conditions.

The bid security attached in the sum of _____ ($_____) is to become the property of the property of the Owner in the event the contract and bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Respectfully submitted:

By:_____
(Signature)

_____
(Title)

_____
(Business Address & Zip Code)

(SEAL - if bid is by a corporation)

CERTIFICATION OF BIDDER REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

INSTRUCTIONS

This certification is required pursuant to 24.CFR Section 24.510(b). It shall be completed, signed and submitted as part of the bid proposal.

1. By signing and submitting this proposal, the prospective lower-tier participant certifies that neither it, its principals nor affiliates, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Further, the Participant provides the certification set out below:

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that an erroneous certification was rendered, in addition to other remedies available to the Federal Government, the Department or agency with which this transaction originated may pursue available remedies.

3. Further, the Participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the Participant learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. By submitting this proposal, it is agreed that should the proposed covered transaction be entered into, the Participant will not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the agency with which this transaction originated.

5. It is further agreed that by submitting this proposal, the Participant will include this Certification, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

Contractor Name and Title _____ Date _____

Signature _____ Address _____

City _____ State _____ Zip ___

NON-CERTIFICATION:

As the prospective lower-tier participant, I am unable to certify to statements in this Certification as explained in the attachment to this proposal.

Contractor Name and Title _____ Date _____

Signature _____ Address _____

City _____ State _____ Zip ___

The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

This form must be submitted to the State with the bid tabulations.

CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

Name and Address of Bidder *(include Zip Code)*:

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

   ❑ Yes ❑ No

2. Compliance reports were required to be filed in connection with such contract or subcontract.

   ❑ Yes ❑ No

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.

   ❑ Yes ❑ No ❑ None Required

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

   ❑ Yes ❑ No

NAME AND TITLE OF SIGNER *(Please type)*

SIGNATURE DATE

CERTIFICATION OF BIDDER REGARDING USE OF FEMALE/MINORITY SUBCONTRACTORS

INSTRUCTIONS

This certification is required for the contractor to demonstrate that when subcontractors are to be used on this project, an attempt will be made to utilize female/minority owned firms.

Documentation must be on file to show who has been contacted.

CERTIFICATION BY BIDDER

Name and Address of Bidder (include Zip Code):

I, _____, certify that every attempt was made to utilize female/minority contractors on this project.

_____

Name and Title of Signer

Signature **Date**

CERTIFICATION OF BIDDER REGARDING SECTION 3 AND SEGREGATED FACILITIES

Name of Prime Contractor _____ Project Name & Number _____

The undersigned hereby certifies that

(a) Section 3 provisions are included in the Contract.

(b) If contract equals or exceeds $100,000, HUD form 60002 will be submitted with the final pay estimate.

(c) No segregated facilities will be maintained.

Name & Title of Signer (Print or Type) _____

Signature _____ Date _____

DRUG-FREE WORKPLACE AFFIDAVIT

STATE OF _____
COUNTY OF _____

The undersigned, principal officer of _____, an employer of five (5) or more employees contracting with _____ government to provide construction services, hereby states under oath as follows:

1. The undersigned is a principal officer of _____ (hereinafter referred to as the "Company"), and is duly authorized to execute this Affidavit on behalf of the Company.
2. The Company submits this Affidavit pursuant to T.C.A. § 50-9-113, which requires each employer with no less than five (5) employees receiving pay who contracts with the state or any local government to provide construction services to submit an affidavit stating that such employer has a drug-free workplace program that complies with Title 50, Chapter 9, of the *Tennessee Code Annotated*.
3. The Company is in compliance with T.C.A. § 50-9-113.

Further affiant saith not.

_____
Principal Officer

STATE OF _____
COUNTY OF _____

Before me personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing affidavit for the purposes therein contained.

Witness my hand and seal at office this _____ day of _____, 20__.

_____
Notary Public

My commission expires: _____

CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING EQUAL EMPLOYMENT OPPORTUNITY

NAME OF PRIME CONTRACTOR | PROJECT NUMBER

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the subcontractor has not filed a compliance report due under applicable instructions, such subcontractor shall be required to submit a compliance report before the owner approves the subcontract or permits work to begin under the subcontract.

SUBCONTRACTOR'S CERTIFICATION

NAME AND ADDRESS OF SUBCONTRACTOR *(include ZIP Code)*:

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause.

   ❑ Yes ❑ No

2. Compliance reports were required to be filed in connection with such contract or subcontract.

   ❑ Yes ❑ No

3. Bidder has filed all compliance reports due under applicable instructions, including SF-100.

   ❑ Yes ❑ No ❑ None Required

4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended?

   ❑ Yes ❑ No

NAME AND TITLE OF SIGNER *(Please type)*

SIGNATURE | DATE

CERTIFICATION OF PROPOSED SUBCONTRACTOR REGARDING SECTION 3 AND SEGREGATED FACILITIES

Name of Subcontractor

Project Name & Number

The undersigned hereby certifies that

(a) Section 3 provisions are included in the Contract;

(b) If contract equals or exceeds $100,000, HUD form 60002 will be submitted with the final pay estimate.

(c) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

Name & Title of Signer (Print or Type)

Signature

Date

STATEMENT OF COMPLIANCE CERTIFICATE ILLEGAL IMMIGRANTS

EACH CONTRACTOR BIDDING SHALL FILL IN AND SIGN THE FOLLOWING

This is to certify that _____ have fully complied with all the requirements of Chapter No. 878 (House Bill No. 111 and Senate Bill No. 411) which serves to amend Tennessee Code Annotated Title 12, Chapter 4, Part I, attached herein for reference.

- All Bidders for construction services on this project shall be required to submit an affidavit (by executing this compliance document) as part of their bid, that attests that such Bidder shall comply with requirements of Chapter no. 878.

Signed: _____

State of _____)
) ss
County of _____)

Personally appeared before me, _____ the undersigned Notary Public, _____, the within named bargainer, with whom I am personally acquainted, and known to me to be the President / Owner / Partner (as applicable) of the _____, Corporation, Partnership, Sole Proprietorship (as applicable) and acknowledged to me that he executed the foregoing document for the purposes recited therein.

Witness my hand, at office, this _____ day of _____, 20__.

_____
Notary Public

My commission expires _____

CHAPTER NO. 878

HOUSE BILL NO. 111

By Representatives Moore, Hood, Davidson, Borchert, Sherry Jones, Langster, Tidwell, Hackworth, Cobb, Eldridge, Favors, Brown, Rowe, Mike Turner, Pruitt, McDonald, Eric Watson, Campfield, Hensley, McKee, Roach, DuBois

Substituted for: Senate Bill No. 411

By Senators Haynes, Ketron, Cohen

AN ACT to amend Tennessee Code Annotated, Title 12, Chapter 4, relative to public contracts.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 4, Part 1, is amended by inserting the following as a new, appropriately designated section:

(a)

(1) The state or other state entities shall not contract to acquire goods or services from any person who knowingly utilizes the services of illegal immigrants in the performance of a contract for goods or services entered into with the state or a state entity.

(2) No person may contract to supply goods or services to the state or other state entities if that person knowingly utilizes the services of illegal immigrants in the performance of a contract to supply goods or services entered into with the state or a state entity.

(3) After the effective date of this act, no person may enter into a contract to supply goods or services to the state or other state entities without first attesting in writing that the person will not knowingly utilize the services of illegal immigrants in the performance of the contract and will not knowingly utilize the services of any subcontractor who will utilize the services of illegal immigrants in the performance of the contract.

(b) If any person who contracts to supply goods or services to the state or other state entities, or who submits a bid to contract to supply goods or services to the state or other state entities, is discovered to have knowingly utilized the services of illegal immigrants in the performance of such a contract to supply goods or services to the state or other state entities, the commissioner of finance and administration shall declare that person to be prohibited from contracting for or submitting a bid for any contract to supply goods or services to the state or other state entities for a period of one (1) year from the date of discovery of the usage of illegal immigrant services in the performance of a contract to supply goods or services to the state or other state entities.

(c) Any person who is prevented from contracting for or submitting a bid for a contract to supply goods or services to the state or other state entities for one (1) year

pursuant to subsection (b) may appeal the imposition of the one (1) year prohibition by utilizing an appeals process to be established by the commissioner of finance and administration.

SECTION 2. The commissioner of finance and administration is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2007, the public welfare requiring it.

PASSED: May 25, 2006

JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 15th day of June 2006

PHIL BREDESEN, GOVERNOR

WAGE RATE DETERMINATION

Appropriate Wage Rates shall be inserted here.

General Decision Number: TN180122 01/05/2018 TN122

Superseded General Decision Number: TN20170122

State: Tennessee

Construction Type: Heavy
Including Water and Sewer Line Construction

Counties: Bledsoe, Cocke, Greene, Grundy, Johnson, McMinn, Meigs, Monroe, Rhea, Roane and Sevier Counties in Tennessee.

HEAVY CONSTRUCTION PROJECTS (including sewer/water construction).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/05/2018

* ENGI0917-025 05/01/2017

	Rates	Fringes
Operating Engineers: Backhoe, Excavator, Trackhoe, Bulldozer, and Crane	$ 28.26	10.10

SUTN2009-120 12/02/2009

	Rates	Fringes
ELECTRICIAN	$ 20.06	0.00
LABORER: Common or General	$ 11.36	0.00
LABORER: Flagger	$ 10.50	0.00
LABORER: Pipelayer	$ 12.75	0.00

TRUCK DRIVER: Dump Truck.....$ 11.63 0.81

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

==========

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted

because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

==========

END OF GENERAL DECISION

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2018, by and between Town of Greeneville Water and Light Commission _____, herein called "Owner", acting herein through its Superintendent, Laura White and _____

_____

STRIKE OUT INAPPLICABLE TERMS (a corporation)
(an individual doing business as_____)

of _____, County of _____,
and State of _____, hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete the construction described as follows: 2017 Greeneville Wastewater Treatment Plant Improvements, UV System Contract # 53789-12010.

hereinafter called "the project", for the sum of _____($ _____) and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the Contract; and at this (its or their) own property cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, Supplemental General Conditions and Special Conditions of the Contract, the plans, which include all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by W&W Engineering, LLC, herein entitled "the Architect/Engineer", and as enumerated in Paragraph 1 of the Supplemental General Conditions, all of which are made a part hereof and collectively evidence and constitute the contract.

The Contractor hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed" of the Owner and to fully complete the project within 210 consecutive calendar days thereafter. The Contractor further agrees to pay, as liquidated damages, the sum of $250.00 for each consecutive calendar day thereafter as hereinafter provided in Paragraph 3 of the Supplemental General Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the contract, subject to additions and deductions, as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in Paragraph 3, "Payments to Contractor", of the Supplemental General Conditions.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in six (6) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

Town of Greeneville Water and Light Commission

(Seal)
ATTEST:

By: _____

_____
(Secretary)

Superintendent _____
(Title)

_____
(Witness)

(Seal)

_____
(Contractor)

By: _____

_____
(Secretary)

_____
(Title)

_____
(Witness)

_____
_____
_____
(Address and Zip Code)

(Owner)

_____

NOTE: Secretary of the Owner should attest. If Contractor is a corporation, Secretary should attest.

OMB CIRCULAR A-102
ATTACHMENT B

BONDING AND INSURANCE

1. This Attachment sets forth bonding and insurance requirements for grants. No other bonding and insurance requirements shall be imposed other than those normally required by the grantee.

2. Except as otherwise required by law, a grant that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the grantee to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, the Federal agency may accept the bonding policy and requirements of the grantee provided the Federal agency has made a determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

   (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

   (b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

   (c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

3. Where the Federal Government guarantees or insures the repayment of money borrowed by the grantee, the Federal agency, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the grantee are not deemed adequate to protect the interest of the Federal Government.

4. Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR 223).

NOTE: AIA Document A311 is acceptable for use as Performance and Payment Bonds.

CERTIFICATE OF OWNER'S ATTORNEY

I, the undersigned, _____, the duly authorized and acting legal representative of _____ do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and the manner of execution thereof, and I am of the opinion that each of the aforesaid agreements has been duly executed by the proper parties thereto acting through their duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the respective parties named thereon; and that the foregoing agreements constitute valid and legally binding obligations upon the parties executing the same in accordance with terms, conditions and provisions thereof.

Date: _____ _____

NOTICE TO PROCEED

To: _____ Date: _____

_____

_____

_____

_____

(Name and Address of
Construction Contractor)

You are hereby notified to commence Work in accordance with the Agreement dated _____ and you are to complete the Work within _210_ consecutive calendar days after the Notice to Proceed. The date of completion of all work is therefore _____ _____.

Town of Greeneville Water and Light Commission
Owner

Signature: _____

Typed Name & Title: Laura White, Superintendent

ACCEPTED:

_____
Contractor

Signature: _____

Typed Name & Title: _____

REQUIRED DISCLOSURES BY BIDDERS (TCA §62-6-119) AND DRUG FREE WORKPLACE AFFIDAVIT REQUIREMENT (TCA §50-09-113)

Pursuant to TCA §62-6-119, any construction bids in excess of $25,000 must have the following information on the outside of an envelope containing a bid for both the prime contractor and for any electrical, plumbing, heating, ventilation and air conditioning contractors:

Name of the contractors;

Address of contractor;

License number of the contractor;

License dollar limit;

Expiration date of license of the contractors; and

License classification of the contractors.

Prime contractors who will be performing the electrical, plumbing, heating, ventilation, and air conditioning work themselves must so designate upon the outside of the envelope.

If this required information is not on the outside of the envelope, the statute directs that the bid envelope not be opened or the bid considered.

Any questions regarding this should be directed to the State of Tennessee Board for Licensing Contractors at 1-800-544-7693.

Pursuant to TCA §50-09-113, enacted by the General Assembly effective 2001, a) employers with five (5) or more employees who contract with either the state or a local government (including utility districts) to provide construction services are required to submit an affidavit stating that they have a drug free workplace program that complies with Title 50, Chapter 9, in effect at the time of submission of a bid at least to the extent required of governmental entities. The affidavit submitted with the bid shall meet the following:

A written affidavit by the principal officer of a covered employer provided to a local government at the time such bid or contract is submitted stating that the employer is in compliance with this section shall absolve the local government of all further responsibility under this section and any liability arising from the employer's compliance or failure of compliance with the provisions of this section.

INSURANCE REQUIREMENTS

The contractor shall provide insurance per requirements of the General conditions and the supplemental general conditions.

The contractor shall name the Owner, Town of Greeneville Water and Light Commission, and the Engineer, W & W Engineering, LLC, as additional insured by endorsement as "additional insured" on the Contractor's General Liability Policy. Contractor shall provide each with a certificate of insurance.

The contractor will be required to submit an endorsement meeting the requirements of Section 5.4.11 of the General Conditions.

GENERAL CONDITONS AND SUPPLEMENTAL GENERAL CONDITIONS FURNISHED BY TENNESSEE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

The following general conditions and supplemental general conditions were furnished by CDBG.

The page numbers in the index on pages 3 and 4 of the General Conditions are not accurate and are to be disregarded.

Pages 2-37 are the General Conditions.

Pages 38-70 are the Supplemental General Conditions.

Community Development Block Grant Program

GENERAL CONDITIONS

1. Contract and Contract Documents

The project to be constructed and pursuant to this contract will be financed with assistance from the Tennessee Community Development Block Grant Program and is subject to all applicable Federal laws and regulations.

The Plans, Specifications and Addenda, hereinafter enumerated in Paragraph 1 of the Supplemental General Conditions shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit or cast light on the interpretation of the provisions to which they refer.

TABLE OF CONTENTS OF GENERAL CONDITIONS

Article Number	Title	Page
1	DEFINITIONS	12
2	PRELIMINARY MATTERS	13
3	CONTRACT DOCUMENTS: INTENT, AMENDING AND REUSE	14
4	AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS	15
5	BONDS AND INSURANCE	18
6	CONTRACTOR'S RESPONSIBILITIES	20
7	OTHER WORK	25
8	OWNER'S RESPONSIBILITIES	26
9	ENGINEER'S STATUS DURING CONSTRUCTION	26
10	CHANGES IN THE WORK	28
11	CHANGE OF CONTRACT PRICE	29
12	CHANGE OF CONTRACT TIMES	31
13	TESTS AND INSPECTIONS; CORRECTION; REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK	31
14	PAYMENTS TO CONTRACTOR AND COMPLETION	33
15	SUSPENSION OF WORK AND TERMINATION	35
16	DISPUTE RESOLUTION	36
17	MISCELLANEOUS	36

1. DEFINITIONS 53
1.1 Addendum 53
1.2 Agreement 53
1.3 Application for Payment 53
1.4 Asbestos 53
1.5 Bid 53
1.6 Bidding Documents 53
1.7 Bidding Requirements 53
1.8 Bonds 53
1.9 Change Order 53
1.10 Contract Documents 53
1.11 Contract Price 53
1.12 Contract Times 53
1.13 CONTRACTOR 53
1.14 *defective* 53
1.15 Drawings 53
1.16 Effective Date of the Agreement 53
1.17 ENGINEER 53
1.18 ENGINEER's Consultant 53
1.19 Field Order 53
1.20 General Requirements 53
1.21 Hazardous Waste 53
1.22 Laws and Regulations; Laws or Regulations 53
1.23 Liens 54
1.24 Milestone 54
1.25 Notice of Award 54
1.26 Notice to Proceed 54
1.27 OWNER 54
1.28 Partial Utilization 54
1.29 PCBs 54
1.30 Petroleum 54
1.31 Project 54
1.32 Radioactive Material 54
1.33 Resident Project Representative 54
1.34 Samples 54
1.35 Shop Drawings 54
1.36 Specifications 54
1.37 Subcontractor 54
1.38 Substantial Completion 54
1.39 Supplementary Conditions 54
1.40 Supplier 54
1.41 Underground Facilities 54
1.42 Unit Price Work 54
1.43 Work 54
1.44 Work Change Directive 54
1.45 Written Amendment 55
2. PRELIMINARY MATTERS 55
2.1 Delivery of Bonds 55
2.2 Copies of Documents 55
2.3 Commencement of Contract Times; Notice to Proceed 55
2.4 Starting the Work 55
2.5-2.7 Before Starting Construction; CONTRACTOR's Responsibility to Report: Preliminary Schedules; Delivery of Certificates of Insurance 55
2.8 Preconstruction Conference 55
2.9 Initially Acceptable Schedules 55
3. CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE 56
3.1-3.2 Intent 56
3.3 Reference to Standards and Specifications of Technical Societies; Reporting and Resolving Discrepancies 56
3.4 Intent of Certain Terms or Adjectives 56
3.5 Amending Contract Documents 56
3.6 Supplementing Contract Documents 56
3.7 Reuse of Documents 57
4. AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS 57
4.1 Availability of Lands 57
4.2 Subsurface and Physical Conditions 57
4.2.1 Reports and Drawings 57
4.2.2 Limited Reliance by CONTRACTOR Authorized; Technical Data 57
4.2.3 Notice of Differing Subsurface or Physical Conditions 57
4.2.4 ENGINEER's Review 57
4.2.5 Possible Contract Documents Change 58
4.2.6 Possible Price and Times Adjustments 58
4.3 Physical Conditions--Underground Facilities 58
4.3.1 Shown or Indicated 58
4.3.2 Not Shown or Indicated 58
4.4 Reference Points 58
4.5 Asbestos, PCB's, Petroleum, Hazardous Waste or Radioactive Material 59
5. BONDS AND INSURANCE 59
5.1-5.2 Performance, Payment and Other Bonds...59
5.3 Licensed Sureties and Insurers; Certificates of Insurance 59
5.4 CONTRACTOR's Liability Insurance 60
5.5 OWNER's Liability Insurance 60
5.6 Property Insurance 60
5.7 Boiler and Machinery or Additional Property Insurance 61
5.8 Notice of Cancellation Provisions 61
5.9 CONTRACTOR's Responsibility for Deductible Amounts 61
5.10 Other Special Insurance 61
5.11 Waiver of Rights 61
5.12-5.13 Receipt and Application of Insurance Proceeds 61
5.14 Acceptance of Bonds and Insurance; Option to Replace 62
5.15 Partial Utilization--Property Insurance 62
6. CONTRACTOR'S RESPONSIBILITIES 62
6.1-6.2 Supervision and Superintendence 62
6.3-6.5 Labor, Materials and Equipment 62
6.6 Progress Schedule 62
6.7 Substitutes and "Or-Equal" Items; CONTRACTOR's Expense; Substitute Construction Methods or Procedures; ENGINEER's Evaluation 63
6.8-6.11 Concerning Subcontractors, Suppliers and Others; Waiver of Rights 63
6.12 Patent Fees and Royalties 64
6.13 Permits 64
6.14 Laws and Regulations 64
6.15 Taxes 64
6.16 Use of Premises 65
6.17 Site Cleanliness 65
6.18 Safe Structural Loading 65
6.19 Record Documents 65
6.20 Safety and Protection 65
6.21 Safety Representative 65
6.22 Hazard Communication Programs 65
6.23 Emergencies 65
6.24 Shop Drawings and Samples 66
6.25 Submittal Procedures; CONTRACTOR's Review Prior to Shop Drawing or Sample Submittal 66

6.26 Shop Drawing & Sample Submittals Review by ENGINEER ... 66
6.27 Responsibility for Variation From Contract Documents ... 66
6.28 Related Work Performed Prior to ENGINEER's Review and Approval of Required Submittals ... 66
6.29 Continuing the Work ... 66
6.30 CONTRACTOR's General Warranty and Guarantee ... 67
6.31-6.33 Indemnification ... 67
6.34 Survival of Obligations ... 67
7. OTHER WORK ... 67
7.1-7.3 Related Work at Site ... 67
7.4 Coordination ... 68
8. OWNER'S RESPONSIBILITIES ... 68
8.1 Communications to Contractor ... 68
8.2 Replacement of ENGINEER ... 68
8.3 Furnish Data and Pay Promptly When Due ... 68
8.4 Lands and Easements; Reports and Tests ... 68
8.5 Insurance ... 68
8.6 Change Orders ... 68
8.7 Inspections, Tests and Approvals ... 68
8.8 Stop or Suspend Work; Terminate CONTRACTOR's Services ... 68
8.9 Limitations on OWNER's Responsibilities ... 68
8.10 Asbestos, PCB's, Petroleum, Hazardous Waste or Radioactive Material ... 68
8.11 Evidence of Financial Arrangements ... 68
9. ENGINEER'S STATUS DURING CONSTRUCTION ... 68
9.1 OWNER's Representative ... 68
9.2 Visits to Site ... 68
9.3 Project Representative ... 69
9.4 Clarifications and Interpretations ... 69
9.5 Authorized Variations in Work ... 69
9.6 Rejecting Defective Work ... 69
9.7-9.9 Shop Drawings, Change Orders and Payments ... 69
9.10 Determinations for Unit Prices ... 69
9.11-9.12 Decisions on Disputes; ENGINEER as Initial Interpreter ... 69
9.13 Limitations on ENGINEER's Authority and Responsibilities ... 70
10. CHANGES IN THE WORK ... 70
10.1 OWNER Ordered Change ... 70
10.2 Claim for Adjustment ... 70
10.3 Work Not Required by Contract Documents ... 70
10.4 Change Orders ... 70
10.5 Notification of Surety ... 71
11. CHANGE OF CONTRACT PRICE ... 71
11.1-11.3 Contract Price; Claim for Adjustment; Value of the Work ... 71
11.4 Cost of the Work ... 71
11.5 Exclusions to Cost of the Work ... 72
11.6 CONTRACTOR's Fee ... 73
11.7 Cost Records ... 73
11.8 Cash Allowances ... 73
11.9 Unit Price Work ... 73
12. CHANGE OF CONTRACT TIMES ... 73
12.1 Claim for Adjustment ... 73
12.2 Time of the Essence ... 74
12.3 Delays Beyond CONTRACTOR's Control ... 74
12.4 Delays Beyond OWNER's and CONTRACTOR's Control ... 74
13. TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK ... 74
13.1 Notice of Defects ... 74
13.2 Access to the Work ... 74
13.3 Tests and Inspections; Contractor's Cooperation ... 74
13.4 OWNER's Responsibilities: Independent Testing Laboratory ... 74
13.5 CONTRACTOR'S Responsibilities ... 74
13.6-13.7 Covering Work Prior to Inspection, Testing or Approval ... 74
13.8-13.9 Uncovering Work at ENGINEER's Request ... 74
13.10 OWNER May Stop the Work ... 75
13.11 Correction or Removal of Defective Work ... 75
13.12 Correction Period ... 75
13.13 Acceptance of Defective Work ... 75
13.14 OWNER May Correct Defective Work ... 75
14. PAYMENTS TO CONTRACTOR AND COMPLETION ... 76
14.1 Schedule of Values ... 76
14.2 Application for Progress Payment ... 76
14.3 CONTRACTOR's Warranty of Title ... 76
14.4-14.7 Review of Applications for Progress Payments ... 76
14.8-14.9 Substantial Completion ... 77
14.10 Partial Utilization ... 77
14.11 Final Inspection ... 77
14.12 Final Application for Payment ... 78
14.13-14.14 Final Payment and Acceptance ... 78
14.15 Waiver of Claims ... 78
15. SUSPENSION OF WORK AND TERMINATION ... 78
15.1 OWNER May Suspend Work ... 78
15.2-15.4 OWNER May Terminate ... 78
15.5 CONTRACTOR May Stop Work or Terminate ... 79
16. DISPUTE RESOLUTION ... 79
17. MISCELLANEOUS ... 79
17.1 Giving Notice ... 79
17.2 Computation of Times ... 79
17.3 Notice of Claim ... 80
17.4 Cumulative Remedies ... 80
17.5 Professional Fees and Court Costs Included ... 80

Article or Paragraph Number

Acceptance of--
Bonds and Insurance 5.14
defective Work 10.4.1, 13.13, 13.15
final payment 9.12,14.15
insurance 5.14
other Work, by CONTRACTOR 7.3
Substitutes and "Or-Equal" Items 6.7.1
Work by OWNER 2.5, 6.30, 6.34
Access to the--
Lands, OWNER and CONTRACTOR responsibilities 4.1
site, related work 7.2
Work, ... 13.2, 13.14, 14.9
Acts or Omissions--, Acts and Omissions--
CONTRACTOR 6.9.1, 9.13.3
ENGINEER 6.20, 9.13.3
OWNER 6.20, 8.9
Addenda--definition of (also see definition of Specifications) ..... (1.6, 1.10, 6.19) 1.1
Additional Property Insurances 5.7
Adjustments
Contract Price or Contract Times 1.5, 3.5, 4.1, 4.3.2, 4.5.2, 4.5.3, 9.4, 9.5, 10.2-10.4, 11, 12, 14.8, 15.1
progress schedule 6.6
Agreement--
definition of 1.2
All risk Insurance, policy form 5.6.2
Allowances, Cash 11.8
Amending Contract Documents 3.5
Amendment, Written--
in general 1.10, 1.45, 3.5, 5.10, 5.12, 6.6.2, 6.8.2, 6.19, 10.1, 10.4, 11.2, 12.1, 13.12.2, 14.7.2
Appeal,, OWNER or CONTRACTOR
intent to 9.10, 9.11, 10.4, 16.2, 16.5
Application for Payment--
definition of 1.3
ENGINEER's Responsibility 9.9
final payment 9.13.4, 9.13.5, 14.12-14.15
in general 2.8, 2.9, 5.6.4, 9.10, 15.5
progress payment 14.1, 14.7
review of 14.4-14.7
Arbitration (Optional) 16.1-16.6
Asbestos--
claims pursuant thereto 4.5.2, 4.5.3
CONTRACTOR authorized to stop Work 4.5.2
definition of 1.4
OWNER responsibility for 4.5.1, 8.10
possible price and times change 4.5.2
Authorized Variations in Work 3.6, 6.25, 6.27, 9.5
Availability of Lands 4.1, 8.4
Award, Notice of--defined 1.25
Before Starting Construction 2.5-2.8
Bid--definition of 1.5
(1.1, 1.10, 2.3, 3.3, 4.2.6.4, 6.13, 11.4.3, 11.9.1)
Bidding Documents--definition of 1.6 (6.8.2)
Bidding Requirements--definitions of 1.7 (1.1, 4.2.6.2)
Bonds--
acceptance of 5.14
additional bonds 10.5, 11.4.5.9
Cost of the Work 11.5.4
definition of 1.8
delivery of 2.1, 5.1
final application for payment 14.12-14.14
general 1.10, 5.1-5.3, 5.13, 9.13, 10.5, 14.7.6
performance, Payment and Other 5.1-5.2
Bonds and Insurance--in general 5
Builder's risk "all risk" policy form 5.6.2
Cancellation Provisions, Insurance 5.4.11, 5.8, 5.15
Cash Allowances 11.8
Certificate of Substantial Completion 1.38, 6.30.2.3, 14.8, 14.10
Certificates of Inspection 9.13.4, 13.5, 14.12
Certificates of Insurance ..... 2.7, 5.3, 5.4.11, 5.4.13, 5.6.5, 5.8 ..... 5.14, 9.13.4, 14.12
Change in Contract Price--
Cash Allowances 11.8
claim for price adjustment 4.1, 4.2.6, 4.5, 5.15, 6.8.2, 9.4, 9.5, 9.11, 10.2, 10.5, 11.2, 13.9, 13.13, 13.14, 15.1, 15.5
CONTRACTOR's fee 11.6
Cost of the Work
general 11.4-11.7
Exclusions to 11.5
Cost Records 11.7
in general 1.19, 1.44, 9.11, 10.4.2, 10.4.3, 11
Lump Sum Pricing 11.3.2
Notification of Surety 10.5
Scope of 10.3-10.4
Testing and Inspection, Uncovering the Work 13.9
Unit Price Work 11.9
Value of Work 11.3
Change in Contract Times--
Claim for times adjustment 4.1, 4.2.6, 4.5, 5.15, 6.8.2, 9.4, 9.5, 9.11, 10.2, 10.5, 12.1, 13.9, 13.13, 13.14, 14.7, 15.1, 15.5
Contractual time limits 12.2
Delays beyond CONTRACTOR's control 12.3
Delays beyond OWNER's and CONTRACTOR's control 12.4
Notification of surety 10.5
Scope of change 10.3-10.4
Change Orders--
Acceptance of Defective Work 13.13
Amending Contract Documents 3.5
Cash Allowances 11.8
Change of Contract Price 11
Change of Contract Times 12
Changes in the Work 10
CONTRACTOR's fee 11.6
Cost of the Work 11.4-11.7
Cost Records 11.7
definition of 1.9
emergencies 6.23
ENGINEER's responsibility 9.8, 10.4, 11.2, 12.1
execution of 10.4
Indemnification 6.12, 6.16, 6.31, 6.33
Insurance, Bonds and 5.10, 5.13, 10.5
OWNER may terminate 15.2-15.4
OWNER's Responsibility 8.6, 10.4
Physical Conditions--
Subsurface and, ... 4.2
Underground Facilities 4.3.2
Record Documents 6.19
Scope of Change 10.3-10.4
Substitutes 6.7.3, 6.8.2
Unit Price Work 11.9
value of Work, covered by 11.3
Changes in the Work 10
Notification of surety 10.5
OWNER's and CONTRACTOR's responsibilities 10.4
Right to an adjustment 10.2
Scope of change 10.3-10.4
Claims--
against CONTRACTOR 6.16
against ENGINEER 6.32
against OWNER 6.32
Change of Contract Price 9.4, 11.2

Article or Paragraph Number

Change of Contract Times 9.4.12.1
CONTRACTOR's 4, 7.1, 9.4, 9.5, 9.11, 10.2, 11.2, 11.9, 12.1, 14.8, 15.1, 15.5, 17.3
CONTRACTOR's Fee 11.6
CONTRACTOR's liability 5.4, 6.12, 6.16, 6.31
Cost of the Work 11.4, 11.5
Decisions on Disputes 9.11, 9.12
Dispute Resolution 16.1
Dispute Resolution Agreement 16.1-16.6
ENGINEER as initial interpreter 9.11
Lump Sum Pricing 11.3.2
Notice of 17.3
OWNER's 9.4, 9.5, 9.11, 10.2, 11.2, 11.9, 12.1, 13.9, 13.13, 13.14, 17.3
OWNER's liability 5.5
OWNER may refuse to make payment 14.7
Professional Fees and Court Costs Included 17.5
request for formal decision on 9.11
Substitute items 6.7.1.2
Time Extension 12.1
Time requirements 9.11, 12.1
Unit Price Work 11.9.3
Value of 11.3
Waiver of--on Final Payment 14.14, 14.15
Work Change Directive 10.2
written notice required 9.11, 11.2, 12.1
Clarifications and Interpretations 3.6.3, 9.4, 9.11
Clean Site 6.17
Codes of Technical Society, Organization or Association 3.3.3
Commencement of Contract Times 2.3
Communications--
general 6.2, 6.9.2, 8.1
Hazard Communication Programs 6.22
Completion--
Final Application for Payment 14.12
Final Inspection 14.11
Final Payment and Acceptance 14.13-14.14
Partial Utilization 14.10
Substantial Completion 1.38, 14.8-14.9
Waiver of Claims 14.15
Computation of Times 17.2.1-17.2.2
Concerning Subcontractors, Suppliers and Other 6.8-6.11
Conferences--
initially acceptable schedules 2.9
preconstruction 2.8
Conflict, Error, Ambiguity, Discrepancy--
CONTRACTOR to Report 2.5, 3.3.2
Construction, before starting by CONTRACTOR 2.5-2.7
Construction Machinery, Equipment, Etc. 6.4
Continuing the Work 6.29, 10.4
Contract Documents--
Amending 3.5
Bonds 5.1
Cash Allowances 11.8
Change of Contract Price 11
Change of Contract Times 12
Changes in the Work 10.4-10.5
check and verify 2.5
Clarifications and Interpretations 3.2, 3.6, 9.4, 9.11
definition of 1.10
ENGINEER as initial interpreter of 9.11
ENGINEER as OWNER's representative 9.1
general 3
Insurance 5.3
Intent 3.1-3.4
minor variations in the Work 3.6
OWNER's responsibility to furnish data 8.3
OWNER's responsibility to make prompt payment 8.3, 14.4, 14.13
precedence 3.1, 3.3.3
Record Documents 6.19
Reference to Standards and Specifications of Technical Societies 3.3
Related Work 7.2
Reporting and Resolving Discrepancies 2.5, 3.3
Reuse of 3.7
Supplementing 3.6
Termination of ENGINEER's Employment 8.2
Unit Price Work 11.9
variations 3.6, 6.23, 6.27
Visits to Site, ENGINEER's 9.2
Contract Price--
adjustment of 3.5, 4.1, 9.4, 10.3, 11.2-11.3
Change of 11
Decision on Disputes 9.11
definition of 1.11
Contract Times--
adjustment of 3.5, 4.1, 9.4, 10.3, 12
Change of 12.1-12.4
Commencement of 2.3
definition of 1.12
CONTRACTOR--
Acceptance of Insurance 5.14
Limited Reliance on Technical Data Authorized 4.2.2
Communications 6.2, 6.9.2
Continue Work 6.29, 10.4
coordination and scheduling 6.9.2
definition of 1.13
May Stop Work or Terminate 15.5
provide site access to others 7.2, 13.2
Safety and Protection 4.3, 1.2, 6.16, 6.18, 6.21-6.23, 7.2, 13.2
Shop Drawing and Sample Review Prior to Submittal 6.25
Stop Work requirements 4.5.2
CONTRACTOR's--
Compensation 11.1-11.2
Continuing Obligation 14.15
Defective Work 9.6, 13.10-13.14
Duty to correct defective Work 13.11
Duty to Report--
Changes in the Work caused by Emergency 6.23
Defects in Work of Others 7.3
Differing conditions 4.2.3
Discrepancy in Documents 2.5, 3.3.2, 6.14.2
Underground Facilities not indicated 4.3.2
Emergencies 6.23
Equipment and Machinery Rental, Cost of the Work 11.4.5.3
Fee--Cost-Plus 11.4.5.6, 11.5.1, 11.6
General Warranty and Guarantee 6.30
Hazard Communication Programs 6.22
Indemnification 6.12, 6.16, 6.31-6.33
Inspection of the Work 7.3, 13.4
Labor, Materials and Equipment 6.3-6.5
Laws and Regulations, Compliance by 6.14.1
Liability Insurance 5.4
Notice of Intent to Appeal 9.10, 10.4
obligation to perform and complete the Work 6.30
Patent Fees and Royalties, paid for by 6.12
Performance and Other Bonds 5.1
Permits, obtained and paid for by 6.13
Progress Schedule 2.6, 2.8, 2.9, 6.6, 6.29, 10.4, 15.2.1
Request for formal decision on disputes 9.11
Responsibilities--
Changes in the Work 10.1
Concerning Subcontractors, Suppliers and Others 6.8-6.11
Continuing the Work 6.29, 10.4
CONTRACTOR's expense 6.7.1
CONTRACTOR's General Warranty and Guarantee 6.30
CONTRACTOR's review prior to Shop Drawing or Sample Submittal 6.25
Coordination of Work 6.9.2
Emergencies 6.23

ENGINEER's evaluation, Substitutes or "Or-Equal" Items 6.7.3
For Acts and Omissions of Others 6.9.1-6.9.2, 9.13
for deductible amounts, insurance 5.9
general 6, 7.2, 7.3, 8.9
Hazardous Communication Programs 6.22
Indemnification 6.31-6.33
Labor, Materials and Equipment 6.3-6.5
Laws and Regulations 6.14
Liability Insurance 5.4
Notice of variation from Contract Documents 6.27
Patent Fees and Royalties 6.12
Permits 6.13
Progress Schedule 6.6
Record Documents 6.19
related Work performed prior to ENGINEER's approval of required submittals 6.28
safe structural loading 6.18
Safety and Protection 6.20, 7.2, 13.2
Safety Representative 6.21
Scheduling the Work 6.9.2
Shop Drawings and Samples 6.24
Shop Drawings and Samples Review by ENGINEER 6.26
Site Cleanliness 6.17
Submittal Procedures 6.25
Substitute Construction Methods and Procedures 6.7.2
Substitutes and "Or-Equal" Items 6.7.1
Superintendence 6.2
Supervision 6.1
Survival of Obligations 6.34
Taxes 6.15
Tests and Inspections 13.5
To Report 2.5
Use of Premises 6.16-6.18, 6.30, 2.4
Review Prior to Shop Drawing or Sample Submittal 6.25
Right to adjustment for changes in the Work 10.2
right to claim 4, 7.1, 9.4, 9.5, 9.11, 10.2, 11.2, 11.9, 12.1, 13.9, 14.8, 15.1, 15.5, 17.3
Safety and Protection 6.20-6.22, 7.2, 13.2
Safety Representative 6.21
Shop Drawings and Samples Submittals 6.24-6.28
Special Consultants 11.4.4
Substitute Construction Methods and Procedures 6.7
Substitutes and "Or-Equal" Items, Expense 6.7.1, 6.7.2
Subcontractors, Suppliers and Others 6.8-6.11
Supervision and Superintendence 6.1, 6.2, 6.21
Taxes, Payment by 6.15
Use of Premises 6.16-6.18
Warranties and guarantees 6.30, 6.5
Warranty of Title 14.3
Written Notice Required--
CONTRACTOR stop Work or terminate 15.5
Reports of Differing Subsurface and Physical Conditions 4.2.3
Substantial Completion 14.8
CONTRACTORs--other 7
Contractual Liability Insurance 5.4.10
Contractual Times Limits 12.2
Coordination
CONTRACTOR's responsibility 6.9.2
Copies of Documents 2.2
Correction Period 13.12
Correction, Removal or Acceptance of Defective Work
in general 10.4.1, 13.10-13.14
Acceptance of Defective Work 13.13
Correction or Removal of Defective Work 6.30, 13.11
Correction Period 13.12
OWNER May Correct Defective Work 13.14
OWNER May Stop Work 13.10
Cost--
of Tests and Inspections 13.4
Records 11.7
Cost of the Work--
Bonds and insurance, additional 11.4.5.9
Cash Discounts 11.4.2
CONTRACTOR's Fee 11.6
Employee Expenses 11.4.5.1
Exclusions to 11.5
General 11.4-11.5
Home office and overhead expenses 11.5
Losses and damages 11.4.5.6
Materials and equipment 11.4.2
Minor expenses 11.4.5.8
Payroll costs on changes 11.4.1
performed by Subcontractors 11.4.3
Records 11.7
Rentals of construction equipment and machinery 11.4.5.3
Royalty payments, permits and license fees 11.4.5.5
Site office and temporary facilities 11.4.5.2
Special Consultants, CONTRACTOR's 11.4.4
Supplemental 11.4.5
Taxes related to the Work 11.4.5.4
Tests and Inspection 13.4
Trade Discounts 11.4.2
Utilities, fuel and sanitary facilities 11.4.5.7
Work after regular hours 11.4.1
Covering Work 13.6-13.7
Cumulative Remedies 17.4-17.5
Cutting, fitting and patching 7.2
Data, to be furnished by OWNER 8.3
Day--definition of 17.2.2
Decisions on Disputes 9.11, 9.12
defective--definition of 1.14
defective Work--
Acceptance of 10.4.1, 13.13
Correction or Removal of 10.4.1, 13.11
Correction Period 13.12
in general 13, 14.7, 14.11
Observation by ENGINEER 9.2
OWNER May Stop Work 13.10
Prompt Notice of Defects 13.1
Rejecting 9.6
Uncovering the Work 13.8
Definitions 1
Delays 4.1, 6.29, 12-3-12.4
Delivery of Bonds 2.1
Delivery of certificates of insurance 2.7
Determinations for Unit Prices 9.10
Differing Subsurface or Physical Conditions
Notice of 4.2.3
ENGINEER's Review 4.2.4
Possible Contract Documents Change 4.2.6
Possible Price and Times Adjustments 4.2.6
Discrepancies-Reporting and Resolving 2.5, 3.3.2, 6.14.2
Dispute Resolution--
Agreement 16.1-16.6
Arbitration 16.1-16.5
general 16
Mediation 16.6
Dispute Resolution Agreement 16.1-16.6
Disputes, Decisions by ENGINEER 9.11-9.12
Documents--
Copies of 2.2
Record 6.19
Reuse of 3.7
Drawings--definition of 1.15
Easements 4.1
Effective date of Agreement--definition of 1.16
Emergencies 6.23
ENGINEER--
as initial interpreter on disputes 9.11-9.12
definition of 1.17
Limitations on authority and responsibilities 9.13

Replacement of 8.2
Resident Project Representative 9.3
ENGINEER's Consultant--definition of 1.18
ENGINEER's--
authority and responsibility, limitations on 9.13
Authorized Variations in the Work 9.5
Change Orders, responsibility for 9.7,10, 11, 12
Clarifications and Interpretations 3.6.3, 9.4
Decisions on Disputes 9.11-9.12
defective Work, notice of 13.1
Evaluation of Substitute Items 6.7.3
Liability 6.32, 9.12
Notice Work is Acceptable 14.13
Observations 6.30.2, 9.2
OWNER's Representative 9.1
Payments to the CONTRACTOR,
Responsibility for 9.9, 14
Recommendation of Payment 14.4, 14.13
Responsibilities--
Limitations on 9.11-9.13
Review of Reports on Differing Subsurface
and Physical Conditions 4.2.4
Shop Drawings and Samples, review
responsibility 6.26
Status During Construction--
authorized variations in the Work 9.5
Clarifications and Interpretations 9.4
Decisions on Disputes 9.11-9.12
Determination on Unit Price 9.10
ENGINEER as Initial Interpreter 9.11-9.12
ENGINEER's Responsibilities 9.1-9.12
Limitations on ENGINEER's Authority and
Responsibilities 9.13
OWNER's Representative 9.1
Project Representative 9.3
Rejecting Defective Work 9.6
Shop Drawings, Change Orders and
Payments 9.7-9.9
Visits to Site 9.2
Unit Price Determinations 9.10
Visits to Site 9.2
Written consent required 7.2, 9.1
Equipment, Labor, Materials and 6.3-6.5
Equipment rental, Cost of the Work 11.4.5.3
Equivalent Materials and Equipment 6.7
Errors or omissions 6.33
Evidence of Financial Arrangements 8.11
Explorations of physical conditions 4.2.1
Fee, CONTRACTOR's--Costs-Plus 11.6
Field Order--
definition of 1.19
issued by ENGINEER 3.6.1, 9.5
Final Application for Payment 14.12
Final Inspection 14.11
Final Payment--
and Acceptance 14.13-14.14
Prior to, for cash allowances 11.8
General Provisions 17.3-17.4
General Requirements--
definition of 1.20
principal references to 2.6, 6.4, 6.6-6.7, 6.24
Giving Notice 17.1
Guarantee of Work--by
CONTRACTOR 6.30, 14.12
Hazard Communication Programs 6.22
Hazardous Waste--
definition of 1.21
general 4.5
OWNER's responsibility for 8.10
Indemnification 6.12, 6.16, 6.31-6.33
Initially Acceptable Schedules 2.9
Inspection--
Certificates of 9.13.4, 13.5, 14.12
Final 14.11
Special, required by ENGINEER 9.6
Tests and Approval 8.7, 13.3-13.4
Insurance--
Acceptance of, by OWNER 5.14
Additional, required by changes
in the Work 11.4.5.9
Before starting the Work 2.7
Bonds and--in general 5
Cancellation Provisions 5.8
Certificates of 2.7, 5, 5.3, 5.4.11, 5.4.13, 5.6.5, 5.8, 5.14, 9.13.4, 14.12
completed operations 5.4.13
CONTRACTOR's Liability 5.4
CONTRACTOR's objection to coverage 5.14
Contractual Liability 5.4.10
deductible amounts, CONTRACTOR's
responsibility 5.9
Final Application for Payment 14.12
Licensed Insurers 5.3
Notice requirements, material
changes 5.8, 10.50
Option to Replace 5.14
other special insurances 5.10
OWNER as fiduciary for insured 5.12-5.13
OWNER's Liability 5.5
OWNER's Responsibility 8.5
Partial Utilization, Property Insurance 5.15
Property 5.6-5.10
Receipt and Application of Insurance Proceeds 5.12-5.13
Special Insurance 5.10
Waiver of Rights 5.11
Intent of Contract Documents 3.1-3.4
Interpretations and Clarifications 3.6.3, 9.4
Investigations of physical conditions 4.2
Labor, Materials and Equipment 6.3-6.5
Lands--
and Easements 8.4
Availability of 4.1, 8.4
Reports & Tests 8.4
Laws and Regulations--Laws or Regulations--
Bonds 5.1-5.2
Changes in the Work 10.4
Contract Documents 3.1
CONTRACTOR's Responsibilities 6.14
Correction Period, defective Work 13.12
Cost of the Work, taxes 11.4.5.4
definition of 1.22
general 6.14
Indemnification 6.31-6.33
Insurance 5.3
Precedence 3.1, 3.3.3
Reference to 3.3.1
Safety and Protection 6.20, 13.2
Subcontractors, Suppliers and Others 6.8-6.11
Tests and Inspections 13.5
Use of Premises 6.16
Visits to Site 9.2
Liability Insurance--
CONTRACTOR's 5.4
OWNER's 5.5
Licensed Sureties and Insurers 5.3
Liens--
Application for Progress Payment 14.2
Contractor's Warranty of Title 14.3
Final Application for Payment 14.12
definition of 1.23
Waiver of Claims 14.15
Limitations on ENGINEER's authority and
responsibilities 9.13
Limited Reliance by CONTRACTOR Authorized 4.2.2
Maintenance and Operating Manuals--
Final Application for Payment 14.12
Manuals (of others)--
Precedence 3.3.3.1

Reference to in Contract Documents 3.3.1
Materials and equipment--
furnished by CONTRACTOR 6.3
not incorporated in Work 14.2
Materials or equipment--equivalent 6.7
Mediation (Optional) 16.7
Milestones--definition of 1.24
Miscellaneous--
Computation of Times 17.2
Cumulative Remedies 17.4
Giving Notice 17.1
Notice of Claim 17.3
Professional Fees and Court Costs Included 17.5
Multi-prime contracts 7
Not Shown or Indicated 4.3.2
Notice of--
Acceptability of Project 14.13
Award, definition of 1.25
Claim 17.3
Defects 13.1
Differing Subsurface or Physical Conditions 4.2.3
Giving 17.1
Tests and Inspections 13.3
Variation, Shop Drawing and Sample 6.27
Notice to Proceed--
definition of 1.26
giving of 2.3
Notification to Surety 10.5
Observations, by ENGINEER 6.30, 9.2
Occupancy of the Work 5.15, 6.30.2.4, 14.10
Omissions or acts by CONTRACTOR 6.9, 9.13
"Open peril" policy form, Insurance 5.6.2
Option to Replace 5.14
"Or Equal" Items 6.7
Other work 7
Overtime Work--prohibition of 6.3
OWNER--
Acceptance of defective Work 13.13
appoint an ENGINEER 8.2
as fiduciary 5.12-5.13
Availability of Lands, responsibility 4.1
definition of 1.27
data, furnish 8.3
May Correct Defective Work 13.14
May refuse to make payment 14.7
May Stop the Work 13.10
may suspend work,
terminate 8.3, 13.10, 15.1-15.4
Payment, make prompt 8.3, 14.4, 14.13
performance of other Work 7.1
permits and licenses, requirements 6.13
purchased insurance requirements 5.6-5.10
OWNER's--
Acceptance of the Work 6.30.2.5
Change Orders, obligation to
execute 8.6, 10.4
Communications 8.1
Coordination of the Work 7.4
Disputes, request for decision 9.11
Inspections, tests and approvals 8.7, 13.4
Liability Insurance 5.5
Notice of Defects 13.1
Representative-- During Construction,
ENGINEER's Status 9.1
Responsibilities--
Asbestos, PCB's, Petroleum, Hazardous
Waste on Radioactive Material 8.10
Change Orders 8.6
Changes in the Work 10.1
communications 8.1
CONTRACTOR's responsibilities 8.9
evidence of financial arrangements 8.11
inspections, tests and approvals 8.7
Insurance 8.5
lands and easements 8.4
prompt payment by 8.3
replacement of ENGINEER 8.2
reports and tests 8.4
stop or suspend Work 8.8, 13.10, 15.1
terminate CONTRACTOR's services 8.8, 15.2
separate representative at site 9.3
independent testing 13.4
use or occupancy of the Work 5.15, 14.10
written consent or approval required 9.1, 6.3, 11.4
written notice required 7.1, 9.4, 9.11, 11.2, 11.9, 14.7, 15.4
PCBs--
definition of 1.29
general 4.5
OWNER's responsibility for 8.10
Partial Utilization--
definition of 1.29
general 6.30.2.4, 14.10
Property Insurance 5.15
Patent Fees and Royalties 6.12
Payment Bonds 5.1-5.2
Payments, Recommendation of 14.4-14.7, 14.13
Payments to CONTRACTOR and Completion--
Application for Progress Payments 14.2
CONTRACTOR's Warranty of Title 14.3
Final Application for Payment 14.12
Final Inspection 14.11
Final Payment and Acceptance 14.13-14.14
general 8.3, 14
Partial Utilization 14.10
Retainage 14.2
Review of Applications for Progress
Payments 14.4-14.7
prompt payment 8.3
Schedule of Values 14.1
Substantial Completion 14.8-14.9
Waiver of Claims 14.15
when payments due 14.4, 14.13
withholding payment 14.7
Performance Bonds 5.1-5.2
Permits 6.13
Petroleum--
definition of 1.30
general 4.5
OWNER's responsibility for 8.10
Physical Conditions--
Drawings of, in or relating to 4.2.1.2
ENGINEER's review 4.2.4
existing structures 4.2.2
general 4.2.1.2
Subsurface and, ... 4.2
Underground Facilities 4.3
Possible Contract Documents Change 4.2.5
Possible Price and Times Adjustments 4.2.6
Reports and Drawings 4.2.1
Notice of Differing Subsurface or, ... 4.2.3
Subsurface and 4.2
Subsurface Conditions 4.2.1.1
Technical Data, Limited Reliance by
CONTRACTOR Authorized 4.2.2
Underground Facilities--
general 4.3
Not Shown or Indicated 4.3.2
Protection of 4.3, 6.20
Shown or Indicated 4.3.1
Technical Data 4.2.2
Preconstruction Conference 2.8
Preliminary Matters 2
Preliminary Schedules 2.6
Premises, Use of 6.16-6.18
Price, Change of Contract 11
Price, Contract--definition of 1.11
Progress Payment, Applications for 14.2
Progress payment--retainage 14.2

Progress schedule, CONTRACTOR's 2.6, 2.8, 2.9, 6.6, 6.29, 10.4, 15.2.1
Project--definition of 1.31
Project Representative--
ENGINEER's Status During Construction 9.3
Project Representative, Resident
--definition of 1.33
prompt payment by OWNER 8.3
Property Insurance
Additional 5.7
general 5.6-5.10
Partial Utilization 5.15, 14.10.2
receipt and application of
proceeds 5.12-5.13
Protection, Safety and 6.20-6.21, 13.2
Punch list 14.11
Radioactive Material--
definition 1.32
general 4.5
OWNER's responsibility for 8.10
Recommendation of Payment 14.4, 14.5, 14.13
Record Documents 6.19, 14.12
Records, procedures for maintaining 2.8
Reference Points 4.4
Reference to Standards and Specifications
of Technical Societies 3.3
Regulations, Laws and (or) 6.14
Rejecting Defective Work 9.6
Related Work--
at Site 7.1-7.3
Performed prior to Shop Drawings
and Samples submittals review 6.28
Remedies, cumulative 17.4, 17.5
Removal or Correction of
Defective Work 13.11
rental agreements, OWNER approval
required 11.4.5.3
replacement of ENGINEER, by OWNER 8.2
Reporting and Resolving Discrepancies 2.5, 3.3.2, 6.14.2
Reports--
and Drawings 4.2.1
and Tests, OWNER's responsibility 8.4
Resident Project Representative--
definition of 1.33
provision for 9.3
Resident superintendent, CONTRACTOR's 6.2
Responsibilities--
CONTRACTOR's-in general 6
ENGINEER's-in general 9
Limitations on 9.13
OWNER's-in general 8
Retainage 14.2
Reuse of Documents 3.7
Review by CONTRACTOR: Shop Drawings
and Samples Prior to Submittal 6.25
Review of Applications for Progress
Payments 14.4-14.7
Right to an adjustment 10.2
Rights of Way 4.1
Royalties, Patent Fees and 6.12
Safe Structural Loading 6.18
Safety--
and Protection 4.3.2, 6.16, 6.18, 6.20-6.21, 7.2, 13.2
general 6.20-6.23
Representative, CONTRACTOR's 6.21
Samples--
definition of 1.34
general 6.24-6.28
Review by CONTRACTOR 6.25
Review by ENGINEER 6.26, 6.27
related Work 6.28
submittal of 6.24.2
submittal procedures 6.25
Schedule of progress 2.6, 2.8-2.9, 6.6, 6.29, 10.4, 15.2.1
Schedule of Shop Drawing and Sample
Submittals 2.6, 2.8-2.9, 6.24-6.28
Schedule of Values 2.6, 2.8-2.9, 14.1
Schedules--
Adherence to 15.2.1
Adjusting 6.6
Change of Contract Times 10.4
Initially Acceptable 2.8-2.9
Preliminary 2.6
Scope of Changes 10.3-10.4
Subsurface Conditions 4.2.1.1
Shop Drawings--
and Samples, general 6.24-6.28
Change Orders & Applications for
Payments, and 9.7-9.9
definition of 1.35
ENGINEER's approval of 3.6.2
ENGINEER's responsibility
for review 9.7, 6.24-6.28
related Work 6.28
review procedures 2.8, 6.24-6.28
submittal required 6.24.1
Submittal Procedures 6.25
use to approve substitutions 6.7.3
Shown or Indicated 4.3.1
Site Access 7.2, 13.2
Site Cleanliness 6.17
Site, Visits to--
by ENGINEER 9.2, 13.2
by others 13.2
"Special causes of loss" policy form, insurance 5.6.2
Specifications--
definition of 1.36
of Technical Societies, reference to 3.3.1
precedence 3.3.3
Standards and Specifications of Technical
Societies 3.3
Starting Construction, Before 2.5-2.8
Starting the Work 2.4
Stop or Suspend Work--
by CONTRACTOR 15.5
by OWNER 8.8, 13.10, 15.1
Storage of materials and equipment 4.1, 7.2
Structural Loading, Safety 6.18
Subcontractor--
Concerning 6.8-6.11
definition of 1.37
delays 12.3
waiver of rights 6.11
Subcontractors--in general 6.8-6.11
Subcontracts--required provisions 5.11, 6.11, 11.4.3
Submittals--
Applications for Payment 14.2
Maintenance and Operation Manuals 14.12
Procedures 6.25
Progress Schedules 2.6, 2.9
Samples 6.24-6.28
Schedule of Values 2.6, 14.1
Schedule of Shop Drawings and
Samples Submissions 2.6, 2.8-2.9
Shop Drawings 6.24-6.28
Substantial Completion--
certification of 6.30.2.3, 14.8-14.9
definition of 1.38
Substitute Construction Methods or Procedures 6.7.2
Substitutes and "Or-Equal" Items 6.7
CONTRACTOR's Expense 6.7.1.3
ENGINEER's Evaluation 6.7.3
"Or-Equal" 6.7.1
Substitute Construction Methods of Procedures 6.7.2
Substitute Items 6.7.1.2
Subsurface and Physical Conditions--
Drawings of, in or relating to 4.2.1.2
ENGINEER's Review 4.2.4

general 4.2
Limited Reliance by CONTRACTOR
Authorized 4.2.2
Notice of Differing Subsurface or
Physical Conditions 4.2.3
Physical Conditions 4.2.1.2
Possible Contract Documents Change 4.2.5
Possible Price and Times Adjustments 4.2.6
Reports and Drawings 4.2.1
Subsurface and 4.2
Subsurface Conditions at the Site 4.2.1.1
Technical Data 4.2.2
Supervision--
CONTRACTOR's responsibility 6.1
OWNER shall not supervise 8.9
ENGINEER shall not supervise 9.2, 9.13.2
Superintendence 6.2
Superintendent, CONTRACTOR's resident 6.2
Supplementary costs 11.4.5
Supplementary Conditions--
definition of 1.39
principal reference to 1.10, 1.18, 2.2, 2.7, 4.2, 4.3, 5.1
5.3, 5.4, 5.6-5.9, 5.11 6.8, 6.13, 7.4, 8.11, 9.3, 9.10
Supplementing Contract Documents 3.6
Supplier--
definition of 1.40
principal references to 3.7, 6.5, 6.8-6.11,
6.20, 6.24, 9.13, 14.12
Waiver of Rights 6.11
Surety--
consent to final payment 14.12, 14.14
ENGINEER has no duty to 9.13
Notification of 10.1, 10.5, 15.2
qualification of 5.1-5.3
Survival of Obligations 6.34
Suspend Work, OWNER May 13.10, 15.1
Suspension of Work and Termination-- 15
CONTRACTOR May Stop Work or
Terminate 15.5
OWNER May Suspend Work 15.1
OWNER May Terminate 15.2-15.4
Taxes-Payment by CONTRACTOR 6.15
Technical Data--
Limited Reliance by CONTRACTOR 4.2.2
Possible Price and Times Adjustments 4.2.6
Reports of Differing Subsurface and
Physical Conditions 4.2.3
Temporary construction facilities 4.1
Termination--
by CONTRACTOR 15.5
by OWNER 8.8, 15.1-15.4
of ENGINEER's employment 8.2
Suspension of Work-in general 15
Terms and Adjectives 3.4
Tests and Inspections--
Access to the Work, by others 13.2
CONTRACTOR's responsibilities 13.5
cost of 13.4
covering Work prior to 13.6-13.7
Laws and Regulations (or) 13.5
Notice of Defects 13.1
OWNER May Stop Work 13.10
OWNER's independent testing 13.4
special, required by ENGINEER 9.6
timely notice required 13.4
Uncovering the Work, at ENGINEER's
request 13.8-13.9
Times--
Adjusting 6.6
Change of Contract 12
Adjusting 6.6
Computation of 17.2
Contract Times--definition of 1.12
day 17.72
Milestones 12
Requirements--
appeals 16
clarifications, claims and
disputes 9.11, 11.2, 12
commencement of contract times 2.3
preconstruction conference 2.8
schedules 2.6, 2.9, 6.6
starting the Work ..... 2..4
Title, Warranty of 14.3
Uncovering Work 13.8-13.9
Underground Facilities, Physical Conditions--
definition of 1.41
Not Shown or Indicated 4.3.2
protection of 4.3, 6.20
Shown or Indicated 4.3.1
Unit Price Work--
claims 11.9.3
definitions of 1.42
general 11.9, 14.1, 14.5
Unit Prices--
general 11.3.1
Determination for 9.10
Use of Premises 6.16, 6.18, 6.30.2.4
Utility owners 6.13, 6.20, 7.1-7.3, 13.2
Utilization, Partial 1.28, 5.15, 6.30, 2.4, 14.10
Value of the Work 11.3
Values, Schedule of 2.6, 2.8-2.9, 14.1
Variations in Work--Minor
Authorized 6.25, 6.27, 9.5
Visits of Site--by ENGINEER 9.2
Waiver of Claims--on Final
Payment 14.15
Waiver of Rights by insured parties 5.11, 6.11
Warranty and Guarantee, General--by
CONTRACTOR 6.30
Warranty of Title, CONTRACTOR's 14.3
Work--
Access to 13.2
by others 7
Changes in the 10
Continuing the, ... 6.29
CONTRACTOR May Stop Work
or Terminate 15.5
Coordination of 7.4
Costs of the 11.4-11.5
definition of 1.43
neglected by CONTRACTOR 13.14
other Work 7
OWNER May Stop Work 13.10
OWNER May Suspend Work 13.10, 15.1
Related, Work at Site 7.1-7.3
Starting the 2.4
Stopping by CONTRACTOR 15.5
Stopping by OWNER 15.1-15.4
Variation and deviation authorized,
minor 3.6
Work Change Directive--
claims pursuant to 10.2
definition of 1.44
principal references to 3.5.3, 10-1-10.2
Written Amendment--
definition of 1.45
principal references to 1.10, 3.5, 5.10, 5.12, 6.6.2, 6.8.2,
6.19, 10.1, 10.4, 11.2, 12.1, 13.12.2, 14.7.2
Written Clarifications and
Interpretations ..... 3.6.3, 9.4, 9 .11
Written Notice Required--
by CONTRACTOR 7.1, 9.10--9.11, 10.4, 11.2, 12.1
by OWNER 9.10-9.11, 10.4, 11.2, 13.14

GENERAL CONDITIONS

ARTICLE 1--DEFINITIONS

Wherever used in these General Conditions or in the other Contract

Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

1.1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the Bidding Requirements or the Contract Documents.

1.2. *Agreement*--The written contract between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.

1.3. *Application for Payment*--The form accepted by ENGINEER which is to be used by CONTRACTOR in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

1.4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

1.5. *Bid*--The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

1.6. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form, and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

1.7. *Bidding Requirements*--The advertisement or invitation to Bid, instructions to bidders, and the Bid form.

1.8. *Bonds*--Performance and Payment bonds and other instruments of security.

1.9. *Change Order*--A document recommended by ENGINEER, which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

1.10. *Contract Documents*--The Agreement, Addenda (which pertain to the Contract Documents). CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders and ENGINEER's written interpretations and classifications issued pursuant to paragraphs 3.5, 3.6.1, and 3.6.3 on or after the Effective Date of the Agreement. Shop Drawing submittals approved pursuant to paragraphs 6.26 and 6.27 and the reports and drawings referred to in paragraphs 4.2.1.1 and 4.2.2.2 are not Contract Documents.

1.11. *Contract Price*--The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.9.1 in the case of Unit Price Work).

1.12. *Contract Times*--The numbers of days or the dates stated in the Agreement: (i) to achieve Substantial Completion, and (ii) to complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment in accordance with paragraph 14.13.

1.13. *CONTRACTOR*--The person, firm or corporation with whom the OWNER has entered into the Agreement.

1.14. *defective*--An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.8 or 14.10).

1.15. *Drawings*--The drawings which show the scope, extent and character of the Work to be furnished and performed by CONTRACTOR and which have been prepared or approved by ENGINEER and are referred to in the Contract Documents. Shop drawings are not Drawings as so defined.

1.16. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

1.17. *ENGINEER*--The person, firm or corporation named as such in the Agreement.

1.18. *ENGINEER's Consultant*--A person, firm, or corporation having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

1.19. *Field Order*--A written order issued by ENGINEER which orders minor changes in the Work in accordance with paragraph 9.5 but which does not involve a change in the Contract Price or the Contract Times.

1.20. *General Requirements*--Sections of Division 1 of the Specifications.

1.21. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

1.22. *Laws and Regulations: Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

1.23. *Liens*--Liens, charges, security interests or encumbrances upon real property or personal property.

1.24. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

1.25. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions precedent enumerated therein, within the time specified, OWNER will sign and deliver the Agreement.

1.26. *Notice to Proceed*--A written notice given by OWNER to CONTRACTOR (with a copy to ENGINEER) fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR's obligations under the Contract Documents.

1.27. *OWNER*--The public body or authority, corporation, association, firm or person with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.

1.28. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.

1.29. *PCBs*--Polychlorinated biphenyls.

1.30. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Wastes and crude oils.

1.31. *Project*--The total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

1.32. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

1.33. *Resident Project Representative*--The authorized representative of ENGINEER who may be assigned to the site or any part thereof.

1.34. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

1.35. *Shop Drawings*--All drawings, diagrams, illustrations, schedules and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

1.36. *Specifications*--Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

1.37. *Subcontractor*--An individual, firm or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

1.38. *Substantial Completion*--The Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER as evidenced by ENGINEER's definitive certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it is intended; or if no such certificate is issued, when the Work is complete and ready for final payment as evidenced by ENGINEER's written recommendation of final payment in accordance with paragraph 14.13. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

1.39. *Supplementary Conditions*--The part of the Contract Documents which amends or supplements these General Conditions.

1.40. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

1.41. *Underground Facilities*--All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

1.42. *Unit Price Work*--Work to be paid for on the basis of unit prices.

1.43. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work includes and is the result of performing or furnishing labor and furnishing and incorporating materials and equipment into the construction, and performing or furnishing services and furnishing documents, all as required by the Contract Documents.

1.44. *Work Change Directive*--A written directive to CONTRACTOR, issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in paragraph 4.2 or 4.3 or to emergencies under paragraph 6.23. A Work Change Directive will not change the Contract Price or the Contract Times, but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times as provided in paragraph 10.2.

1.45. Written Amendment--A written amendment of the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

ARTICLE 2--PRELIMINARY MATTERS

Delivery of Bonds:

2.1. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds

as CONTRACTOR may be required to furnish in accordance with paragraph 5.1.

Copies of Documents:

2.2. OWNER shall furnish to CONTRACTOR up to ten copies (unless otherwise specified in the Supplementary Conditions) of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.

Commencement of Contract Times; Notice to Proceed:

2.3. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement, or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within thirty days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

Starting the Work:

2.4. CONTRACTOR shall start to perform the Work on the date when the Contract Times commence to run, but no Work shall be done at the site prior to the date on which the Contract Times commence to run.

Before Starting Construction:

2.5. Before undertaking each part of the Work, CONTRACT-OR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, ambiguity or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, ambiguity or discrepancy in the Contract Documents, unless CONTRACTOR knew or reasonably should have known thereof.

2.6. Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for review:

2.6.1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2.6.2. a preliminary schedule for Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing and processing such submittal;

2.6.3. a preliminary schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.7. Before any Work at the site is started, CONTRACTOR and OWNER shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which CONTRACTOR and OWNER respectively are required to purchase and maintain in accordance with paragraphs 5.4, 5.6 and 5.7.

Preconstruction Conference:

2.8. Within twenty days after the Contract Times start to run, but before any Work at the site is started, a conference attended by CONTRACTOR, ENGINEER and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.6, procedures for handling Shop Drawings and other submittals, processing Applications for Payment and maintaining required records.

Initially Acceptable Schedules:

2.9. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.6. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until the schedules are submitted to and acceptable to ENGINEER as provided below. The progress schedule will be acceptable to ENGINEER as providing an orderly progression of the Work to completion within any specified Milestones and the Contract Times, but such acceptance will neither impose on ENGINEER responsibility for the sequencing, scheduling or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefore. CONTRACTOR's schedule of Shop Drawing and Sample submissions will be acceptable to ENGINEER as providing a workable arrangement for reviewing and processing the required submittals. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance.

ARTICLE 3--CONTRACT DOCUMENT: INTENT, AMENDING, REUSE

Intent:

3.1. The Contract Documents comprise the entire agreement between OWNER and CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the place of the Project.

3.2. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be furnished and performed whether or not specifically called for. When words or phrases which have a well-known technical or construction industry or trade meaning are used to describe Work, materials or equipment, such words or phrases shall be interpreted in accordance with that meaning. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in paragraph 9.4.

3.3. Reference to Standards and Specifications of Technical Societies; Reporting and Resolving Discrepancies:

3.3.1. Reference to standards, specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code or Laws or Regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

3.3.2. If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity or discrepancy within the Contract Documents or between the Contract Documents and any provision of any such Law or Regulation applicable to the performance of the Work or of any such standard, specification, manual or code or of any instruction of any Supplier referred to in paragraph 6.5, CONTRACTOR shall report it to ENGINEER in writing at once, and, CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as authorized by paragraph 6.23) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.5 or 3.6; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

3.3.3. Except as otherwise specifically stated in the Contract Documents or as may be provided by amendment or supplement thereto issued by one of the methods indicated in paragraph 3.5 or 3.6, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Contract Documents and:

3.3.3.1. the provisions of any such standard, specification, manual, code or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

3.3.3.2. the provisions of any such Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

No provision of any such standard, specification, manual, code or instruction shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR or ENGINEER, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to OWNER, ENGINEER or any of ENGINEER's Consultants, agents or employees any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of paragraph 9.13 or any other provision of the Contract Documents.

3.4. Whenever in the Contract Documents the terms" as ordered," "as directed," "as required," "as allowed," "as approved" or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of ENGINEER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.13 or any other provision of the Contract Documents.

Amending and Supplementing Contract Documents:

3.5. The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways:

3.5.1. a formal Written Amendment.

3.5.2. a Change Order (pursuant to paragraph 10.4), or

3.5.3. a Work Change Directive (pursuant to paragraph 10.1).

3.6. In addition, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, in one or more of the following ways:

3.6.1. a Field Order (pursuant to paragraph 9.5),

3.6.2. ENGINEER's approval of a Shop Drawing or Sample (pursuant to paragraphs 6.26 and 6.27), or

3.6.3. ENGINEER's written interpretation or clarification (pursuant to paragraph 9.4).

Reuse of Documents:

3.7. CONTRACTOR, and any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, and (ii) shall not reuse any of such Drawings, Specifications, other documents or copies on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaption by ENGINEER.

ARTICLE 4--AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

Availability of Lands:

4.1. OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a correct statement of record legal title and legal description of the lands upon which the Work is to be performed and OWNER's interest therein as necessary for giving notice of or filing a mechanic's lien against such lands in accordance with applicable Laws and Regulations. OWNER shall identify any encumbrances or restrictions not of general application but

specifically related to use of lands so furnished with which CONTRACTOR will have to comply in performing the Work. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents. If CONTRACTOR and OWNER are unable to agree on entitlement to or the amount or extent of any adjustments in the Contract Price or the Contract Times as a result of any delay in OWNER's furnishing these lands, rights-of-way or easements, CONTRACTOR may make a claim therefore as provided in Articles 11 and 12. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.2. Subsurface and Physical Conditions:

4.2.1. *Reports and Drawings*: Reference is made to the Supplementary Conditions for identification of:

4.2.1.1. *Subsurface Conditions*: Those reports of explorations and tests of subsurface conditions at or contiguous to the site that have been utilized by ENGINEER in preparing the Contract Documents; and

4.2.1.2. *Physical Conditions*: Those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) that have been utilized by ENGINEER in preparing the Contract Documents.

4.2.2. *Limited Reliance by CONTRACTOR Authorized: Technical Data*: CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data." CONTRACTOR may not rely upon or make any claim against OWNER, ENGINEER or any of ENGINEER's Consultants with respect to:

4.2.2.1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto, or

4.2.2.2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings, or

4.2.2.3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such data, interpretations, opinions or information.

4.2.3. *Notice of Differing Subsurface or Physical Conditions*: If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the site that is uncovered or revealed either:

4.2.3.1. is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraphs 4.2.1 and 4.2.2 is materially inaccurate, or

4.2.3.2. is of such a nature as to require a change in the Contract Documents, or

4.2.3.3. differs materially from that shown or indicated in the Contract Documents, or

4.2.3.4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents; then

CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as permitted by paragraph 6.23), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such conditions or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

4.2.4. *ENGINEER's Review*: ENGINEER will promptly review the pertinent conditions, determine the necessity of OWNER's obtaining additional exploration or tests with respect thereto and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

4.2.5. *Possible Contract Documents Change*: If ENGINEER concludes that a change in the Contract Documents is required as a result of a condition that meets one or more of the categories in paragraph 4.2.3., a Work Change Directive or a Change Order will be issued as provided in Article 10 to reflect and document the consequences of such change.

4.2.6. *Possible Price and Times Adjustments*: An equitable adjustment in the Contract Price or in the Contract Times, or both, will be allowed to the extent that the existence of such uncovered or revealed condition causes an increase or decrease in CONTRACTOR's cost of, or time required for performance of, the Work; subject, however, to the following:

4.2.6.1. such condition must meet any one or more of the categories described in paragraphs 4.2.3.1 through 4.2.3.4, inclusive;

4.2.6.2. a change in the Contract Documents pursuant to paragraph 4.2.5 will not be an automatic authorization of nor a condition precedent to entitlement to any such adjustment;

4.2.6.3. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.10 and 11.9; and

4.2.6.4. CONTRACTOR shall not be entitled to any adjustment in the Contract Price or Times if;

4.2.6.4.1. CONTRACTOR knew of the existence of such conditions at the time CONTRACTOR made a final commitment to OWNER in respect of Contract Price and Contract Times by the submission of a bid or becoming bound under a negotiated contract; or

4.2.6.4.2. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test or study of the site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for CONTRACTOR prior to CONTRACTOR's making such final commitment; or

4.2.6.4.3. CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.2.3.

If OWNER and CONTRACTOR are unable to agree on entitlement to or as to the amount or length of any such equitable adjustment in the Contract Price or Contract Times, a claim may be made therefore as provided in Articles 11 and 12. However, OWNER, ENGINEER and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses or damages sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.3. Physical Conditions--Underground Facilitates:

4.3.1. *Shown or Indicated*: The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

4.3.1.1. OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and

4.3.1.2. The cost of all of the following will be included in the Contract Price and CONTRACTOR shall have full responsibility for: (i) reviewing and checking all such information and data, (ii) locating all Underground Facilities shown or indicated in the Contract Documents, (iii) coordination of the Work with the owners of such Underground Facilities during construction, and (iv) the safety and protection of all such Underground Facilities as provided in paragraph 6.20 and repairing any damage thereto resulting from the Work.

4.3.2. *Not Shown or Indicated*: If an Underground Facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by paragraph 6.23), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence of the Underground Facility. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued as provided in Article 10 to reflect and document such consequences. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility as provided in paragraph 6.20. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, to the extent that they are attributable to the existence of any Underground Facility that was not shown or indicated in the Contract Documents and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated. If OWNER and CONTRACTOR are unable to agree on entitlement to or the amount or length of any such adjustment in Contract Price or Contract Times, CONTRACTOR may make a claim therefore as provided in Articles 11 and 12. However, OWNER, ENGINEER and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses or damages incurred or sustained by CONTRACTOR on or in connection with any other project or anticipated project.

Reference Points:

4.4. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by professionally qualified personnel.

4.5. Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Material:

4.5.1. OWNER shall be responsible for any Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Material uncovered or revealed at the site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work and which may present a substantial danger to persons or property exposed thereto in connection with the Work at the site. OWNER shall not be responsible for any such materials brought to the site by CONTRACTOR, Subcontractor, Suppliers or anyone else for whom CONTRACTOR is responsible.

4.5.2. CONTRACTOR shall immediately: (i) stop all Work in connection with such hazardous condition and in any area affected thereby (except in an emergency as required by paragraph 6.23), and (ii) notify OWNER and ENGINEER (and thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such hazardous condition or take corrective action, if any. CONTRACTOR shall not be required to resume Work in connection with such hazardous condition or in any such affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR special written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of such Work stoppage or such special conditions under which Work is agreed by CONTRACTOR to be resumed, either party may make a claim therefore as provided in Articles 11 and 12.

4.5.3. If after receipt of such special written notice CONTRACTOR does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then OWNER may order such portion of the Work that is in connection with such hazardous condition or in such affected area to be deleted from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or the amount or extent of an adjustment, if any, in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a claim therefore as provided in Articles 11 and 12. OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

4.5.4. To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, employees, agents, other consultants and subcontractors of each and any of them from and against all

claims, costs, losses and damages arising out of or resulting from such hazardous condition, provided that: (i) any such claim, cost, loss or damage is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from, and (ii) nothing in this subparagraph 4.5.4 shall obligate OWNER to indemnify any person or entity from and against the consequences of that person's or entity's own negligence.

4.5.5. The provisions of paragraphs 4.2 and 4.3 are not intended to apply to Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Material uncovered or revealed at the site.

ARTICLE 5--BONDS AND INSURANCE

Performance, Payment and Other Bonds:

5.1. CONTRACTOR shall furnish Performance and Payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Supplementary Conditions. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Government Financial Operations, U.S. Treasury Department. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

5.2. If the surety on any Bond furnished by CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.1, CONTRACTOR shall within ten days thereafter substitute another Bond and surety, both of which must be acceptable to OWNER.

5.3. Licensed Sureties and Insurers; Certificates of Insurance:

5.3.1. All Bonds and insurance required by the Contract Documents to be purchased and maintained by OWNER or CONTRACTOR shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.3.2. CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other additional insured) which CONTRACTOR is required to purchase and maintain in accordance with paragraph 5.4. OWNER shall deliver to CONTRACTOR, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by CONTRACTOR or any other additional insured) which OWNER is required to purchase and maintain in accordance with paragraphs 5.6 and 5.7 hereof.

CONTRACTOR's Liability Insurance:

5.4. CONTRACTOR shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and furnished and as will provided protection from claims set forth below which may arise out of or result from CONTRACTOR's performance and furnishing of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed or furnished by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform or furnish any of the Work, or by anyone for whose acts any of them may be liable:

5.4.1. claims under workers' compensation, disability benefits and other similar employee benefit acts;

5.4.2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;

5.4.3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;

5.4.4. claims for damages insured by customary personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR , or (ii) by any other person for any other reason;

5.4.5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting there from; and

5.4.6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

The policies of insurance so required by this paragraph 5.4 to be purchased and maintained shall:

5.4.7. with respect to insurance required by paragraphs 5.4.3. through 5.4.6 inclusive, include as additional insured (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insured, and include coverage for the respective officers and employees of all such additional insured;

5.4.8. include the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

5.4.9. include completed operations insurance;

5.4.10. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.12, 6.16 and 6.31 through 6.33;

5.4.11. contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.3.2 will so provide);

5.4.12. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing *defective* Work in accordance with paragraph 13.12; and

5.4.13. with respect to completed operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and CONTRACTOR shall furnish OWNER and each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

OWNER's Liability Insurance:

5.5. In addition to the insurance required to be provided by CONTRACTOR under paragraph 5.4, OWNER, at OWNER's option, may purchase and maintain at OWNER's expense OWNER's own liability insurance as will protect OWNER against claims which may arise from operations under the Contract Documents.

Property Insurance:

5.6. Unless otherwise provided in the Supplementary Conditions, OWNER shall purchase and maintain property insurance upon the Work at the site in the amount of the full replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:

5.6.1. include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured;

5.6.2. be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work and Work in transit and shall insure against at least the following perils fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils as may be specifically required by the Supplementary Conditions;

5.6.3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

5.6.4. cover materials and equipment stored at the site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER; and

5.6.5. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR and ENGINEER with thirty days written notice to each other additional insured to whom a certificate of insurance has been issued.

5.7. OWNER shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and any other persons or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

5.8. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained by OWNER in accordance with paragraphs 5.6 and 5.7 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least thirty days' prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with paragraph 5.11.

5.9. OWNER shall not be responsible for purchasing and maintaining any property insurance to protect the interests of CONTRACTOR, Subcontractors or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount, will be borne by CONTRACTOR, Subcontractor or others suffering any such loss and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

5.10. If CONTRACTOR requests in writing that other special insurance be included in the property insurance policies provided under paragraphs 5.6 or 5.7, OWNER shall, if possible, include such insurance, and the cost thereof will be charged to CONTRACTOR by appropriate Change Order or Written Amendment. Prior to commencement of the Work at the site, OWNER shall in writing advise CONTRACTOR whether or not such other insurance has been procured by OWNER.

5.11. Waiver of Rights:

5.11.1. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraphs 5.6 and 5.7 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and all other persons or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds in such policies and will provide primary coverage for all losses and damages caused by the perils covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, employees and agents for all losses and damages caused by, arising out of or resulting from any of the perils covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's Consultants and all other persons or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds under such policies for losses and damages so caused. None of the above waivers shall extend to the

rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

5.11.2. In addition, OWNER waives all rights against CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, employees and agents of any of them, for:

5.11.2.1. loss due to business interruption, loss of use or other consequential loss extending beyond direct physical loss or damage to OWNER's property or the Work caused by, arising out of or resulting from fire or other peril, whether or not insured by OWNER; and

5.11.2.2. loss or damage to the completed Project or part thereof caused by, arising out of or resulting from fire or other insured peril covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization pursuant to paragraph 14.10, after substantial completion pursuant to paragraph 14.8 or after final payment pursuant to paragraph 14.13.

Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in this paragraph 5.11.2 shall contain provisions to the effect that in the event of payment of any such loss, damage or consequential loss the insurers will have no rights of recovery against any of CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, employees and agents of any of them.

Receipt and Application of Insurance Proceeds

5.12. Any insured loss under the policies of insurance required by paragraphs 5.6 and 5.7 will be adjusted with OWNER and made payable to OWNER as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.13. OWNER shall deposit in a separate account any money so received, and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

5.13. OWNER as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within fifteen days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

Acceptance of Bonds and Insurance; Option to Replace;

5.14. If either party (OWNER or CONTRACTOR) has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within ten days after receipt of the certificates (or other evidence requested) required by paragraph 2.7. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work , or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

Partial Utilization--Property Insurance:

5.15. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, such use or occupancy may be accomplished in accordance with paragraph 14.10; provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6--CONTRACTOR'S RESPONSIBILITIES

Supervision and Superintendence:

6.1. CONTRACTOR shall supervise, inspect and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of others in the design or specification of a specific means, method, technique, sequence or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

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

Labor, Materials and Equipment:

6.3. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. Except as otherwise required for the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday without OWNER's written consent given after prior written notice to ENGINEER.

6.4. Unless otherwise specified in the General Requirements, CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.

6.5. All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.

Progress Schedule:

6.6. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.9 as it may be adjusted from time to time as provided below:

6.6.1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.9) proposed adjustments in the progress schedule that will not change the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

6.6.2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of paragraph 12.1. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

6.7. Substitutes and "Or-Equal" Items:

6.7.1. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be accepted by ENGINEER under the following circumstances:

6.7.1.1. *"Or-Equal"*: If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by ENGINEER as an "or-equal" item, in which case review and approval of the proposed item may, in ENGINEER's sole discretion, be accomplished without compliance with some or all of the requirements for acceptance of proposed substitute items.

6.7.1.2. *Substitute Items:* If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under subparagraph 6.7.1.1., it will be considered a proposed substitute item. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefore. The procedure for review by the ENGINEER will include the following as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall first make written application to ENGINEER 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 in substance to that specified and be suited to the same use as that specified. The application will state the extent, if any, to which the evaluation and acceptance of the proposed substitute will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) 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 or credits that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute.

6.7.1.3. *CONTRACTOR's Expense:* All data to be provided by CONTRACTOR in support of any proposed "or-equal" or substitute item will be at CONTRACTOR's expense.

6.7.2. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence or procedure of construction is shown or indicated in and expressly required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, technique, sequence or procedure of construction acceptable to ENGINEER. CONTRACTOR shall submit sufficient information to allow ENGINEER, in ENGINEER's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in subparagraph 6.7.1.2.

6.7.3. *Engineer's Evaluation:* ENGINEER will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to paragraphs 6.7.1.2 and 6.7.2. ENGINEER will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized without ENGINEER's prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any "or-equal" or substitute. ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in

evaluating substitutes proposed or submitted by CONTRACTOR pursuant to paragraphs 6.7.1.2 and 6.7.2 and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER accepts a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute item.

Concerning Subcontractors, Suppliers and Others:

6.8.1. CONTRACTOR shall not employ any Subcontractor, Supplier or other person or organization (including those acceptable to OWNER and ENGINEER as indicated in paragraph 6.8.2), whether initially or as a substitute, against whom OWNER or ENGINEER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

6.8.2. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers or other persons or organization (including those who are to furnish the principal items of materials or equipment) to be submitted to OWNER in advance of the specified date prior to the Effective Date of the Agreement for acceptance by OWNER and ENGINEER, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's or ENGINEER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier or other person or organization so identified may be removed on the basis of reasonable objection after due investigation, in which case CONTRACTOR shall submit an acceptable substitute, the Contract Price will be adjusted by the difference in the cost occasioned by such substitution and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER or ENGINEER of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject *defective* Work.

6.9.1. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier or other person or organization any contractual relationship between OWNER and ENGINEER and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Laws and Regulations.

6.9.2. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR. CONTRACTOR shall require all Subcontractors, Suppliers and such other persons and organizations performing or furnishing any of the Work to communicate with the ENGINEER through CONTRACTOR.

6.10. The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

6.11. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in paragraph 5.6 or 5.7, the agreement between the CONTRACTOR and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against OWNER, CONTRACTOR, ENGINEER, ENGINEER's Consultants and all other additional insureds for all losses and damages caused by, arising out of or resulting from any of the perils covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, CONTRACTOR will obtain the same.

Patent Fees and Royalties:

6.12. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants and the officers, directors, employees, agents and other consultants of each and any of them from and against all claims, costs, losses and damages arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product or device not specified in the Contract Documents.

Permits:

6.13. Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

Laws and Regulations:

6.14.1. CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

6.14.2. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses and damages caused by, arising out of or resulting there from; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR or CONTRACTOR's obligations under paragraph 3.3.2.

Taxes:

6.15. CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

Use of Premises:

6.16. CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the site and land and areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any adjacent land or areas, resulting from the performance of the Work. Should any claim be made by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant and anyone directly or indirectly employed by any of them from and against all claims, costs, losses and damages arising out of or resulting from any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.

6.17. During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery and surplus materials. CONTRACTOR shall leave the site clean and ready for occupancy by OWNER at Substantial Completion of the Work. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.

6.18. CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

Record Documents:

6.19. CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Orders and written interpretations and clarifications (issued pursuant to paragraph 9.4) in good order and annotated to show all changes made during construction. These record documents together with all approved Samples and a counter part of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, Samples and Shop Drawings will be delivered to ENGINEER for OWNER.

Safety and Protection:

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

6.20.1. all persons on the Work site or who may be affected by the Work;

6.20.2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and

6.20.3. other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and Underground Facilities not designated for removal, relocation or replacement in the course of construction.

CONTRACTOR shall comply with all applicable Laws and Regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation and replacement of their property. All damage, injury or loss to any property referred to in paragraph 6.20.2 or 6.20.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant or anyone employed by any of them or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier or other person or organization directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.13 that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

Safety Representative:

6.21. CONTRACTOR shall designate a qualified and experienced safety representative at the site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

Hazard Communication Program:

6.22. CONTRACTOR shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in accordance with Laws or Regulations.

Emergencies:

6.23. In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from OWNER or ENGINEER, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued to document the consequences of such action.

6.24. ***Shop Drawings and Samples:***

6.24.1. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the accepted schedule of Shop Drawings and Sample submittals (see paragraph 2.9). All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to show ENGINEER the materials and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.26.

6.24.2. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with said accepted schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.26. The numbers of each Sample to be submitted will be as specified in the Specifications.

6.25. ***Submittal Procedures:***

6.25.1. Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:

6.25.1.1. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar information with respect thereto.

6.25.1.2. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly and installation pertaining to the performance of the Work, and

6.25.1.3. all information relative to CONTRACTOR's sole responsibilities in respect of means, methods, techniques, sequences and procedures of construction and safety precautions and programs incident thereto.

CONTRACTOR shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

6.25.2. Each submittal will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.

6.25.3. At the time of each submission, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawings or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

6.26. ENGINEER will review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals accepted by ENGINEER as required by paragraph 2.9. ENGINEER's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed project as a functioning whole as indicated by the Contract Documents. ENGINEER's review and approval will not extend to means, methods, techniques, sequences or procedures of construction (except where particular means, method, technique, sequence or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make corrections required by ENGINEER, and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.27. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of submission as required by paragraph 6.25.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.25.1.

6.28. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submissions accepted by ENGINEER as required by paragraph 2.9, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

Continuing the Work:

6.29. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by paragraph 15.5 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.30. ***CONTRACTOR's General Warranty and Guarantee***

6.30.1. CONTRACTOR warrants and guarantees to OWNER, ENGINEER and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be *defective*. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:

6.30.1.1. abuse, modification or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors or Suppliers; or

6.30.1.2. normal wear and tear under normal usage.

6.30.2. CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:

6.30.2.1. observations by ENGINEER;

6.30.2.2. recommendation of any progress or final payment by ENGINEER;

6.30.2.3. the issuance of a certificate of Substantial Completion or any payment by OWNER to CONTRACTOR under the Contract Documents;

6.30.2.4. use or occupancy of the Work or any part thereof by OWNER;

6.30.2.5. any acceptance by OWNER or any failure to do so;

6.30.2.6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER pursuant to paragraph 14.13;

6.30.2.7. any inspection, test or approval by others; or

6.30.2.8. any correction of *defective* Work by OWNER.

Indemnification:

6.31. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants and the officers, directors, employees, agents and other consultants of each and any of them from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from the performance of the Work, provided that any such claim, cost, loss or damage: (i) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from, and (ii) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of a person or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such person or entity.

6.32. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.31 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier or other person or organization under workers' compensation acts, disability benefit acts or other employee benefit acts.

6.33. The indemnification obligations of CONTRACTOR under paragraph 6.31 shall not extend to the liability of ENGINEER and ENGINEER's Consultants, officers, directors, employees or agents caused by the professional negligence errors or omissions of any of them.

Survival of Obligations:

6.34. All representatives, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Work and termination or completion of the Agreement.

ARTICLE 7--OTHER WORK

Related Work at Site:

7.1. OWNER may perform other work related to the Project at the site by OWNER's own forces, or let other direct contracts therefore which shall contain General Conditions similar to these, or have other work performed by utility owners. If the fact that such other work is to be performed was not noted in the Contract Documents, then: (i) written notice thereof will be given to CONTRACTOR prior to starting any such other work, and (ii) CONTRACTOR may make a claim therefore as provided in Articles 11 and 12 if CONTRACTOR believes that such performance will involve additional expense to CONTRACTOR or requires additional time and the parties are unable to agree as to the amount or extent thereof.

7.2. CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility owner (and OWNER, if OWNER is performing the additional work with OWNER's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly connect and coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.

7.3. If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects or deficiencies in such other work that render it unavailable or unsuitable

for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure so to report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent or nonapparent defects and deficiencies in such other work.

Coordination:

7.4. If OWNER contracts with others for the performance of other work on the Project at the site, the following will be set forth in Supplementary Conditions:

7.4.1. the person, firm or corporation who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified;

7.4.2. the specific matters to be covered by such authority and responsibility will be itemized; and

7.4.3. the extent of such authority and responsibilities will be provided.

Unless otherwise provided in the Supplementary Conditions, OWNER shall have sole authority and responsibility in respect of such coordination.

ARTICLE 8--OWNER'S RESPONSIBILITIES

8.1. Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.2. In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer against whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER.

8.3. OWNER shall furnish the data required of OWNER under the Contract Documents promptly and shall make payments to CONTRACTOR promptly when they are due as provided in paragraphs 14.4 and 14.13.

8.4. OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site and drawings of physical conditions in existing structures at or contiguous to the site that have been utilized by ENGINEER in preparing the Contract Documents.

8.5. OWNER's responsibilities in respect of purchasing and maintaining liability and property insurance are set forth in paragraphs 5.5 through 5.10.

8.6. OWNER is obligated to execute Change Orders as indicated in paragraph 10.4.

8.7. OWNER's responsibility in respect of certain inspections, tests and approvals is set forth in paragraph 13.4.

8.8. In connection with OWNER's right to stop Work or suspend Work, see paragraphs 13.10 and 15.1. Paragraph 15.2 deals with OWNER's right to terminate services of CONTRACTOR under certain circumstances.

8.9. The OWNER shall not supervise, direct or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences or procedures of construction or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.

8.10. OWNER's responsibility in respect of undisclosed Asbestos, PCBs, Petroleum, Hazardous Waste or Radioactive Materials uncovered or revealed at the site is set forth in paragraph 4.5.

8.11. If and to the extent OWNER has agreed to furnish CONTRACTOR reasonable evidence that financial arrangements have been made to satisfy OWNER's obligations under the Contract Documents, OWNER's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9--ENGINEER'S STATUS DURING CONSTRUCTION

OWNER's Representative:

9.1. ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and shall not be extended without written consent of OWNER and ENGINEER.

Visits to Site:

9.2. ENGINEER will make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER will endeavor for the benefit of OWNER to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and on-site observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against *defective* Work. ENGINEER's visits and on-site observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.13, and particularly, but without limitation, during or as a result of ENGINEER's on-site visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the Work.

Project Representative:

9.3. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more continuous observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.13 and in the Supplementary Conditions. If OWNER designates another representative or agent to represent OWNER at the site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such other person will be as provided in the Supplementary Conditions.

Clarifications and Interpretations:

9.4. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER or CONTRACTOR believes that a written clarification or interpretation justifies an adjustment in the Contract Price or the Contract Times and the parties are unable to agree to the amount or extent thereof, if any, OWNER or CONTRACTOR may make a written claim therefore as provided in Article 11 or Article 12.

Authorized Variations in Work:

9.5. ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR who shall perform the Work involved promptly. If OWNER or CONTRACTOR believes that a Field Order justifies an adjustment in the Contract Price or the Contract Times and the parties are unable to agree as to the amount or extent thereof, OWNER or CONTRACTOR may make a written claim therefore as provided in Article 11 or 12.

Rejecting Defective Work:

9.6. ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be *defective*, or that ENGINEER believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER will also have authority to require special inspection or testing of the Work as provided in paragraph 13.9, whether or not the Work is fabricated, installed or completed.

Shop Drawings, Change Orders and Payments:

9.7. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraphs 6.24 through 6.28 inclusive.

9.8. In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.

9.9. In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

Determinations for Unit Price:

9.10. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding upon OWNER and CONTRACTOR, unless, within ten days after the date of any such decision, either OWNER or CONTRACTOR delivers to the other and to ENGINEER written notice of intention to appeal from ENGINEER's decision and: (i) an appeal from ENGINEER's decision is taken within the time limits and in accordance with the procedures set forth in Exhibit GC-A, "Dispute Resolution Agreement," entered into between OWNER and CONTRACTOR pursuant to Article 16, or (ii) if no such Dispute Resolution Agreement has been entered into, a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction to exercise such rights or remedies as the appealing party may have with respect to ENGINEER's decision, unless otherwise agreed in writing by OWNER and CONTRACTOR. Such appeal will not be subject to the procedures of paragraph 9.11.

Decisions on Disputes:

9.11. ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and Claims under Articles 11 and 12 in respect of changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing with a request for a formal decision in accordance with this paragraph. Written notice of each such claim, dispute or other matter will be delivered by the claimant to ENGINEER and the other party to the Agreement promptly (but in no event later than thirty days) after the start of the occurrence or event giving rise thereto, and written supporting data will be submitted to ENGINEER and the other party within sixty days after the start of such occurrence or event unless ENGINEER allows an additional period of time for the submission of additional or more accurate data in support of such claim, dispute or other matter. The opposing party shall submit any response to ENGINEER and the claimant within thirty days after receipt of the claimant's last submittal (unless ENGINEER allows additional time). ENGINEER will render a formal decision in writing within thirty days after receipt of the opposing party's submittal, if any, in accordance with this paragraph. ENGINEER's written decision on such claim, dispute or other matter will be final and binding upon OWNER and CONTRACTOR unless: (i) an appeal from ENGINEER's decision is taken within the time limits and in accordance with the procedures set forth in EXHIBIT GC-A, "Dispute Resolution Agreement," entered into between OWNER and CONTRACTOR pursuant to Article 16, or (ii) if no such Dispute Resolution Agreement has been entered into, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within thirty days after the date of such decision and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction to exercise such rights or remedies as the appealing party may have with respect to such claim, dispute or other matter in accordance with applicable Laws and Regulations within sixty days of the date of such decision, unless otherwise agreed in writing by OWNER and CONTRACTOR.

9.12. When functioning as interpreter and judge under paragraphs 9.10 and 9.11, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to paragraphs 9.10 or

9.11 with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.16) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such claim, dispute or other matter pursuant to Article 16.

9.13. Limitations on ENGINEER's Authority and Responsibilities:

9.13.1. Neither ENGINEER's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise or performance of any authority or responsibility by ENGINEER shall create, impose or give rise to any duty owed by ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, any other person or organization, or to any surety for or employee or agent of any of them.

9.13.2. ENGINEER will not supervise, direct, control or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.

9.13.3. ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

9.13.4. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals and Other documentation required to be delivered by paragraph 14.12 will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests and approvals that the results certified indicate compliance with, the Contract Documents.

9.13.5. The limitations upon authority and responsibility set forth in this paragraph 9.13 shall also apply to ENGINEER's Consultants, Resident Project Representative and assistants.

ARTICLE 10--CHANGES IN THE WORK

10.1. Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions or revisions in the Work. Such additions, deletions or revisions will be authorized by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

10.2. If OWNER and CONTRACTOR are unable to agree as to the extent, if any, of an adjustment in the Contract Price or an adjustment of the Contract Times that should be allowed as a result of a Work Change Directive, a claim may be made therefore as provided in Article 11 or Article 12.

10.3. CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraphs 3.5 and 3.6 except in the case of any emergency as provided in paragraph 6.23 or in the case of uncovering Work as provided in paragraph 13.9.

10.4. OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) covering:

10.4.1. changes in the Work which are (i) ordered by OWNER pursuant to paragraph 10.1, (ii) required because of acceptance of *defective* Work under paragraph 13.13 or correcting *defective* Work under paragraph 13.14, or (iii) agreed to by the parties;

10.4.2. changes in the Contract Price or Contract Times which are agreed to by the parties; and

10.4.3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 9.11;

provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.29.

10.5. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR's responsibility, and the amount of each applicable Bond will be adjusted accordingly.

ARTICLE 11--CHANGE OF CONTRACT PRICE

11.1. The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at CONTRACTOR's expense without change in the Contract Price.

11.2. The Contract Price may only be changed by a Change Order or by a Written Amendment. Any claim for an adjustment in the Contract Price shall be based on written notice delivered by the party making the claim to the other party and to ENGINEER promptly (but in no event later than thirty days) after the start of the occurrence or event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty days after the start of such occurrence or event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of the claim) and shall be accompanied by claimant's written statement that the adjustment claimed covers all known amounts to which the claimant is entitled as a result of said occurrence or event. All claims for adjustment in the Contract Price shall be determined by ENGINEER in accordance with paragraph 9.11 if OWNER and CONTRACTOR cannot otherwise

agree on the amount involved. No claim for an adjustment in the Contract Price will be valid if not submitted in accordance with this paragraph 11.2.

11.3. The value of any Work covered by a Change Order or of any claim for an adjustment in the Contract Price will be determined as follows:

11.3.1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraphs 11.9.1 through 11.9.3, inclusive);

11.3.2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 11.6.2);

11.3.3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 11.3.2, on the basis of the Cost of the Work (determined as provided in paragraphs 11.4 and 11.5) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 11.6).

Cost of the Work:

11.4. The term Cost of the Work means the sum of all costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amount no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 11.5:

11.4.1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Such employees shall include without limitation superintendents, foremen and other personnel employed full-time at the site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by OWNER.

11.4.2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

11.4.3. Payments made by CONTRACTOR to the Subcontractors for Work performed or furnished by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER who will then determine, with the advice of ENGINEER, which bids, if any, will be accepted. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in paragraphs 11.4, 11.5, 11.6 and 11.7. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

11.4.4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys and accountants) employed for services specifically related to the Work.

11.4.5. Supplemental costs including the following:

11.4.5.1. The proportion of necessary transportation, travel and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.

11.4.5.2. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.

11.4.5.3. Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof--all in accordance with the terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

11.4.5.4. Sales, consumer, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

11.4.5.5. Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

11.4.5.6. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the performance and furnishing of the Work (except losses and damages within the deductible amounts of property insurance established by OWNER in accordance with paragraph 5.9), provided they have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is

placed in charge thereof, CONTRACTOR shall be paid for services a fee proportionate to that stated in paragraph 11.6.2.

11.4.5.7. The cost of utilities, fuel and sanitary facilities at the site.

11.4.5.8. Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

11.4.5.9. Cost of premiums for additional Bonds and insurance required because of changes in the Work.

11.5. The term Cost of the Work shall not include any of the following:

11.5.1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR's principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.4.1. or specifically covered by paragraph 11.4.4--all of which are to be considered administrative costs covered by the CONTRACTOR's fee.

11.5.2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site.

11.5.3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

11.5.4. Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 11.4.5.9 above).

11.5.5. Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of *defective* Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 11.4.

11.6. The CONTRACTOR's fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

11.6.1. a mutually acceptable fixed fee

11.7. Whenever the cost of any Work is to be determined pursuant to paragraphs 11.4 and 11.5, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

Cash Allowance:

11.8. It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be furnished and performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

11.8.1. the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and

11.8.2. CONTRACTOR's cost for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances and no demand for additional payment on account of any of the foregoing will be valid.

Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.9. ***Unit Price Work:***

11.9.1. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER in accordance with paragraph 9.10.

11.9.2. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

11.9.3. OWNER or CONTRACTOR may make a claim for an adjustment in the Contract Price in accordance with Article 11 if:

11.9.3.1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

11.9.3.2. there is no corresponding adjustment with respect to any other item of Work; and

11.9.3.3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12--CHANGE OF CONTRACT TIMES

12.1. The Contract Times (or Milestones) may only be changed by a Change Order or a Written Amendment. Any claim for an adjustment of the Contract Times (or Milestones) shall be based on written notice delivered by the party making the claim to the other party and to ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within sixty days after such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Times (or Milestones) shall be determined by ENGINEER in accordance with paragraph 9.11 if OWNER and CONTRACTOR cannot otherwise agree. No claim for an adjustment in the Contract Times (or Milestones) will be valid if not submitted in accordance with the requirements of this paragraph 12.1.

12.2. All time limits stated in the Contract Documents are of the essence of the Agreement.

12.3. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a claim is made therefore as provided in paragraph 12.1. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions or acts of God. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.4. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay. In no event shall OWNER be liable to CONTRACTOR, any Subcontractor, any Supplier, any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from (i) delays caused by or within the control of CONTRACTOR, or (ii) delays beyond the control of both parties including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 7.

ARTICLE 13--TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF *DEFECTIVE* WORK

13.1. *Notice of Defects*: Prompt notice of all *defective* Work of which OWNER or ENGINEER have actual knowledge will be given to CONTRACTOR. All *defective* Work may be rejected, corrected or accepted as provided in this Article 13.

Access to Work:

13.2. OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories and governmental agencies with jurisdiction interests will have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's site safety procedures and programs so that they may comply therewith as applicable.

Tests and Inspections:

13.3. CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests or approvals, and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

13.4. OWNER shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

13.4.1. for inspections, tests or approvals covered by paragraph 13.5 below;

13.4.2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.9 below shall be paid as provided in said paragraph 13.9; and

13.4.3. as otherwise specifically provided in the Contract Documents.

13.5. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection, or approval. CONTRACTOR shall also be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work, or of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work.

13.6. If any Work (or the work of others) that is to be inspected, tested or approved is covered by CONTRACTOR without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation.

13.7. Uncovering Work as provided in paragraph 13.6 shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

Uncovering Work:

13.8. If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

13.9. If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose or otherwise make available for observation, inspection or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is *defective*, CONTRACTOR shall pay all claims, costs, losses and damages caused by, arising out of or resulting from such uncovering, exposure, observation, inspection and testing and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, may make a claim therefore as provided in Article 11. If, however, such Work is not found to be *defective*, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement and reconstruction; and, if the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefore as provided in Articles 11 and 12.

OWNER May Stop the Work:

13.10. If the Work is *defective*, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any surety or other party.

Correction or Removal of Defective Work:

13.11. If required by ENGINEER, CONTRACTOR shall promptly, as directed, either correct all *defective* Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by ENGINEER, remove it from the site and replace it with Work that is not *defective*. CONTRACTOR shall pay all claims, costs, losses and damages caused by or resulting from such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.12. ***Correction Period:***

13.12.1. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be *defective*, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) correct such *defective* Work, or, if it has been rejected by OWNER, remove it from the site and replace it with Work that is not *defective*, and (ii) satisfactorily correct or remove and replace any damage to other Work or the work of others resulting there from. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the *defective* Work corrected or the rejected Work removed and replaced, and all claims, costs, losses and damages caused by or resulting from such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

13.12.2. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

13.12.3. Where *defective* Work (and damage to other Work resulting there from) has been corrected, removed or replaced under this paragraph 13.12, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

Acceptance of Defective Work:

13.13. If, instead of requiring correction or removal and replacement of *defective* Work OWNER (and, prior to ENGINEER's recommendation of final payment, also ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all claims, costs, losses and damages attributable to OWNER's evaluation of and determination to accept such *defective* Work (such costs to be approved by ENGINEER as to reasonableness). If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefore as provided in Article 11. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

OWNER May Correct Defective Work:

13.14. If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct *defective* Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.11, of if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors and ENGINEER and ENGINEER's Consultants access to the site to enable OWNER to

exercise the rights and remedies under this paragraph. All claims, costs, losses and damages incurred or sustained by OWNER in exercising such rights and remedies will be charged against CONTRACTOR and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price, and, if the parties are unable to agree as to the amount thereof, OWNER may make a claim therefore as provided in Article 11. Such claims, costs, losses and damages will include but not be limited to all costs of repair or replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's *defective* Work. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies hereunder.

ARTICLE 14--PAYMENTS TO CONTRACTOR AND COMPLETION

Schedule of Values:

14.1. The schedule of values established as provided in paragraph 2.9 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

Application for Progress Payment

14.2. At least twenty days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER's interest therein, all of which will be satisfactory to OWNER. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

CONTRACTOR's Warranty of Title:

14.3. CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

Review of Applications for Progress Payment:

14.5. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's on-site observations of the executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

14.5.1. the Work has progressed to the point indicated.

14.5.2. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.10, and to any other qualifications stated in the recommendation), and

14.5.3. the conditions precedent to CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

However, by recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) exhaustive or continuous on-site inspections have been made to check the quality or the quantity of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents or (ii) that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

14.6. ENGINEER's recommendation of any payment, including final payment, shall not mean that ENGINEER is responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of Work, or for any failure of CONTRACTOR to perform or furnish Work in accordance with the Contract Documents.

14.7. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.5. ENGINEER may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

14.7.1. the Work is *defective*, or completed Work has been damaged requiring correction or replacement,

14.7.2. the Contract Price has been reduced by Written Amendment or Change Order,

14.7.3. OWNER has been required to correct *defective* Work or complete Work in accordance with paragraph 13.14, or

14.7.4. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 15.2.1 through 15.2.4 inclusive.

OWNER may refuse to make payment of the full amount recommended by ENGINEER because:

14.7.5. claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work,

14.7.6. Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific Bond satisfactory to OWNER to secure the satisfaction and discharge of such Liens.

14.7.7. there are other items entitling OWNER to a set-off against the amount recommended, or

14.7.8. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.71. through 14.7.3 or paragraphs 15.2.1 through 15.2.4 inclusive;

but OWNER must have CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

Substantial Completion:

14.8. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Within a reasonable time thereafter, OWNER, CONTRACTOR and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefore. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within fourteen days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefore. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said fourteen days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

14.9. OWNER shall have the right to exclude CONTRACTOR from the Work after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

Partial Utilization:

14.10. Use by OWNER at OWNER's option of any substantially completed part of the Work which: (i) has specifically been identified in the Contract Documents, or (ii) OWNER, ENGINEER and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following:

14.10.1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefore. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraphs 14.8 and 14.9 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

14.10.2. No occupancy or separate operation of part of the Work will be accomplished prior to compliance with the requirements of paragraph 5.15 in respect of property insurance.

Final Inspection:

14.11. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or *defective*. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

Final Application for Payment:

14.12. After CONTRACTOR has completed all such corrections to the satisfaction of ENGINEER and delivered in accordance with the Contract Documents all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance required by paragraph 5.4, certificates of inspection, marked-up record documents (as provided in paragraph 6.19) and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.4.13, (ii) consent of the surety, if any, to final payment, and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of or filed in connection with the Work. In lieu of such releases or waivers of Liens and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and (ii) all payrolls, material and equipment bills and other indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

Final Payment and Acceptance:

14.13. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.15. Otherwise, ENGINEER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application.

14.14. If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.1, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

Waiver of Claims:

14.15. The making and acceptance of final payment will constitute:

14.15.1. a waiver of all claims by OWNER against CONTRACTOR, except claims arising from unsettled Liens, from *defective* Work appearing after final inspection pursuant to paragraph 14.11, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

14.15.2. a waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled.

ARTICLE 15--SUSPENSION OF WORK AND TERMINATION

OWNER May Suspend Work:

15.1. At any time and without cause, OWNER may suspend the Work, or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes an approved claim therefore as provided in Articles 11 and 12.

OWNER May Terminate:

15.2. Upon the occurrence of any one or more of the following events:

15.2.1. if CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.9 as adjusted from time to time pursuant to paragraph 6.6);

15.2.2. if CONTRACTOR disregards Laws or Regulations of any public body having jurisdiction;

15.2.3. if CONTRACTOR disregards the authority of ENGINEER; or

15.2.4. if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents;

OWNER may, after giving CONTRACTOR (and the surety, if any,) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which Owner has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses and damages sustained by OWNER arising out of or resulting from completing the Work such excess will be paid to CONTRACTOR. If such claims, costs, losses and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses and damages incurred by

OWNER will be reviewed by ENGINEER as to their reasonableness and when so approved by ENGINEER incorporated in a Change Order, provided that when exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

15.3. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.4. Upon seven day's written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Agreement. In such case, CONTRACTOR shall be paid (without duplication of any items);

15.4.1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

15.4.2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

15.4.3. for all claims, costs, losses and damages incurred in settlement of terminated contracts with Subcontractors, Suppliers and others; and

15.4.4. for reasonable expenses directly attributable to termination.

CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

CONTRACTOR May Stop Work or Terminate:

15.5. If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application of Payment within thirty days after it is submitted or OWNER fails for thirty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days' written notice to OWNER and ENGINEER, and provided OWNER and ENGINEER do not remedy such suspension or failure within that time, terminate the Agreement and recover from OWNER payment on the same terms as provided in paragraph 15.4. In lieu of terminating the Agreement and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within thirty days after it is submitted, or OWNER has failed for thirty days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may upon seven day's written notice to OWNER and ENGINEER stop the Work until payment of all such amount due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.5 are not intended to preclude CONTRACTOR from making claim under Articles 11 and 12 for an increase in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping Work as permitted by this paragraph.

ARTICLE 16--DISPUTE RESOLUTION

If and to the extent that OWNER and CONTRACTOR have agreed on the method and procedure for resolving disputes between them that may arise under this Agreement, such dispute resolution method and procedure, if any, shall be as set forth in Exhibit GC-A, "Dispute Resolution Agreement," to be attached hereto and made a part hereof. If no such agreement on the method and procedure for resolving such disputes has been reached, and subject to the provisions of paragraphs 9.10, 9.11, and 9.12, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

ARTICLE 17--MISCELLANEOUS

Giving Notice:

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

Computation of Times:

17.2.1. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.2.2. A calendar day of twenty-four hours measured from midnight to the next midnight will constitute a day.

Notice of Claim:

17.3. Should OWNER or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph 17.3 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

Cumulative Remedies:

17.4. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by paragraphs 6.12, 6.16, 6.30, 6.31, 6.32, 13.1, 13.12, 13.14, 14.3 and 15.2 and all of the rights and remedies available to OWNER and ENGINEER thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply.

Professional Fees and Court Costs Included:

17.5. Whenever reference is made to "claims, costs, losses and damages," it shall include in each case, but not be limited to, all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs.

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INDEX TO SUPPLEMENTAL GENERAL CONDITIONS

ACCESS TO RECORDS/MAINTENANCE OF RECORDS	69
BUILDER'S RISK INSURANCE	55
CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS	67
CONFLICT OF INTEREST	~~70~~ 69
DRUG-FREE WORKPLACE AFFIDAVIT	70
ENUMERATION OF PLANS, SPECIFICATIONS AND ADDENDA	39
FLOOD DISASTER PROTECTION	69
FEDERAL LABOR STANDARDS PROVISIONS	~~44~~ 43
PAYMENTS TO CONTRACTOR	40
PHOTOGRAPHS OF PROJECT	54
PROJECT SIGN	70
PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE	54
SCHEDULE OF MINIMUM HOURLY WAGE RATES	54
SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION	68
SPECIAL EQUAL OPPORTUNITY PROVISIONS	55
SPECIAL HAZARDS	54
STATED ALLOWANCES	39

1. ENUMERATION OF PLANS, SPECIFICATIONS AND ADDENDA

Following are the Plans, Specifications and Addenda which form a part of this contract, as set forth in Paragraph 1 of the General Conditions, "Contract and Contract Documents":

DRAWINGS

General Construction:	Nos.	See Sheet Index on Plans
Heating and Ventilating:	"	_____
Plumbing:	"	_____
Electrical:	"	_____
_____	"	_____
_____	"	_____

SPECIFICATIONS: See Table of Contents of Specifications

General Construction	Page	_____	to	_____,	incl.
	Page	_____	to	_____,	incl.
Heating and Ventilating:	Page	_____	to	_____,	incl.
Plumbing:	Page	_____	to	_____,	incl.
Electrical:	Page	_____	to	_____,	incl.
_____	Page	_____	to	_____,	incl.
_____	Page	_____	to	_____,	incl.

ADDENDA:

No.	_____	Date	_____	No.	_____	Date	_____
No.	_____	Date	_____	No.	_____	Date	_____

2. STATED ALLOWANCES

Pursuant to Article 11.8 of the General Conditions, the Contractor shall include the following cash allowances in his proposal:

(a)	For	N/A	(Page _____	of Specifications)	$ _____
(b)	For	_____	(Page _____	of Specifications)	$ _____
(c)	For	_____	(Page _____	of Specifications)	$ _____
(d)	For	_____	(Page _____	of Specifications)	$ _____
(e)	For	_____	(Page _____	of Specifications)	$ _____
(f)	For	_____	(Page _____	of Specifications)	$ _____

3. A. Payments to Contractor

1. To insure the proper performance of this contract, the Owner shall retain five percent (5%) of the amount of each estimate until final completion and acceptance of all work covered by this contract: Provided that the Contractor shall submit his estimate not later than the first day of the month: Provided further that on completion and acceptance of each separate building, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made in full, including retained percentages thereon, less authorized deductions.

2. In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.

3. All material and work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the contract.

4. Owner's Right to Withhold Certain Amounts and Make Application Thereof: The Contractor agrees that he will indemnify and save the Owner harmless from all claims growing out of the lawful demands of subcontractors, laborers, workers, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails so to do, then the Owner may, after having served written notice on the said Contractor, either pay unpaid bills, of which the Owner has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor or his Surety. In paying any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner shall be considered as a payment made under the contract by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

B. Payments by Contractor

The Contractor shall pay (a) for all transportation and utility services not later than the 20th day of the calendar month following that in which services are rendered, (b) for all materials, tools, and other expendable equipment to the extent of ninety percent (90%) of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at the site of the project, and the balance of the cost thereof, not later than the 30th day following the completion of that part of the work in or on which such materials, tools, and equipment are incorporated or used, and (c) to each of his subcontractors, not later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his subcontractors to the extent of each subcontractor's interest therein.

C. Time for Completion and Liquidated Damages

It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed".

The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default 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 Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained from time to time by the Owner from current periodical estimates.

It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided that the Contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; Provided further that the Contractor shall not to be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

(a) To any preference, priority or allocation order duly issued by the Government.

(b) To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and

(c) To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article:

Provided further that the Contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the delay and notify the Contractor within a reasonable time of its decision in the matter.

D. Protection of Lives and Health

"The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971. Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the Contracting Authority may determine to be reasonably necessary."

E. Subcontracts

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5 (a)(1) through (10) and such other clauses as the (Department of Housing and Urban Development) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

F. Interest of Member of or Delegate to Congress

No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or to any benefit that may arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

G. Other Prohibited Interests

No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

H. Use and Occupancy Prior to Acceptance by Owner

The Contractor agrees to the use and occupancy of a portion or unit of the project before formal acceptance by the Owner, provided the Owner:

(a) Secures written consent of the Contractor except in the event, in the opinion of the Architect/Engineer, the Contractor is chargeable with unwarranted delay in final clean-up of punch list items or other contract requirements.

(b) Secures endorsement from the insurance carrier and consent of the surety permitting occupancy of the building or use of the project during the remaining period of construction, or,

(c) When the project consists of more than one building, and one of the buildings is occupied, secures permanent fire and extended coverage insurance, including a permit to complete construction. Consent of the surety must also be obtained.

I. Photographs of the Project

If required by the Owner, the Contractor shall furnish photographs of the project, in the quantities and as described in the Supplemental General Conditions.

J. Suspension of Work

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

4. FEDERAL LABOR STANDARDS PROVISIONS

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages

All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less than often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(iv). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 FR Part 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representative, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including the fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third persons, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding

HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices and trainees, employed by the contractor or any subcontractor the full amount of wages required by the contract.
In the event of failure to pay any laborer or mechanic, including any apprentice or trainee, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make sure disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records.

Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1 (b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii)(a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149).

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5(a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3.(ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3.(i) of this section available for inspection, copying, or transcription by authorized representative of HUD or its designee or the Department of Labor, and shall permit such representative to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

4. (i) Apprentices.

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered
program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe

benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees.

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity.

The utilization of apprentices, trainees and journeyman under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements.

The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

6. Subcontracts.

   The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5

7. Contract termination; debarment.

   A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

   All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards.

   Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part "Whoever, for the purpose of ...influencing in any way the action of such Administration ...makes, utters or publishes any statement, knowing the same to be false ...shall be fined not more than $5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees.

No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act

As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

1. Overtime requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages, liquidated damages.

In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

3. Withholding for unpaid wages and liquidated damages.

   HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

4. Subcontracts.

   The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety

1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

2. The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).

3. The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

5. SPECIAL HAZARDS

The Contractor's and his Subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards:

6. CONTRACTOR'S AND SUBCONTRACTOR'S PUBLIC LIABILITY, VEHICLE LIABILITY, AND PROPERTY DAMAGE INSURANCE

As required under Article 5 of the General Conditions, the Contractor's Public Liability Insurance and Vehicle Liability Insurance shall be in an amount not less than $ 2,000,000 for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than $ 2,000,000 on account of one accident, and Contractor's Property Damage Insurance in an amount not less than $ 1,000,000 .

The Contractor shall either (1) require each of his subcontractors to procure and to maintain during the life of his subcontract, Subcontractor's Public Liability and Property Damage Insurance of this type and in the same amounts as specified in the preceding paragraph, or (2) insure the activities of his subcontractors in his own policy.

7. PHOTOGRAPHS OF PROJECT

As provided in Paragraph 3.I of the Supplemental General Conditions, the Contractor will furnish photographs in the number, type, and stage as enumerated below:

8. SCHEDULE OF OCCUPATIONAL CLASSIFICATIONS AND MINIMUM HOURLY WAGE RATES AS REQUIRED UNDER PARAGRAPH 4.B OF THE SUPPLEMENTAL GENERAL CONDITIONS

See Page 24 of the documents in front of the Agreement

Given on Pages _____, _____ and _____.

9. BUILDER'S RISK INSURANCE

As provided in the General Conditions, Article 5.6, the Contractor will/~~will not~~** maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portions of the project for the benefit of the Owner, the Contractor, and all Subcontractors, as their interests may appear.

** Strike out one.

10. SPECIAL EQUAL OPPORTUNITY PROVISIONS

A. Activities and Contracts Not Subject to Executive Order 11246, as Amended

(Applicable to Federally assisted construction contracts and related subcontracts $10,000 and under.)

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

3. Contractors shall incorporate foregoing requirements in all subcontracts.

B. Executive Order 11246 (contracts/subcontracts above $10,000)

1. Section 202 Equal Opportunity Clause

During the performance of this contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration without regard to race, color, religion, sex, or national origin.

c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice to be provided by the Contract Compliance Officer advising the said labor union or workers' representatives of the Contractor's commitment under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Department of the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.

f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. The Contractor will include the provisions of the sentence immediately preceding paragraph a. and the provisions of paragraphs a. through g. in every subcontract or purchase order unless exempted by rules, regulations, orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

2. Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity (Executive Order 11246). (Applicable to contracts/subcontracts exceeding $10,000.)

a. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

b. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation	Goals for female participation
Insert Goals **3.2%**	Insert Goals **6.9%**

NOTE: THESE GOALS MUST BE PROVIDED. Also, list State Geographic Area to be covered on following page.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the Contractor performs construction work in a geographic area located outside of the covered area, it shall apply the goals established for such geographic area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its Federally involved and non-Federally involved construction.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

c. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

d. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is **Greene County** _____.

3. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

a. As used in these specifications:

(1) "Covered area" means the geographical area described in the solicitation from which this contract resulted;

(2) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

(3) "Employer identification number" means the federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

(4) "Minority" includes:

(a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South America or other Spanish Culture or origin, regardless of race);

(c) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

(d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

b. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

c. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

d. The Contractor shall implement the specific affirmative action standards provided in paragraphs g.(1) through (16) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing contracts in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

e. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

f. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

g. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

(1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

(2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its union have employment opportunities available, and maintain a record of the organization's responses.

(3) Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

(4) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under g.(2) above.

(6) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

(7) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date of the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

(11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

(13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

(15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

h. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations g.(1) through (16). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under g.(1) through (16) of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation shall not be a defense for the Contractor's non-compliance.

i. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

j. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

k. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

l. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

m. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph g. of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

n. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company's EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number where assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractor shall not be required to maintain separate records.

o. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

C. Certification of Nonsegregated Facilities (Over $10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that he/she does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. He/She certifies further that he/she will not maintain or provide for employees any segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, ***transportation and housing facilities provided for employees which are segregated on the basis of race, color, religion, or are in fact segregated on the basis of race, color, religion, or otherwise. He/She further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

D. Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

E. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

F. "The Section 3 Clause"

1. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of section 3 of the Housing Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the area of the Section 3 covered project, and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the Section 3 covered project.

2. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 Part CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

3. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

4. The contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal Financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

G. Age Discrimination Act of 1975

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

H. Section 504 Handicapped

Non-Discrimination for Handicapped Workers

No otherwise qualified handicapped individual in the U.S., as defined in Section 7, Paragraph 6 of the Rehabilitation Act of 1973 shall, solely by reason of this handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

11. CERTIFICATION OF COMPLIANCE WITH AIR AND WATER ACTS

(Applicable to Federally assisted construction contracts and related subcontracts exceeding $100,000)

Compliance with Air and Water Acts

During the performance of this contract the contractor and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the Owner, the following:

1. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

2. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

3. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the EPA List of Violating Facilities.

4. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

12. SPECIAL CONDITIONS PERTAINING TO HAZARDS, SAFETY STANDARDS AND ACCIDENT PREVENTION

A. Lead-Based Paint Hazards

(Applicable to contracts for construction or rehabilitation of residential structures.) The construction or rehabilitation of residential structures is subject to the HUD Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and Subcontractors shall comply with the provisions for the elimination of lead-base paint hazards under sub-part B of said regulations. The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof.

B. Use of Explosives (Modify as Required)

When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and Federal laws in purchasing and handling explosives. The Contractor shall take all necessary precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced and the material shall be covered with suitable timber, steel or rope mats.

The Contractor shall notify all owners of public utility property of intention to use explosives at least eight hours before blasting is done, close to such property. Any supervision or direction of use of explosives by the engineer, does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

C. Danger Signals and Safety Devices (Modify as Required)

The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. He shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public. In case the Contractor fails or neglects to take such precautions, the Owner may have such lights and barricades installed and charge the cost of this work to the Contractor. Such action by the Owner does not relieve the Contractor of any liability incurred under these specifications or contract.

13. FLOOD DISASTER PROTECTION

This Contract is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). Nothing included as a part of this Contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act; and the use of any assistance provided under this Contract for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under the Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of the Flood Disaster Protection Act of 1973.

14. ACCESS TO RECORDS/MAINTENANCE OF RECORDS

The Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the contract and such other records as may be deemed necessary by the locality to assure proper accounting for all funds. These records will be available for audit purposes to the locality or the State or any other authorized representative, and will be retained for three years after contract completion unless permission to destroy them is granted by the locality. Moreover, the locality, State, or any authorized representative shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

15. CONFLICT OF INTEREST OF OFFICERS OR EMPLOYEES OF THE LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS

No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

16. DRUG-FREE WORKPLACE

Under the provisions of Tennessee Code Annotate § 50-9-113 enacted by the General Assembly effective 2001, a) employers with five (5) or more employees who contract with either the state or a local government to provide construction services are required to submit an affidavit stating that they have a drug free workplace program that complies with Title 50, Chapter 9, in effect at the time of submission of a bid at least to the extent required of governmental entities. The statute, imposes other requirements on the contractor, but the grantee's responsibility is specifically limited in section (b) of the state as follows:

(b) A written affidavit by the principal officer of a covered employer provided to a local government at the time such bid or contract is submitted stating that the employer is in compliance with this section shall absolve the local government of all further responsibility under this section and any liability arising from the employer's compliance or failure of compliance with the provisions of this section.

17. PROJECT SIGN _ NO SIGN REQUIRED ON THIS PROJECT

If a project sign is erected, it must include the following:

Governor *(Name)*
Department of Economic and Community Development
Commissioner *(Name)*
CDBG Grant *(Amount)*

Status of Land Acquisition

All permanent easements, land purchases, city/county/state right of ways, Department of Transportation, Corps of Engineers and railroad permits and any other land access agreements must be obtained and recorded (if applicable) with the appropriate agencies prior to ECD approval of plans and specifications.

Please check the following boxes and sign below:

Yes	No	N/A	
☐	☐	☒	All permanent easements necessary for the construction of this project have been acquired and recorded with the appropriate agency.
☐	☐	☒	All land acquisition necessary for the construction of this project has been acquired and recorded with the appropriate agency.
☐	☐	☒	All right-of-ways, permits, and land access agreements necessary for the construction of this project have been acquired and recorded with the appropriate agency(s).

OR

☒	☐	☐	The construction of this project requires no acquisition of land, permanent easements, right-of-ways, permits or land access agreements.

Cathy S Kyker
Signature of grantee, engineer/architect, or project administrator

6/20/2018
Date

This form must be sent to ECD before we can approve plans and specifications.

CLEARANCE OF LOREC NOTATIONS for P&S APPROVAL

Project Name 2017 Greeneville Wastewater Treatment Plant Improvements

Contract Number 53789-12010

Agency, Date and Notation 1:

Tennessee Historical Commission, 10/30/2017. If your agency proposes any modifications in current project plans or discovers any archaeological remains during the ground disturbance or construction phase, please contact this office to determine what further action, if any, will be necessary to comply with Section 106 of the National Historic Preservation Act.

Response to Notation 1:

Statement Included in Section 2200 of Technical Specifications about notification of TN Historical Commission.

Agency, Date and Notation 2:

The Water Commission, 11/13/2017. The ultraviolet system at the wastewater treatment plant will be placed outside of the flood zone.

Response to Notation 2:

See Plans. Structure Proposed is outside of flood zone.

Agency, Date and Notation 3:

Greeneville/Greene County Office of Emergency Management and Homeland Security, 11/13/2017. The only impacts of the project on any emergency response agencies/departments would be the closure of roads. If any roadways should need to be closed, 911 needs to be notified via the non-emergency number (423) 638-9663, 24 hours in advance. In case of an "emergency closure," 911 should be notified as soon as possible.

Response to Notation 3:

No Roads are expected to be closed as a result of this project.

[signature], Engineer — 6/20/18

Signature, Title — **Date**

This form must accompany Plans and Specifications sent to ECD.

CLEARANCE OF LOREC NOTATIONS for P&S APPROVAL CONTINUATION

Project Name: 2017 Greeneville Wastewater Treatment Plant Improvements

Contract Number: 53789-12010

Agency, Date and Notation 4:
Tennessee Department of Environment and Conservation, Johnson City Environmental Field Office, Division of Water Resources, 11/13/2017. The Division will need to review and approve engineering plans and specifications for the UV disinfection system for the Denzil Bowman Wastewater Treatment Plant. The proposal does not outline the amount of disturbed area for the construction of the UV disinfection system. The Division of Water Resources may require a Construction Stormwater General Permit if the construction site involves clearing, grading, or excavation that result in an area of disturbance for one or more acres.

Response to Notation 4:

Less than one acre will be disturbed. Grading proposed is on plans.

Cathy Slayton	Engineer	6/20/18
Signature	**Title**	**Date**

This form must accompany Plans and Specifications sent to ECD.

TN Department of General Services | Central Procurement Office

July 15, 2016

NOTICE

Tenn. Code Ann. § 12-12-106 requires the chief procurement officer to publish, using credible information freely available to the public, a list of persons it determines engage in investment activities in Iran, as described in § 12-12-105.

For these purposes, the State intends to use the attached list of "Entities Ineligible to Contract with the State of South Carolina or any Political Subdivision of the State per the Iran Divestment Act of 2014, S.C. Code Ann. §§ 11-57-10, et. seq."

While inclusion on this list would make a person ineligible to contract with the state of Tennessee, if a person ceases its engagement in investment activities in Iran, it may be removed from the list.

If you feel as though you have been erroneously included on this list please contact the Central Procurement Office at CPO.Website@tn.gov.

Tennessee Tower, 3rd Floor • 312 Rosa L. Parks Avenue • Nashville, TN 37243
615-741-1035 • Fax: 615-741-0684 • tn.gov/generalservices

List Date: July 7, 2017

1. Abadan Petrochemical Co.
2. Aban Offshore Ltd.
3. Anton Oilfield Services Group
4. Arak Petrochemical
5. Arvandan Oil & Gas
6. Behran Oil Co.
7. Bharat Petroleum Corporation Ltd.
8. China International United Petroleum & Chemical So., Ltd. (Unipec)
9. China National Offshore Oil Corp
10. China National Petroleum Corp (CNPC)
11. China National United Oil Corp.
12. China Petroleum & Chemical Corp.
13. Cosmo Energy Holdings Co. Limited
14. Daelim Industrial
15. Daewoo Engineering & Construction
16. Enel Spa
17. Eni Spa
18. Esfahan Oil Refining Co.
19. Essar Oil Ltd.
20. Fanavaran Petrochemical Co.
21. Farabi Petrochemical Co.
22. Formosa Petrochemical Corp.
23. Gazprom OAO
24. Gubre Fabrikalari T.A.S.
25. Hellenic Petroleum S.A.
26. Hindustan Petroleum Corp Ltd.
27. Hyundai Heavy Industries.
28. Idemitsu Kosan Co. Ltd.
29. Indian Oil Corporation Ltd.
30. Inpex Corporation
31. Japan Drilling Co., Ltd.
32. Japan Petroleum Exploration Co., Ltd.
33. JXTG Holdings, Inc.
34. Khark Petrochemical.
35. Koc Holding A.S.
36. Korea Gas Corp.
37. Linde AG.
38. Maire Tecnimont S.p.A.
39. Mangalore Refinery & Petrochemicals Ltd.
40. Marubeni Corporation
41. Mitsubishi Materials Corp.
42. Mitsui & Co. Ltd.
43. Naftiran Intratrade Company
44. National Iranian Oil Co.
45. National Iranian South Oil Co.
46. National Iranian Tanker Co.
47. National Shipping Co. of Saudi Arabia
48. North Drilling

49. Oil & Natural Gas Corporation Ltd.
50. Oil India Ltd.
51. Oil Industry Investment Co.
52. ONGC Videsh Ltd. (OVL)
53. Pardis Petrochemical Co.
54. Pars Oil Co.
55. Parsian Oil and Gas Development Co.
56. Petrochemical Industries Investment Co.
57. Petrochemical Transport Co.
58. PetroChina Co. Ltd.
59. PJSC Lukoil
60. Polskie Gornictwo Naftowe i Gazownictwo SA
61. Royal Dutch Shell Plc.
62. Sadid Pipe & Equipments Co.
63. Saras Raffinerie Sarde SPA
64. Sepehr Energy
65. Shiraz Petrochemical Co.
66. Showa Shell Sekiyu K K
67. Sinopec Group.
68. Sk Holdings Co. Ltd.
69. SK Innovation
70. Tabriz Oil Refining Company
71. Total S.A.
72. Toyo Engineering Corporation
73. Turkiye Petrol Rafinerileri AS
74. Zhuh
75. Ai Zhenrong Company

IRAN DIVESTMENT ACT

"By the submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to § 12-12-106."

Signature:_____

Printed Name: _____

Date: _____

Title: _____